

POLAND AND THE HOLY SEE.
CONTRIBUTION TO THE CONCORDATORY LAW*

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Summary. The article contains the explication of the very important questions respecting the normalization of relations between the democratic Poland and the Catholic Church using the international agreement between the Holy See and the supreme authority of Polish State, called „concordat”. This event is considered in the historical context of political transformations from the communist totalitarian regime to liberal democracy and at the same time from atheistic state based on the hostile separation to the secular one based on the friendly separation. In complains the following issues: 1) notion and classification of concordats, 2) axiological and formal dimension of its conclusion between the Holy See and Poland (1993–1998), 3) compliance Concordat’s with the Constitution of Poland, 4) the stabilization function of Concordat, 5) financial clauses.

Key words: Holy See, Polish State, concordat, Constitution, Church-State relations

The historical events are a good opportunity for the taking this subject into account. The last year (2013) twenty anniversary have passed since the signing of the Concordat between the Holy See and the Republic of Poland and fifteen years since its ratification¹. A few days ago we experienced the canonization by the Pope Francis the two of his predecessors: John XXIII and John Paul II, who contributed to the process of the building justice and peace between the nations in modern world, especially the relations between the Church and State in Poland.

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¹ The conclusion of the Concordat between the Holy See and the Republic of Poland resulted from successively proceeding steps necessary to ensure that the Concordat will be a law in force in domestic legal order. These are: signing of the Concordat in Warsaw on 26 July 1993 by the representatives of the two Sides – the Apostolic Nuncio in Poland, archbishop Józef Kowalczyk and Minister for Foreign Affairs, Krzysztof Skubiszewski; the ratification on 23 February 1998 and signed by the President of the Republic of Poland Aleksander Kwaśniewski in Warsaw and the Pope, John Paul II in Vatican on the basis of the law passed by the Parliament granting consent for its ratification; the exchange of the ratification’s documents between the Prime Minister, J. Buzek and the Secretary of State, the Cardinal A. Sodano. The entry into force of the Concordat took place on 25 April 1998 (Dz. U. 1998, Nr 51, poz. 318).

I. HISTORICAL REMARKS

1. The question of the relations between Poland and the Holy See has the very deep and historical roots. The relations between these Sides have existed since the beginning of the Christianity of Poland and its incorporation to the family of Christian nations. At the begiing I would like to do some remarks.

Firstly, there is most important that the first historical Polish prince Mieszko I after the admission of Baptism in 966 – as indicates the oldest document on the Polish State „*Dagome iudex*”² – gave his State under the protection of the Bishop of Rome. Thereby, he wanted to build the peaceful relations with the neighbors as members of *Sacrum Imperium Romanum Germanorum* (who organized the invasion on Poland under the pretext of converting pagans to Christianity).

Secondly, there is well-known fact that most popular manual of Canon Law in medieval Poland was „*Collectio Tripartita*” (1093–1094), drawn up by famous French archbishop Ivo of Chartres³. Very significant is an insert in it an adagium „*Cum regnum et sacerdotium inter se conveniunt, bene regitur mundus, floret et fructificat Ecclesia*”⁴. It was the peaceful interpretation of the „religious-political dualism”, based on the teaching of Jesus Christ: „Render therefore unto Caesar the things which are Caesar’s, and unto God the things that are God’s” (Mt 22:21). This dualism denotes a distinction of two sovereign powers – spiritual and temporal (*sacerdotium et imperium*) – and the convention between them is very useful to the both Sides.

Thirdly, the transformation of that paradigm into the diplomatic practice in the peaceful dissolving conflicts between two sovereign entities *sacerdotium et imperium* was the bilateral agreement, known as „concordat”. From the Concordat of Warm (1122), called *Pax Wormatiensis*, concordats are a peaceful way of cooperation between the state and the Church fulfilling its mission on the state’s territory in the global society⁵.

2. In the long period of the history of the Polish State – the First Polish Republic, since the Baptism to the Third Partition of Poland (966–1795) – were concluded three concordats. These were typical partial concordats concerning the beneficiary matters.

In the XX century were concluded two concordats between Poland and the Holy See. The first one was concluded in 1925 after regaining the independence

² „*Dagome iudex*” – the oldest document respecting Poland, completed 990–992 in Latin, inserted in *Collectio Canonum Card. Deusdedit*. A. Witkowska, *Dagome iudex*, „*Encyklopedia Katolicka*”, vol. III, col. 970–971.

³ W. Sawicki, *Zbiór prawa dla ludzi świeckich w krakowskim rękopisie „Zbioru Troistego” (Collectio Tripartita)*, *Annales UMCS*, sec. G, 7 (1960), p. 295–352.

⁴ Ep. 328 (*Patrologia Latina* 162, 246 B).

⁵ J. Krukowski, *Kościelne prawo publiczne. Prawo konkordatowe*, Lublin 2014, p. 15–20; 218–222.

of Poland after the First World War. The second one – actually in force – was concluded after the collapse of the communist regime (1993–1998). I suggest the reflection on its genesis, meaning and consequences.

3. In order to explain the genesis of the Polish Concordat of 1993 we need to take into account the historical context. First of all, the practice of concluding concordat agreements has been established in the middle ages and exists in contemporary world. It is based on the paradigm of religious and political dualism which is original for European culture. The source of it is the teaching of Jesus Christ: „Render therefore unto Caesar the things which are Caesar’s, and unto God the things that are God’s” (Mt 22:21). It has been controverted to the religious and political monism that was common in the pagan antiquity and is present in the ideological and political monism of modern times. This dualism denotes a distinction between two sovereign entities of power – political and religious – and conflict resolution between them in the form of bilateral agreement.

4. In modern times concordats are mostly concluded in important moments in the history of the given nation, towards which the Church fulfills its mission. Such situation came into existence in Poland and neighboring countries at the end of the 20th century in the context of socio-political transformation from the communist regime to the liberal democracy and restoration of cultural and political sovereignty by enslaved nations of the East-Central Europe. An indispensable part of this transformation is the change of the relations between the Church and the state from the totalitarian atheistic regime with hostile separation to the democratic state with friendly separation or coordinated, owing to the application of an instrument called concordat.

