

Justyna Ciechanowska  
Katarzyna Szwed

**CATHOLIC PARISHES IN THE FACE OF STANDARDS  
FOR THE PROTECTION OF MINORS**

**INTRODUCTION**

Violence against children is seen as one of the most pressing social challenges, necessitating coordinated intervention across multiple levels. The four most commonly recognized forms of child maltreatment: physical abuse, emotional abuse, sexual abuse, and neglect. Research shows that experiencing violence in childhood produces long-term consequences. Some of these are: difficulties with emotional regulation, psychosomatic issues, stress-related disorders, attention and other cognitive deficits, impulsive behaviour, and challenges in fostering relationships with peers and adults. To mitigate these consequences, social monitoring and enhanced transparency in the operation of institutions are essential, both of which to be ensured by an effective legal framework. There is no doubt that it is the responsibility of public institutions and organizations to protect children from violence [Helios and Jedlecka 2019, 209-11].

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DR. JUSTYNA CIECHANOWSKA – University of Rzeszów; correspondence address: pl. Ofiar Getta 4-5, 35-959 Rzeszów, Poland; e-mail: [jciechanowska@ur.edu.pl](mailto:jciechanowska@ur.edu.pl); <https://orcid.org/0000-0002-6115-0147>

DR. KATARZYNA SZWED – University of Rzeszów; correspondence address: pl. Ofiar Getta 4-5, 35-959 Rzeszów, Poland; e-mail: [szwed@ur.edu.pl](mailto:szwed@ur.edu.pl); <https://orcid.org/0000-0002-2755-2804>

From a normative perspective, the protection of children's rights in governed by numerous regulations. The legal foundation for this protection is made up by the Constitution of the Republic of Poland, parliamentary acts, and ratified international agreements addressing human rights, particularly those of children. The Ombudsman for Children's Rights, which is a constitutional body of state authority, is tasked with ensuring the observance of children's rights.

A significant advancement in the protection of children from abuse is the Act of 28 July 2023 amending the Act – Family and Guardianship Code and some other acts,<sup>1</sup> commonly referred to in public discourse as *lex Kamilek*.

The tragic case of a boy named Kamilek from Częstochowa, who lost his life due to injuries inflicted by his stepfather and mother, served as the stimulus for the amendment of the law. The amended legislation brought about significant changes aimed at safeguarding children from violence and ensuring that they are treated more subjectively during court proceedings. The new law introduces several new mechanisms for this protection.

The amendment altered several provisions regarding how a child is heard in court, which now will occur only once during the proceedings unless the child's best interest necessitates another hearing or the child themselves so desires.

The law also provides for how the child can be represented before the court. Where a guardian or parent is unable to perform this function, attorneys and legal advisers may step in.

The revised regulations also mandate that judges handling family and guardianship law cases complete specialized training. They are expected to gain knowledge on how to identify signs of child abuse and receive guidance in prioritizing the child's well-being amid disputes between parents or legal guardians [Podlewska, Szredzińska, and Włodarczyk 2019, 29-32].

The changes also encompass measures such as the analysis of serious and fatal cases of child abuse, as well as aiming to develop national strategies to combat violence and sexual offenses against children.

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<sup>1</sup> Act of 28 May 2023 amending the Act – Family and Guardianship Code and some other acts, Journal of Laws, item 1606.

The amendment of 28 July 2023 also amended the Act of 13 May 2016 on counteracting threats of sexual crime and on the protection of minors by adding, among others, Chapter 4b entitled, “Standards for the Protection of Minors.”<sup>2</sup>

The provisions regarding the standards for the protection of minors entered into force within six months as of the announcement of the amendment, i.e. on 15 February 2024. The legislator provided a 6-month deadline for implementation by obliged entities. The new law names entities obliged to introduce the standards and indicates their obligatory elements [Masłowska 2024].

This article will address this matter as well as explaining the concept of standards for the protection of minors. Also, the obligations of the Catholic Church will be discussed as imposed by the amended law and any issues that have surfaced in the implementation and application of the said standards.

Given the nature and organizational structure of the Catholic Church, attention will be attached to the standards for the protection of minors at parishes as they are the fundamental institutional unit of the Church and are entrusted with distinct areas of activity.

