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## REGULATION OF EDUCATION OF CATHOLIC RELIGION IN CONCORDAT AGREEMENTS WITH POST-COMMUNIST COUNTRIES

In each country, the education is very influenced by the politic regime. It is understandable, that the religious education in public schools has been abolished in the majority of communist countries, or at least very limited (e.gr. in the former Czechoslovakia).

Therefore the issue of religious education in public schools was emblematic for the change of political regime after the collapse of communist regimes in 1989 and 1990.

We want to present the contractual stipulations regarding the renewal of religious education step by step. In the first chapter we treat the guarantee of the realisation of such education, in the second chapter the issue of defining the content of religious education programme and textbooks, in the third chapter the requirements to be met by teachers of religion and in the fourth chapter the financing of religious education.

### 1. REALISATION OF RELIGIOUS EDUCATION IN PUBLIC SCHOOLS

#### **1.1. Contractual Stipulations Regarding Religious Education in Public Schools**

*Concordat with Poland (1993/1998):*

Art. 12, Par. 1 – With reference to the right of parents to decide about the education of their children and to the principle of tolerance, the State gua-

rantees religious education in pre-school establishments, in elementary and secondary schools operated by the State and by self-government, according to the declared will of the interested persons;

*Agreement with Croatia on Collaboration in Education and Culture (1996/1997):*

Art. 2 – With regard to the freedom of conscience and to parental responsibility for the education of their children, everybody is guaranteed the right to religious education; parents and major students submit applications to this education during the enrolment to school; the application may be cancelled by notifying the school in writing before the beginning of a school year;

*Agreement with Estonia (1998/1999):*

Art. 7 – Catholic students in both State and non-State schools are guaranteed the right to religious education according to their confession in conformity with Estonian law;

*Agreement with Lithuania on Collaboration in Education and Culture (2000):*

Art. 1 – With regard to the freedom of conscience and the right of parents to educate their children, including religious education, the State will create the same conditions for religious education on all State and municipal schools as for the education of all other subjects; in municipal pre-school establishments it can be made possible upon the request of parents; all schools and study institutions will guarantee respect towards religious conviction, symbols and values;

Art. 2 – Everybody has a right to choose between religious education and ethics and this may not lead to discrimination (before legal age the decision is made by the parents, later by the students); in the case of pupils in alternative care of the State or municipality, the decision shall be made on the basis of the fact if the pupils' family members or relatives profess Catholic religion;

*Basic Agreement with Slovakia (2000):*

Art. 13, Par. 5 – The State creates conditions for the Catholic education of children in schools and educational establishments in accordance with the religious conviction of their parents, therefore it makes it possible to have Catholic religious education in all levels of basic schools and all kinds and types of secondary schools and educational establishments; in addition to that it supports Catholic educational organizations and youth movements;

Art. 13, Par. 6 – The Church has a right to teach religious education in all schools and educational establishments that are part of the educational structure, according to the conditions set by a partial international agreement;

Art. 13, Par. 7 – Persons of Catholic confession have a right to assert their conviction regarding the education to parenthood during the process of education, in accordance with the Christian ethics and in keeping with their obligations set by Slovak law;

*Agreement with Slovakia on Catholic Education and Schooling (2004):*

Art. II, Par. 1 – The subject Religious Education taught on other than Catholic schools corresponds to the subject Catholic Religion if taught by a person authorised by the Church;

Art. II, Par. 2 – The directors of schools will make it possible for the parents and the statutory representatives of children to enroll also the subject of Catholic religion during the school enrolment without any discrimination;

Art. II, Par. 3 – The State will make it possible to have religious education also in pre-school establishments upon request of the parents or statutory representatives;

Art. II, Par. 4 – Basic and secondary schools have Catholic religion as a compulsory elective subject according to Slovak law;

*Agreement with Latvia (2000/2002):*

Art. 14 – A guarantee of the right to adequate religious education by way of teaching religious education on State and municipal schools and in Catholic Sunday schools;

*Proposal of an Agreement with the Czech Republic (2002/?):*

Art. 11, Par. 5 – The State, paying regard to the freedom of conscience, conviction and responsibility as well as to the interest of parents and other statutory representatives of the children, will make it possible to have religious education in schools and in pre-school and educational establishments, and it will enable participation of children in free-time activities organized by the Church;

*Basic Agreement with Bosnia and Herzegovina (2006/2007):*

Art. 16, Paragraphs 1 and 2 – A guarantee of religious education as part of the curriculum in all public basic schools, secondary schools and colleges as well as in pre-school establishments, as an optional subject; participation in religious education may not be a reason for discrimination.

