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John Paul II and Benedict XVI's concern for the protection of the faithful against the most serious crimes, with particular emphasis on the sexual abuse of minors committed by clergy

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Abstract

John Paul II and Benedict XVI's concern for the protection of the faithful against the most serious crimes, with particular emphasis on the sexual abuse of minors committed by clergy

The problem of dealing justly and efficiently with the most serious crimes in the Church after the promulgation of the Code of Canon Law in 1983 became the concern of Cardinal Joseph Ratzinger, later Benedict XVI, and John Paul II. Their cooperation and the decisions of Benedict XVI, as a continuation of the path started, laid the foundations for the creation of a system of canonical criminal law capable of responding properly and effectively to the most serious crimes committed by the faithful in the Church. The introduction of a clear scope of competence for the Congregation for the Doctrine of the Faith, the definition of a longer limitation period, the possibility of revoking it, the centralization of procedural steps, entrusting them to qualified personnel, enabling the control of the action of individual superiors are very concrete legal solutions that confirm the teaching of the Church and the definite statements of the two Popes on the protection of the most vulnerable in the Church from the immense harm of sexual abuse that some clerics could commit against them. The article presents and discusses concrete legal solutions and relates them with the teachings and attitudes of the two popes towards protecting minors in the Church. It is an attempt to argue for the defense of their good names and to oppose the unfounded accusations made against these two authorities.

Keywords: Congregation for the Doctrine of the Faith, crime of sexual abuse, Benedict XVI, John Paul II, criminal law, concern for minors in the Church

Abstrakt

Troska Jana Pawła II i Benedykta XVI o ochronę wiernych przed najcięższymi przestępstwami ze szczególnym uwzględnieniem nadużyć seksualnych wobec nieletnich dokonywanych przez duchownych

Problem sprawiedliwego i sprawnego rozpatrywania najcięższych przestępstw w Kościele po promulgacji Kodeksu prawa kanonicznego w 1983 roku stał się przedmiotem troski kard. Josepha Ratzingera, późniejszego Benedykta XVI, oraz Jana Pawła II. Ich współpraca, a także decyzje Benedykta XVI, jako kontynuacja rozpoczętej drogi, stanowiły fundamenty dla stworzenia systemu kanonicznego prawa karnego, który jest w stanie właściwie i skutecznie reagować na najcięższe przestępstwa popełniane przez wiernych w Kościele. Wprowadzenie klarownego zakresu kompetencji Kongregacji Nauki Wiary, określenie dłuższego okresu przedawnienia, możliwość jego uchylenia, scentralizowanie procedur procesowych, powierzenie ich wykwalifikowane-

mu personelowi, umożliwienie kontroli działania poszczególnych przełożonych, to bardzo konkretne rozwiązania prawne, które potwierdzają nauczanie Kościoła i konkretne wypowiedzi tych dwóch papieży w kwestii ochrony najślabszych w Kościele przed ogromną krzywdą nadużyć seksualnych, których mogliby się dopuścić wobec nich niektórzy duchowni. Artykuł stanowi przedstawienie i omówienie konkretnych rozwiązań prawnych oraz zestawienie ich z nauczaniem i postawami obu papieży wobec ochrony nieletnich w Kościele. Jest to próba argumentacji mająca na celu obronę dobrego imienia oraz sprzeciwienia się bezpodstawnym oskarżeniom kierowanym wobec tych dwóch autorytetów.

Słowa kluczowe: Kongregacja Nauki Wiary, przestępstwo nadużyć seksualnych, Benedykt XVI, Jan Paweł II, prawo karne, troska o nieletnich w Kościele

The issue of protecting the faithful against the most serious crimes is a topic of interest, not only among the faithful of the Catholic Church. It should be mentioned that the torts included in the term “most serious crimes” include not only crimes relating to sins against the sixth commandment of the Decalogue committed by a minor with a minor but also all offenses against faith, morals, or the administration of the sacraments entrusted to the competence of the Dicastery for the Doctrine of the Faith. However, due to the special interest of public opinion in the issue of the Church’s care or negligence in matters *de sexto contra minores*, several arguments will be presented that point to the actions of John Paul II and Benedict XVI to protect the faithful from the most serious crimes of which they could become victims. Recalling the introduced legal norms in the field of canonical criminal law and their adaptation to changing circumstances is the most significant argument indicating that the two popes at the beginning of the third millennium did not want to remain silent on this difficult topic but took a very specific initiative to oppose hurtful and scandalous attitudes.

1. Scope of competences in matters of the most serious crimes before the introduction of the 1983 Code of Canon Law

To understand the changes regarding introducing norms relating to the most serious crimes in the Church, one should first consider the

Congregation of the Holy Office competencies. The above institution was the equivalent of the Congregation for the Doctrine of the Faith, which has now been transformed into the Dicastery for the Doctrine of the Faith.