However, these transformations had the nature of socio-political revolutions, they differed from the earlier great European revolutions (the French Revolution from the end of 17th century and the Russian Revolution from the early 20th century) because of positive attitude towards religion, particularly Church. The contribution of the Catholic Church to the collapse of the communist regime was significant to such events. Bishops of the Catholic Church supported the efforts being made by the nations in preserving cultural identity and restoring political sovereignty lost after the Second World War. The Catholic Church in Poland under the leadership of the Primate of Poland – Stefan Wyszyński and his successor Józef Glemp – included in the mission of the Church protection of human rights and the rights of nation to self-determination and also function as a mediator between the communist government and the political opposition under the name “Solidarity”⁶. Appeals of the Pope John Paul II to all the nations and political leaders turned out to be most important. The Pope encouraged them to resolve political confrontations – aimed at chang-

⁶ J. Krukowski, *Uprawnienia nadzwyczajne Stefana Wyszyńskiego, Prymasa Polski, wobec zagrożeń ze strony reżimu komunistycznego*, „Studia Prymasowskie” 5 (2011), p. 29–42.

ing of communist regime – in a non-violent way using dialogue and respect the principles of justice, the common good and solidarity⁷.

Therefore, at the time of the collapse of the communist regime, there was a need to establish relations between the State and the Church in Poland in the form of concordat. In this context, the following questions arise: What is concordat and why it has turned out to be an effective instrument in such kind of situations? In order to explain these questions I propose to consider the following issues: 1) the notion and classification of concordat agreements; 2) the stabilization function of the concordat in the legal order; 3) constitutional principles of the effectiveness of concordat; 4) the object of concordat's regulations; 5) forms of drafting provisions of concordat and obey them in Polish legal order.

II. THE NOTION AND CLASSIFICATION OF CONCORDAT AGREEMENTS

The Notion

The term „concordat” (Lat. *concordatum*) in a juridical meaning is generally used to designate an international agreement concluded between the Holy See and the supreme authorities of the given state based on the partnership. In order to regulate mutual relations between the Church and the state – two communities of different types – to which belong the same people (as faithful and citizens). In the practice of diplomacy as well other terms are used in different languages concerning this kind of agreement as: *convention, tractatus, accordo, accuerdo, vörtrag, modus vivendi, basic agreement*⁸.

Concordat as an international agreement has original features for two reasons. The first one is that one of the two Sides of this agreement is not the State, but the Holy See as representation of the Catholic Church – universal religious community which part is located on the state's territory. The Holy See is endowed with the public international juridical personality. The international juridical personality contains the ability to maintain diplomatic relations and conclude international agreements. The Holy See may conclude international agreements due to having its own state (the Vatican City State), however concordats are concluded by the Holy See as the supreme authority of the Catholic

⁷ J-L. Tauran, *De l' „Ostpolitik” à la nouvelle Europe de l'OSCE*, in: *La diplomatie de Jean Paul II*, ed. J-B d'Onorio, Paris 2000, p. 43–55; J. Krukowski, *Wskazania dla polityków w nauce Jana Pawła II*, „Biuletyn Stowarzyszenia Absolwentów i Przyjaciół Wydziału Prawa Katolickiego Uniwersytetu Lubelskiego”, nr 7, VI (2011), p. 28–41.

⁸ J. Krukowski, *Konkordaty współczesne. Doktryna – teksty (1964–1994)*, Warszawa 1995, p. 22–25; J. Martin de Agar, *Raccolta di concordati 1950–1999*, Città del Vaticano 2000, p. 10–11; D. Němec, *Concordat Agreements between the Holy See and Post-Communist Countries (1990–2010)*, Leuven 2011, p. 27.

Church⁹. The second reason for originality of concordat is its object, which are mutual rights and duties of its Sides – the Holy See and the State – concerning the people who at the same time belong to the Church and to the State.

Classification of Concordat Agreements

Concordat agreements can be divided using several criteria¹⁰.

With respect to the historical criteria, it has to be distinguished: 1) **classic concordats** – concluded in the times since the Concordat of Worm to the Second Vatican Council; the object of these concordats was exchange of the privileges and concessions between the supreme authorities of the Church and the state; 2) **contemporary concordats** – concluded after the Second Vatican Council; their object are **guarantees of freedom of conscience and religion in private and public life**. Polish Concordat of 1993 is a contemporary one.

With respect to the **scope of issues regulated**, we distinguish: 1) **agreement overall comprehensive totality** or a large part of issues concerning legal situation of the Church on the given state's territory; 2) **partial agreements** which regulate only selected issues, e.g. financial matters of the Church, religious education in public schools, pastoral military service. Polish Concordat of 1993 is an overall agreement.

With respect to the **procedure** concordat may be concluded in the following forms: 1) in the **solemn form** (*conventio sollemnis*) if all the formal elements required for concluding international agreements are fulfilled (negotiations; signing by negotiators; ratification with the consent of Parliament by the Head of the given State and by the Pope, as the Head of the Church; exchange of ratification notes; publication); 2) in the **simply form** (*conventio simplex*) like *modus vivendi*. The procedure of its concluding does not comprise all the above formal elements, particularly ratification with the consent of Parliament. Polish Concordat of 1993 was concluded in a solemn form.

With respect to the **method (form of drafting juridic norms)**, we distinguish:

1) concordat including **completely new norms** compared to the laws that were in force prior to the its ratification, e.g. concordats with Spain concluded in 1976–1979;

2) concordat „**mixed**” that has different kinds of norms, namely:

a) **completely new norms** to the laws in force prior to the ratification of concordat;

b) and norms having nature of the **reference (clauses)** to the norms included in acts that were in force before the ratification of concordat and some new norms e.g. agreement between the Holy See and Italy of 1984 which remained

⁹ I. Cardinale, *The Holy See and the International Order*, Gerrards Cross 1976, passim.

¹⁰ J. Krukowski, *Kościelne prawo publiczne, op. cit.*, p. 236–239.

in force norms from the Lateran Treaty of 1929 and included completely new regulations, in particular “Norms” concerning economic situation of the Church;

c) norms having nature of the **reference to the laws that were in force at the time of ratification of concordat** which had been unilaterally established earlier by the given state or by the Church authorities. With such types of clauses the transformation of legal norms to international ones is fulfilled. Thus, in that way the law has obtained higher rank in the hierarchy of the source of law;

d) **incomplete norms which are not proper for direct application. These are reference to the future legal regulations.** Among them we distinguish:

– **reference to the new law**, which could be unilaterally established by the state authorities in the future;

– **reference to the future bilateral agreement**, which will be concluded within one of the two hierarchical levels. These are:

– **reference to the future partial concordat** – new agreement between the Holy See and the state’s supreme authorities in a particular case, e.g. in the Fundamental Agreement between the Holy See and the State of Israel (December 30, 1993) was included the reference clause to the future particular agreement concerning the legal personality issues, economic and financial issues of the Church organizational units (Art. 3,3; 10);

– **reference to the future agreement which will be concluded within lower hierarchical level; it is between bishops conference and the government of the given state**, e.g. in the agreement between the Holy See and Spain (January 3, 1979) was included the reference to the future agreement between the Government and the Bishops Conference concerning the economic situation of religion teachers (Art. 7). It should be noticed that such kind of reference does not guarantee the same stabilization of relations between the state and the Church like the complete norms.

