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THE CONCORDAT AND STATUTORY FORM
OF CONSENSUAL REGULATION OF RELATIONS
BETWEEN THE REPUBLIC OF POLAND
AND THE ROMAN CATHOLIC CHURCH WITHIN
ARTICLE 25(4) OF THE 1997 CONSTITUTION

1. INTRODUCTORY REMARKS

One of the key elements of the axiological underpinnings of the 2 April 1997 Constitution of the Republic of Poland¹ is a Christian and democratic vision of the relations between state, society, and individual [Kryszewski and Prokop 2017, 23-24; Winczorek 2002, 91]. This vision is manifested in the borrowing by the Polish Constitution drafter of a number of constitutional values from the social teaching of the Roman Catholic Church (common good, subsidiarity, human dignity, solidarity of individuals, etc.). It is therefore hardly surprising that the Polish Constitution builds on the doctrinal legacy of the relations between state and Church.

The Constitutional Commission of the National Assembly, which drafted the Constitution of the Third Republic of Poland in the years 1993-1997, reckoned with the position of ecclesiastical circles regarding the method of regulating the matters of religion, including Article 25 of the Constitution which defines the legal status of churches and other religious organizations. The Constitution drafter's decision to depart from references representative of the communist era coincided with reaching for the ideas of

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¹ Journal of Laws No. 78, item 483 as amended.

autonomy and mutual independence of State and Church, as well as cooperation for the good of man and the common good, developed by the Second Vatican Council.

Consequently, Article 25 was included in Chapter I of the Constitution. It sets the terms of operation of the Roman Catholic Church, other Christian and non-Christian churches, and other religious organizations in a democratic state ruled by law, i.e. the Republic of Poland. The author of the Constitution rightly assumed that a dialogue between the government and the Church would be a prerequisite for the design of an appropriate law that would determine the legal status of churches and religious organizations. Therefore, the wording of Article 25 of the Constitution reflects the spirit of consensual regulation of relations between the Republic of Poland and the Roman Catholic Church and other churches and religious organizations. The outcomes of this dialogue take an official form as normative acts, i.e. in the case of the Roman Catholic Church, an international agreement (concordat) with the Holy See and statutes, and in the case of other religious communities, statutes adopted following agreements concluded by the Council of Ministers with their competent representatives.

This paper will look at the concordat and statutory form of consensual regulation of relations between the Republic of Poland and the Roman Catholic Church within Article 25(4) of the 1997 Constitution. The author analyses the said provision, taking into account the doctrine and case-law of the Constitutional Tribunal which added a significant value to the constitution drafter's practical statements.

2. REGULATING RELATIONS BETWEEN THE STATE AND CHURCHES AND OTHER RELIGIOUS ORGANIZATIONS AS A CONSTITUTIONAL COMPROMISE

When drafting of the Constitution of the Third Republic of Poland, instrumental in shaping the consensual model of relations between the state and churches and other religious organizations was the negative experience from the period of communist Poland (the People's Republic of Po-

land, “PRL”). The PRL’s Constitution of 1952,² just like the constitutions of other socialist states, openly proclaimed the worldview neutrality of the state and Church-State separation [Małajny 2012, 115]. In fact, it also guaranteed the freedom of conscience and religion, but such guarantees were impossible to keep under the communist rule.³ The practice of state’s interference in the Church’s autonomy to provide religious services was in fact close to militant atheism. The state authorities pursued an agenda of secularization and discrimination against church-goers [Pietrzak 2013, 161-68]. They were actively curtailing the activity of the Church in the public sphere. This policy came to an end no earlier than after the political breakthrough of 1989. The authorities’ new approach to the Church was mirrored in the Act of 17 May 1989 on the Guarantees of Freedom of Conscience and Religion, which has remained effective to date.⁴

No wonder, after the experience of communist Poland, advocates of the old approach to the separation of Church and State found themselves in opposition. Therefore, the drafters of the Constitution of the Third Republic of Poland opted for such regulation of the relations between the state and churches and religious organizations that reflected the position of the Roman Catholic Church [Małajny 2012, 124-25]. The intention of the constitutional legislator was to deny the past practices and create safeguards against possible attempts to restore them [Skrzydło 2013, 37].