This paper follows the dogmatic and legal method to analyze and assess the relevant regulations.

## 1. STANDARDS FOR THE PROTECTION OF MINORS AND THE OBLIGATIONS OF THE PARISH AS AN INSTITUTIONAL UNIT OF THE CATHOLIC CHURCH

To discern the obligations imposed on parishes by the amendment to the ASCPM, first the concept of parish within the organizational framework of the Catholic Church needs to be defined along with its area of activity. Furthermore, it is necessary to clarify the intended meaning of “standards for the protection of minors.”

A parish is a distinct and permanent community of the faithful within the structure of the particular Church. A parish priest is nominated to manage it under the authority of the diocesan bishop. A parish priest is

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<sup>2</sup> Act of 13 May 2016 on counteracting threats of sexual crime and on the protection of minors, Journal of Laws of 2024, item 560 [hereinafter: ASCPM].

the one who serves as the shepherd of the parish community while being their representative body [Rakoczy 2008, 71].

A parish represents an organizational unit of the Christian Church. It brings together the faithful residing in a designated area. They are unified by the shared faith, worship, and mutual love within the Mystical Body of Christ – the Church’s Head. He is present eucharistically within the parish church, which is also at the heart of the community’s spiritual life. The faithful of the parish pursue spiritual growth and seek salvation under the guidance of a pastor of souls appointed by the diocesan bishop [Majka 1971, 221].

Parishes play a central role in the life of the Catholic Church and fulfil a variety of functions. One of them is ministry. Parishes are where the faithful partake in the sacramental life of the Church. Members of the clergy who work there, often supported by lay people, are engaged in pastoral, catechetical, evangelizing, and formative activities involving children and adults.

Its liturgical function makes the parish a place where numerous services and celebrations are held, and the sacraments are administered to the faithful. Parish communities actively participate in organizing the liturgy, as well as supervising church choirs, music ensembles, and organizing various prayer groups, all of which may admit minors.

Parishes play a vital role within the local community, providing a space for gatherings, social integration, and mutual support, while also welcoming the participation of minors. The parish community support the poor, the needy, and those in crisis. They also engage in various charitable works.

The educational function of the parish is evident not only in the provision of religious classes for children, youth, and adults but also in preparing the faithful to receive the sacraments and enriching their spiritual lives. Parishes also welcome formation sessions, retreats, workshops, and organize trips and excursions for children, youth, and adults [Rynio 1995, 25-38].

They often house community common rooms where educational, cultural, and educational activities can be held. Some parishes even own sports facilities where children and youth may gather to do sports.

In contemporary times, the role of the parish has also changed and significantly expanded. In addition to fulfilling spiritual functions, it is a legal entity and can employ personnel. The parish staff may be lay people and nuns, for example, ministers of sacraments, but also persons respon-

sible for altar boys, masters of ceremony, sacristans, sextons, conservators, housekeepers, etc. Volunteers can also engage in various types of parish activities, including those intended for minors.

On the other hand, the concept of standards for the protection of minors can be discussed in a strict and broad sense.

In the broad sense, the concept encompasses an array of domestic and international legal provisions that define the rights, liberties, and freedoms afforded to children and indicate the safeguards and guarantees for their protection. Their aim is to foster children's development while ensuring their safety.

Conversely, standards for the protection of minors in the strict sense refer to a document that outlines the obligations and procedures necessary to safeguard minors from abuse. They are required to be implemented by entities where minors are present [Warston and Truszkowski 2023, 224-25]. The standards for the protection of minors so understood were contained in the ASCPM, Chapter 4b.

In accordance with Article 22b ASCPM, such standards should be drawn up for each and every institution where minors attend, reside, or may potentially reside. The following are obliged to put such standards and procedures in place: 1) the governing body of a school, kindergarten, or any other educational, pedagogical, social rehabilitation, care, artistic, medical, sports, religious, leisure, or other institution where children pursue their interests or hobbies; 2) an organizer of educational, pedagogical, care, artistic, medical, sports, religious, social rehabilitation, leisure, and other activities linked to the pursuit of children's interests or hobbies.

In turn, entities providing tourism and hotel services should implement protection standards to the extent necessary to ensure children's safety.