In the Code of 1917, one can find a provision that the Congregation of St. The Office, headed by the pope, deals with those matters which the law reserves to it not only by way of appeal against the decisions of the Ordinary but also those directly addressed to it (cf. can. 247 §2 CIC 1917), in the field of the doctrine of faith and morals (cf. can. 247 §1 CIC 1917). The competence of this dicastery of the Holy See included crimes relating to apostasy, heresy, and schism (cf. can. 2314 and 2315 CIC 1917), as well as those that aroused the suspicion of heresy, i.e., conscious and voluntary assistance in spreading heresy or taking an active part in “heretical” religious rites (cf. 2316 CIC 1917). Its competencies also included the conclusion of marriage with the provision that all or some of the children would not be brought up in the Catholic spirit (cf. can. 2319 §1, 2° and §2 CIC 1917), the submission of a child by parents or legal guardians for upbringing or education in non-Catholic religion (cf. can. 2319 §1, 4° and §2 CIC 1917), scattering or taking away or keeping consecrated species for an evil purpose (cf. can. 2320 CIC 1917). Moreover, the crime reserved for this dicastery of the Roman Curia was appealing against the laws, decrees, or orders of the Roman Pontiff to an ecumenical council (cf. can. 2332 CIC 1917), stubbornly continuing the penalty of excommunication for a year (cf. can. 2340 §1 CIC 1917), simony administering or receiving sacraments (cf. can. 2371 CIC 1917), as well as direct betrayal of the secret of confession (cf. can. 2369 CIC 1917).

It is, therefore, clear that the scope of criminal competence was very wide. Although the Congregation of Saint Office was entrusted with taking care of matters of faith and customs, it was not clearly indicated that it was also about crimes against the sixth commandment involving a minor. Yes, there are statements that the competencies of this dicastery include the crime of polygamy (*polygamia*), solicitation for confession, and, then, incitement to sin against the sixth commandment. There is no clear entrustment of competencies regarding sexual crimes committed by clergy against minors yet. The Pio-Benedictine Code provides for severe penalties for sins against the sixth commandment of

the Decalogue with minors under 16 years of age, even expulsion from the clerical state, but does not reserve this crime to be dealt with by the Holy See (cf. can. 2359 §2 CIC 1917). It should be noted that the complete indication of the competencies of the Congregation of St. The office is very difficult because the pope himself led it, and only he set its limits of competence. This Congregation could, then, accept for consideration any criminal case that it deemed fit to be judged by the highest tribunal.¹

There can be no doubt that *de sexto contra minores* crimes fall into the category of morality. First of all, due to the very fact that, according to the catechetical tradition, such a crime can be classified as a “sin crying to heaven for vengeance,”² which results directly from the biblical account (cf. Ex 22:21–23), and also in terms of sins main.³ The validation may be that such an approach to protecting children and young people has existed in the Church since the first centuries⁴ because church discipline has always guarded customs consistent with the Gospel message.

It can be emphasized that although the issue is certainly within the competence of this Congregation of the Holy Office because it concerns customs, it has not been reserved to it by positive law. There is, therefore, no doubt that the most serious cases could be referred to this Congregation for judgment. It is important because John Paul II served the universal Church throughout his pontificate, respecting the provisions of the old Code of 1917.

2. Promulgation of the 1983 Code and changes in criminal law

A fundamental change occurred after five years of Pope John Paul II's pontificate when the Code of Canon Law promulgated by him came into force on November 27, 1983. Among the significant changes to this Code

¹ Cf. S. Czajka, *Przedawnienie w prawie karnem kanonicznem*, Lublin 1934, pp. 137–139.

² Cf. *Codex Iuris Canonici*, 1867.

³ Cf. *Codex Iuris Canonici*, 1866.

⁴ “Gwałciciele dzieci nawet na koniec nie otrzymują komunii” (*Dokumenty synodów od 50 do 381 roku*, eds. A. Baron, H. Pietras, Kraków 2006, p. 60 (kan. 71). *Synod w Elwirze* (ok. 306 roku), *Kanony*, kan. 71, in: *Dokumenty synodów od 50 do 381 roku*, eds. A. Baron, H. Pietras, Kraków 2006, p. 60).

was revising the criminal law applicable in the Church.⁵ When introducing the new legal system, the postulates of the fathers of the Second Vatican Council were guided, in particular, by the criteria of subsidiarity and “decentralization,” giving a special position to specific law and the initiatives of individual bishops in the exercise of governing power, because they are the ones who, as it were, replace Christ in their dioceses, ruling them through councils, encouragements and examples, but also by the supremacy of their authority and holy power.⁶ For this reason, the Universal Legislature left it to the ordinaries of the dioceses to assess and discern the advisability or groundlessness of imposing criminal sanctions and the manner of proceeding in specific cases.⁷

The 1983 Code of Canon Law clearly states which penalties for committed crimes are reserved to the Holy See. These crimes included abandoning, taking away, or keeping for sacrilegious purposes the Holy Eucharist (cf. can. 1367 CIC 1983), physical coercion against the Roman Pontiff (cf. can. 1370 §1 CIC 1983), absolving an accomplice in a sin against the sixth commandment of the Decalogue (cf. can. 1378 §1 CIC 1983), episcopal consecration without a papal mandate (cf. can. 1382 CIC 1983), direct violation of sacramental secrecy (cf. can. 1388 §1 CIC 1983). These crimes were sanctioned by the penalty of excommunication *latae sententiae*, reserved to the Holy See. At first, the catalog of these crimes did not include sins against the sixth commandment of the Decalogue committed by a priest against minors. They were left to the ordinary of a given clergyman, with the possibility of imposing the penalty of expulsion from the clerical state (cf. can. 1395 §2 CIC 1983).