***New German Bundesländer:***

*Agreement with Saxony (1996/1997):*

Art. 3, Par. 1 – Religious education is taught as a regular subject in all public schools; an additional protocol states that the re-introduction of religious education will take time; the Church will provide the personnel while the State

binds itself to ensure the re-qualification of teachers of religion so that they can teach also in secondary schools, and to create systematic, even part-time posts for it, during the transition time especially for pastors and diplomed theologians, so that religious education is held in the greatest possible extent; if, however, the number of pupils is very low, religious education may be organized by several schools together, if that is found reasonable;

*Agreement with Thuringia (1997):*

Art. 12, Par. 1 – Religious education is taught in public schools as a regular subject;

*Agreement with Mecklenburg-Vorpommern (1997):*

Art. 4, Par. 1 – Religious education is taught in public schools as a regular subject; it may be held for pupils of several classes or schools together; general organization of religious education may be the object of an agreement between State and Church;

*Agreement with Saxony-Anhalt (1998):*

Art. 4, Par. 1 – The State guarantees normal religious education as a regular subject in public schools;

*Agreement with Brandenburg (2003/2004):*

Art. 4, Par. 1 – The State guarantees religious education as a regular subject in all public schools.

## **1.2. Summary of Stipulations Regarding Realisation of Religious Education in Public Schools**

Contractual stipulations regarding religious education in public schools are a standard part of concordat agreements – they are missing, from among the countries under our review, only in the case of Hungary, of Kazakhstan and of Albania; often they also form an important part of the respective partial agreements on collaboration in education and culture (Croatia, Lithuania, Slovakia). As for the State, not to enable such education is something that rarely happens<sup>1</sup>.

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<sup>1</sup> Elimination of religious education on public schools is typical of the French type of separation – it issues from the French understanding of the lay status (*laïcité*) of the State. An exception is the Alsace-Lorraine area in France, where the German model is still valid because of the legal force of the concordats concluded before the First World War. Cf. B. BASDEVANT-GAUDEMET, *State and Church in France*, in: *State and Church in the European Union*, ed. G. Robbers, Nomos, 2<sup>nd</sup> edition, Baden-Baden 2005, p. 171-172; J. KRUKOWSKI, *Konkordaty współczesne. Doktryna, teksty (1964–1994)* [Contempo-

The most frequent solution is to make religious education possible as an elective subject, 'in addition' to the whole of curriculum (Poland, Croatia, Estonia, Latvia, the Czech Republic, Bosnia and Herzegovina). As an example let us quote Art. 16, Paragraphs 1 and 2 of the *Basic Agreement with Bosnia and Herzegovina (2006/2007)*:

1. Bosnia and Herzegovina, in the light of the principle of freedom of religion, recognizes the fundamental right of parents to see to the religious education of their children; and it guarantees within the framework of the academic programme and in conformity with the wishes of parents or guardians, the teaching of the Catholic religion in all public schools, elementary, middle and higher, and in pre-school centres, as a required subject for those who choose it, under the same conditions as other required subjects.

2. In collaboration with the competent Church authorities, the educational authorities will allow parents and adult students the possibility to avail themselves freely of such teaching at the time of registration for the academic year, in such a way that their decision does not give rise to any form of academic discrimination.

It is less frequent for religious education to be embodied as a required option between it and ethics (Lithuania and Slovakia) – cf. Art. II, Paragraphs 1 to 4 of the *Agreement with Slovakia on Catholic Education and Schooling (2004)*:

1. Alla materia «educazione religiosa» insegnata nelle scuole non cattoliche, corrisponde in quelle cattoliche, rispettivamente, la materia «religione romano-cattolica» o «religione greco-cattolica» (i seguito denominata solo la materia «religione cattolica») impartita da persona designata della Chiesa Cattolica.

1. The subject 'religious education' taught in non-Catholic schools corresponds to the subject 'Roman-Catholic religion' or 'Greek-Catholic religion' in Catholic schools (further called just the subject 'Catholic religion') if it is taught by a person designated by the Catholic Church.

2. Al momento dell'iscrizione dell'alunno alla scuola il preside darà ai genitori o ai loro rappresentanti legali la possibilità di avvalersi dell'insegnamento della religione cattolica in modo che la loro decisione non causi alcuna forma di discriminazione dell'alunno stesso nelle attività scolastiche.