Given the foregoing, parish priests, as the governing authorities of a parish, which is a religious entity where minors stay or may stay, is responsible for developing and implementing standards for the protection of minors as provided for in the ASCPM.

In Article 22c ASCPM, the legislator indicated mandatory items to be addressed in such a document: 1) how to foster safe interactions between minors and the staff of the receiving facility or of the organizer, particularly covering prohibited behaviours toward minors; 2) how to intervene if there is a suspicion or reports of abusing a minor; 3) procedures of and individuals responsible for reporting suspected offences against minors, no-

tifying a family court, and, in institutions authorized to do so, conducting the Blue Card procedure; 4) the procedure of a review and update of the standards; 5) the scope of competence of an individual responsible for preparing the staff of the receiving facility or of the organizer to implement the standards, the method of preparing the said staff to implement the standards, and the method of recording these activities; 6) the terms and method of making the standards available to parents or legal or actual guardians and minors so that they can be aware of them and know how to apply them; 7) persons responsible for collecting reports of incidents threatening minors and for supporting them; 8) procedures for recording and storage of disclosed or reported incidents or events that threaten a minor's interest.

In addition, the standards to be designed and implemented in parishes should specify: 1) guidelines for safe interactions between minors, particularly prohibited behaviours; 2) how to use electronic devices with access to the Internet; 3) procedures for protecting children from harmful online content and one recorded in other forms; 4) how to design a support plan for a minor following the disclosure of abuse; 5) the terms and method of making the standards available to minors and their guardians for reading and implementation.

Each parish priest is duty-bound to prepare a comprehensive document addressing the elements listed above. It should also outline the terms and procedures intended to protect children from abuse. This document is expected to help create a safe and friendly environment for children.

This is to be accomplished primarily through the development of a code of safe relations between staff members and minors, as well as among minors themselves. It is designed to provide guidance on acceptable behaviours and clearly delineate prohibited actions. The aim is to take preventive action to reduce the risk of harming children by staff members, third parties, and other minors. A well-designed code of safe relations will safeguard children's interests and enhance the likelihood of promptly identifying symptoms of child abuse.

The legislator also stipulated that standards for the protection of minors must outline the terms and procedures for intervention in cases of suspected abuse or when information regarding harm done to a minor is obtained. Consequently, each parish priest is required to designate a person who will receive reports of an actual or suspected abuse of a child.

Every parish should also have a designated individual in place who will be capable of intervening and who will know what action must be taken in accordance with the standards, including, for instance, notifying the police or prosecutor's office.

Another crucial aspect is to establish guidelines on how to draw up a support plan for a child who has experienced abuse. Parish priests should primarily consider the resources and personnel available within the parish, such as psychologists and educators who can provide early support. They should also make a list of institutions (along with contact details) that can offer assistance to an abused child.

Another obligation mandated by the legislator for parish priests is to appoint an individual responsible for the preparation of personnel. A competence set for such an individual should be clearly defined. He or she must be ready to train staff in the application of the standards for the protection of minors. They should also collect from each person involved in activities with children a declaration confirming that they have reviewed the standards document and commit to follow it.

The legislator requires that the protection standards be reviewed and updated. Again, parish priests are required to designate an individual responsible for evaluating the standards. They should also determine how the evaluation should be carried out; how often it should take place, and how it should be recorded.

No less important are the terms and method of making the standards available to parents or legal or actual guardians and minors so that they can be aware of them and know how to apply them. This is the role of parish priests. The minimum legal requirement is to publish the finished document on the parish website or to display it in a location that can be easily accessed. Moreover, the legislator obliged parish priests to rewrite the standards in a language understandable to minors [Masłowska 2024].

The key change introduced by the 28 July 2023 amendment pertains to the obligation of employers and other organizers to vet their staff members who come into contact with children against the Register of Sex Offenders.

While this vetting may be part of the standards for the protection of minors developed in the institution, it is not a mandatory component. In fact, this provision was introduced in 2017, i.e. before the legislator began to require the said standards.

In its 2017 wording, Article 21 ASCPM provided that before entering into an employment relationship with a person or before admitting a person to perform work related to the upbringing, education, leisure, treatment or care of minors, employers or organizers of such work were obliged to obtain information as to whether that person's data were included in the aforesaid limited-access register.