However, the practice of applying canonical criminal law has exposed that in the cases of clerical crimes against the sixth commandment of the Decalogue with minors, the norms of the new Code of 1983 were very weak. It is not about the severity of the penalty because expulsion from

5 Cf. Wstęp, Zasada 9^o, in: *Codex Iuris Canonici auctoritatis Ioannis Pauli PP. II promulgatus*, Jan 25, 1983, “Acta Apostolicae Sedis” 75 (1983) pars 2, pp. 1–317; tekst polski: *Kodeks prawa kanonicznego promulgowany przez papieża Jana Pawła II w dniu 25 stycznia 1983 roku*, Poznań 2022, pp. 29–31.

6 Cf. Sobór Watykański II, Konstytucja dogmatyczna o Kościele *Lumen gentium*, 27, in: Sobór Watykański II, Konstytucje. Dekrety. Deklaracje, Poznań 2002, p. 132.

7 Cf. J. I. Arietta, *L’influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, “*Civiltà Cattolica*” 3851 (2010) n. 4, p. 431.

the clerical state is the most severe expiatory penalty administered to a clergyperson.⁸ The weakness of the penal system consisted of the quick limitation of criminal complaints in matters regulated by the can. 1395 §2 of the Code of Criminal Procedure 1983, i.e., crimes against minors under 16 years old. The limitation period for these matters was set at five years. It meant that the victim of such a crime might not have left the minors, and the criminal complaint would have already expired. As a consequence, the ordinary or the tribunal had no possibility of imposing a penalty provided for by law, i.e., a just punishment (cf. can. 1342 §2 CIC 1983), and in a criminal trial, even expulsion from the clerical state if the statute of limitations had expired (cf. can. 1362 CIC 1983, can. 1720, 3°, 1726 CIC). Thus, the only option left was to apply the extent of pastoral concern or punitive measures (cf. can. 1348 CIC 1983), which did not equalize justice or reduce scandal.

At the beginning of 1988, the constitution *Regimini Ecclesiae Universae* of 1967⁹ was still in force, which regulated the competencies of the Congregation for the Doctrine of the Faith. Then, although everything that—in any way related to faith and customs belonged to her—crimes associated with *de sexto contra minores* were not subject to her tasks. Moreover, when it entered into force (cf. can. 6 CIC), the Code of Canon Law abolished any previous criminal law in force.¹⁰

3. Joseph Ratzinger's intervention in matters of the criminal law in force at that time in the Church

The fact that the competencies of the Congregation for the Doctrine of the Faith do not include crimes relating to the violation of the sixth commandment of the Decalogue by clergy towards minors is confirmed by a letter from the Prefect of this Dicastery, Cardinal Joseph Ratzinger, to the chairman of the then Pontifical Commission for the Authentic

8 Cf. M. Wronowska, *Przyczyny i procedura wydalenia ze stanu duchownego*, "Studia Ełckie" 16 (2016) no. 4, p. 495.

9 Cf. Paweł VI, *Konstytucja apostolska, Regimini Ecclesiae Universae*, Sep 15, 1967, art. 29, "Acta Apostolicae Sedis" 59 (1967), p. 897.

10 Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) no. 4, p. 434.

Interpretation of the Code of Canon Law, Cardinal. José Rosalia Castilla Lary of February 19, 1988, in which the letter's author notes a very problematic situation resulting from the clash of two procedures. At that time, the competence of the Congregation for the Doctrine of the Faith was to grant dispensation to clergy from the obligations assumed with ordination. The dispensation was given as an act of grace on the part of the Church to a given petitioner after careful examination of the circumstances occurring in individual cases. These very circumstances, presented as the motivation for some requests for such an act of grace from the Church, clearly did not deserve a positive response from the Holy See because they were "cases of priests who, in the exercise of their ministry, committed serious and scandalous acts in respect of which the Code of Canon Law, after applying a proper procedure, provides for the imposition of certain penalties, not excluding reduction to secular status."¹¹ Cardinal Ratzinger, on behalf of the Congregation, suggested that in such cases, the penalties provided for in the Code should first be imposed, and only then a possible dispensation from the obligations resulting from the accepted orders should be granted. The motive behind such an opinion is particularly important, namely considering the good of the faithful. Hence, the request for an opinion on other options for dealing with specific cases using a faster and simpler procedure.¹²

In response to the Pontifical Commission for the Authentic Interpretation of the Code of Canon Law, it can be read that it shares the cardinal's approach. Ratzinger's motivation recognized the validity of applying the criterion of priority of the criminal order over granting an act of mercy. However, at the same time, this letter emphasized the need to use the norms of the newly promulgated Code, and, therefore, in the case of crimes that threaten the loss of clerical status (can. 1364 §1, 1367, 1370, 1394, and 1395 CIC 1983), Ordinaries should be encouraged to exercise the power of governance by applying under the provisions of the law sanctions against the guilty. Cardinal Castilla Lary did not agree

11 Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) no. 4, p. 433. Polish text: "L'Osservatore Romano" (2011) no. 1, p. 54.