The 1997 Constitution envisaged an international treaty with the Holy See (i.e. concordat) and statutes as instruments regulating Church-State affairs. The choice of the concordat as the basic law regulating the said relations played a key role in the drafting of the new Constitution by the Constitutional Committee of the National Assembly. Concordat between the Holy See and the Republic of Poland was signed on 28 July 1993 by the outgoing government of Hanna Suchocka.⁵ It ignited an intense debate during the election campaign. After the election, the post-communist left,

² Constitution of the Polish People’s Republic adopted by the Legislative Sejm on 22 July 1952, Journal of Laws of 1976, No. 7, item 36.

³ Things changed after the collapse of the communist regime. Article 82 of the 1952 Constitution, which defined the relations between State and Church, remained in full force until 1997 (i.e. until the date of entry into force of the Constitution of the Third Republic of Poland), that is, in a political setting that was qualitatively distinct from that of the communist era. See Szymanek 2006, 118-19.

⁴ Journal of Laws of 2023, item 265.

⁵ Journal of Laws of 1998, No. 51, item 318.

which claimed majority in the Sejm of the second term (1993-1997), refused to ratify the concordat and postponed it *ad acta*. Therefore, while the new Constitution was being drafted, the concordat had not yet been ratified. To determine a legal basis for State-Church relations was an open question. Still, the urge to reach an agreement prompted leftist parties to define their relations with the Roman Catholic Church amicably. Hence, Article 25 of the Constitution contains compromise solutions. The text points to international treaty (concordat) as the fundamental law defining the relations of the Republic of Poland with the Roman Catholic Church.⁶

3. THE CONSENSUAL MODEL OF DETERMINING RELATIONS BETWEEN THE STATE AND CHURCHES AND OTHER RELIGIOUS ORGANIZATIONS IN THE CONSTITUTION OF THE THIRD REPUBLIC OF POLAND

The central element of the constitutional compromise was the adoption of a consensual model of determining relations between the state and churches and other religious organizations. According to the constitutional legislator's intent, these relations should stem from a bilateral dialogue between the state authorities and individual churches and religious communities. Consequently, the distinct character of individual religious organizations is respected, and the state does not arbitrarily determine their legal status. Article 25(4) ("The relations between the Republic of Poland and the Roman Catholic Church shall be determined by international treaty concluded with the Holy See, and by statute") and (5) ("The relations between the Republic of Poland and other churches and religious organizations shall be determined by statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers") of the Constitution underlie the principle of consensual regulation of relations between the state and churches and other religious organizations.

Evidently, the drafter of the Constitution emphasized the special position of the Roman Catholic Church. It is the only religious organization that establishes its relations with the Polish state pursuant to an interna-

⁶ See Prokop 2022, 331ff.

tional agreement. In other words, the key provision of Article 25(4) creates a guarantee of a concordat form of regulating State-Church relations [Garlicki 2016, 623]. All other churches and religious organizations regulate their affairs with the state through statutes. Under Article 25(5), such statutes are adopted following a relevant agreement concluded by the Council of Ministers with the appropriate representatives of the church or religious community. This approach is intended to counterbalance the lower rank of the relevant regulation, which can be attributed to the fact that other religious organizations are not duly represented to enter into international agreements [Winczorek 2008, 69], thus serving the embodiment of the principle of equality of churches and other religious organizations (Article 25(1)).

The agreement-driven model of determining relations between the state and churches and other religious organizations is the best guarantee of conflict-free regulation thereof. It permits the adoption of solutions ensuring the stability of relations defined therein and takes account of the individual attributes of a church or religious organization that is a party to an agreement. In its judgement of 2 April 2003, the Constitutional Tribunal found:⁷ “One of the goals of the constitutional regulation in question, which imposes the obligation to negotiate with the representatives of a specific church, is to tailor the content of the legislation on religious matters to the unique character of individual churches and religious organizations.”

