

Piotr Kroczek

The Pontifical University of John Paul II in Cracow, Poland

# Religious freedom in the context of education in Poland. Relationship between Polish State and the Catholic Church

## 1. Introduction

The Edict of Milan (*Edictum Mediolanense*) (313 BC) established religious freedom in the western and the eastern part of the Roman Empire. The document had a huge impact on the relation between a state and the Church and other religious communities. The influence of the law in question was seen in many fields of the interaction between the subjects – all in all it was the outcome of consideration by the Emperors of “everything that pertained to the public welfare and security”<sup>1</sup>.

Education, it goes without saying, is a very essential part of human good. It is also one of the most important elements of life in any society. The quality of education decides about the future of family, society, state, and the Church, of course. As a result, education must be in the scope of interest of the

---

<sup>1</sup> *Edictum Mediolanense*, [in:] Lactantius, *De mortius persecutorum*, XLVIII, 2: “ad commoda et securitatem publicam pertinerent”. The citation of the Edict is taken from edition of works of Lactantius issued by O. F. Fritzsche, *Firmiani Lactantii Opera*, vol. 2, Leipzig 1844, p. 288–289; English translation is taken from *Translations and reprints from the original sources of European history*, vol. 4, Philadelphia 1898, p. 29–32.

authorities responsible for a community, and among authorities a special interest must be shown those subjects who are bearers of legislative power.<sup>2</sup>

The paper is a modest try to present the consequences *a la long*, of the freedom of religion granted by the Edict, for relations between Polish state and the Catholic Church as exemplified by the current legal regulations concerning education.

## 2. Citizen-faithful

The point of departure for the deliberation of the religious freedom in the context of education must be a presentation of a legal situation of subjects who are – due to their religious affiliation and national status – subjects of norms that come from the two systems of law: state law and church law.<sup>3</sup>

Both, the Church and a state, provide certain rights and obligations for their members. The members are called to obedience both to a state and the Church.

The rights and the duties in the Church are presented in the church laws given by the competent church legislator. The addressees of the law are in principle the Catholics (“the faithful”) who are *capax legem recipiendi* according to can. 11 of the Code of Canon Law (1983).<sup>4</sup> It means the law binds those “who were baptized in the Catholic Church or received into it, and who have a sufficient use of reason and, unless the law expressly provides otherwise, who have completed their seventh year of age”.<sup>5</sup> In some circumstances a person who is non-baptized or baptized in non-Catholic Church can be a subject to church law. It happens when canon law contains Divine law (which according to can. 199 no. 1 may be either natural<sup>6</sup> or positive<sup>7</sup>). Also, the person who voluntarily submits him/

<sup>2</sup> P. Kroczek, *Wychowanie: optyka prawa polskiego i prawa kanonicznego*, Kraków 2013, p. 10–13.

<sup>3</sup> Cf. Sacrosanctum Concilium Oecumenicum Vaticanum II, Constitutio pastoralis *Gaudium et spes* de Ecclesia in mundo huius temporis, 7.12.1965, „Acta Apostolicae Sedis” [hereinafter: AAS] 58 (1966), p. 1025–1115, here no. 40; see P. Kroczek, *Wzajemne odniesienie Kościoła i państwa w nauczaniu Jana Pawła II – aspekt prawny*, „Bielsko-Żywieckie Studia Teologiczne” 11 (2010), p. 123–130.

<sup>4</sup> *Codex Iuris Canonici* auctoritate Ioannis Pauli PP. II promulgatus, 25.01.1983, AAS 75 (1983), part II, p. 1–301, here can. 13 § 1; English translation: *Code of Canon Law Annotated* [hereinafter: CIC], prepared under the responsibility of the Instituto Martín de Azpilcueta, ed. E. Caparros, M. Thériault, J. Thorn, H. Aubé, 2<sup>nd</sup> ed., rev. and updated of the 6<sup>th</sup> Spanish language edition, Montréal 2004; all canons refer to CIC.

<sup>5</sup> Can. 11.

<sup>6</sup> It is in case of can. 1163 § 2, can. 1165 § 2, can. 1299 § 1.

<sup>7</sup> It is in case of can. 208, can. 336, can. 900 § 1.

herself under church law is the subject of its norms. It happens, for instance, in case of contracting marriage with a Catholic spouse.<sup>8</sup>

The laws in question can be both universal (binding all over the world), and particular (in force in the certain areas of the Church, for instance in diocese). Despite the origin of the laws, the faithful must “carry out with great diligence their responsibilities towards both the universal Church and the particular Church to which by law they belong”.<sup>9</sup>

In the common opinion of the canonists, universal canonical norms bind in *forum internum* under sin (*ad culpam*). There are no norms established by the church legislator for all Catholics without a recall to the conscience. It means that whoever fails to observe this kind of canon law commits a sin. But breaking the canonical norms can also cause the possibility of punishment in *forum externum*. The law can bind under the penalty (*ad poenam*). According to some authors, the rule is not valid in case of particular law. “*Leges juris particularis, de quibus a legislatore explicite declaratur eas non obligare ad culpam, sed tantum ad poenam*”.<sup>10</sup>

The rights and obligations of a person as a citizen are mainly established in the laws that are drafted by the competent state authorities. The general rule of respecting state law is, in Polish circumstances, contained in art. 83 of the Constitution of the Republic of Poland (1997). It states clearly and firmly that “Everyone shall observe the law of the Republic of Poland”.<sup>11</sup> Of course, the expression “everyone” refers not only to Polish citizens, but to every person who is under the Polish law. The subjective scope is very wide. As a positive law, Polish law establishes its authority mainly on the threat of external punishment.

The conclusion is that the same person is a subject of laws coming from different sources. The person’s memberships are mutually connected and, in practice, it is impossible to separate them. A faithful-citizen is sometimes highly engaged in the life of the two communities.

In this place, it must be underlined that, in essence, the double-membership does not create an internal conflict in a person or interpersonal conflict.

---

<sup>8</sup> See more P. Kroczek, *The art of legislation: the principles of lawgiving in the Church*, Kraków 2011, p. 202–205.

<sup>9</sup> Can. 209 § 2.