12 Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) no. 4, pp. 434-435.

with the proposal to simplify the judicial procedure, further leading to a penalty of expulsion from the clerical state or to allow penal-administrative procedure contrary to can. 1342 §2 CIC 1983. The Pontifical Commission also aimed to ensure the right of defense in matters relating to a person's condition. The conclusion of the cardinal's letter Castilla Lara of March 10, 1988, is the fact that "appropriate pressure should be exerted on bishops (cf. can. 1389), so that whenever it becomes necessary, instead of forwarding requests for dispensation to the Holy See, they exercise their judicial power and coercive."¹³

Cardinal Ratzinger's reply of May 14, 1988, to the letter of the Pontifical Commission confirms that he has read the arguments. It assures that the Congregation for the Doctrine of the Faith will consider everything contained in Cardinal Ratzinger's response. Castilla Lara, however, opened the way to changes in competencies and procedures regarding fair judgment and punishment of sexual abuse committed by clergy against minors.¹⁴

4. Significant changes in the criminal law regarding sexual abuse

Already on June 28, 1988, the apostolic constitution *Pastor Bonus* was promulgated, which increased the scope of competencies of the Congregation for the Doctrine of the Faith by giving it the ability to judge not only crimes against the faith but also more serious crimes, both against morality and in the administration of the sacraments.¹⁵ Such formulations of competences in exercising the judicial power of this dicastery opened up the possibility of adjudicating and punishing torts in matters *de sexto contra minores*. As Archbishop J. I. Arietta emphasizes, the competencies defined in this way in the point of judicial power were introduced into the apostolic constitution under the influence of

¹³ Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) no. 4, pp. 434–436. Polish text: "L'Osservatore Romano" (2011) no. 1, p. 56.

¹⁴ Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) no. 4, p. 436.

¹⁵ Cf. Jan Paweł II, *Konstytucja apostolska Pastor Bonus*, Jun 28, 1988, art. 52, "Acta Apostolicae Sedis" 80 (1988), p. 874.

the suggestion of the interested Congregation, the prefect of which was Cardinal Ratzinger. One would expect that references to common law and local law would solve the matter due to the Code that has been in force for over five years and the dicastery's own norms. However, the required features of the legal system, and in particular legal certainty, made further interventions necessary to ensure the smooth operation of the justice system. It was required to list specific "most serious crimes" to clearly define the competencies of the Congregation for the Doctrine of the Faith in exercising its judicial power.¹⁶

It resulted in the feeling of a lack of sufficient provisions of criminal and procedural law, which in the 1990s still led to the impression that the issue of sexual abuse was not dealt with efficiently enough in the Church. Cardinal Ratzinger continued to desire to deal more harshly with such cases. Legislative work began on standards regarding the so-called *delicta graviora* (more serious crimes) at the end of the second millennium. The result of this work was the publication on April 30, 2001, by Pope John Paul II of the document *Sacramentorum Sanctitatis Tutela*,¹⁷ along with the appropriate norms, which indicated which of the most serious crimes are subject to the Congregation for the Doctrine of the Faith, including crimes of clergy abuse against minors who are under 18 years of age.¹⁸ From that moment on, any justified suspicion of committing such a crime had to be reported to the same dicastery of the Roman Curia.¹⁹ This document was, therefore, the first attempt, after promulgating the code in 1983, to determine the scope of competence

16 Cf. J. I. Arietta, *L'influsso del Cardinale Ratzinger nella revisione del sistema penale canonico*, "Civiltà Cattolica" 3851 (2010) n. 4, pp. 437–438.

17 Cf. Jan Paweł II, *Motu proprio Sacramentorum Sanctitatis Tutela*, Apr 30, 2001, "Acta Apostolicae Sedis" 93 (2001), pp. 737–739.

18 Cf. Kongregacja Nauki Wiary, *Epistula a Congregatio pro Doctrina Fidei missa ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas quorum interest: de delictis gravioribus eidem Congregationi pro Doctrina Fidei reservatis*, May 18, 2001, "Acta Apostolicae Sedis" 93 (2001), pp. 785–788.