3. La Repubblica Slovacca renderà possibile, in accordo con la volontà dei genitori o dei loro rappresentanti legali, l'insegnamento della religione cattolica anche nelle istituzioni prescolari.

4. La religione cattolica viene insegnata come una delle materie opzionali obbligatorie nelle scuole primarie e nelle scuole secondarie in conformità con le condizioni stabilite nell'ordinamento giuridico della Repubblica Slovacca.

2. In the moment of the enrolment of pupils to the school, the school director will offer their parents or statutory representatives the possibility to enrol also Catholic religion, ensuring that this decision may cause the pupils no form of discrimination during their school activities.

3. The Slovak Republic will make Catholic religious education possible also in pre-school institutions, according to the will of the parents or the statutory representatives.

4. The Catholic religion is taught as one of the required optional subjects in the basic schools and the secondary schools in conformity with the conditions defined by the legal order of the Slovak Republic.

It is particular to Germany that religious education is a compulsory subject in public schools; it is made possible by the State registration of religious affiliation – this is laid down in the agreements with all the new German *Bundesländer*. But because in the former German Democratic Republic religious education was eliminated, the agreement with Saxony takes into account a transition period necessary to re-introduce obligatory religious education. With view to the fact that Catholics are only a small minority in these countries, it is defined in the agreements with Saxony and with Mecklenburg-Vorpommern that the religious education may be organized for different classes of the same school or even for pupils of different schools together – cf. for example Art. 4, Par. 1 of the *Agreement with Mecklenburg-Vorpommern (1997)*:

Il Land garantisce nelle scuole pubbliche l'insegnamento della religione cattolica come materia ordinaria. L'insegnamento della religione cattolica può essere impartito collegando varie classi e vari tipi di scuole. Il Land e la Chiesa possono concordare un'organizzazione dell'insegnamento della religione cattolica, divergente dall'organizzazione scolastica generale.

The *Bundesland* guarantees that Catholic religion will be taught in public schools as a regular subject. The teaching of the Catholic religion may be carried out together for various classes and various types of schools. The *Bundesland* and the Church may agree on a type of organization of the teaching of Catholic religion that will diverge from the general school organization.

## 2. DEFINING RELIGIOUS EDUCATION PROGRAMME AND TEXTBOOKS

### 2.1. Contractual Stipulations Regarding Religious Education Programme in Public Schools

*Concordat with Poland (1993/1998):*

Art. 12, Par. 2 – The programme of religious education is defined and the textbooks are published by the Church that shall inform the competent State organ of it;

*Agreement with Croatia on Collaboration in Education and Culture (1996/1997):*

Art. 3, Par. 4 – The programme and the manner of religious education are the object of a special agreement between the State and the Conference of Bishops;

Art. 6, Par. 1 – The programmes, the curriculum and the textbooks are prepared by the Conference of Bishops and given to the competent State organ to be included into the programme of education;

*Agreement with Lithuania on Collaboration in Education and Culture (2000):*

Art. 6, Par. 1 – The preparation of religious education programme and textbooks is the responsibility of the Conference of Bishops in collaboration with the State organ; the textbooks are approved both by the Conference of Bishops and by the State organ;

*Basic Agreement with Slovakia (2000):*

Art. 13, Par. 8 – The Church will apply the principles of religious tolerance, ecumenism and collaboration in the process of schooling and education;

*Agreement with Slovakia on Catholic Education and Schooling (2004):*

Art. II, Par. 5 – The teaching guidelines and the curriculum are approved by the Conference of Bishops having obtained the opinion of the Ministry of Education;

Art. II, Par. 7 – State school inspection is carried out by persons authorised by the chief school inspector in agreement with the ecclesiastical superior;

Art. II, Par. 8 – Any sitting in on the classes is carried out by persons authorised by the respective ecclesiastical superior; the directors shall enable them to carry it out;

Art. II, Par. 9 – Upon an agreement with the director of a school, the respective ecclesiastical superior may organize other free-time activities completing the religious education in the school;

*Agreement with Latvia (2000/2002):*

Art. 15 – The programme of religious education is approved by the Conference of Bishops upon agreement with the Ministry of Education and Science;

*Proposal of an Agreement with the Czech Republic (2002/?):*

Art. 11, Par. 5 – The programmes of religious education are defined by the ecclesiastical authority in conformity with the conditions given by Czech law;

Art. 11, Par. 7 – The contents and the methods of religious education must be in harmony with the teaching of the Church; the guidelines, the programmes and the textbooks must be approved by the competent ecclesiastical authority;

*Basic Agreement with Bosnia and Herzegovina (2006/2007):*

Art. 16, Par. 5 – The programme and the contents of religious education as well as the textbooks and other teaching aids must be approved by the Conference of Bishops – the details will be the object of an agreement between the State and the Conference of Bishops.