<sup>10</sup> G. Michiels, *Normae generales iuris canonici*, vol. 1, Parisiis–Tornaci–Romae 1949, p. 314–315. For example of the rule, see R. Sobański, *Teoria prawa kościelnego*, Warszawa 1992, p. 251–252, ft. 21.

<sup>11</sup> Art. 83 of the Constitution of the Republic of Poland (1997). The translation of the Constitution is taken from the official web side of Polish Sejm (this is the lower chamber of the parliament of Poland), [www.sejm.gov.pl/prawo/konst/angielski/kon1.htm](http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm) (19.06.2013).

A Christian does not *a priori* take an opposite or hostile position towards a state. Of course, independence and autonomy of the religious matter is a desired situation but, in fact, the independence and autonomy are the foundation of the possibility of being devoted faithful and reliable citizen.<sup>12</sup> It can be added that the Catholic Church requires from the faithful that they observe state law. A good example can be found in a document of the Second Vatican Council:

This council exhorts Christians, as citizens of two cities, to strive to discharge their earthly duties conscientiously and in response to the Gospel spirit. They are mistaken who, knowing that we have here no abiding city but seek one, which is to come, think that they may therefore shirk their earthly responsibilities. For they are forgetting that by the faith itself they are more obliged than ever to measure up to these duties, each according to his proper vocation. Nor, on the contrary, are they any less wide of the mark who think that religion consists in acts of worship alone and in the discharge of certain moral obligations, and who imagine they can plunge themselves into earthly affairs in such a way as to imply that these are altogether divorced from the religious life. This split between the faith which many profess and their daily lives deserve to be counted among the more serious errors of our age.<sup>13</sup>

Of course, neither legal theory nor church teaching proclaim uncritical and unconditional fidelity to law. The general duty of observing law must not mean the unconditional observance of the legal norms. Legal theory, but not the Constitution itself, provides “the right to resistance” or “the civil disobedience”.<sup>14</sup> The terms are not identical, but they are mutually connected.<sup>15</sup> According to the Church, in case of collision between legal norms from the two systems of law a faithful must follow his/her duly formed conscience. In practice, it means rejection of unjust state law and following of the church law. The universal church law cannot be unjust, and particular law can happen to be unjust, but

---

<sup>12</sup> Cf. Rom 13:1–7; 1 Tm 2:1–4; 1P 2:13–17; see more R. Sobański, *Europa obojga praw*, Katowice 2006, p. 35.

<sup>13</sup> Second Vatican Council, Pastoral Constitution on the Church in the Modern World *Gaudium et spes* [hereinafter: GS], 43.

<sup>14</sup> B. Banaszak, Art. 83, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2012, LEX 83/3.

<sup>15</sup> A. Rzepliński, *Obowiązki obywatelskie. Cywilne nieposłuszeństwo*, [in:] *Prawa człowieka w społeczeństwie obywatelskim*, red. A. Rzepliński, p. 171–175.

in that case, it does not have the force of law. It binds no one.<sup>16</sup> The Church calls for full obedience to God and His Church, because “one ought to obey God rather than men.”<sup>17</sup>

Additionally, the Church calls the faithful to take an active role in a society and to fulfill duly secular duties and activities preserving mutual charity and caring above all for the common good and to penetrate the world with a Christian spirit, and also to be the witnesses to Christ in all things in the midst of human society.<sup>18</sup> The Church exhorts Christians in the teaching of the Second Vatican Council that, as citizens, they are to strive to fulfill their earthly duties conscientiously and in response to the gospel spirit.<sup>19</sup> It means that they have to engage in building up the various groups to which they belong.<sup>20</sup>

Presenting the problem of a faithful-citizen, it is beneficial to add that Catholics are rightful citizens. They have the right “to have acknowledged as theirs that freedom in secular affairs which is common to all citizens.”<sup>21</sup> Public character of the Church, its aims and its means, as well as, the subjects of church teaching, do not create a foundation for exclusion from the community of citizens.<sup>22</sup> Unlimited possibility of citizen activity is granted to Catholics (of course not exclusively) by: international law,<sup>23</sup> Polish state law,<sup>24</sup> and canon law.<sup>25</sup>

---

<sup>16</sup> See more R. Sobański, *Nauki podstawowe prawa kanonicznego*, vol. 1, *Teoria prawa kanonicznego*, Warszawa 2001, p. 88–97.

<sup>17</sup> Act 5, 29; see Joannes Paulus PP. II, Litterae encyclicae *Evangelium vitae* de vitae humanae inviolabili bono, 25.03.1995, AAS 87 (1995), p. 401–522; here no. 68–74.

<sup>18</sup> Cf. GS 20; GS 43; GS 75; GS 88.

<sup>19</sup> GS 43.

<sup>20</sup> Cf. GS 31.

<sup>21</sup> Can. 227.

<sup>22</sup> J. R. Armogathe, O. Chaline, *Między dwiema społecznościami: Kościół Chrystusowy a współczesne państwa*, tłum. M. Żerańska, “Communio” 3 (135) 2003, p. 7.

<sup>23</sup> Cf. The International Covenant on Civil and Political Right, 19.12.1966: art. 2 item 1 i art. 20 item 2, [www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx), (12.06.2013); see also the Charter of Fundamental Rights of the European Union, 7.12.2000, art. 22.

<sup>24</sup> The Act of 17<sup>th</sup> May 1989 on guarantees of the freedom of conscience and confession (Ustawa o gwarancjach wolności sumienia i wyznania [hereinafter: FCC]), art. 1, „Dziennik Ustaw Rzeczypospolitej Polskiej” (“The Journal of Laws of the Republic of Poland” [hereinafter: J.L.] of 1989 No. 29, item 155 as amended), see also: *Introduction* to the Act of 17<sup>th</sup> May 1989 on the relationship between State and the Catholic Church in the Republic of Poland (Ustawa o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej, J.L. of 1989 No. 29, item 154 as amended) (hereinafter: RSCC).

<sup>25</sup> Cf. can. 227.

### 3. Catholic model of relation between a state and the church

The relationship between the Church and a state is a very sensitive subject because it is not only theoretical, but also a practical problem.<sup>26</sup> Nowadays, law of any modern state and any recognized by a state law Church or other form of religious community has to face the problem of the relations in question.