19 Cf. J. Dohnalik, *Prawo kanoniczne wobec nadużyć seksualnych duchownych względem dzieci i młodzieży*, "Dziecko Krzywdzone. Teoria. Badania. Praktyka" 14 (2015) no. 1, pp. 52–53.

of the Congregation for the Doctrine of the Faith in the field of the most serious crimes in the Church.²⁰

Over the years, close cooperation between Cardinal Ratzinger and John Paul II resulted in the Pope granting the Congregation for the Doctrine of the Faith additional competencies and the possibility of granting dispensations, which allowed for action in various cases and consequently also resulted in the definition of new types of crimes in the category of sexual abuse against minors. They were included in the revised Norms on *delicta graviora* published during the pontificate of Benedict XVI on May 21, 2010.²¹ The amended document introduced three new crimes relating to specific categories of minors. They concern a clergy member who buys or stores (also temporarily) or distributes for lewd purposes pornographic materials involving minors under 14 years of age, made in any way and using any device. The *motu proprio* of 2010 also introduced the equation of a person who is permanently incapable of reasoning with a minor.²² The particular gravity of these crimes results from two aspects: they were committed by a clergyman, and they were committed against minors and people deprived of the use of reason.²³

The introduction of regulations in 2001 defining the most serious crimes and the extension in 2010 of the Congregation for the Doctrine of the Faith competencies in judging and punishing clergy for sexual abuse of minors have visible consequences that show the concern of John Paul II and Cardinal. Joseph Ratzinger, later Benedict XVI, to protect the faithful, especially the defenseless, from the most serious crimes.

²⁰ Cf. D. Borek, *Sextum Decalogi praeceptum w kanonicznym prawie karnym aktualnie obowiązującym*, Tarnów 2015, p. 83.

²¹ Cf. Kongregacja Nauki Wiary, *Normae de delictis Congregationi pro Doctrina Fidei reservatis seu Normae de delictis contra fidem necnon de gravioribus delictis*, May 21, 2010, "Acta Apostolicae Sedis" 102 (2010), pp. 419–434.

²² Cf. Kongregacja Nauki Wiary, *Vademecum dotyczące wybranych kwestii proceduralnych w zakresie postępowania w przypadkach nadużyć seksualnych popełnianych przez duchownych wobec małoletnich*, wersja 2.0, Jun 5, 2022, https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_pl.html (May 25, 2023).

²³ Cf. D. Borek, *Przestępstwa zastrzeżone dla Kongregacji Nauki Wiary: normy materialne i proceduralne*, Tarnów 2019, p. 109.

5. Consequences of changes in criminal law — proof of concern of John Paul II and Benedict XVI

The changes that took place in the area of judging and punishing the most serious crimes related to customs at the turn of the second and third millennia display how the gradual transition took place from leaving the case to be judged by the Ordinaries (following the principle of subsidiarity) at the same time using procedures that were often difficult for them to apply, moving away from the tendency to apply pardon, especially in the most serious cases, and understanding that punishment is also a form of opportunity for the criminal by calling for improvement. Consequently, the return to the principle of centralizing the judgment of the most serious crimes can be interpreted as a desire to punish those guilty of scandalous crimes to believers and non-believers alike in all cases.

The legal consequences of the actions of John Paul II and Benedict XVI are very important. First, the clarification in *Sacramentorum Santitatis Tutela* in 2001 of crimes that fall within the competence of the Congregation for the Doctrine of the Faith is worth mentioning. They constituted three groups: (1) against the holiness of the Blessed Sacrament and the Eucharistic Sacrifice; (1a) taking or keeping for sacrilegious purposes or profanation of consecrated species; (1b) attempting to perform the liturgical action of the Eucharistic Sacrifice or imitating it; (1c) concelebrating the forbidden Eucharistic Sacrifice together with the ministers of the community's ecclesiastical institutions that do not have apostolic succession and do not recognize the sacramental dignity of priestly ordinations); (2) crimes against the holiness of the sacrament of penance (2a) absolution of an accomplice in a sin against the sixth commandment of the Decalogue; (2b) solicitation, i.e., inciting people to sin against the sixth commandment of the Decalogue in the act of confession or on the occasion of confession, or under its pretext if the aim is to sin with the confessor; (2c) direct violation of the secret of confession); (3) a crime against morality, i.e., a delict against the sixth commandment of the Decalogue committed by a clergyman with a minor under 18 years of age. The definition and listing of these offenses made it clear that they

were reserved to the Congregation for the Doctrine of the Faith.²⁴ It introduced legal certainty as to the criminal competence of the congregation. At the same time, such a legal initiative made it possible to apply the dicastery's law to them, also in procedural matters.²⁵ Although the first wording of the document did not contain any reference to crimes against faith, these competencies in this matter were never abolished. Hence, attempts were made to create a complete catalog of violations reserved to the Congregation for the Doctrine of the Faith.²⁶

A specific aspect of applying the Congregation for the Doctrine of the Faith's law in judging crimes reserved to it is the issue of the limitation period for criminal complaints. In the provisions of criminal law in force at that time, in can. 1362 §1, 1° KPK 1983, the Legislator excluded from general limitation provisions, among others: these matters come under the jurisdiction of the Congregation for the Doctrine of the Faith. However, due to the lack of legal certainty as to exactly which crimes it was subject to, the Congregation could not apply its own regulations to all cases that came to its office. Hence, in 2001, preparing a catalog of crimes reserved for this congregation was simultaneous with the definition of the provisions regarding the limitation period for criminal complaints against these crimes. The standards attached to *Sacramentorum Sanctitatis Tutela* introduced a limitation period of 10 years. The method of calculating the limitation period was consistent with that used in common law (cf. can. 1362 §2 CIC 1983). However, in the case of crimes of sexual abuse by clergy against minors, the limitation period began to count when the victim of the crime became an adult.²⁷ Pope John Paul II introduced this method of calculating the statute of limitations for the

24 Cf. Kongregacja Nauki Wiary, *Epistula a Congregatio pro Doctrina Fidei missa ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas quorum interest: de delictis gravioribus eidem Congregationi pro Doctrina Fidei reservatis*, May 18, 2001, "Acta Apostolicae Sedis" 93 (2001), pp. 786–787.