The Legitimism of Concordat

The regulations of the mutual relations between the State and the Church in Poland in the form of Concordat have two dimensions: axiological and formal (positivistic aspect).

An Axiological Dimension. Firstly, the conclusion of the agreement between two Sides – the State and the Holy See as the representant of the Catholic Church – has an axiological dimension. It has been directed to the achievement certain moral and political values.

During the debate over the ratification of the Concordat in the Polish Parliament (1993–1997) political opponents of its ratification made the allegations aimed at gaining voters by misleading the public opinion. In particular, they claimed that the ratification of the Concordat will result in acknowledgment of

Catholic character of the State¹¹. This kind of argumentation was completely wrong because opponents did not understand the differences between the classic concordats concluded before the Vatican Council II and the contemporary ones. The object of the concordats concluded before the Vatican Council II was the exchange of the privileges between the supreme authorities of the Catholic Church and the given state, causative discrimination of other religious communities. However, the object of the concordats concluded after the Vatican Council II are the guarantees of freedom of conscience and religion in private and public life, which source is the inherent dignity of every human person.

Therefore, concordats were concluded before the Vatican Council II with the Catholic states (e.g. Spain, Italy) after this were revised. Also the Holy See has concluded completely new concordats with the secular states or with the confessional non catholic states¹². While, the objection of opponents of the ratification of Polish concordat Polish of 1993 was absolutely wrong. The main object of Polish Concordat of 1993 are the guarantees of freedom of religion in public life adjusted to the needs of the contemporary Polish society. The privileges that might have been granted the Catholic Church are not the object of it. Therefore, Poland has not become the Catholic state. But the Church has become its ally in a building civil democratic society respecting the fundamental human values founded in the Christian culture of Polish nation.

A Formal Dimension. The formal dimension of the conclusion of the Concordat (1993–1998) depends primarily on the fact legal loophole (*lacuna iuris*) occurred in 1944 in juridical order of the Polish State after the breaking of the Concordat of 1925 has been closed¹³.

The communist government – according to the presumption of marxist ideological and political monism – declared that the situation of the Church in Poland will be regulated in form of unilateral acts. But, the government was aware of the regulation of the relations between the State and the Catholic Church should be in the bilateral agreement. Therefore, for the tactical (not strategical) purposes in 1950 and 1956 the Government signed „the Agreement” with the Polish Episcopacy¹⁴ but from the beginning it had been violated. Primate of Poland Card. Stefan Wyszyński, who had the extraordinary competences (*facul-*

¹¹ See also J. Wisłocki, *Konkordat polski 1993. Tak czy nie?* Poznań 1993. A. Zoll, *Trudna droga do ratyfikacji Konkordatu*, in: *Konkordat 1993. Dar i zadanie dla Kościoła i Polski*, ed. J. Dyduch, Kraków 1998.

¹² R. Minnerath, *L'Eglise et les Etats concordataires 1846–1981. La souveraineté spirituelle*, Paris 1983, in particular p. 83–155.

¹³ J. Kowalczyk, *Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską 1993/1998*, Płock 2013, particularly p. 19, 188–189.

¹⁴ J. Krukowski, *Porozumienia między przedstawicielami Rządu i Episkopatu Polski z 1950–1956 r. Znaczenie i realizacja*, in: *Prawo i polityka w Polsce Ludowej*, Lublin 1995, ed. A. Mezglewski, P. Stanisławski, M. Ordon, p. 33–70.

tates speciales) from the Holy See – had the hopes on that agreement as a „*Modus Vivendi*” could stop the persecution of the Church. But, soon without any reason he was arrested and imprisoned (1953–1956). Only in the seventies years of the XX century the communist government of Poland established the provisional diplomatic relations with the Holy See in order to negotiate the convention.

In fact, the communist authorities did not have the goodwill to fulfill the agreements with the Episcopate of Poland as well to conclude the convention with the Holy See, because of marxist-leninst presumptions as well as its dependence from Moscow.

These kinds of difficulties disappeared only after signing the compromise called „the Round Table Agreement” (April 5, 1989) between the representatives of two Sides – the communist government and political opposition under the banner of „Solidarity” – with the attendance of observers of the Episcopacy of Poland.

The first stage of the normalization of the legal situation of the Church in Poland was the resolution of package of „Church Laws” (May 17, 1989)¹⁵ negotiated between the Government and the representatives of the Conference of Polish Episcopacy. The second stage of its should had been possible after the establishing permanent diplomatic relations between the Holy See and the Polish State and signing the Concordat (July 28, 1993). However, soon after the parliamentary elections in which the post-communist parties had majority (September 1993), the proposal of the Government for the ratification of the Concordat encountered the political obstacles. The Concordat was ratified in 1998 just after the political parties which referred to the ideals of the „Solidarity” obtained the majority in the parliamentary elections.

Concordat’s Compliance with the Constitution of Poland

In order to be an efficient instrument in achieving those values for which the Concordat was concluded, it should be comply with the principles of the constitutional and international law.

Basic Principles of the State-Church Relations. The fact of signing the Concordat before passing the new Constitution of the Republic of Poland had a significant impact on the debate concerning the establishment of the constitutional principles of the state-Church relations. That debate took place at the same time as the debate concerning the ratification of the concordat. The proposal submitted in the Parliament encountered the ideological and political obstacles.