Analyzing the problem in context of the Catholic Church, one must notice that the relations are based on the fact that the Church and a state have their own laws, which are quite different. It has been an issue from the beginning of the Church. In 311, Emperor Galerius (*Gaius Galerius Valerius Maximianus Augustus*) issued the Edict of Toleration. The document, which officially ended the Diocletian persecution of Christianity, pointed that the Christians “would thus make laws unto themselves which they should observe”.<sup>27</sup> The Emperor must have noticed that the Church created its own system of law.

Acceptance of the situation of two systems of law creates a situation in which the model of the Church as *societas perfecta* can obviously appear. As cardinal R. Bellarmine said, the Church is a group of men as visible and palpable as that of the Roman people, or the Kingdom of France, or the Republic of Venice.<sup>28</sup> The teaching of the Second Vatican Council continued with the idea that the Church and the political community are in their own fields autonomous and independent from each other.<sup>29</sup> In short, the Church and a state are competent in their own field, and consider themselves incompetent in the typical

<sup>26</sup> R. Sobański, *Problem stosunku Kościoła do państwa w teorii i w praktyce*, “Prawo Kanoniczne” 35 (1992) no. 3–4, p. 9–23.

<sup>27</sup> *Edictum Galerii*, [in:] Lactantius, *De mortius persecutorum*, xxxiv: “ita simibet leges faccerent, quas observarent”; English version taken from O. F. Fritzsche, *Firmiani Lactantii Opera*, vol. 2, Leipzig 1844, p. 273.

<sup>28</sup> R. Bellarmine, *De consillis et Ecclesia*, I, III, c. 2, [in:] R. Bellarmine, *Opera omnia*, ex editione Veneta, pluribus tum additis tum correctis, iterum edidit Justinus Fevre, vol. II, Parisiis 1871, p. 75.

<sup>29</sup> GS 76; see more J. Krukowski, *Problematyka relacji między Kościołem i państwem na Soborze Watykańskim II*, “Życie i Myśl” 12 (1980), p. 40–54; J. Krukowski, *Autonomia i niezależność Kościoła i wspólnoty politycznej*, “Kościoł i Prawo” 4 (1985), p. 51–77; R. Sobański, *Autonomiczność i niezależność Kościoła i państwa*, “Przegląd Powszechny” 9 (1994), p. 177–188; W. Góralski, *Zasady wzajemnych relacji Państwo–Kościoł katolicki*, [in:] *Prawo wyznaniowe III Rzeczypospolitej*, ed. H. Misztal, Lublin–Sandomierz 1999, p. 66–69; R. Sobański, „*Jako zczyn i niejako dusza społeczności ludzkiej*” (*obecność jako zasada stosunku Kościoła do państwa*), “Prawo Kanoniczne” 25 (1982) no. 1–2, p. 31–42; R. Sobański, *Niezależność i autonomia Kościoła i państwa podstawową przesłanką Konkordatu*, “Ateneum Kapłańskie” 127 (1996) no. 1, p. 16–27.

fields of the other society.<sup>30</sup> Of course, it does not mean that “independence and autonomy” are the synonym of “indifference”. Quite contrary. As it was noticed, the two societies consist of the same persons, and it is important that they should not only peacefully co-exist, but also work in cooperation for the good of a man<sup>31</sup>. This kind of relation based on autonomy and independence bears fruits of religious freedom.

#### 4. Religious freedom in Polish Law and in Church Teaching

Membership of Poland in the European Union has changed many things in Poland, also in terms of law<sup>32</sup>. Significant changes have been made in Polish law system since the Lisbon Treaty (13 December 2007)<sup>33</sup>. But not EU law but the Polish Constitution is the most important law in the hierarchy of laws. The latter states: “The Constitution shall be the supreme law of the Republic of Poland”<sup>34</sup> “The accession of Poland to the European Union did not undermine the supremacy of the Constitution over the whole legal order within the field of sovereignty of the Republic of Poland”<sup>35</sup> So for the presentation of religious freedom in Polish law, one must start with the Polish Constitution.

The Constitution provides for freedom of religion in art. 53.<sup>36</sup> According to the Polish legislator the freedom in question “shall be ensured to everyone”<sup>37</sup> It is because the inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens, and it shall be inviolable. The freedom is to be respected and protected by the public authorities.<sup>38</sup>

<sup>30</sup> J. Krukowski, *Kościół i państwo. Podstawy relacji prawnych*, Lublin 1993, p. 105.

<sup>31</sup> See more P. Sobczyk, *Kościół a wspólnota polityczna*, Warszawa 2005, p. 149–198.

<sup>32</sup> The Republic of Poland has been a member of EU since 2004.

<sup>33</sup> J.L. of 2009 No. 203, item 1569. The Treaty has entered into force on 1<sup>st</sup> December 2009.

<sup>34</sup> Art. 8 item 1 of the Constitution of the Republic of Poland (1997).

<sup>35</sup> Judgment of the Polish Constitutional Tribunal of 11<sup>th</sup> May 2005, K 18/04, LEX – Wolters Kluwer Polska, System of legal information [hereinafter: LEX], no. 155502; English version: [www.trybunal.gov.pl/eng/summaries/documents/K\\_18\\_04\\_GB.pdf](http://www.trybunal.gov.pl/eng/summaries/documents/K_18_04_GB.pdf) (12.02.2013).

<sup>36</sup> The freedom in wider perspective of the legal systems of the democratic states, see E. Schwierskott-Matheson, *Wolność sumienia i wyznania w wybranych państwach demokratycznych na przykładzie regulacji Konstytucji Stanów Zjednoczonych Ameryki, Ustawy Zasadniczej Republiki Federalnej Niemiec i Europejskiej Konwencji Praw Człowieka, orzecznictwa sądów tych krajów oraz Europejskiego Trybunału Praw Człowieka*, Regensburg 2012.

<sup>37</sup> Art. 53 of the Constitution of the Republic of Poland (1997).

<sup>38</sup> Art. 30 of the Constitution of the Republic of Poland (1997).