25 Cf. Jan Paweł II, *Konstytucja apostolska Pastor Bonus*, 52.

26 Cf. M. Stokłosa, *Przedawnienie skargi kryminalnej w prawie kanonicznym*, "Prawo Kanoniczne" 56 (2013) no. 4, pp. 149–150.

27 Cf. Kongregacja Nauki Wiary, *Epistula a Congregatio pro Doctrina Fidei missa ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas quorum interest: de delictis gravioribus eidem Congregationi pro Doctrina Fidei reservatis*, May 18, 2001, "Acta Apostolicae Sedis" 93 (2001), p. 787.

United States with a special indult in 1994, and a similar document was introduced for Ireland in 1996.²⁸

Nevertheless, this is not the end of initiatives and changes in punishing the most serious crimes, particularly emphasizing sexual abuse committed by clergy against minors. After 2001, the Congregation for the Doctrine of the Faith applied the introduced regulations and, at the same time, gained more and more experience. As a result, issues were noticed that were not yet covered by the provisions of criminal law in force at that time, which reserved certain competencies exclusively for this Congregation. Therefore, over the next few years, Cardinal Ratzinger, for the dicastery he runs, received some powers and dispensations from Pope John Paul II. As a result of this cooperation, new types of crimes were defined, which were also reserved for judgment by the Congregation for the Doctrine of the Faith. All these adjustments were included in the amended norms regarding *delicta graviora* published in July 2010 by the Congregation for the Doctrine of the Faith during the pontificate of Benedict XVI, which he approved on May 21, 2010.²⁹

In addition to systematizing and specifying the scope of competencies in criminal matters reserved to the Congregation for the Doctrine of the Faith, in the case of safeguarding the doctrine of faith (the crimes of heresy, apostasy, and schism were distinctly mentioned, as well as the right to appeal to the Congregation for the Doctrine of the Faith in the second instance),³⁰ in defense of the Holy Eucharist, the judgment of crimes was reserved to this dicastery consisting in the case of consecration for sacrilegious purposes of only one species or both during the celebration of the Eucharist or outside it.³¹ The list of crimes against the holiness of the sacrament of penance has also been expanded (the following has been added: 1° attempting to grant sacramental absolution or hearing confession despite the prohibition, as referred to in can. 1378 §2, 2° CIC 1983; 2° simulating the granting of sacramental absolution, as referred to

28 Cf. Kongregacja Nauki Wiary, *Normy motu proprio „Sacramentorum sanctitatis tutela”*. Wprowadzenie historyczne, in: *Odpowiedź Kościoła na dramat wykorzystania seksualnego małoletniego. Aspekt prawny*, Ząbki 2020, p. 19.

29 Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, May 21, 2010, “Acta Apostolicae Sedis” 102 (2010), pp. 419–430.

30 Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 2.

31 Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 3 §2.

in can. 1379 CIC; 3° indirect violation of sacramental secrecy; 4° recording with any technical device or disseminating with malicious intent in the media of social communication what the confessor or penitent said in sacramental confession).³² In the matter of sexual abuse, three categories of crimes have been added, which have already been mentioned, related to pedophilic pornography of minors under 14 years of age (1° acquisition; 2° storage; 3° distribution for lewd purposes). Moreover, the crime of sexual abuse committed by a clergyman against a person permanently incapable of using reason has been equated to such a crime against a minor.³³

The standards introduced another fundamental change, contributing to the possibility of more fair and effective judging and imposing penalties. The point is to increase the limitation period. All offenses reserved to the Congregation for the Doctrine of the Faith expire after 20 years. In the case of crimes involving sexual abuse, this period begins to count from the time they reach the age of majority. In addition, the right of the Congregation for the Doctrine of the Faith to waive the statute of limitations in individual cases has been maintained.³⁴ This modification, introduced at the express request of Cardinal Ratzinger, came into force one year after the *Sacramentorum Sanctitatis Tutela* entered into force. John Paul II granted such a right on November 7, 2002. Thus, from that time on, in special cases, the limitation period could be waived at the request of the Ordinaries. Repealing the limitation period could also have a retroactive effect (cf. canon 9 of the Code of Canon Law). The introduction of this law into the 2010 Norms was intended to avoid each time the popes confirmed it and, therefore, to ensure its continuity.³⁵

Another significant issue in the introduction of norms regarding the reservation of the most serious crimes for the Congregation for the Doctrine of the Faith is the unification (through centralization) of criminal proceedings in such a way that already at the first stage, i.e., after the completion of the canonical preliminary investigation (cf. can. 1717 CIC),

³² Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 4 §1–2.