The opponents of the stabilization of the state-Church relations claimed that the Concordat is inconsistent with the „Small Constitution” that contained

¹⁵ Ustawa z 17 maja 1989 r. o wolności sumienia i wyznania (Dz. U. 2000, Nr 26, poz. 319 ze zm.); Ustawa z 17 maja 1989 r. o stosunku Państwa do Kościoła katolickiego w Rzeczypospolitej Polskiej (Dz. U. 2000, Nr 29, poz. 154 ze zm.); Ustawa o ubezpieczeniu społecznym duchownych (Dz. U. 2000, Nr 29, poz. 156 ze zm.).

the same principles on that subject of the communist Constitution of 1950. The Concordat in Art. 1 constitutes: „The State and the Catholic Church are – each in its own domain – independent and autonomous, and they are fully committed to respecting this principle in all their mutual relations and in cooperation for the promotion of the man and the common good”. The opponents of the ratification of the Concordat maintained that Art. 1 of the Concordat was inconsistent with the principle of „separation of Church and state”. That principle was interpreted within the meaning specified by the communist ideology. The principles of the relations between the state and the Catholic Church and other religious communities became a part of the final version of the Constitution as a result of several years’ debate in the Constitutional Commission of the National Assembly. Those principles do not constitute the basis for an inconsistent charge¹⁶.

There are the principles of the friendly separation between the State and the Church. These are: 1) the principle of the respect of the autonomy and mutual independence of the state and the churches in their own fields; 2) the principle of cooperation between the state and the Church for the welfare of human being and the common good; 3) the principle of regulations of the relations between the State and the Catholic Church in a form of partnership agreement with the Holy See and laws but with other churches and religious communities in a form of law passed on the basis of agreement negotiated between the Government and their representatives (art. 25 sec. 4–5)¹⁷.

In order to specify the term of the secular state, the Polish legislator in Art. 25 of the Constitution stipulates: 1) the principle of equality of the churches and other religious communities; 2) the principle of impartiality of public authorities in matters of personal religious or philosophical conviction and ensuring their freedom of expression within public life. It means that Poland is a democratic state and its authorities respect freedom of expression within public life. The Preamble of the Constitution includes the declaration of respecting the universal human and Christian values rooted in the national culture.

The requirement of Concordat’s compliance with the Constitution includes the protection of religious freedom in an individual aspect both in private and public life (Art. 53 of the Constitution). It should be noted then that principles

¹⁶ P. Sobczyk, *Udział przedstawiciela Episkopatu Polski w pracach Komisji Konstytucyjnej Zgromadzenia Narodowego nad artykułem 25 Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1992 r.*, in: *Ecclesia et Status. Księga Jubileuszowa z okazji pracy naukowej Profesora Józefa Krukowskiego*, ed. A. Dębiński, K. Orzeszyna, M. Sitarz, Lublin 2004, p. 887–888.

¹⁷ J. Krukowski, *Polskie prawo wyznaniowe*, ed. 4, Warszawa 2008, p. 61–88; P. Sobczyk, *Konstytucyjna zasada konsensualnego określenia stosunków między Rzeczpospolitą Polską a Kościołem Katolickim*, Warszawa 2013.

of the state-Church relations in Concordat comply with the constitutional ones. They create a Polish model of secular state in a version of friendly separation¹⁸.

Democratic Poland in a process of building social order needs the allies of other public entities, particularly of the Catholic Church to which more than 90% of the population of contemporary Polish society belong to. The Church, as the Side of cooperation with the state, should not be identified with a political party which aim is to gain the state apparatus. The Church does not seek to gain the state power but fulfills the function of independent moral authority in shaping social attitudes in the spirit of respect for fundamental human values.

The Principles of Effectiveness of the Concordat. A concordat, as any international agreement, is an effective instrument if it is used with respect for the principles of international and constitutional law. The principle *pacta sunt servanda* („agreements must be kept”) has significant meaning among all the principles of public international law. It means that the state which enters into an international commitment also in a form of concordat, is obliged to implement necessary changes to the legislation respecting commitments which have been established in the concordat.

An international law does not specify the ways of implementation of international agreements into internal legal order. Between the signing of the Concordat (1993) and the adoption of the new Constitution of the Republic of Poland (1997) did not exist obvious constitutional regulations concerning the implementation of the international agreements into Polish legal order. The relevant principles are stipulated in Art. 8, 9, 87 and 91 of the Constitution of the Republic of Poland of 1997¹⁹. These principles refer also to the Concordat.

The legislator in Art. 9 of the Constitution of the Republic of Poland stipulates: „the Republic of Poland shall respect international law binding upon it”. The State’s authorities are obliged to respect the Concordat’s law and apply it in the internal legal order. The legislator in Art. 9 creates the presumption of the Concordat’s incorporation into the internal legal order. Poland is obligated to respect the Concordat it in the internal legal order as a law binding at the international level.

Art. 87 Sec. 1 of the Constitution of the Republic of Poland stipulates the hierarchy of the sources of positive law. „The sources of universally binding law of the Republic of Poland shall be: the Constitution, laws, ratified international agreements, and regulations”. The norms being for the state authorities bases of taking decisions to the citizens and other legal entities are the univer-

¹⁸ J. Krukowski, *Polskie prawo wyznaniowe*, op. cit., p. 61–68; H. Suchocka, *Polski model relacji państwo-Kościół w świetle Konstytucji z 1997 r. i Konkordatu z 1993 r.*, in: *Konkordat Polski w dziesięć lat po ratyfikacji*, ed. J. Wroceński, H. Pietrzak, Warszawa 2008, p. 41–67.

¹⁹ A. Wyrozumska, *Formy zapewnienia skuteczności prawa międzynarodowemu w porządku krajowym*, in: *Prawo międzynarodowe i wspólnotowe w wewnętrznym porządku prawnym*, ed. M. Kruk, Warszawa 1997, p. 56–57.

sally binding law in Poland. Among the international agreements the Polish legislator indicates: an international agreement ratified upon prior consent of the Parliament granted by laws and international agreement ratified without such consent. An international agreement ratified upon prior consent granted by laws shall have precedence over laws if such an agreement cannot be reconciled with the provisions of laws. The Constitution is the supreme law in the hierarchy of the source of positive law. The primary source of the Constitution is „the inherent dignity of the human being” (Art. 30 of the Constitution).

The Concordat which is an international agreement ratified upon consent of the Parliament granted by law is in the first place after the Constitution in the hierarchy of the source of law. The Constitution is „the supreme law [positive law – J. K.] of the Republic of Poland” (Art. 8 Sec. 1). The Concordat cannot be contrary to the Constitution. It should be presumed that after Concordat’s ratification its norms are complied with the Constitution. Art. 91 Sec. 1 of the Constitution stipulates that the international agreements ratified upon prior consent granted by law shall be applied directly, unless its application depends on the enactment of a law. The Polish Concordat as a solemn agreement –ratified upon prior consent of the Parliament – shall be applied directly. The norms of the Concordat shall be applied by the judicial or administrative organs without establishing any further executive norms. The passing a proper „realization law” would be necessary only if it would be a „framework agreement” with the clauses to the future regulations. As a consequence, a directly application of it would be impossible²⁰.