The law in question defines also what is “the freedom of religion”, but does not define what the “religion” itself is.<sup>39</sup> The freedom in question “shall include the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing of rites or teaching. Freedom of religion shall also include possession of sanctuaries and other places of worship for the satisfaction of the needs of believers as well as the right of individuals, wherever they may be, to benefit from religious services”.<sup>40</sup>

The religious freedom is in *forum internum* connected with freedom of conscience. The freedom of conscience means the autonomy of a person’s views in the realm of philosophy, axiology, morality, politics, and religion what makes possible creation of one’s intellectual identity.<sup>41</sup>

Looking at the European law, one shall notice that the Charter of Fundamental Rights of the European Union<sup>42</sup> provides certain political, social, and economic rights for citizens and residents of EU. The law provides also the right to freedom of thought, conscience, and religion to citizens and residents of EU. These rights include “freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance”.<sup>43</sup> The right must be exercised in accordance with the national laws.<sup>44</sup>

There are many other laws, which are lower than the Constitution in hierarchy of Polish law system, that regulate in details the matter of religious freedom. The most significant is the Act of 17<sup>th</sup> of May 1989 on guarantees of the freedom of conscience and confession.<sup>45</sup> The law defines the freedom

<sup>39</sup> P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.*, Warszawa 2000, p. 73.

<sup>40</sup> Art. 53 item 2 of the Constitution of the Republic of Poland (1997).

<sup>41</sup> B. Banaszak, *Art. 53, [in:] Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2012, LEX 53, 7, 1.

<sup>42</sup> Official Journal of the European Communities 2007/C 303/01, [www.eur-lex.europa.eu](http://www.eur-lex.europa.eu) (12.02.2013).

<sup>43</sup> Art. 20 item 1 of the Charter of Fundamental Rights of the European Union.

<sup>44</sup> See *Factsheet – Freedom of Religion*, issued in 2013 by the Press Unit of the European Court of Human Rights that contains the survey of judgments or decisions made by the Court in the matter of the freedom of religion, [www.echr.coe.int/Documents/FS\\_Freedom\\_religion\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Freedom_religion_ENG.pdf) (16.07.2013).

<sup>45</sup> J.L. of 2005 No. 231, item 1965.



of religion as “freedom of choosing religion or convictions, and freedom of expressing them individually or collectively, privately and publicly”.<sup>46</sup> The law also determines the list of activities, which belong to the realm of the freedoms in question.<sup>47</sup>

Looking at the subject of religious freedom from the point of view of the Catholic Church, it should be noted that the Second Vatican Council clearly recognized the right in question, and declared that every person has a right to religious freedom.<sup>48</sup> The right in question finds its foundation in “the very dignity of the human person”.<sup>49</sup> The Church was of the opinion that “this right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right”.<sup>50</sup>

Talking about the scope of the term “religious freedom” the Council declared that

This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly whether alone or in association with others, within due limits.<sup>51</sup>

The teaching of Magisterium found its normative dimension in CIC 1983 in can. 748 § 1 which states that “All are bound to seek the truth in the matters which concern God and his Church; when they have found it, then by divine law they are bound, and they have the right, to embrace and keep it”, and in can. 748 § 2: “It is never lawful for anyone to force others to embrace the catholic faith against their conscience”.

---

<sup>46</sup> Art. 1 item 2 of FCC.

<sup>47</sup> Art. 2 of FCC.

<sup>48</sup> More about religious freedom in the teaching of the Catholic Church, see H. Misztal, *Wolność religijna i jej gwarancje prawne*, [in:] *Prawo wyznaniowe III Rzeczpospolitej*, ed. H. Misztal, Lublin-Sandomierz 1999, p. 18–22.

<sup>49</sup> Sacrosanctum Concilium Oecumenicum Vaticanum II, *Declaratio Dignitatis humanae de libertate religiosa* [hereinafter: DH], 7.12.1965, AAS 58 (1966), p. 929–946, here no. 2; more about it, see H. Misztal, *Polskie prawo wyznaniowe*, [t. 1], *Zagadnienia wstępne. Rys historyczny*, Lublin 1996, p. 47–48.

<sup>50</sup> DH 2.

<sup>51</sup> DH 2.

## 5. Current legal regulations concerning religious education

Education and upbringing of children is a very complex process. It includes religious education.<sup>52</sup> Religious education concerns, of course, religious matter, so it must be done according to the rules of religious freedom.

The Charter of Fundamental Rights of the European Union, which, generally speaking, entered into force in all states of EU, in art. 14 item 3 states that “the freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right”<sup>53</sup>

Polish system of law contains the norms that safeguard exercising the right of religious freedom by the parents. Parents have the constitutional right “to rear their children in accordance with their own convictions”<sup>54</sup> No one has the right to impose on the children moral and religious education, which would be contrary to their parents’ views.<sup>55</sup> Both, the state authority and the Churches or religious communities must respect the right in question.<sup>56</sup> They cannot act legally against the will or opinion of the parents.<sup>57</sup> An analysis of provisions

---

<sup>52</sup> See art. 95 § 3 and art. 96 § 1 of the Act of 25<sup>th</sup> February 1964 – the Family and Guardianship Code (hereinafter: FGC); cf. entry: *Child-rearing*, [in:] *Black’s Law Dictionary*, ed. B. A. Garner, St. Paul 2004, p. 273.

<sup>53</sup> In international law there are many analogical provisions, see *The American Convention on Human Rights, (Pact of San José)*, San José, Costa Rica, 22<sup>nd</sup> November 1969, [www.cidh.org/Basicos/English/Basic3.American%20Convention.htm](http://www.cidh.org/Basicos/English/Basic3.American%20Convention.htm) (12.02.2013), art. 12 item 4: „Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions”; or see *The African Charter on Human and Peoples’ Rights (Banjul Charter)*, Nairobi, Kenya, 27<sup>th</sup> June 1981, [www.achpr.org/instruments/achpr/](http://www.achpr.org/instruments/achpr/) (12.02.2013), art. 18 item 2: “The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community”.

<sup>54</sup> Art. 48 item 1 of the Constitution of the Republic of Poland (1997); cf. DH 5.