³³ Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 6 §1, 1°.

³⁴ Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 7 §1.

³⁵ Cf. D. Cito, *Las nuevas normas sobre los „delicta graviora”, “Ius Canonicum”* 50 (2010) nr 100, pp. 650–651.

ordinaries are obliged to present the collected documents to this assembly. This one either reserves the matter due to the circumstances or instructs the clergy superior to proceed with the case. Any appeal against the judgment of either party is possible only to the Supreme Tribunal of this Congregation.³⁶ After the conclusion of the first instance, the case files should be sent to the Supreme Tribunal of this Congregation. If the Commissioner for Justice finds that an unjust judgment has been issued in a lower instance, they have the right to appeal or recourse.³⁷ In this way, the Congregation for the Doctrine of the Faith also received tools to assess and respond to the actions of ordinaries in matters of *delicta graviora*. Qualified judges with appropriate experience and good standing can supervise and assist the judicial authority in the first instance at the local Church's level to ensure justice and discipline in the Catholic Church.

In addition to very specific reactions in the form of initiatives in the field of criminal law, the cardinal's position was confirmed. Ratzinger and John Paul II regarding sexual abuse against minors may be the formulations regarding pedophilia contained in the *Catechism of the Catholic Church*, in the creation of which they were both involved. John Paul II was the initiator and the one who announced the final version of the *Catechism of the Catholic Church*,³⁸ to which the head of the editorial team, the Prefect of the Congregation for the Doctrine of the Faith, Cardinal Joseph Ratzinger.³⁹ This catechism states that "sexual abuse committed by adults on children or adolescents entrusted to their care is akin to incest. "This sin is at the same time a scandalous attack on the physical and moral integrity of young people, who will bear its mark throughout their lives, and a violation of educational responsibility."⁴⁰ In this context, it is also worth mentioning the teaching on scandal, which "takes on a particular gravity because of the authority of those who cause it or the weakness of those who suffer it. [...] Scandal is particularly serious

36 Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 16.

37 Cf. Kongregacja Nauki Wiary, *Normae de gravioribus delictis*, art. 26.

38 Cf. Cf. A. Offmański, *Katechizm Kościoła katolickiego ostatnim z dokumentów odnowy soborowej, "Colloquia Theologica Ottoniana"* (2013) no. 1, pp. 47–48.

39 Cf. Jan Paweł II, *Konstytucja apostolska Fidei depositum*, Oct 11, 1992, in: *Katechizm Kościoła katolickiego*, Poznań 1994, p. 7.

40 *Katechizm Kościoła katolickiego*, 2389.

when it is spread by those who, by nature or due to their functions, are obliged to teach and educate others. Jesus accuses the scribes and Pharisees of such scandal, comparing them to wolves disguised as sheep.⁴¹

In addition to presenting the teaching of the Church, it is also worth mentioning the statements of John Paul II and Benedict XVI regarding this issue. John Paul II, for example, during a meeting with young people in Toronto, directly addressed this issue: "The evil done by priests and clergy to young and sensitive people fills us with deep sadness and a sense of shame."⁴² John Paul II defined such behavior as a crime and stated that superiors should not be lenient towards such problems.⁴³

Similarly, Benedict XVI officially took a stance against abuses several times and spoke out on counteracting such abuses and helping victims. He argued that it was necessary to "establish the truth about what happened in order to take the necessary steps to prevent it from happening again, ensure compliance with the law, and, above all, help the victims and everyone affected by this dangerous crime."⁴⁴ Benedict XVI emphasized that "it is a particularly grave sin when someone who is supposed to help people on their way to God, to whom a child is entrusted on this path, molests them and leads away from God. As a result, faith as such becomes unconvincing, and the Church cannot credibly present itself as proclaiming Jesus Christ."⁴⁵

41 *Katechizm Kościoła katolickiego*, 2285.

42 "The harm done by some priests and religious to the young and vulnerable fills us all with a deep sense of sadness and shame" (Jan Paweł II, Toronto. XVII Giornata Mondiale della Gioventù. *La concelebrazione Eucaristica conclusiva nel Downsview Park*, Jul 28, 2002, in: *Insegnamenti di Giovanni Paolo II*, 25 (2002) pars 2, n. 5, p. 105). Tekst polski za: Jan Paweł II, *Przemówienie do młodzieży podczas Światowych Dni Młodzieży w Toronto*, "L'Osservatore Romano" 23 (2002) n. 9, p. 53.

43 Cf. Jan Paweł II, *Ai partecipanti alla riunione interdicasteriale con i cardinali degli Stati Uniti D'America*, Apr 23, 2002, in: Jan Paweł II, *Insegnamenti di Giovanni Paolo II*, 25 (2002) pars 1, n. 1, pp. 606–607.