***New German Bundesländer:****Agreement with Saxony (1996/1997):*

Art. 3, Par. 2 – It is the object of religious education to mediate Catholic teaching on faith and morals; the norms, the programmes and the textbooks for religious education must be approved by the Church; a separate agreement will define the way in which the Church is to take part in the State education



of the teachers of religion and in their further training as well as in the supervision of their teaching;

*Agreement with Thuringia (1997):*

Art. 12, Par. 3 – The guidelines, the programmes and the textbooks of religious education are only published after an agreement with the Catholic Church;

Art. 12, Par. 2 – Without detriment to the rights of State inspection, the Church has the right to make sure, in a way agreed upon with the State inspectorate, that the contents and the manner of religious education correspond to the principles of the Church;

*Agreement with Mecklenburg-Vorpommern (1997):*

Art. 4, Par. 2 – Religious education shall correspond to the principles of the Catholic Church; the Church will take part in working out the guidelines and the programmes, in selecting and approving the teaching aids, while in matters concerning the contents of religious education the consent of the Church is required;

*Agreement with Saxony-Anhalt (1998):*

Art. 4, Par. 2 – The contents of religious education and the textbooks are prepared with the participation of the Church; its consent is necessary for their promulgation;

Art. 4, Par. 4 – Without detriment to the rights of State inspection, the diocesan bishop is entitled to make sure – in a way agreed upon with the Bundesland government – that the contents of, and the manner of religious education agree with the principles of the Catholic Church;

*Agreement with Brandenburg (2003/2004):*

Art. 4, Par. 3 – It is for the Church to define the framework plans of religious education and to select and approve the teaching aids;

An additional protocol – Persons authorised by the (arch)diocese are entitled to sit in on the classes of religious education to make sure that the contents and the manner of teaching correspond with the principles of the Catholic Church.

## **2.2. Summary of Stipulations Regarding Defining the Religious Education Programme in Public Schools**

While the stipulations guaranteeing religious education in public schools are generally part of concordat agreements, stipulations concer-

ning the method of defining the contents of that education are less frequent: this matter, for the most part, is usually left to internal legislation and it does not appear very often in concordat agreements.

One type of stipulation exists in four of the five new German *Bundesländer* (except for Brandenburg): the contents of religious education as well as the textbooks are worked out by a public authority with the participation of the Church, but they may only be promulgated by the former after obtaining the consent of the ecclesiastical authority – cf. for example Art. 4, Par. 2 of the *Agreement with Mecklenburg-Vorpommern (1997)*:

L'insegnamento della religione cattolica è impartito in conformità con i principi della Chiesa cattolica. La Chiesa partecipa all'elaborazione delle direttive-quadro e dei programmi, alla scelta degli strumenti didattici e all'approvazione del materiale scolastico. Il suo consenso è necessario in quanto viene toccato il contenuto dell'insegnamento della religione, compresa la relativa didattica.

The Catholic religion is taught in conformity with the principles of the Catholic Church. The Church participates in preparing the framework guidelines and the teaching programmes, in selecting and approving the teaching aids. Its consent is required concerning the contents and the method of religious education.

A very similar solution is the stipulation with Bosnia and Herzegovina in which the programme of religious education and the teaching aids must first be approved by the ecclesiastical authority. In addition, it is stated that details shall be resolved by an agreement between the State and the Conference of Bishops.

Another variant is embodied in the agreement with Lithuania: the programme of religious education and the textbooks are prepared by the Church in collaboration with the State; they are approved by both Church and State before their promulgation or publication – see Art. 6, Par. 1 of *Agreement with Lithuania on Collaboration in Education and Culture (2000)*:

The preparation of programmes for teaching the Catholic religion, schoolbooks and other didactical materials for institutions of education shall be organized by the Conference of Lithuanian Bishops, in co-operation with the competent institution of the Republic of Lithuania. The prepared schoolbooks shall be approved for use by the Conference of Lithuanian Bishops and by the competent institution of the Republic of Lithuania.