<sup>55</sup> B. Szmulik, *Wybrane aspekty ochrony rodziny w świetle uregulowań Konstytucji RP z 2 kwietnia 1997 roku*, [in:] *Pomoc rodzinie dysfunkcyjnej*, ed. B. Kałdon, Sandomierz–Stalowa Wola 2006, p. 290.

<sup>56</sup> Art. 18 item 1 of RSCC.

<sup>57</sup> Art. 53 item 4 of the Constitution of the Republic of Poland (1997), art. 20 item 1 of FCC; art. 18 item 1 of RSCC.

of laws relating to religious education allows one to say that education in the religious matter is to be chosen exclusively by the parents<sup>58</sup>.

The right to rear children in accordance with their own religious convictions belongs in the realm of the parental authority, which is granted by law to both parents.<sup>59</sup> The parental authority is exercised until the children reach the age of majority, that is, with some exceptions, eighteen years of age.<sup>60</sup> It means that a child is obliged to fulfill decisions made by parents. The children are by law obliged to obedience to the parents who have parental authority over them.<sup>61</sup> This general rule concerns the whole life of a child, as well as, religious observances and religious education. A child must in this matter follow parents' will.

Something must be clarified here – parents must not act dictatorially exercising their rights over children. The Polish Constitution (1997) states in art. 48 item 1 that “Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions”. Also according to art. 14 item 1 of The Convention on the Rights of the Child (1989)<sup>62</sup> – “States Parties shall respect the right of the child to freedom of thought, conscience and religion.” The general provision of law is expanded in endogenic Polish law which orders that making their decisions, also in the realm of the religion, the parents are obliged to take into consideration the child's wishes, as far as reasonable.<sup>63</sup>

The Concordat between the Holy See and the Republic of Poland (1998) safeguards the right of religious education of children in specific form of religious instruction lessons. The law in question states in art. 12 item 1 that, while recognizing the right of the parents to religious education of their children, as well as, the principle of tolerance, the state shall guarantee that public pre-schools, primary schools, and post-primary schools managed by government administration authorities or units of self-government, in conformity with the

---

<sup>58</sup> See for instance art. 2 no. 4 FCC; see also art. 27, art. 43 § 3, and art. 58 § 1 of FGC.

<sup>59</sup> Art. 92–112 of FGC.

<sup>60</sup> Art. 92 of FGC.

<sup>61</sup> Art. 95 § 2 of FGC.

<sup>62</sup> United Nations, *Convention on the Rights of the Child*. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20<sup>th</sup> November 1989 entry into force 2 September 1990, in accordance with article 49; English version: [www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx) (23.06.2013). The convention was ratified by Poland on 30<sup>th</sup> April 1991; entered into force in Poland on 7<sup>th</sup> June 1991 (J.L. 1991 No. 120, item 526).

<sup>63</sup> Art. 95 § 4 of FGC; cf. art. 113(1) of FGC.

desire of interested parties, shall organize the teaching of religion within the framework of an appropriate preschool or school curriculum.

There are two laws that regulate the matter in details. The first is the Act of 7<sup>th</sup> September 1991 on the system of education,<sup>64</sup> and the Ordinance of Minister of National Education of 14<sup>th</sup> April 1992 regarding the conditions and ways of organizing religious instruction lessons in public pre-schools and schools.<sup>65</sup> Article 12 item 1 of the law, and § 1 no. 1 of the ordinance decide that in public pre-schools, primary schools, and gymnasiums one organizes religious instruction lessons in school timetable upon the parents' or guardians' wish. In post-primary schools, and post-gymnasium schools the wills can be expressed both by the parents or guardians, and the pupils if they are adult. The will can be expressed in the simple form of declaration of intent which does not have to be repeated at the beginning of the school year, but can be changed anytime.<sup>66</sup>

The fact that the school curriculum for religious instruction lessons, as well as, content of handbooks for these lessons are drawn up by the Church makes the rule of religious freedom visible. The Church simply informs the relevant civil authorities about the curricula and the handbooks.<sup>67</sup> Consequently, the school supervision bodies of the board of education cannot monitor or give their opinion regarding the matters of religion during constant supervision or a visit of inspection. They can only check the methods of education or discipline.<sup>68</sup>

Another element of the rule of religious freedom is the regulation that the teachers of religion must have the church authorization. It is called in canonical language *missio canonica*. The term *missio canonica* is rather ambiguous term, but roughly it could be said that it is some kind of the authorization necessary to hold office entrusted by church Hierarchy and given according to provisions

<sup>64</sup> J.L. of 1991 No. 95, item 425 as amended.

<sup>65</sup> J.L. of 1992 No. 36, item. 155 as amended.

<sup>66</sup> § 1 no. 2 of the Ordinance of Minister of National Education of 14<sup>th</sup> April 1992 regarding the conditions and ways of organizing religious instruction lessons in public pre-schools and schools (Rozporządzenie Ministra Edukacji Narodowej w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach, J.L. of 1992 No. 36, item. 155 as amended) [hereinafter: the Ordinance of Minister of National Education (1992)].

<sup>67</sup> Art. 12 item 2 of the Concordat between the Holy See and the Republic of Poland (Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską), signed 28 July 1993, ratified 23 February 1998 (J.L. of 1998 No. 51, item 318); the Concordate was also published in AAS 90 (1998), p. 310–329 [hereinafter: Concordat (1998)]; § 4 of the Ordinance of Minister of National Education (1992).

<sup>68</sup> Art. 12 item 4 of the Concordat (1998).

of the church law.<sup>69</sup> In this case, it is the office of the religious teachers. The competent church authority, e.g., a diocesan bishop gives the authorization in question.<sup>70</sup> It is *conditio sine qua non* to be employed by a school (private or public) as a teacher of catholic religion. Withdrawal of the authorization effects losing the right to teach catholic religion in the name of the Church.<sup>71</sup>

But not only *missio canonica* is required to be employed as a teacher of religion. A teacher must have also an individual written appointment to the specified school. Only the local diocesan bishop gives it.<sup>72</sup> Cancellation of such appointment causes also the termination of an employment relationship with the school as a teacher of religion.<sup>73</sup>

Another aspect of religious freedom relates to the factual knowledge education and pedagogical preparation of the religious teachers. These elements are the subject of agreements between the Polish state authorities and the Episcopal Conference of Poland.<sup>74</sup> They make it possible for the Church to require from the teachers of catholic religion some additional qualities, which are not required from the teachers of other school subjects.