The agreements referred to in Article 25(5) are not sources of generally applicable law. In order to produce normative effects, they should be given the form of statutes. Thus, such agreements determine the content of laws that underlie the legal position of churches and religious organizations. Therefore, they should be considered “the most comprehensive form of cooperation between the state and religious associations in law-making” [Borecki 2023, 78].

⁷ Ref. no. K 13/02, OTK-A 2003, No. 4, item 28.

4. CONCORDAT AS THE BASIS FOR RELATIONS BETWEEN THE REPUBLIC OF POLAND AND THE ROMAN CATHOLIC CHURCH

In Article 25(4), the constitutional legislator decides the fundamental importance of a concordat agreement for the relations between the Republic of Poland and the Roman Catholic Church. The concordat is an agreement that traditionally governs the relations between the Holy See and a state. Elevating the relations between the Polish state and the Church to the level of international treaty is tantamount to establishing firmer guarantees than in the case of a parliamentary act (statute) – as is the case with other churches and religious communities.

That the wording of Article 25(4) of the Constitution implies a concordat can be inferred from the use of the singular form (“international treaty concluded with the Holy See”), as well as from the fact that concordats are international agreements that the Holy See uses to regulate relations with states. The validity of this interpretation should not be challenged, even though the provision in question does not refer to a concordat directly but mentions a somewhat vague “international treaty.” It is also noteworthy that the drafting of the Constitution in the Sejm of the second term (1993-1997) coincided with the signature of the Concordat with the Holy See on 28 July 1993, which was then awaiting ratification.

Therefore, the question arises why Article 25(4) fails to mention concordat openly. There are two factors behind this state of affairs. The first one is the political circumstances surrounding the adoption of the said regulation. The ratification of the Concordat signed in 1993 during the election campaign to the Sejm of the second term by the outgoing government of Hanna Suchocka was one of the hottest points of dispute between the post-communist left and the centrist and right-wing parties (mainly those that failed to win seats in the Sejm of the second term). As mentioned earlier, those who opposed the ratification of the Concordat were still aware of the need to seek compromise in the area of relations between the state and the Roman Catholic Church. If they had failed to reach one, the referendum campaign to approve the Constitution would have been thwarted. That is why, they finally endorsed the concordat-based definition of relations between the Republic of Poland and the Roman Catholic Church, but they did not agree to the use of the word “concordat” in Article 25(4). The other factor is a substantive argument to treat the concordat like any oth-

er international agreement in order to maintain terminological consistency in the wording of the 1997 Constitution. The consequence thereof is the absence of constitutional grounds for prioritizing a concordat among other international agreements. This issue is not free from controversy, as evidenced by the position of the Constitutional Tribunal expressed in Case U 10/07⁸ and some divergent views seen in the doctrine [Garlicki 2016, 623; Masternak-Kubiak 2013, 113-14].

Even though, when drafting Article 25(4), the authors of the Constitution meant the 1993 Concordat, it would have been possible to define the relations between the Polish state and the Roman Catholic Church under a larger number of agreements concluded with the Holy See. Such a solution is expressly provided in Article 27 of the Concordat (“Matters requiring new or additional solutions shall be regulated by means of new agreements between the Contracting Parties...”). It is therefore constitutionally admissible to conclude other (additional) international agreements with the Holy See to regulate relations between the Polish state and the Church, beyond the 1993 Concordat.

Pursuant to Article 25(4) of the Constitution, an international treaty governing relations between the Republic of Poland and the Roman Catholic Church must be concluded with the Holy See and not with any other entity recognized under international law. The Holy See has the capacity to maintain diplomatic relations and conclude international agreements. The status of the Holy See as a subject of international law is universal and indisputable [Świst 2017, 699; Masternak-Kubiak 2013, 108]. No other church or religious organization possesses a similar body that is empowered to exercise the right of legation. Hence, the recognition by the constitutional legislator of the special position of the Roman Catholic Church as her relations with the Republic of Poland are governed by a normative act of a higher rank than a statute (which determines the legal status of other churches and religious organizations).