A relatively frequent stipulation is one according to which the Church alone prepares the programmes and the textbooks and it also promulgates them after the State authority has first given its opinion – Slovakia, Lat-

via, Bosnia and Herzegovina; in the last case it has been stipulated that all details will be solved by a later agreement between the State and the Conference of Bishops – see e.g. Art. 16, Par. 5 of the *Basic Agreement with Bosnia and Herzegovina (2006/2007)*:

The programmes and the content of the teaching of the Catholic religion, as well as the text-books and didactic material must be prepared and approved by the Episcopal Conference of Bosnia and Herzegovina. The ways in which the teaching of the Catholic religion is conducted will be object of a particular agreement between the competent authorities of Bosnia and Herzegovina and the Episcopal Conference.

According to another, quite a rare, stipulation, the programmes and the textbooks are prepared as well as publicized and published by the Church authority, and the State authority is only notified by the Church – from among the countries studied by us this only pertains to the agreements with Poland and with Brandenburg – cf. Art. 12, Par. 2 of the *Concordat with Poland (1993/1998)*:

Il programma di insegnamento della religione cattolica e i libri di testo vengono redatti a cura dell'autorità ecclesiastica, che li fa conoscere all'autorità civile competente.

The programme and the textbooks of the Catholic religion will be published under the control of the ecclesiastical authority that will inform the competent civil authority of them.

### 3. REQUIREMENTS TO BE MET BY TEACHERS OF RELIGION

#### 3.1. Contractual Stipulations Regarding the Requirements to be Met by Teachers of Religion

*Concordat with Poland (1993/1998)*:

Art. 14, Paragraphs 3 and 4 – Persons who are to teach religion are assigned by the Church; the teachers must have a canonical mission from their diocesan bishop; its withdrawal results in the loss of the authorisation to teach the Catholic religion; pedagogical requirements of teachers of religion are defined by an agreement between the competent State organ and the Polish Conference of Bishops; the teachers are bound by Church regulations with regard to the content of this education; in other things they are subject to State regulations;

*Agreement with Croatia on Collaboration in Education and Culture (1996/1997):*

Art. 3, Paragraphs 1 to 3 – Teachers of religion must have adequate qualification according to Croatian law; they are chosen by the Church authority; they must have a canonical mission from the diocesan bishop; its withdrawal results in the loss of the capacity to teach the Catholic religion; teachers of religion are in the same position as other teachers;

Art. 7 – State and Church, each according to its competence, supervise religious education: the teachers are subject to Church norms in the matter of contents, in other things they are subject to Croatian law and to the disciplinary norms of the specific institution;

*Agreement with Lithuania on Collaboration in Education and Culture (2000):*

Art. 3 – The teachers of religion must have a qualification required by State regulations and by norms issued by the Conference of Bishops; the teachers must have a canonical mission from their diocesan bishop as an indispensable part of their qualification; the result of its withdrawal is their incapacity to teach Catholic religion; the procedure of declaring this withdrawal is defined in a separate agreement between the State and the Conference of Bishops; teachers of religion in State and municipal schools have the same status as teachers of other subjects;

Art. 7 – State and Church, each within its competence, supervise the method and the contents of religious education;

*Agreement with Slovakia on Catholic Education and Schools (2004):*

Art. III, Par. 1 – The teachers of religion must have a professional and a pedagogical competence according to Slovak law and a canonical mission from the Church authority, the withdrawal of which results in the loss of the authorisation to teach the Catholic religion;

*Agreement with Latvia (2000/2002):*

Art. 15 – Teachers must have the necessary qualification and the certificate of competence<sup>2</sup> from the Conference of Bishops, the withdrawal of which means an immediate loss of the authorisation to teach Catholic religion;

Art. 17 – State and Church, each within its competence, supervise the method and the contents of the teaching so that it be done with the proper academic and scientific competence while promoting the spirit of mutual respect among various confessions and the spirit of human equality;

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<sup>2</sup> The English text employs quite a general term *certificate of competence* instead of the usual term *canonical mission* (*missio canonica*).