It must be here noticed that, generally speaking, all the presented rules *mutatis mutandis* are to be applied not only to the Catholic Church. Due to art. 25 item 1 of the Polish Constitution (1997) “Churches and other religious organizations shall have equal rights”. Public authorities shall shape the relations between the Republic of Poland and churches and other religious organizations on the basis of the principle of respect for their autonomy and the mutual independence of each in its own sphere. Although the relations between the Republic of Poland and the Catholic Church are determined by the international treaty, that is, the Concordat of 1998, the other churches and religious organizations can have their relations with the state determined by laws adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers.<sup>75</sup> On the basis of such agreements many church-

---

<sup>69</sup> L. Gerosa, *Interpretacja prawa w Kościele. Zasady, wzorce, perspektywy*, tłum. K. Kubis, A. Porębski, Kraków 2003, p. 115–116.

<sup>70</sup> Cf. can. 812.

<sup>71</sup> Art. 12 item 3 of the Concordat (1998).

<sup>72</sup> Art. § 5 item 1 no. 1 of the Ordinance of Minister of National Education (1992).

<sup>73</sup> Art. 23 item 1 no. 6 of the Act of 26<sup>th</sup> January 1982 – the Chart of a teacher (J.L. of 1982 No. 3, item 19 as amended); art. § 5 item 2 of the Ordinance of Minister of National Education (1992).

<sup>74</sup> Art. 12 item 5 of the Concordat (1998).

<sup>75</sup> For instance: the Act of 4<sup>th</sup> July 1991 on the relationship between the State and the Polish Autocephalous Orthodox Church (Ustawa o stosunku Państwa do Polskiego Autokefalicznego

es and religious organizations have the same rights in Poland as the Catholic Church. It means that after reaching a certain number of pupils in a class, that is seven, listed educational institutions, must organize lessons of religion. If the number of pupils is lower than seven but higher than two in a class, the interested children can be joined in one class during religion lessons.<sup>76</sup>

Of course, also those who are – as it was expressed in the preamble to the Constitution (1997) – not sharing faith in God but respecting those universal values as arising from other sources, can choose not religious lessons but lessons of ethics. It can be noticed, that the European Court of Human Rights reiterates that

freedom of thought, conscience and religion is one of the foundations of a ‘democratic society’ [...]. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, skeptics and the unconcerned.<sup>77</sup>

Indeed, the pupils are to be evaluated by the teachers of religion or ethics as it is done in any other school subject. The Church itself establishes the criteria of evaluation. The General Directory for Catechesis in Poland of 20<sup>th</sup> June 2001 enacted by the Conference of the Polish Episcopate settled that the foundations of evaluation of the pupils are: knowledge, competence, as well as, activity, diligence, conscientiousness, and reliability. But religious observances must not be taken into consideration. Religious life is assessed by the conscience before God.<sup>78</sup> The grade in religion lessons (without any specification of religion) or ethics lessons is to be written on a school report.<sup>79</sup> From 2007, the grade

---

Kościola Prawosławnego, J.L. of 1991 No. 66, item 287 as amended); the Act of 30<sup>th</sup> July 2005 on the relationship between the State and the Polish Catholic Church in the Republic of Poland (Ustawa o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej, J.L. of 2005 No. 97, item 482 as amended); the Act of 13<sup>th</sup> May 1994 on the relationship between the Evangelical Church of the Augsburg Confession in the Republic of Poland (Ustawa o stosunku Państwa do Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej, J.L. of 1994 No 73, item 323 as amended).

<sup>76</sup> § 2 no. 1–2 of the Ordinance of Minister of National Education (1992).

<sup>77</sup> The European Court of Human Rights, Judgment of 25<sup>th</sup> May 1993, *Kokkinakis v. Greece*, Application no. 14307/88, [www.hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57827\(15.07.2013\)](http://www.hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57827(15.07.2013)).

<sup>78</sup> The Conference of the Polish Episcopate, *The General Directory for Catechesis in Poland*, Warszawa 2001, p. 69.

<sup>79</sup> § 9 item 1 and item 3 of the Ordinance of Minister of National Education (1992).

is included in the grade point average of a pupil.<sup>80</sup> Although a few socio-political milieus raised objections against this solution, the Constitutional Tribunal in the Judgement of 2<sup>nd</sup> December 2009<sup>81</sup> confirmed compliance of the regulation with the Polish Constitution (1997) and with the principle of religious freedom. The judges affirmed that the legal solution enacted by the Minister of National Education does not undermine the foundation of the secular state such as Poland, and does not contradict the rule from art. 25 item 2 of the Constitution (1997) that public authorities in the Republic of Poland are to be impartial in matters of personal religious convictions. Unfortunately, the grade, contrary to other grades, has no impact on promotion to the next level of education.<sup>82</sup>

Unfortunately, there is a blot on the picture of religious freedom in the realm of religious education in Poland. In spite of the fact that the Church has petitioned many times since 2007, and the state authorities promised this, still the religion as a subject is not included on the list of subjects, that can be chosen by students as a facultative on a high school-leaving examination.<sup>83</sup>

## 6. Summary

In summation, it can be said that religious freedom initiated in the legal dimension by the Edict of Milan finds its continuation in the field of education in Polish law. It seems that the principle of the freedom is safe and well guarded by law.

Unfortunately, relations between the Polish state and Church authorities are not free of tensions. Both state and church lawmakers must be aware of the situation, and try to draft law that would expedite not a hostile interaction but rather cooperation. They must take into consideration legal and doctrinal position of the second part and avoid interfering with each other's competences.

---

<sup>80</sup> § 20 item 4a and § 22 item 2a of the Ordinance of Minister of National Education of 13<sup>th</sup> June 2007 on the change of the ordinance on the conditions and way of evaluation, classification, and promotion of pupils and listeners, and on examinations in public schools (Rozporządzenie Ministra Edukacji Narodowej z dnia 13 lipca 2007 r. zmieniające rozporządzenie w sprawie warunków i sposobu oceniania, klasyfikowania i promowania uczniów i słuchaczy oraz przeprowadzania sprawdzianów i egzaminów w szkołach publicznych, J.L. of 2007 No. 130, item 906).