After 2019, the register was to be searched for persons registered there following a decision by the State Commission for the Prevention of Sexual Abuse of Minors under the Age of 15.

Currently, the personnel vetting criteria have been broadened to encompass psychological counselling, spiritual development, sports, and the pursuit of other interests and hobbies by minors.

Even though this requirement existed before, now, due to the changes introduced by the *lex Kamilek*, its interpretation and correct application have become fairly challenging. Parish priests raise questions such as whether this obligation covers all employees, volunteers, trainees, and interns, including those who only have random contact with children. They also inquire whether the same rules apply to, for example, a guest or visitor who is invited to speak at a meeting with altar boys, and if individuals employed or permitted to work with children before the effective date of the amended law, i.e. 15 February 2024, should undergo similar checks.

In its current wording, Article 21 ASCPM provides that the employer or organizer of activities related to the upbringing, education, leisure, treatment, psychological counselling, spiritual development, sports, and the pursuit of other interests and hobbies by minors, or care of minors, are obliged, before entering into an employment relationship with a person or before admitting a person to perform any of the aforesaid activities involving minors, to obtain information as to whether that person's data is included in the limited-access Register of Sex Offenders or among the data of individuals listed in the same register following a decision of the State Commission for the Prevention of Sexual Abuse of Minors under the Age of 15 [Wolska-Bagińska 2018, 65].

It should be emphasized that the timing of the vetting procedure is relevant.

Under the binding regulations, the employer or organizer must perform the vetting before allowing any individual to undertake work or activities with children, specifically those named in Article 21 ASCPM.



The form of cooperation with the employed individual is irrelevant for the performance of this obligation. It may be established on the basis of an employment contract, a civil law contract, an internship/traineeship contract, or in another form.

Another fact to consider is that, under the current wording of the law, the vetting process applies to every individual employed or authorized to take up activities involving children as of the effective date of the amended law, i.e. 15 February 2024.

In summary, the parish priest's obligation to conduct vetting arises when the actual duties of a person to be employed or authorized to perform work with children embrace at least one of the activities named in Article 21(1) ASCPM, i.e. activities involving the upbringing, education, leisure, treatment, psychological counselling, spiritual development, sports, or support of minors' interests or hobbies, as well as the care of minors.

It is the employer's or organizer's duty to obtain information from the Register of Sex Offenders. They should keep the obtained document in printed form and attach it to the employee's personal files or to the files of a person authorized to perform the activities.

In Article 21 ASCPM, the amendment also imposes obligations on the person to be employed or to be authorized to perform activities with or for minors. This person is obliged to submit to the employer or organizer information on the clean criminal record from the National Criminal Register<sup>3</sup> with regard to the offences specified in Chapter XIX and XXV of the Polish Penal Code, in Article 189a and Article 207 of the Penal Code and in the Act of 29 July 2005 on Counteracting Drug Addiction,<sup>4</sup> or with regard to acts prohibited under foreign laws and corresponding to these offences [Lisowski 2024].

A foreign national must also submit to the employer or organizer a clean criminal record report from their country of citizenship, obtained specifically in connection with engaging in professional or volunteer activities involving contact with children.

In accordance with Article 21(5) and (6) ASCPM, a prospective employee or a person to be admitted to work with children is also obliged to submit a statement disclosing the country or countries in which he or she has

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<sup>3</sup> Hereinafter: NCR.

<sup>4</sup> Journal of Laws of 2023, item 172 and of 2022, item 2600.

resided for the last 20 years, besides the Republic of Poland and the country of citizenship.

Consequently, they are also required to deliver clean criminal record reports from those third countries, obtained specifically in connection with engaging in professional or volunteer activities involving contact with children. If the law of any third country does not provide for the issuance of clean criminal record reports in connection with engaging in professional or volunteer activities involving contact with children, a general-purpose clean criminal record report should be obtained from the criminal register of that country.