Art. 91 Sec. 2 of the Constitution stipulates that an international agreement – thus the Concordat – ratified upon prior consent granted by law shall have precedence over laws. The Polish legislator shall avoid passing laws which would be contrary to the Concordat’s regulation. In case of conflict between the Concordat and the simple law, the Concordat have precedence over the laws. At the beginning it should be make an attempt to „reconcile” the law with the Concordat. It might be in a form of amendment to the law. If not, the legal regulations should be interpreted in accordance with the Concordat²¹. The principle of a directly application of the Concordat includes the right to a judicial protection, i.e. the right to lodge a complaint by anyone who claims to be an injured side because of the violation of the Concordat.

In accordance with Art. 91 of the Constitution of the Republic of Poland it cannot be directly applied the Concordat’s regulation which depends on the issue a law in a legal order. Taking Art. 25 Sec. 4 of the Constitution into account – which specifies the „mixed” form of the relations between the state and the Catholic Church – it should be noticed that the directly application of the

²⁰ P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.*, Warszawa 2000, p. 117.

²¹ P. Winczorek, *op. cit.*, p. 117–118.

Concordat is impossible if its norms is not complete, i.e. does not include the necessary elements. It could be completed in the following ways: by the state legislator unilaterally in a form of the law (reference to the law); or by the new agreement between the Holy See and the supreme authority of the Republic of Poland or between the Bishops' Conference and the Government of the Republic of Poland (reference to the establishment of the complete norms)²².

The Object of the Concordat

The object of the Polish Concordat²³ are the following issues:

1. The diplomatic relations between the Holy See and Poland (Art. 2). The Concordat includes the confirmation of the first class diplomatic relations between the two Sides, that had been reactivated on the basis of the exchange of the diplomatic notes between the President of the Republic of Poland and Pope John Paul II.

2. The guarantees of free communication in the Church in a vertical and horizontal plane (Art. 3). It is the confirmation of Art. 9 of the Law of 1989 on the Relations between the State and the Catholic Church.

3. The recognition by the State of the juridical personality of the Church and its organizational units established by the Church authority according to the canon law (Art. 4). It is the confirmation of Art. 7, 8 and 9 of the Law of 1989 on the Relations between the State and the Catholic Church. The public and legal status of the Catholic Church in Poland was recognized for the first time.

4. The free and public exercise of the Church's mission, as well as the exercise of its jurisdiction in a public life (Art. 5). It is the confirmation of Part III of the Law of 1989 on the Relations between the State and the Catholic Church.

5. Freedom of the Church's authorities to modify a territorial structure (Art. 6 Sec. 1–3). The Holy See is obliged to: 1) respect for the territorial integrity of the State when implementing by the competent Church authorities changes in the diocesan territorial borders; 2) appoint bishops in Poland from amongst priest who are the Polish citizens.

6. Respect for the independence of the Church authority from the State one with regard to the appointment of diocesan bishops (Art. 7). The State is obliged to respect the postulate of the Second Vatican Council not to interfere in the process of bishops' nomination (*Christus Dominus*, 20). The Holy See „prior to

²² J. Rokita, *Realizacja postanowień Konkordatu 1993 w kontekście polskiego prawodawstwa państwowego*, in: *Konkordat 1993. Dar i zadanie dla Kościoła i Polski*, op. cit., p. 53–58; B. Trzeciak, *Klauzule odsyłające w konkordatach z Hiszpanią i z Polską*, Lublin 2007, passim.

²³ J. Krukowski, *Polskie prawo wyznaniowe*, op. cit., p. 61–88; H. Suchocka, *Polski model relacji państwo-Kościół w świetle Konstytucji z 1997 r. i Konkordatu z 1993 r.*, in: *Konkordat Polski w dziesięć lat po ratyfikacji*, Warszawa 2008, p. 41–67; 87–120; W. Góralski, *Ochrona małżeństwa i rodziny*, ibidem, p. 131–149; K. Warchałowski, *Szkolnictwo katolickie i nauczanie religii w szkołach publicznych w Konkordacie polskim z 1993 r.*, ibidem, p. 151–176; W. Adamczewski, *Kompetencje komisji konkordatowych w Polsce*, ibidem, p. 177–192.

a public announcement of the appointment of a diocesan bishop shall make known his name in confidence at an opportune time to the Government of the Republic of Poland. All possible steps will be taken to ensure that such a communication is made promptly” (Art. 7 Sec. 4). However, such notification of the Government does not give rise to veto the nomination for the office of bishop.

7. Freedom of the Church to conduct public services „in accordance with canon law” and with regard to the relevant Polish laws „for reasons of public safety and order” (Art. 8 Sec. 2–3). The State guaranteed „the inviolability of places which are designated for religious services and for cemeteries”. The opponents of the Concordat’s ratification mistakenly claimed that such regulation prohibited the burial of the non-Catholics in the Catholic cemetery. Therefore, the Government of the Republic of Poland issued the „Declaration” of 15 April 1997 in which stipulated: „the concept of the sanctity of cemeteries, as described in Art. 8 Sec. 3 of the Concordat, must not be understood as the right to refuse the burial in a Catholic cemetery a person of a different creed or an unbeliever”²⁴. Subsequently, the Government passed the Law Amending the Law on Cemeteries and Burials of 26 June 1997²⁵.

8. Respect for Sundays and holy days (Art. 9). The list of holy days which shall be free from work contains Sundays and 7 holy days. It is the confirmation of Art. 7 of the Law of 1989 on the Relations between the State and the Catholic Church.

9. Religious education in the state preschools and schools as a facultative subject (Art. 12). It is the confirmation of guarantees of the Law of 1990 on the Educational System and the Ordinance of 14 April 1992 of the Minister of Education on the Organization of Religious Instruction in State Schools²⁶. The State relinquished the approval of the religion teaching program in the state schools.

10. Adult’s catechesis, in particular young people studying at the universities (Art. 12 Sec. 5). It is the confirmation of Art. 18 Sec. 2 of the Law of 1989 on the Relations between the State and the Catholic Church.

11. Religious practices of children and young people who take part in summer holiday camps (Art. 13). It is the confirmation of Chapter IV of the Law of 1989 on the Relations between the State and the Catholic Church.

12. Catholic institutes for the education and bringing-up of children (Art. 14). It is the confirmation of Art. 29 of the Law of 1989 on the Relations between the State and the Catholic Church.