<sup>81</sup> Judgment of the Polish Constitutional Tribunal of 2<sup>nd</sup> December 2009, U 10/07, LEX no. 562823.

<sup>82</sup> § 9 item 2 of the Ordinance of Minister of National Education (1992).

<sup>83</sup> A. Grabek, *Kościół walczy o maturę*, "Rzeczpospolita" 2013, 6<sup>th</sup> June, [www.rp.pl/artykul/1016806.html?print=tak&p=0](http://www.rp.pl/artykul/1016806.html?print=tak&p=0) (6.06.2013).

After all, the Church and the state do not create the competing law systems, but both the Church and the state are to cooperate for the good of the same people.

## ABSTRACT

### **Religious freedom in the context of education in Poland. Relationship between Polish State and the Catholic Church**

The faithful of the Church are at the same time citizens of a state. As a result, they are bound by law of the two societies to which they belong. Education, as a very essential part of human good, is of interest to the two authorities: state government and church hierarchy. Unfortunately, relations between state and Church authorities in this field are not free of tensions. Both state and church lawmakers must be aware of the situation, and try to draft law that would expedite not a hostile interaction but rather cooperation in this field. The paper will present current legal regulations concerning education in Poland (Catholic Church and Polish state) and offer some postulates for both sides, helping to establish better relations and protect religious freedom.

## KEYWORDS

Polish law, canon law, education, religious freedom, Poland, the Catholic Church

## ABSTRAKT

### **Wolność religijna w kontekście edukacji w Polsce. Relacje pomiędzy państwem polskim a Kościołem katolickim**

Wierni Kościoła są jednocześnie obywatelami państwa. W konsekwencji są oni związani prawem dwóch społeczności, do których należą. Edukacja, jako bardzo istotna część ludzkiego dobra, jest w polu zainteresowania zarówno rządu państwa, jak i kościelnej hierarchii. Niestety, relacje pomiędzy władzami państwowymi a kościelnymi w tym obszarze nie są wolne od napięć. Zarówno państwo, jak i Kościół muszą być świadomi tej sytuacji i próbować stanowić takie prawo, które nie będzie stymulowało wrogich relacji pomiędzy stronami, lecz będzie pomagało we współpracy pomiędzy nimi na przedmiotowym polu. Artykuł prezentuje obowiązujące regulacje prawne dotyczące edukacji w Polsce i zawiera kilka postulatów skierowanych do obydwu wymienionych stron. Postulaty mogą pomóc w ustanowieniu lepszych relacji pomiędzy państwem i Kościołem oraz przyczynić się do lepszej ochrony wolności religijnej.

## SŁOWA KLUCZOWE

prawo polskie, prawo kanoniczne, edukacja, wolność religijna, Polska, Kościół katolicki



## Bibliografia

- Armogathe J.-R., Chaline, O., *Między dwiema społecznościami: Kościół Chrystusowy a współczesne państwa*, tłum. M. Żerańska, „Communio” 3 (135) 2003, p. 3–15.
- Banaszak B., *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2012.
- Bellarmino R., *Opera omnia*, ex editione Veneta, pluribus tum additis tum correctis, iterum edidit Justinus Fevre, vol. II, Parisiis 1871.
- Black's Law Dictionary*, ed. B. A. Garner, St. Paul 2004.
- Codex Iuris Canonici* auctoritate Ioannis Pauli PP. II promulgatus, 25.01.1983, „Acta Apostolicae Sedis” 75 (1983), part II, p. 1–301; English translation: *Code of Canon Law Annotated*, prepared under the responsibility of the Instituto Martín de Azpilcueta, ed. E. Caparros, M. Thériault, J. Thorn, H. Aubé, 2<sup>nd</sup> ed., rev. and updated of the 6<sup>th</sup> Spanish language edition, Montréal 2004.
- E. Schwierskott-Matheson, *Wolność sumienia i wyznania w wybranych państwach demokratycznych na przykładzie regulacji Konstytucji Stanów Zjednoczonych Ameryki, Ustawy Zasadniczej Republiki Federalnej Niemiec i Europejskiej Konwencji Praw Człowieka, orzecznictwa sądów tych krajów oraz Europejskiego Trybunału Praw Człowieka*, Regensburg 2012.
- Factsheet – Freedom of Religion*, issued in 2013 by the Press Unit of the European Court of Human Rights that contains the survey of judgments or decisions made by the Court in the matter of the freedom of religion, [www.echr.coe.int/Documents/FS\\_Freedom\\_religion\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Freedom_religion_ENG.pdf), (16.07.2013).
- Fritzsche O. F., *Firmiani Lactantii Opera*, vol. 2, Leipzig 1844.
- Gerosa L., *Interpretacja prawa w Kościele. Zasady, wzorce, perspektywy*, tłum. K. Kubis, A. Porębski, Kraków 2003.
- Grabek A., *Kościół walczy o maturę*, „Rzeczpospolita” 2013, 6<sup>th</sup> June, [www.rp.pl/artykul/1016806.html?print=tak&p=0](http://www.rp.pl/artykul/1016806.html?print=tak&p=0) (6.06.2013).
- Ioannes Paulus PP. II, *Litterae encyclicae Evangelium vitae de vitae humanae inviolabili bono*, 25.03.1995, „Acta Apostolicae Sedis” 87 (1995), p. 401–522.
- Judgment of the Polish Constitutional Tribunal of 11<sup>th</sup> May 2005, K 18/04, LEX – Wolters Kluwer Polska, System of legal information, no. 155502; English version: [www.trybunal.gov.pl/eng/summaries/documents/K\\_18\\_04\\_GB.pdf](http://www.trybunal.gov.pl/eng/summaries/documents/K_18_04_GB.pdf) (12.02.2013).
- Judgment of the Polish Constitutional Tribunal of 2<sup>nd</sup> December 2009, U 10/07, LEX – Wolters Kluwer Polska, System of legal information, no. 562823.
- Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską, signed 28 July 1993, ratified 23 February 1998 (J.L. of 1998 No. 51, item 318); the Concordate was also published in „Acta Apostolicae Sedis” 90 (1998), p. 310–329.
- Kroczek P., *Wychowanie: optyka prawa polskiego i prawa kanonicznego*, Kraków 2013.