In a situation where the law of the country from which the information is to be obtained does not share such information or does not keep a criminal register, a clean criminal record declaration should be submitted to the employer or organizer along with a declaration that the applicant has not been finally convicted in that country for prohibited acts corresponding to the offences specified in Chapters XIX and XXV of the Penal Code, in Article 189a and Article 207 of the Penal Code and in the Act of 29 July 2005 on Counteracting Drug Addiction. The same declaration should clearly state that no other judgement has been passed against the applicant that they have committed such prohibited acts, and that they are not bound by a court judgement, a decision of other authorized body or a law to comply with a prohibition to take any or specific positions, performing any or specific professions or activities related to the upbringing, education, leisure, treatment, psychological counselling, spiritual development, sports or the pursuit of interests of hobbies by minors, or to the care of minors.

The declarations must be submitted under penalty of criminal liability for providing fraudulent declaration. The employer or organizer attaches the obtained information and declarations to the employee's personal files or records of a person authorized to perform activities with and for children [Zygmunt 2024].

The said amendment imposes significant obligations on parish priests to vet personnel who have contact with children. Failure to fulfil them is punishable by detention, restriction of liberty, or a fine of not less than PLN 1,000. However, in performing these duties, they should keep in mind that ensuring the safety and well-being of minors is the primary goal of any institution engaging with minors.

## CONCLUSION

Standards for the protection of minors are a crucial component of preventive measures aimed at countering child abuse. The requirement for institutions where minors are present or may be present to prepare a standards document is intended to prevent the diffusion of responsibility when suspected violence against children occurs.

Such a document should provide a step-by-step guidance on how to respond when a child has been harmed. The new procedures seek to enhance the availability and effectiveness of protection and support for those affected by violence, as well as improving the effectiveness of measures taken against individuals who resort to violence against minors. The procedures determine how and who within the institution is responsible for implementing a plan to assist the victims of offences, as well as their relatives and witnesses. The vetting of personnel who come into contact with children is envisaged to keep sex offenders at bay.

In summary, the amendments approved under the Act of 28 July 2023 amending the Act – Family and Guardianship Code and several other acts imposed new obligations on parishes that some may view as overly burdensome in terms of extra paperwork. However, their primary goal is to safeguard children from violence.

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### Catholic Parishes in the Face of Standards for the Protection of Minors

#### Abstract

The purpose of this article is to analyze existing domestic regulations aimed at protecting minors from violence and strengthening respect for their rights. The authors focus on the obligations of Catholic Church parishes under the amended Act of 13 May 2016 on counteracting sexual offenses and on the protection of minors (i.e., Journal of Laws of 2024, item 560). The article highlights what should be included in the standards for the protection of minors and discusses who should undergo clean criminal record vetting, as well as the extent of such vetting for personnel who have contact with children.

**Keywords:** *lex Kamilek*; violence against children; offences against sexual freedom and morality; protection of minors; clean criminal record vetting.

### Parafie katolickie w obliczu standardów ochrony małoletnich

#### Abstrakt

Przedmiotem niniejszego artykułu jest analiza obowiązujących regulacji krajowych mających na celu ochronę małoletnich przed przemocą oraz wzmocnienie poszanowania ich praw. Autorki skupiły się na przedstawieniu obowiązków parafii Kościoła katolickiego wynikających z nowelizacji ustawy z 13 maja 2016 r. o przeciwdziałaniu zagrożeniom przestępczością na tle seksualnym i ochronie małoletnich (Dz. U. z 2024 r., poz. 560), przede wszystkim wykazały, co powinno zostać zawarte w standardach ochrony małoletnich oraz omówiły, kogo i w jakim zakresie ma dotyczyć weryfikacja niekaralności, jeżeli chodzi o personel, który ma kontakt z dziećmi.

**Słowa kluczowe:** *lex Kamilek*; przemoc wobec dzieci; przestępstwa przeciwko wolności seksualnej i obyczajności; ochrona małoletnich; weryfikacja niekaralności.

**Informacje o Autorze:** DR JUSTYNA CIECHANOWSKA – Uniwersytet Rzeszowski; adres do korespondencji: pl. Ofiar Getta 4-5, 35-959 Rzeszów, Polska; e-mail: jciechanowska@ur.edu.pl; <https://orcid.org/0000-0002-6115-0147>

**Informacje o Autorze:** DR KATARZYNA SZWED – Uniwersytet Rzeszowski; adres do korespondencji: pl. Ofiar Getta 4-5, 35-959 Rzeszów, Polska; e-mail: szwed@ur.edu.pl; <https://orcid.org/0000-0002-2755-2804>