

RADOSŁAW WNUK

STAGES IN CANONICAL PROVISION OF THE OFFICE OF PASTOR UNDER THE CURRENT POLISH SYNODAL LEGISLATION

INTRODUCTION

The office of pastor, like any other ecclesiastical office, cannot be acquired 333–35 without canonical provision (c. 146).¹ The provision of offices in one's own particular Church, unless expressly provided otherwise by law, is the responsibility of the diocesan bishop (c. 157). Under ordinary circumstances (*sede plena*), the provision of the office of pastor belongs to the diocesan bishop (cc. 523–524). However, in extraordinary situations (*sede vacante* or *sede impedita*),² the provision belongs to the diocesan administrator (*sede vacante*) or its temporary administrator (*sede impedita*) on the condition that one year has elapsed since the occurrence of such an emergency situation in the particular Church (c. 525).³

Rev. RADOSŁAW WNUK, STL, is a doctoral student at the Department of Public and Constitutional Church Law of the Institute of Canon Law, Faculty of Law, Canon Law and Administration of the John Paul II Catholic University of Lublin (KUL); address: Raławickie 14, 20-950 Lublin, Poland; e-mail: paul1985@onet.eu.

¹ Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus, January 25, 1983, AAS 75 (1983), pars II, 1–317; Polish translation in *Kodeks Prawa Kanonicznego*, translation approved by the Polish Episcopal Conference (Poznań: Pallottinum, 1984) [hereafter: CIC/83]; the English version retrieved by Translator from www.vatican.va.

² For more on this, see M. SITARZ, “Przeszkoda w działaniu i wakaty stolicy biskupiej,” in *Księga I. Normy ogólne, Lud Boży. Część I. Wierni chrześcijanie. Część II. Ustrój hierarchiczny Kościoła*, ed. J. Krukowski, vol. 2/1 of *Komentarz do Kodeksu Prawa Kanonicznego* (Poznań: Pallottinum, 2005), 272–94.

³ For more on this, see J. KRUKOWSKI, “Parafie, proboszczowie i wikariusze parafialni,” in *Komentarz do Kodeksu*, 2/1: 424–25.

Canonical provision (*provisio canonica*) is a legal act⁴ comprising three stages: 1) designating a person (*designatio personae*); 2) conferral of the title (*collatio tituli*); and 3) taking possession of the office (*possessio canonica*).⁵ This article will focus on the individual stages of canonical provision of the office of pastor. Our aim is to show how Polish synodal legislation regulates the following issues: designation of a presbyter for this office, issuance of an act of nomination, placement in possession, and taking possession of the office.

1. DESIGNATION OF A PERSON

The legislators of particular law promulgated provisions relating to the designation of a candidate for the office of pastor in the synodal resolutions. They achieved that by often replicating the universal law of the Latin Church (cc. 523, 524 and 682, §1). These regulations concern the designation of a person by way of independent provision (i.e. where a pastor is appointed to a “diocesan” parish—one which is not entrusted to any institute or association) and dependent provision (where a pastor is appointed to a parish entrusted to a clerical institute of consecrated life or a clerical association of apostolic life).⁶

1.1 INDEPENDENT PROVISION

In the particular law of the archdioceses of Białystok, Lublin, Łódź, Poznań, Przemyśl, and Warmia and the dioceses of Drohiczyn, Kalisz, Kielce, Łomża, Rzeszów, Sosnowiec, Toruń and Warszawa–Praga, it was regulated that if a parish is directly subordinated to the authority of a diocesan bishop (it was not entrusted to any institute or association), the diocesan bishop is unrestricted in his designation of the candidate (compare cc. 523–524).⁷ In the Diocese of Drohiczyn, the legislator obliged only the diocesan

⁴ More on this in M. SITARZ, *Słownik prawa kanonicznego* (Warszawa: Instytut Wydawniczy Pax, 2004), col. 144.

⁵ For more on this, see R. SOBAŃSKI, “Urzędy kościelne,” in *Księga I. Normy ogólne*, ed. J. Krukowski, vol. 1 of *Komentarz do Kodeksu Prawa Kanonicznego* (Poznań: Pallottinum, 2003), 235–38.

⁶ For more on this, see R. WNUK, “Prowizja kanoniczna na urząd proboszcza,” *Kościół i Prawo* 5, no.1 (2016): 103–4.