The recognition of the concordat as the basic legal instrument regulating the relations of the Polish state with the Roman Catholic Church is tied to the special position that the Church enjoys in Polish society. The decision of the constitutional legislator was motivated by respect for the religious structure existing in Poland and the Christian legacy of the Na-

⁸ Judgement of the Constitutional Tribunal of 2 December 2009, U 10/07, OTK-A ZU 11(2009), item 163.

tion, as referred to in the Preamble to the Constitution. In its judgement of 2 December 2009, the Constitutional Tribunal found: “Article 25(4) of the Constitution and the Concordat highlight the special institutional position of the Roman Catholic Church in the legal system of the Republic of Poland, confirming its dominant position in the religious structure of the Republic of Poland.” Consequently, the concordat-based determination of relations between the Republic of Poland and the Roman Catholic Church is substantively justified and does not contradict the equal-rights principle provided for in Article 25(1).

If the 1993 Concordat were not in force or if it hypothetically lost its binding force, based on Article 25(4) of the Constitution, the constitutional bodies of the Polish state would be required to seek to conclude an international agreement with the Holy See to regulate relations between the state and the Roman Catholic Church [Banaszak 2012, 189]. Also, failure to meet this obligation would be tantamount to committing a constitutional tort, and persons responsible for this omission would be held constitutionally accountable before the State Tribunal [Borecki 2023, 78-79]. It does not naturally follow, however, that concluding the Concordat was an obligation accepted by the Polish state in its Constitution [Tuleja 2023, 107].⁹ Imposition on the state of the obligation to enter into such an agreement would have been hardly reconcilable with the principle of state sovereignty (state’s discretion to withdraw from undertaken obligations in accordance with international law).

If a new concordat were to be concluded, the state authorities would be afforded the option of refusing to be bound by new obligations. The refusal might come from the Council of Ministers concluding the agreement, the Sejm giving consent to ratification, and the President of the Republic of Poland implementing the act of ratification. Finally, the Holy See might not be interested in concluding a new agreement. Last but not least, from the viewpoint of the domestic legal order, the concordat must not contradict the Constitution, and the Constitutional Tribunal is competent to rule so. The tribunal issues its decision after a preventive review following a request of the President of the Republic of Poland to determine the concordat’s conformity to the Constitution (Article 133(2)) or after a follow-up review requested by the bodies and entities listed in Article 191 of the

⁹ See Krukowski 2004, 100.

Constitution. Hence, the observation that the constitutional grounds for the formal and legal basis for determining the relations between the Republic of Poland and the Roman Catholic Church entail the obligation for state bodies to take steps to become bound by an appropriate international agreement, yet it is not an absolute obligation of the Polish state.

The Republic of Poland is bound by the concordat under the so-called major ratification, i.e. the consent of the Sejm granted by statute (Article 89 of the Constitution). As Bogusław Banaszak rightly noted, the concordat sets out the method of achieving freedom of conscience and religion. Thus, the requirement contained in Article 89(1)(2) of the Constitution is met. It provides that the ratification and renunciation by the Republic of Poland of an international agreement that concerns the freedoms, rights, or obligations of citizens named in the Constitution requires the prior consent of the Sejm given in the form of a law [Banaszak 2012, 189]. After its publication in the Journal of Laws, the concordat, as a ratified international agreement, becomes incorporated in the domestic legal order as directly applicable, unless its application depends on the passing of a new law. In the hierarchy of legal sources, it takes precedence over statute (law) if the statute were in conflict with the provisions of the concordat.

The obligation to define the relations between the Republic of Poland and the Roman Catholic Church by way of an international agreement, as provided in Article 25(4) of the Constitution, begs the question of admissibility of terminating the 1993 Concordat signed by the Polish authorities. On the face of it, a concordat is an international agreement like any other and does not essentially differ from other treaties. As indicated earlier, the constitutional legislator emphasizes this fact by replacing the term “concordat” with a more generic phrase – international treaty, to the extent corresponding to the language of the Constitution of the Third Republic of Poland. This means that the concordat may be renounced like any other international agreement, i.e. by the President following the consent of the Sejm passed as a statute (Article 133(1) in conjunction with Article 89 of the Constitution). Such a scenario is politically implausible, yet permissible from a constitutional point of view.