*Proposal of an Agreement with the Czech Republic (2002/?):*

Art. 11, Par. 6 – Professionally and pedagogically competent teachers of religion will be authorised by the Church authority through the *missio canonica*, the withdrawal of which results in the loss of the authorisation to teach the Catholic religion;

*Basic Agreement with Bosnia and Herzegovina (2006/2007):*

Art. 16, Paragraphs 3 and 4 – The teachers must have a canonical authorisation from the local bishop and a corresponding pedagogical qualification; the withdrawal of the canonical authorisation leads to their incapacity to teach the Catholic religion; teachers of religion are full members of the teaching staff.

***New German Bundesländer:***

*Agreement with Saxony (1996/1997):*

Art. 3, Par. 3 – The teachers need the authorisation to teach (the canonical mission) from the diocesan bishop while with priests it is presupposed; the authorisation may also be given for a fixed time and it may be withdrawn;

An additional protocol: the decision to withdraw the mission is made on the basis of internal Church Law;

Art. 3, Par. 4 – The method of the filling of the posts of the teachers of religion, either in employment relationships (full-time or part-time) or as unpaid bodies, will be solved by a separate legal regulation;

*Agreement with Thuringia (1997):*

Art. 12, Paragraphs 4 and 5 – The teachers must have the canonical mission from their diocesan bishop; its withdrawal, where this occurs, shall be reported by the bishop to the State inspectorate and it results in the loss of the right to teach Catholic religion; the method of designating persons for teaching may be the object of a separate agreement;

*Agreement with Mecklenburg-Vorpommern (1997):*

Art. 4, Par. 3 – The teachers of religion need Church authorisation (the canonical mission) from the respective archbishop who can also withdraw it;

Art. 4, Par. 4 – The method of designating the teachers of religion will be specified after an agreement;

*Agreement with Saxony-Anhalt (1998):*

Art. 4, Par. 3 – The teacher must have a canonical mission which is presupposed in the case of priests; the mission may be given for a fixed time; it may also be withdrawn;

An additional protocol – The lapse of the term of validity of the canonical mission or its withdrawal results in the loss of the authorisation to teach the Catholic religion; the Church will try to work out unified criteria for according and withdrawing the canonical mission in this Bundesland;

Art. 4, Par. 5 – The method of filling the posts of teachers of religion, either in employment relationships (full-time or part-time) or as unpaid bodies, will be solved by a separate agreement;

Art. 4, Par. 6 – The share of the Church in further education of the teachers of religion will be the object of a special agreement;

*Agreement with Brandenburg (2003/2004):*

Art. 4, Par. 2 – The teachers of religion need the canonical mission from the (arch)bishop; it may be given for a fixed time and it may be withdrawn; it shall be given only to persons with sufficient education.

### **3.2. Summary of Stipulations Regarding Requirements to be Met by Teachers of Religion**

Stipulations regarding the qualifications required of the teachers of religion are represented in the concordat agreements to the same extent as the stipulations described in the previous point regarding the defining of the programme and the textbooks of religious education.

Three types of very similar stipulations can be distinguished.

The first type is present in all agreements with the new German *Bundesländer*. It includes a requirement of the canonical mission for the teachers of religion (in the agreements with Saxony and with Saxony-Anhalt with the additional specification that in the case of the priests this mission is presupposed). It goes on to define the method of filling the posts of the teachers on the basis of separate agreements (only in the case of Thuringia it is stated that such an agreement may be concluded). As an example we quote Art. 4, Paragraphs 3 and 5 of the *Agreement with Saxony-Anhalt (1998)*:

(3) L'insegnamento della religione cattolica presuppone un'abilitazione ecclesiastica all'insegnamento (missio canonica) da parte del Vescovo diocesano competente. Al riguardo, nella prima assunzione si deve presentare un certificato del competente Vescovo diocesano. Se si tratta di un sacerdote, l'abilitazione ecclesiastica all'insegnamento si considera concessa. L'abilitazione ecclesiastica all'insegnamento può essere accordata anche temporaneamente e, in casi motivati, revocata.

**Protocollo finale in relazione all'Articolo 4, comma 3:**

*Con lo scadere del termine o con la revoca dell'abilitazione ecclesiastica all'insegnamento cessa l'autorizzazione ad impartire l'insegnamento della religione. La Chiesa cattolica si adopererà per adottare regolamentazioni unitarie per la concessione e la revoca della missio canonica nel Land Sassonia-Anhalt. Competente per la revoca della missio canonica è il Vescovo diocesano, nella cui diocesi l'insegnamento della religione viene impartito.*

(5) La designazione contrattuale di personale per l'insegnamento della religione, che esercita tale professione come occupazione primaria o secondaria e viene a ciò deputato in modo stabile o temporaneo provenendo dal servizio ecclesiastico, rimane riservata a una speciale intesa.