13. Catholic higher education (Art. 15). The State confirmed the recognition of the Church’s right to establish and freely manage universities and other higher education institutes, as well as the theological faculties at the state uni-

²⁴ M. P. 1998, Nr 4, poz. 51.

²⁵ Dz. U. 1997, Nr 126, poz. 805.

²⁶ Dz. U. 1992, Nr 36, poz. 115.

versities²⁷. The State guaranteed to subsidize the Cracow Pontifical Academy of Theology and the Catholic University of Lublin, including financial assistance²⁸.

14. Regulations on the pastoral service of the specific social groups (Art. 16, 17, 18), namely:

a) recognition of the legal status of the Military Ordinariate of Poland, re-activated by the Holy See on 21 January 1991 based on the Law on the Relations between the State and the Catholic Church (Art. 25–28). The Ordinariate functions in two legal orders. In the Church order it is a personal particular Church – established in accordance with the Constitution *Spirituali militum curae* promulgated by the John Paul II and the Statute of 21 January 1991 promulgated in agreement with the State authorities²⁹ functioning in accordance with the implementing acts of the Government of the Republic of Poland³⁰.

b) recognition of the pastoral service in prisons, institutions for rehabilitation and for social reintegration, and also in health and social care institutions (Art. 17). It is the confirmation of Chapter IV of the Law of 1989 on the Relations between the State and the Catholic Church.

15. Duties of diocesan bishops to determine the organization of the pastoral ministry and catechizing to ethnic minorities (Art. 18).

16. Respect for the right of the faithful to assembly „in accordance with canon law and within the confines specified there” (Art. 19). Respect for the canon law was guaranteed for the first time.

17. Respect for the right of the Church to: 1) print, publish and freely disseminate any publication pertaining to its mission; 2) possess and make use of all means appropriate for social communication; 3) broadcast programs over public radio and television (Art. 20) in accordance with the Law of 29 December 1992 on the Radio and Television Broadcasting³¹. The realization of these guarantees

²⁷ Umowa między Konferencją Episkopatu Polski i Ministerstwem Spraw Zagranicznych, opublikowana w formie obwieszczenia Ministra Spraw Zagranicznych z dnia 29 lipca 1999 r. o wykonaniu Konkordatu między Stolicą Apostolską i Rzeczpospolitą Polską; Dz. U. 1999, Nr 63, poz. 727.

²⁸ Ustawa z 10 października 2008 r. o zmianie ustawy o finansowaniu Katolickiego Uniwersytetu Lubelskiego z budżetu państwa; Dz. U. 2008, Nr 203, poz. 1258; P. Stanisławski, *Sprawy majątkowe jako element stosunków między państwem a związkami wyznaniowymi*, in: *Finansowanie Kościołów i innych związków wyznaniowych*, ed. P. Sobczyk, K. Warchałowski, Warszawa 2013, p. 17–32; D. Walencik, *Formalnoprawne uwarunkowania regulacji prawnych dotyczących finansowania związków wyznaniowych*, in: *Finansowanie Kościołów i innych związków wyznaniowych*, ed. P. Sobczyk, K. Warchałowski, Warszawa 2013, p. 53–55.

²⁹ AAS 83 (1991), p. 155–157.

³⁰ Decyzja Ministra Obrony Narodowej z dnia 28 sierpnia 2006 r. w sprawie organizacyjnego usytuowania Ordynariatu Polowego w resorcie Obrony Narodowej oraz współpracy organów wojskowych z Ordynariatem Polowym (Dz. U. MON, Nr 16, poz. 202).

³¹ Ustawa z dnia 29 grudnia 1992 r. o radiofonii i telewizji (Dz. U. 1993, Nr 7, poz. 34; tekst jednolity: Dz. U. 2004, Nr 253, poz. 2531 ze zm.); Rozporządzenie Krajowej Rady Radiofonii i Telewizji z dnia 2 czerwca 1993 r. w sprawie zawartości wniosku oraz szczegółowego trybu postępowania w sprawach zawartości w sprawach udzielania i cofania koncesji na rozpowszechnianie programów radiofonicznych i telewizyjnych (Dz. U. 1993, Nr 52, poz. 244).

regulates the Agreement between the Secretary of the Polish Bishops' Conference and the organizational units of the public radio and television.

The recognition of the right of the Church institutions to carry out missionary, charitable and welfare activities as well as set up organizational structures (Art. 21). It is the confirmation of Art. 29 of Law of 1989 on the Relations between the State and the Catholic Church.

The legal parity for the activity undertaken by the persons of the Church for humanitarian, charitable, welfare, scientific aims, and for upbringing and educational purposes with activity carried out for similar purposes by the civil institutions (Art. 22). It concerns: exemption of taxes of the juridic persons of the Church and subsidies from the State, i.e. taxpayers' incomes for the whole society activities.

18. Regulations on the financial matters concerning institutions and ecclesiastical property, including clergy (Art. 20). There are two references: 1) reference to the norms that were in force at the time of signing the Concordat. The source is the Law of 1989 on the Relations between the State and the Catholic Church (Art. 55–57) in the amended Law of 11 October 1991³²; 2) reference to the establishment of the special commission (Art. 22 Sec. 3). Therefore, the two commissions have been established after the Concordat came into force: 1) the Concordat Commission appointed by the Holy See, 2) the Concordat Commission appointed by the Prime Minister of the Republic of Poland³³.

In application of the Concordat, in 2011 the following problem has arose: Could the State change the legal norms of the Law on the Relations between the State and the Catholic Church, concerning: 1) the Property Commission functioning on the basis of the Law on the Relations between the State and the Catholic Church (Art. 60–61); 2) the establishment and functioning of the Church Fund which source is the Law of 1950³⁴. This issue would be discussed in the fifth part of this article.

19. Protection of restoration of the historical monuments (Art. 22 Sec. 4). The State guaranteed „whenever possible” to provide material support for conservation and restoration work on sacred sites which have value as monuments and the adjacent buildings, as well as for works of art which are part of Polish cultural heritage.

20. Guarantees of property rights of the juridical persons of the Church (Art. 23). The State guaranteed that the juridic persons of the Church may acquire, possess, profit by and dispose of both moveable and immovable property, as well as acquire and dispose of charges and assets, in accordance with the provisions of Polish law. It is the confirmation of Art. 52 of the Law of 1989 on the Relations between the State and the Catholic Church.

³² Dz. U. 1991, Nr 107, poz. 459.