However, the question still remains whether the provisions of Article 25(4) of the Constitution, pointing to an international instrument as the basis for defining relations between the Republic of Poland and the Roman Catholic Church, can actually prevent it. This provision imposes an obliga-

tion to take steps to conclude a concordat. Therefore, the Constitution would be violated if action was taken to renounce it in an unjustified manner. In an extreme situation, if the political setting in Poland were openly hostile towards the Roman Catholic Church and the likelihood of renouncing the Concordat were high, the individuals behind such an initiative would be held constitutionally accountable under Article 198(1) of the Constitution (in particular the President performing the act of renouncement and the Prime Minister endorsing the President's decision), unless such a move were justified by the Constitutional Tribunal's opinion that the Concordat was inconsistent with the Constitution of the Republic of Poland or by other circumstances.¹⁰

5. RELEVANCE OF A STATUTE FOR DETERMINING THE RELATIONS BETWEEN THE REPUBLIC OF POLAND AND THE ROMAN CATHOLIC CHURCH

In accordance with Article 25(4) of the Constitution, the relations between the Polish state and the Roman Catholic Church are to be governed not only by "international treaty" (i.e. concordat) but also by "statutes." The drafter of the Constitution used the conjunction "and" between the two [Masternak-Kubiak 2013, 108]. Therefore, any disjunctive interpretation of this provision should be ruled out, as it would mean that the fact that the Republic of Poland is bound by the Concordat with the Holy See excluded recourse to statutes. This is not the case, and, what is more, the said article refers to "statutes" (in plural), which means that there should be at least two of them [Witkowski 2000, 220].

Due to the fundamental role of the Concordat in governing the relations between the Polish state and the Roman Catholic Church, the statutory regulation is deemed subsidiary (supplementary). Statutes should address matters that are not included in a concordat agreement. "The use of the plural form suggests that the entirety of these relations cannot be contained in one law, but, because of the need to regulate various aspects of the activity of the Roman Catholic Church in social life, dispersed and

¹⁰ In this context, Paweł Borecki provides a hypothetical case of a significant and repeated violation of the Concordat by the Church party [Borecki 2019, 32-33].

fragmentary regulations will be necessary, implemented when regulating a specific area of social relations” [Banaszak 2012, 189].

Interestingly, Article 25(5), which points to statutes as the formal and legal basis governing (apart from the Concordat) the relations of the Republic of Poland and the Roman Catholic Church, fails to make references to agreements concluded by the Council of Ministers with the appropriate representatives of other churches and religious organizations. There are fundamental differences in the doctrine as to whether the Constitution requires the adoption of the statutes referred to in Article 25(4) in a consensual procedure, i.e. after the Council of Ministers has concluded a relevant agreement with the competent legation of the Roman Catholic Church.

On the face of it, a concordat agreement should fulfil this role, which is yet another argument supporting the thesis that striving to conclude an agreement with the Holy See is an obligation of the competent constitutional authorities. Moreover, the constitutional requirement of establishing relations between the Republic of Poland and other churches and religious organizations through statutes adopted pursuant to agreements concluded between their appropriate representatives and the Council of Ministers is offset by giving priority to the Roman Catholic Church, which is subject to the concordat and statutory procedure, and embraces the principle of equal rights enjoyed by churches and other religious organizations [Pietrzak 2013, 249-250]. From this perspective, it is not necessary for the Council of Ministers to enter into agreements with the appropriate representatives of the Roman Catholic Church, as provided in Article 25(5) of the Constitution.