The second type is very similar to the first one: the teachers of religion are appointed by the public authority, but the teacher must first obtain the canonical mission. Double subordination is laid down in the agreements: in the matter of contents of the teaching of religion, subordination to the ecclesiastical authority; in pedagogical and official matters, to the

(3) The teaching of the Catholic religion requires an ecclesiastical authorisation (missio canonica) from the competent diocesan bishop. In the case of a first employment relationship a certificate of this authorisation issued by the competent diocesan bishop must be presented. In the case of a priest it is presupposed that the authorisation has been granted. The authorisation may be given also for a fixed time and it may be withdrawn if there is reason for it.

**Additional protocol to Art. 4, Par. 3:**

*After the lapse of the fixed time or after the withdrawal of the ecclesiastical authorisation, the authorisation to teach the religion ceases. The Catholic Church will endeavour to adopt unified rules for the granting and the withdrawing of the missio canonica in the Bundesland of Saxony-Anhalt. The person entitled to withdraw the missio canonica is the diocesan bishop in whose diocese the religious education takes place.*

(5) The contractual designation of the persons for the teaching of religion, to exercise this profession either as a full-time or as a part-time employment and to be designated to it permanently or for a fixed time as to an ecclesiastical service, remains reserved to a special agreement.

public authority just like all other teachers. This type is embodied in the agreements with Lithuania, Slovakia, Latvia, with Bosnia and Herzegovina and in the proposal of an agreement with the Czech Republic. As an example we can quote Art. 3 of the *Agreement with Lithuania on Collaboration in Education and Culture (2000)*:

1. The qualifying certificate for teaching the Catholic religion shall be granted in accordance with the procedure prescribed by the legal acts of the Republic of Lithuania with due regard to the norms of the Conference of Lithuanian Bishops.

2. Teachers of the Catholic religion must have the written authorisation (*missio canonica*) of the local Bishop. Such authorisation constitutes an indispensable part of the qualification requirements for the profession. From the moment when the authorisation is withdrawn, a teacher shall lose the right to teach the Catholic religion. The procedure for the notification of the withdrawal of the authorisation shall be established by a separate agreement between the authorised institution of the Republic of Lithuania and the Conference of Lithuanian Bishops.

3. Teachers of religion in State or municipal schools have the same rights and duties as teachers of other subjects.

The third type is characterised by the fact that religious education teachers are legally appointed by an ecclesiastical authority; the canonical mission is always mentioned as a necessary requirement. Even here, a double subordination is usually defined: regarding the contents of religious education, subordination to the ecclesiastical authority; in pedagogical and official matters, to the public authority in the same way as other teachers. This type is only laid down in the agreements with Poland and with Croatia – see e.g. Art. 12, Paragraphs 3 and 4 of the *Concordat with Poland (1993/1998)*:

3. Gli insegnanti di religione devono avere l'autorizzazione (*missio canonica*) del Vescovo diocesano. La revoca di tale autorizzazione comporta la perdita del diritto all'insegnamento della religione. I criteri della preparazione pedagogica, nonché la forma e il modo di completare questa preparazione, saranno oggetto di intesa tra le competenti autorità civili e la Conferenza Episcopale Polacca.

3. The teachers of religion must have the authorisation (*missio canonica*) from the diocesan bishop. The withdrawal of this authorisation results in the loss of the authorisation to teach the religion. The criteria of the pedagogical preparation as well as the forms and the ways this preparation is completed will be the object of agreements between the respective civil authorities and the Polish Conference of Bishops.



4. Per quanto concerne il contenuto dell'insegnamento e dell'educazione religiosi, gli insegnanti di religione devono osservare le leggi e le disposizioni ecclesiastiche; per il resto devono osservare le norme civili.

4. Concerning the contents of religious teaching and education, the teachers of religion shall observe the ecclesiastical laws and regulations; in everything else they must observe the civil norms.