44 Benedykt XVI, *Ai presuli della Conferenza Episcopale di Irlanda in visita "Ad limina"*, Oct 28, 2006, in: *Benedykt XVI, Insegnamenti di Benedetto XVI*, 2 (2006) pars 2, s. 525. Cf. Jan Paweł II i Benedykt XVI *wobec nadużyć seksualnych duchowieństwa*, <https://www.ekai.pl/dokumenty/jan-pawel-ii-i-benedykt-xvi-wobec-naduzyc-seksualnych-duchowieństwa/> (Jun 6, 2023).

45 Benedykt XVI, P. Seewald, *Świątliwość świata: Papież, Kościół i znaki czasu*, transl. P. Napiwodzki, Kraków 2011, p. 37. Also, another fragment points to the need to revise criminal law: "The Archbishop of Dublin told me something very interesting in

These selected statements display the position of the popes and their concern that the issues of clerical sexual abuse of minors are properly resolved.⁴⁶ These were not just declarations that were not backed up by action. Several activities of both popes were indicated, aimed at introducing such tools into canonical criminal law that are aimed at a proper and, above all, fair approach to each case. Hence, it is worth emphasizing that the most important tool available to justice operators against clergy who have committed a crime *de sexto contra minores* is the possibility of waiving the statute of limitations in individual cases. It means that the perpetrator of such a crime can never feel unthreatened by a just punishment, even the penalty of expulsion from the clerical state. Thus, crimes reserved to the Dicastery for the Doctrine of the Faith, which are among the most serious crimes, could be considered crimes that are not subject to a statute of limitations.⁴⁷ These crimes also include sexual abuse against minors. There is no statute of limitations in modern legal systems, but it is reserved for other crimes, such as crimes against humanity, peace, etc. Although criminal law penalizes such behavior, it respects the principles of calculating the statute of limitations. In this context, the Church stands out from other communities with its own

this context. He said church criminal law existed until the late 1950^s; it wasn't perfect—there's a lot to criticize—but it was used nonetheless. However, since the mid-1960^s, they have stopped using them. There was a belief that the Church could no longer be a Church of law but a Church of love; therefore, he should not punish. This way, the awareness that punishment can also be an act of love was eliminated. There was also a strange clouding of many good people's thinking. Today, we must learn again that love for the sinner and the victim stand in proper proportion when the sinner is punished in the possible and appropriate form. In the past, such a change of consciousness occurred, and due to this change, there was a misunderstanding of the law and the necessity of punishment—and finally, a narrowing of the concept of love, which is not only being nice and polite but also being in the truth. And it is also true that we must punish those who have sinned against true love" (Benedykt XVI, P. Seewald, *Światłość świata*, pp. 37–38).

46 It is also worth reading other statements. Cf. A. Dobrzyński, *Papież nie milczał*, <https://jp2doc.pl/papiez-nie-milczal/> (Jun 6, 2023); Jan Paweł II i Benedykt XVI wobec nadużyć seksualnych duchowieństwa, <https://www.ekai.pl/dokumenty/jan-pawel-ii-i-benedykt-xvi-wobec-naduzyc-seksualnych-duchowienstwa/> (Jun 6, 2023).

47 Cf. D. G. Astigueta, *Delitti imperscrittibili nella Chiesa?*, "Periodica" 101 (2012), pp. 149–153.

legal systems, and it owes this to the actions of John Paul II and Cardinal Joseph Ratzinger, later Pope Benedict XVI.

It is worth remembering these statements and specific actions, especially when there are accusations of inaction, silence, or even more harmful activities, such as hiding or covering up cases of abuse to these two authorities. Such attempts appeared only when Pope Benedict XVI was sick and elderly.⁴⁸ Even more shocking is that attempts are being made to deprive John Paul II of his authority after his death and the announcement of him as a saint after the canonization process carried out under the law. It is also worth remembering that the proclamation of sainthood by the Pope has the nature of a definitive teaching (cf. can. 750 §2 of the Code of Canon Law), and questioning such a papal proclamation by the faithful is equivalent to the error referred to in can. 1365 of the Code of Civil Procedure, when one does it so stubbornly.⁴⁹ Therefore, in case of attempts to destroy the authority of St. John Paul II, it is worth considering the entire life and attitudes presented by this pope because they were all analyzed when assessing his holiness.

Conclusions

It should be noted that John Paul II and Cardinal Ratzinger had the same approach to the most serious crimes, among which they treated with particular attention the crimes of sexual abuse of clergy against minors. The result of their cooperation during the pontificate of John Paul II, and then further actions of Benedict XVI, was concern for effectively counteracting this type of delicts. This article presents very specific actions in the Church in criminal law. This type of intervention is one way to reduce crime. As a result of these legislative initiatives, not only were changes introduced regarding the penalization of these crimes (expanding the scope or introducing new types of crimes) but also enabling effective and fair prosecution of the perpetrator (by abolishing the statute of limitations and centralizing the conduct of trials).

48 Cf. <https://deon.pl/kosciol/watykan-oskarzenia-wobec-benedykta-xvi-calkowicie-falszywe,1794524> (Jun 6, 2023).

49 Cf. G. Ghirlanda, *Implicazione dell'infallibilità nelle canonizzazioni dei santi*, "Periodica de re Canonica" 103 (2014) n. 3, p. 414-415.

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