Yet, in Case K 13/02, the Constitutional Tribunal found that “the requirement of prior agreement between the Council of Ministers and representatives of churches also applies to the law-making regulating the relations between the state and the Roman Catholic Church.”¹¹ The tribunal’s prescription to draw up appropriate agreement received critical comments. As Paweł Borecki notes, it is inconsistent with the literal wording of Article 25(5) of the Constitution. The Constitutional Tribunal also failed to take a clear view on how the church party should be represented when concluding such an agreement [Borecki 2016, 116]. The argument referring to the results of linguistic (and systemic) interpretation is convincing,

¹¹ Judgement of the Constitutional Tribunal of 2 April 2003, K 13/02 (OTK-A ZU 4(2003), item 28).

yet this view will not withstand criticism if the *ratio legis* of the solution in question is considered. For it would be a misguided assumption to expect that the consensual form of regulating the relations of the state with churches and other religious organizations is perfectly evident in the requirement to enter into agreements under Article 25(5) of the Constitution while being detrimental to the Roman Catholic Church. In this case, as Dariusz Walenciak does, the *a maiori ad minus* argument can be deployed: “Since the obligation to conclude such agreements binds minority religious organizations, it should be applicable to the largest religious organization in Poland, too” [Walencik 2010, 43].

Referring to the problem in question, the author of this paper wishes to point out that the absence of constitutional requirement to adopt statutes referred to in Article 25(4) of the Constitution on the basis of agreements provided for in Article 25(5) thereof does not preclude the obligation to conclude an appropriate agreement between the state authorities and representatives of the Roman Catholic Church. Naturally, the conclusions arising from the linguistic and systemic interpretation (*argumentum a rubrica*) should not be decisive for the line of interpretation of the said provision.¹² The key factor is the general systemic context of the formal and legal basis for establishing relations between the Republic of Poland and the Roman Catholic Church. For example, Article 25 of the Constitution is nested in the principle of civil society [Garlicki 2023, 86-87], which entails the need for the state authorities and civil society entities to engage in a dialogue on the legal regulation of the status of the latter. Therefore, in conclusion, with regard to matters that are not governed by the Concordat, the statute-based form of regulating relations between the Republic of Poland and the Roman Catholic Church requires the prior conclusion of an appropriate agreement (or at least a consensus), as is the case with Article 25(5) and other churches and religious associations.¹³

However, to declare unconstitutionality of a statute regulating the state’s relations with the Roman Catholic Church only because no agreement has been concluded that meets the criteria of Article 25(5) of the Constitution would be going to extremes. No express requirement in Article 25(4) to conclude an agreement permits an interpretation that even an informal arrangement or acknowledgement of the position of the Polish

¹² A different view is expressed in: Januchowski 2009, 8.

¹³ For a similar interpretation of Article 25(4) in: Sobczyk 2013, 315-59.

Episcopal Conference in the legislative process would be sufficient. Article 27 of the Concordat provides guidance as to the legislative practice: “Matters requiring new or additional solutions shall be regulated by means of new agreements between the Contracting Parties or by understandings between the Government of the Republic of Poland and the Episcopal Conference of Poland with the prior authorization of the Holy See.” Respecting this provision should serve as a safeguard against potential conflicts.¹⁴ It also openly points to the Polish Episcopal Conference as due representatives of the Roman Catholic Church within Article 25 of the Constitution.¹⁵

Only an arbitrary definition by statute of matters concerning the relations between the Republic of Poland and the Roman Catholic Church might give the green light to a claim of unconstitutionality of this statute on the grounds of its adoption procedure. Therefore, the provision of Article 191(1)(5) of the Constitution should not be ignored. Under this provision, the appropriate representation (the Polish Episcopal Conference) has the constitutional right to submit to the Constitutional Tribunal an application for recognition of non-conformity of the statute (or another normative act), which concerns matters falling within the remit of the Roman Catholic Church, to the Constitution. Therefore, if the statute is adopted without the prior conclusion of an agreement (or reaching an agreement in another way), the Constitutional Tribunal may find it non-conforming to the Constitution due to the violation of procedural requirements related to its adoption.