#### 4. FINANCING OF RELIGIOUS EDUCATION

##### **4.1. Contractual Stipulations Regarding the Financing of Religious Education**

*Agreement with Croatia on Collaboration in Education and Culture (1996/1997):*

Art. 3, Par. 3 – Teachers of religion have the same rights and duties as other teachers, including their entitlement to salary;

Art. 6, Par. 2 – The State refunds the costs for redaction, printing and distribution of the textbooks for religious education just as it does for all other textbooks;

*Agreement with Lithuania on Collaboration in Education and Culture (2000):*

Art. 3, Par. 3 – Teachers of religion in State and municipal schools have the same rights and duties as teachers of other subjects;

Art. 6, Par. 2 – Preparation and printing of the textbooks for religious education is funded by the competent State institution according to the norms worked out previously by this institution in collaboration with the Conference of Bishops;

*Agreement with Slovakia on Catholic Education and Schooling (2004):*

Art. II, Par. 6 – Redaction, financing and distribution of textbooks and teaching aids for religious education having ecclesiastical approval follow the same rules as for redaction, financing and distribution of textbooks and teaching aids for other subjects of general education;

*Proposal of an Agreement with the Czech Republic (2002/?):*

Art. 11, Par. 6 – In employment relationships, the same conditions defined by Czech law are valid for teachers of religion as for other teachers;

*Basic Agreement with Bosnia and Herzegovina (2006/2007):*

Art. 16, Par. 4 – Teachers of religious education in public schools are members of the teaching staff and are therefore paid by the school.

#### **4.2. Summary of Stipulations Regarding the Financing of Religious Education**

The issue of the financing of religious education is not a frequent topic of concordat stipulations; most often it is solved by internal legislation. From among the countries under our review, stipulations of this kind are found only in the agreements with Croatia, with Lithuania, with Slovakia, with the Czech Republic, and with Bosnia and Herzegovina. In all these agreements it is laid down that the teachers of religion are in the same legal position of employment as other teachers; their personal costs are thus funded by the respective public institution. Besides that, in the agreements with Croatia and with Lithuania it is stated that the State will cover all the costs related to the preparation and the publication of the textbooks for religious education – cf. for example Art. 3, Par. 3 and Art. 6, Par. 2 of the *Agreement with Lithuania on Collaboration in Education and Culture (2000)*:

Art. 3: 3. Teachers of religion in State or municipal schools have the same rights and duties as teachers of other subjects.

Art. 6: 2. The preparation and printing of textbooks on the Catholic religion shall be financed in accordance with the general procedure established by the competent institution of the Republic of Lithuania, in co-operation with the Conference of Lithuanian Bishops.

\*

We presented the contractual stipulations regarding the renewal of religious education step by step.

We can state, that the guarantee of religious education is common in the concordat agreements with post-communist countries – therefore we can say, that it is the generally part of such agreements.

Stipulations concerning the method of defining the contents and textbooks of that education are less frequent: this matter, for the most part, is usually left to internal legislation and it does not appear very often in concordat agreements.

Stipulations regarding the qualifications required of the teachers of religion are represented in the concordat agreements to the same extent as the stipulations regarding the defining of the programme and the textbooks of religious education.

The issue of the financing of religious education is not a frequent topic of concordat stipulations; most often it is solved by internal legislation.

We can find very specific situation in the new German Bundesländer because of reception of the legal system of the German Federal Republic: the religious education in an obligatory matter in public schools, paid by the Bundesland. There are small modifications regarding the method of defining the contents and textbooks and the qualifications required of the teachers of religion, but generally in conformity with the Canon law.

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### Regulation of Education of Catholic Religion in Concordat Agreements with Post-Communist Countries

#### Summary

The contribution deals the regulation of education of catholic religion in the public schools, contained in concordat agreements with post-communist countries since 1990. It presents followed issues: the guarantee of religious education, the method of defining the contents and textbooks of that education, the qualifications required of the teachers of religion and the financing of religious education.

**Kew words:** state, law, Catholic Church, canon law, concordats, religious education, financing

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**Regulacja nauki religii katolickiej  
w konkordatach z państwami postkomunistycznymi**

Streszczenie

Artykuł rozpatruje kwestię regulacji prawnej nauki religii katolickiej w szkołach publicznych, zawartej w umowach konkordatowych z państwami postkomunistycznymi od 1990 r. Opisuje następujące zagadnienia: gwarancję nauki religijnej, metody definiowania treści owej nauki i opracowania jej specyfikacji, kwalifikacji koniecznej dla nauczycieli religii i sposób finansowania owej nauki.

**Słowa kluczowe:** państwo, prawo, Kościół Katolicki, prawo kanoniczne, konkordaty, nauka religii, finansowanie

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