³³ W. Adamczewski, *op. cit.*, p. 177–179.

³⁴ Dz. U. 1959, Nr 6, poz. 87. See also K. Ners, *Zasady finansowania instytucji kościelnych w Polsce. Problematyka de lege lata i de lege ferenda*, in: *Systemy finansowania instytucji kościelnych w Europie*, ed. J. Krukowski, Lublin 2000, p. 141–146.

21. The sacred and ecclesiastical buildings and cemeteries (Art. 24). It is the confirmation of Art. 41–45 of the Law of 1989 on the Relations between the State and the Catholic Church.

22. Church foundations (Art. 26). The State guaranteed the right to establish foundations based on the Law of 1989 on the Relations between the State and the Catholic Church.

The Stabilization Function of the Concordat

In the light of the abovementioned guarantees in the Concordat of 1993 it should be concluded that these guarantees are preponderantly the confirmation of the legal norms that were in force at the time of its ratification or the confirmation of the agreement between the Holy See and the supreme authorities of the Republic of Poland based on the exchange of the diplomatic notes³⁵.

The changes in the legal norms that were in force at the time of the Concordat's ratification were introduced to some provisions, e.g. pursuant to Art. 12 Sec. 2, the teaching program for the Catholic religion, as well as the textbooks used, shall be determined by the competent Church authority and shall be made known to the relevant civil authorities. Therefore, the requirement of the approval by the state authorities has been abolished.

The stabilization function of the Concordat in a formal aspect means that the Polish legislator without the consent of the Holy See is not allowed to impose the unilateral norms into domestic legal system being contrary to the Concordat's norms. It does not mean that the Polish system has been closed to the new regulations. The norms that were in force at the time of the Concordat's ratification can be amended on the basis of the new bilateral agreements respecting the partnership of the Sides and the compulsory procedure. The Concordat's text analysis shows that the changes in Polish legal system concerning the issues which have been included in the Concordat are regulated in the following references:

1) Reference to the future law in Art. 10 Sec. 6: „With a view to making the current article practicable, changes which need to be made to Polish law shall be made to Polish legislation”. The State is obliged to pass the law concerning the civil effects of canonical marriage. Therefore, after the entry into force of the Concordat it has been passed the law of 24 July 1998 amending the laws on the Family and Guardianship Code, on the Code of Civil Procedure, on the Public Registry Records Law, on the Law of 1989 on the Relations between the State and the Catholic Church³⁶.

2) Reference to the executive norms issued in a form of the agreement between the Polish Bishops' Conference and the Government of the Republic of Poland

³⁵ J. Krukowski, *Stabilizacyjna rola Konkordatu z 1993 r. w stosunkach między państwem a Kościołem katolickim i innymi związkami wyznaniowymi*, *op. cit.*, p. 153–155.

³⁶ Dz. U. 1998, Nr 17, poz. 157.

which are included in four articles of the Concordat, namely: Art. 12 – to determine the criteria for educational training for teachers of religion; Art. 15 Sec. 2 – recognition by the State of degrees and ecclesiastical academic titles including the legal status of the Catholic theological faculties within the state universities; Art. 25 – to access the property of cultural value which remains in the possession of the Church; Art. 27 – to regulate the matters requiring new or additional solutions.

3) Reference to the „Polish law” in the Concordat: Art. 4 – to recognize the legal status of „other Church institutions” which are not mentioned in Sec. 2 and 3; Art. 8 Sec. 2 and 4 – to organize of public service in public places; Art. 12 Sec. 4 – requirements for the teachers of religion; Art. 14 – to establish and run institutes for the education and bringing-up of children; Art. 19 – the right of the faithful to assembly; Art. 20 – the right to possess and make use of media in accordance with norms established by Polish law; Art. 23 – to acquire, possess, profit by and dispose of both moveable and immovable property; Art. 26 – the right to establish foundations, which shall be subject to Polish legislation.

4) Reference to the „canon law” in the Concordat: Art. 5 – the free exercise of the Church’s mission in accordance with canon law; Art. 7 Sec 1 – to conduct religious services; Art. 8 Sec. 2 – the organization of public services; Art. 10 – the form of the celebration of marriage; Art. 14 Sec. 1 – to establish and run own schools; Art. 16 Sec. 1 – the pastoral care in the Military Ordinariate.

It happens that in the concordats are the „derogation clauses” which abolish the previous norms. The Polish Concordat of 1993 does not include the derogation clause abolishing in whole or in part the earlier concordat. The Polish Concordat of 1925 expired after more than half a century of *desuetudo* (1939–1993).

The interpretation clause in Art. 28 of the Concordat of 1993 determines: the Contracting Sides shall try to resolve through diplomatic channels any prospective divergences of interpretation or application of the provisions made in this current Concordat. The Concordat does not include the temporal reference – specifying the time of its validity period. It means that the Concordat was concluded for an indefinable period. Therefore, the principle of the international law: *pacta sunt servanda, rebus sic stantibus* is in force.

The Financial Clauses

The problems have arisen due to the realization of the reference to the norms that were in force at the time of the Concordat’s ratification in financial issues.

The legislator in Art. 22 Sec. 2 of the Concordat 1) obliged the State to obey „in financial matters concerning institutions and ecclesiastical property, including that of the clergy, and having as a starting point Polish legislation”; the State is obliged to obey in these matters the laws that were in force at the time of the Concordat’s ratification; 2) obliged the Sides to set up a special commission „to deal with relevant changes”. The changes of the regulations at the time of the signing the Concordat can be introduced in the new Concordat

negotiated by the commission. Thus the following problem occurred: Has the State the right to introduce unilateral changes into domestic legal order without the formal agreement with the Holy See concerning the financing needs of the Church arising from Art. 24 of the Concordat, in particular – abolition of the Church Fund? The opponents of this right of the Holy See refer to the statement of the Prime Minister W. Cimoszewicz in the „Declaration” of 15 April 1997³⁷: „The Concordat respects the authority of State institutions, as described in the Polish legislation, to regulate the financial and tax matters of the physical and legal persons of the Church. To this end, the State party shall familiarize itself with the Church party’s opinion within a special commission mentioned in Art. 22 Sec. 2 and 3”. According to some authors, this Declaration provides basis for the changes of financial situation of the Church by the State only when familiarizing with the Church side’s opinion³⁸. It should be noticed that it is a wrong opinion. The „Declaration” of Cimoszewicz is not binding both from the principles of Polish constitutional law point of view and from the principles of international law point of view. However, this Declaration was published in „Monitor Polski” definitely it is not and cannot be considered as a source of law binding in Polish legal order. The system of the sources of law in Poland is explicitly determined in Chapter III of the Constitution of the Republic of Poland of 1997. The declaration of the Government of the Republic of Poland is not specified as such source of law. It should be considered as a sign of „legislative pathology” to issue and publish such declaration changing the meaning of Art. 22 of the bilateral international agreement – the Concordat. It is a violation of the regulation of Chapter III of the Constitution of the Republic of Poland of 1997. It is a breach of the rule of law according to which the decisions of the authorities cannot be contrary to the principles of the Constitution of the Republic of Poland.