- Kroczek P., *Wzajemne odniesienie Kościoła i państwa w nauczaniu Jana Pawła II – aspekt prawny*, „Bielsko-Żywieckie Studia Teologiczne” 11 (2010), p. 123–130.
- Krukowski J., *Autonomia i niezależność Kościoła i wspólnoty politycznej*, „Kościół i Prawo” 4 (1985), p. 51–77.
- Krukowski J., *Kościół i państwo. Podstawy relacji prawnych*, Lublin 1993.
- Krukowski J., *Problematyka relacji między Kościołem i państwem na Soborze Watykańskim II*, „Życie i Myśl” 12 (1980), p. 40–54.
- Michiels G., *Normae generales iuris canonici*, vol. 1, Parisiis–Tornaci–Romae 1949.
- Misztal H., *Polskie prawo wyznaniowe*, [t. 1], *Zagadnienia wstępne. Rys historyczny*, Lublin 1996.
- Misztal H., *Wolność religijna i jej gwarancje prawne*, [in:] *Prawo wyznaniowe III Rzeczypospolitej*, red. H. Misztal, Lublin–Sandomierz 1999, p. 18–22.
- Pomoc rodzinie dysfunkcyjnej*, red. B. Kałdon, Sandomierz–Stalowa Wola 2006.
- Prawo wyznaniowe III Rzeczypospolitej*, red. H. Misztal, Lublin–Sandomierz 1999.
- Rozporządzenie Ministra Edukacji Narodowej z dnia 13 lipca 2007 r. zmieniające rozporządzenie w sprawie warunków i sposobu oceniania, klasyfikowania i promowania uczniów i słuchaczy oraz przeprowadzania sprawdzianów i egzaminów w szkołach publicznych (J.L. of 2007 No. 130, item 906).
- Sacrosanctum Concilium Oecumenicum Vaticanum II, *Constitutio pastoralis Gaudium et spes de Ecclesia in mundo huius temporis*, 7.12.1965, „Acta Apostolicae Sedis” 58 (1966), p. 1025–1115.
- Sacrosanctum Concilium Oecumenicum Vaticanum II, *Declaratio Dignitatis humanae de libertate religiosa*, 7.12.1965, „Acta Apostolicae Sedis” 58 (1966), p. 929–946.
- Sobański R., „*Jako zczyn i niejako dusza społeczności ludzkiej*” (*obecność jako zasada stosunku Kościoła do państwa*), „Prawo Kanoniczne” 25 (1982) no. 1–2, p. 31–42.
- Sobański R., *Autonomiczność i niezależność Kościoła i państwa*, „Przegląd Powszechny” 9 (1994), p. 177–188.
- Sobański R., *Europa obojga praw*, Katowice 2006.
- Sobański R., *Nauki podstawowe prawa kanonicznego*, vol. 1, *Teoria prawa kanonicznego*, Warszawa 2001.
- Sobański R., *Niezależność i autonomia Kościoła i państwa podstawową przesłanką Konkordatu*, „Ateneum Kapłańskie” 127 (1996) no. 1, p. 16–27.
- Sobański R., *Problem stosunku Kościoła do państwa w teorii i w praktyce*, „Prawo Kanoniczne” 35 (1992) no. 3–4, p. 9–23.
- Sobański R., *Teoria prawa kościelnego*, Warszawa 1992.
- Sobczyk P., *Kościół a wspólnoty polityczne*, Warszawa 2005.
- The African Charter on Human and Peoples’ Rights (Banjul Charter)*, Nairobi, Kenya, 27<sup>th</sup> June 1981, [www.achpr.org/instruments/achpr/](http://www.achpr.org/instruments/achpr/) (12.02.2013).

- The American Convention on Human Rights, (Pact of San José)*, San José, Costa Rica, 22<sup>nd</sup> November 1969, [www.cidh.org/Basicos/English/Basic3.American%20Convention.htm](http://www.cidh.org/Basicos/English/Basic3.American%20Convention.htm) (12.02.2013).
- The Charter of Fundamental Rights of the European Union, 7.12.2000.
- The Conference of the Polish Episcopate, *The General Directory for Catechesis in Poland*, Warszawa 2001.
- The Constitution of the Republic of Poland (1997). The translation of the Constitution is taken from the official web side of Polish Sejm (the lower chamber of the parliament of Poland), [www.sejm.gov.pl/prawo/konst/angielski/kon1.htm](http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm) (19.06.2013).
- The European Court of Human Rights, Judgment of 25<sup>th</sup> May 1993, Kokkinakis v. Greece, Application no. 14307/88, [www.hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57827](http://www.hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57827) (15.07.2013).
- The International Covenant on Civil and Political Right, 19.12.1966, [www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx), (12.06.2013).
- The Ordinance of Minister of National Education of 14<sup>th</sup> April 1992 regarding the conditions and ways of organizing religious instruction lessons in public pre-schools and schools (Rozporządzenie Ministra Edukacji Narodowej w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach) (J.L. of 1992 No. 36, item. 155 as amended).
- United Nations, *Convention on the Rights of the Child*. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20<sup>th</sup> November 1989 entry into force 2 September 1990, in accordance with article 49, English version [www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx) (23.06.2013). The convention was ratified by Poland on 30<sup>th</sup> April 1991; entered into force in Poland on 7<sup>th</sup> June 1991 (J.L. 1991 No. 120, item 526).
- Ustawa o gwarancjach wolności sumienia i wyznania (J.L. of 1989 No. 29, item 155 as amended).
- Ustawa o stosunku Państwa do Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej (J.L. of 1994 No 73, item 323 as amended).
- Ustawa o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej) (J.L. of 1989 No. 29, item 154 as amended).
- Ustawa o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej) (J.L. of 2005 No. 97, item 482 as amended).
- Ustawa o stosunku Państwa do Polskiego Autokefalicznego Kościoła Prawosławnego (J.L. of 1991 No. 66, item 287 as amended).
- Winczorek P., *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.*, Warszawa 2000.