CONCLUSION

The concordat and statutory form of consensual regulation of relations between the Republic of Poland and the Roman Catholic Church is a natural consequence of recognition by the constitution drafter of the autonomy and independence of religious communities. State authorities cannot unilaterally (arbitrarily) determine the content of mutual relations. Aware of this, the constitutional legislator, in Article 25(4), points to an interna-

¹⁴ Cf. Judgement of the Constitutional Tribunal of 14 December 2009, K 55/07, OTK-A ZU 11(2009), item 167.

¹⁵ Consequently, P. Borecki’s critical assessment of the position of the Constitutional Tribunal expressed in Case K 13/02 seems ungrounded [Borecki 2016, 116].

tional treaty (concordat) as the fundamental instrument defining the relations of the Polish state with the Roman Catholic Church. The Holy See is a party to this treaty. It is an entity of international law, the personification of the Roman Catholic Church as a universal entity, in relations with the authorities of individual states.

To the extent necessary to regulate new or additional matters not provided for in the 1993 Concordat, statutes are the preferred form. The content of the relevant statute should be consulted between the Council of Ministers and the Polish Episcopal Conference empowered by the Holy See. The presence of an international player (the Holy See) in the process of making laws that govern relations between the Polish state and the Roman Catholic Church demonstrates the importance and role of the latter. In the conditions of a modern democratic state, no religious community is considered privileged. On the part of the Roman Catholic Church, this trend was reinforced by the conclusions of the Second Vatican Council [Sitarz 2015, 145-48]. Therefore, the Polish constitutional legislator also applied the principle of consensual regulations to relations to other churches and religious organizations. However, such relations are only governed by statutes, the content of which depends on agreements concluded between the Council of Ministers and appropriate representatives of such religious entities.

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**The Concordat and Statutory Form of Consensual Regulation of Relations
between the Republic of Poland and the Roman Catholic Church
within Article 25(4) of the 1997 Constitution**

Abstract

The article discusses possible directions of interpretation of Article 25(4) of the Constitution of the Republic of Poland. It constitutes (together with Article 25(5)) the basis for the constitutional principle of consensual regulation of relations between the state and churches and other religious organizations. In the case of the Roman Catholic Church, the formal and legal expression of the implementation of this principle is the validity of the Concordat of 1993, i.e. an international agreement concluded with the Holy See defining relations between the Republic of Poland and the Roman Catholic Church. The provisions of the Concordat are supplemented by statutes that should be adopted following the conclusion of a treaty, or at least an agreement, with the Polish Episcopal Conference. In a similar way, the relations between the Republic of Poland and other Churches and religious organizations are determined by statutes.

Keywords: Concordat; Constitution of the Republic of Poland; Roman Catholic Church; statute; religious organizations.

**Konkordatowo-ustawowa forma konsensualnej regulacji stosunków
między Rzeczpospolitą Polską a Kościołem katolickim
w świetle art. 25 ust. 4 Konstytucji z 1997 r.**

Abstrakt

Artykuł poświęcony jest omówieniu możliwych kierunków wykładni art. 25 ust. 4 Konstytucji Rzeczypospolitej Polskiej. Stanowi on (łącznie z art. 25 ust. 5) podstawę konstytucyjnej zasady konsensualnej regulacji stosunków między państwem a kościołami i innymi związkami wyznaniowymi. W przypadku Kościoła katolickiego formalnoprawnym wyrazem realizacji tej zasady jest obowiązywanie Konkordatu z 1993 r., czyli umowy międzynarodowej zawartej ze Stolicą Apostolską określającej stosunki między Rzeczpospolitą Polską a Kościołem katolickim. Postanowienia Konkordatu uzupełniają ustawy, które powinny być uchwalane w wyniku zawarcia umowy lub przynajmniej porozumienia z Konferencją Episkopatu Polski. Na podobnej zasadzie określone są w drodze ustawy stosunki między Rzeczpospolitą Polską a innymi kościołami oraz związkami wyznaniowymi.

Słowa kluczowe: konkordat; Konstytucja RP; Kościół katolicki; ustawa; związki wyznaniowe.

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