The publication of the Declaration of the Prime Minister in „Monitor Polski” does not form grounds for the acceptance of an opinion that the State can unilaterally determine the meaning of the Art. 22. This declaration is not binding from the requirements of the Constitution of Republic of Poland of 1997 and of the international law point of view; it has not been ratified by the President of the Republic of Poland and by the Pope to be the source of an international law.

However, the Prime Minister in „Declaration” refers to the „agreement” with the Holy See. In reality it is just an unilateral statement of the Prime Minister which is not an „enclosure” to the Concordat – bilateral international agreement ratified by two Sides with the consent of Parliament. Therefore it is not a bilateral international agreement. It should be noticed that it is just a political will of the opponents of its ratification without any legal consequences.

³⁷ M. P. 1998, Nr 4, poz. 51.

³⁸ M. Pietrzak, *Głos w dyskusji*, in: *Dziesięć lat polskiego konkordatu*, ed. P. Borecki, Cz. Janik, Warszawa 2009, p. 133.

CONCLUSION

An analysis of the issues concerning the State-Church relations in Poland based on the Concordat permits to formulate the following conclusions.

1. The conclusion of the Concordat brought about a definitive break with the Byzantine and Stalinist Caesaropapism by the authorities of the Third Republic of Poland which was imposed on Poland after the Second World War by the Soviet Union were the relations between the state and the Church were unilaterally regulated from a position of the supremacy of the state over the Church.

2. There was a return to the paradigm of religious and political dualism, which is characteristic for the European culture. The regulation of the state-Church relations in a form of bilateral agreement constitutes the essential element of it.

3. The achievement of the higher degree of the stabilization of the relations between the state and the Church. However, the Concordat pertains directly to the situation of the Catholic Church, indirectly it contributed also to the higher degree of the stabilization of the relations between the state and other religious organizations with a regulated legal situation. In accordance with the constitutional principle of the equality of the religious communities (Art. 25 Sec. 2), the Polish legislator is obliged to the extension of the freedom guarantees that under the Concordat are entitled to the Catholic Church to other religious communities issuing the individual laws based on the agreements negotiated by the Government and its competent representatives³⁹. From many minority religious organizations existing in Poland (in 2006 – 160) the 11 of them have the individual laws. These laws, after entry into force of the Concordat, have been amended to be complied with the Concordat's guarantees. The *Law of 1989 on the Guarantees of Freedom of Conscience and Religion has been amended* and the freedom guarantees have been extended to the religious organizations with their legal status regulated by the entry into a register by the Minister of the Interior and Administration (currently the Ministry of Administration and Digitalisation).

Therefore, the following question arises: is there a need to conclude any agreements between the Holy See and Poland in the future due to the previous obligations of the Sides or new circumstances? It should be emphasized that in accordance with Art. 22 Sec. 2 of the Concordat there is a need to conclude a partial concordat in order to a systematic regulation of the financial matters of the Church institutions.

³⁹ See also W. Wysoczański, *Wpływ konkordatu z 1993 r. na sytuację prawną kościołów i innych związków wyznaniowych mniejszościowych*, in: *Konkordat polski w dziesięć lat po ratyfikacji*, op. cit., p. 69–85; T. Zieliński, *Konkordat a sytuacja prawna wyznań nierzymskokatolickich*, in: *Dziesięć lat polskiego konkordatu*, Warszawa 2009, p. 51–60; P. Leszczyński, *Regulacja stosunków między państwem a nierzymskokatolickimi Kościołami i innymi związkami wyznaniowymi określona w art. 25 ust. 5 Konstytucji RP*, Gorzów Wielkopolski 2012.

The achievement of the higher degree of the stabilization between the state and the Church rather than by the legislation creates for the society a greater sense of security in a public life. The conclusion of the Concordat caused that the legal situation of the Church and faithful does not depend on the interests of the political parties.

The Catholic Church in Poland by its moral authority – regardless of the interests of the political parties – supports the democratic state in the activities aimed at the protection of the fundamental human values. The Concordat is more effective than a law in realization of the constitutional principle of cooperation between the Church and the state “for the welfare of human being and the common good” in various personal, family and national areas of life.

The Polish Concordat as other contemporary concordats – with respect to the object of its regulation – is one of the international agreements called “social agreements”. They regulate the relations between the Holy See and the supreme authorities of the given state as the subjects of the public international law as well as the relations between the authorities of the state and the citizens from the protection of human rights point of view. The regulations in the Concordat are the detailed regulations of the Constitution of the Republic of Poland and the ratified by Poland the multilateral international agreements concerning the protection of human rights and fundamental freedoms.

POLSKA I STOLICA APOSTOLSKA. WKŁAD DO PRAWA KONKORDATOWEGO

Streszczenie. Artykuł zawiera wyjaśnienie bardzo doniosłej kwestii dotyczącej normalizacji stosunków między demokratyczną Polską i Kościołem katolickim w oparciu o umowę międzynarodową między Stolicą Apostolską a najwyższymi organami Państwa Polskiego, zwaną „konkordatem”. Wydarzenie to rozważane jest w aspekcie historycznym oraz współczesnych przemian politycznym wiodących od reżimu totalitarnego komunizmu do liberalnej demokracji, a jednocześnie od ateistycznego państwa opartego na wrogiej separacji do państwa świeckiego opartego na przyjaznej separacji. Artykuł zawiera omówienie następujących kwestii: 1) pojęcie i klasyfikacja konkordatów, 2) aksjologiczny i formalny wymiar ich zawierania między Stolicą Apostolską i Polską (1993–1998), 3) zgodność Konkordatu z Konstytucją Rzeczypospolitej Polskiej, 4) stabilizacyjna funkcja Konkordatu, 5) kwestie finansowe.

Słowa kluczowe: Stolica Apostolska, Państwo Polskie, Konkordat, Konstytucja, stosunki między Kościołem i Państwem