⁷ See *I Synod Archidiecezji Białostockiej* (Białystok: Kuria Metropolitalna Białostocka, 2000), st. 611; *II Synod Diecezji Lubelskiej 1977–1985* (Lublin: Lubelskie Wydawnictwo Diecezjalne,

bishop to always take into consideration the needs of a particular parish and the talents of individual presbyters when choosing a candidate for the office of pastor.⁸ However, in the Archdiocese of Warmia, when considering the choice of a candidate, the bishop is to hear the opinion of the Council for Personnel Matters.⁹

1.2 DEPENDENT PROVISION

Only the legislators of the Archdiocese of Poznań and the dioceses of Drohiczyn, Ełk, Kalisz, Łomża, Łowicz, Pelplin, Rzeszów and Włocławek enacted regulations concerning the provision of the office of pastor in a parish belonging to a clerical institute of consecrated life or a clerical association of apostolic life. The power to designate a presbyter was given to the competent superior of an institute or association (compare c. 682, §1).¹⁰

1988), st. 585; *III Synod Archidiecezji Łódzkiej 1996–1998* (Łódź: Archidiecezjalne Wydawnictwo Łódzkie, 1999), art. 277; *Synod Archidiecezji Poznańskiej 2004–2008. Zwołany i przeprowadzony przez Arcybiskupa Stanisława Gądeckiego*, vol. 2, *Statuty* (Poznań: Wydawnictwo Świętego Wojciecha, 2008), st. 90; *Synod Archidiecezji Przemyskiej 1995–2000. Statuty i aneksy* (Przemysł: Wydawnictwo Archidiecezji Przemyskiej, 2000), st. 196, §2; *I (XIV) Synod Archidiecezji Warmińskiej (2006–2012). Misja Kościoła Warmińskiego w dziele Nowej Ewangelizacji* (Olsztyn: Wydział Duszpasterski Kurii Archidiecezji Warmińskiej, 2012), st. 21; *I Synod Diecezji Drohiczyńskiej. Statuty. Dokumenty wykonawcze* (Drohiczyn: Drohiczyńskie Wydawnictwo Diecezjalne, 1997), st. 85; *Pierwszy Synod Diecezji Kaliskiej (2007–2009). Prawo diecezjalne Kościoła Kaliskiego* (Kalisz: Kuria Diecezjalna, 2009), st. 1, 26; “Parafie i Rektoraty,” in *III Synod Diecezji Kieleckiej 1984–1991* (Kielce: Jedność, 1992), st. 145; *I Synod Diecezji Łomżyńskiej 1995–2005. Prawo partykularne Kościoła Łomżyńskiego* (Łomża: Łomżyńska Kuria Diecezjalna, 2005), st. 156; *Pierwszy Synod Diecezji Rzeszowskiej* (Rzeszów: Poligrafia Wyższego Seminarium Duchownego w Rzeszowie, 2004), st. 127, §1; *I Synod Diecezji Sosnowieckiej. Prawo partykularne Kościoła Sosnowieckiego* (Sosnowiec: Kuria Diecezjalna Sosnowiec, 2005), st. 44; *Uchwały Pierwszego Synodu Diecezji Toruńskiej. Prawo partykularne Kościoła Toruńskiego* (Toruń: Toruńskie Wydawnictwo Diecezjalne, 2011), st. 181; *Pierwszy Synod Diecezji Warszawsko-Praskiej* (Warszawa: Kuria Biskupia Diecezji Warszawsko-Praskiej, 2000), st. 124.

⁸ See *I Synod Diecezji Drohiczyńskiej*, st. 88.

⁹ See *I (XIV) Synod Archidiecezji Warmińskiej*, st. 21.

¹⁰ See *Synod Archidiecezji Poznańskiej*, vol. 2, st. 90; *I Synod Diecezji Drohiczyńskiej*, st. 91; *I Synod Diecezji Ełckiej (1997–1999)* (Ełk: Kuria Biskupia Diecezji Ełckiej, 1999), st. 339; *Pierwszy Synod Diecezji Kaliskiej*, st. 312; *I Synod Diecezji Łomżyńskiej*, st. 156; *I Synod Diecezji Łowickiej 1995–1999* (Łowicz: Apostolicum, 1999), st. 124; *Statuty I Synodu Diecezji Pelplińskiej* (Pelplin: Bernardinum, 2001), st. 37; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 127, §1; *Drugi Synod Diecezji Włocławskiej. Statuty* (Włocławek: Kuria Diecezjalna, 1994), st. 346.

2. CONFERRAL OF THE TITLE

Collatio tituli is the second stage of the provision of the office of pastor. It constitutes the central act of the entire procedure of canonical provision, which is defined as the transfer of competences pertaining to the office.¹¹ The regulations of particular law mainly replicated the prescripts of the Code (cc. 524–525) whereby the ecclesiastical legislator provides that a diocesan bishop (in the situation of *sede plena*) is competent to confer a legal title for the assumption of the office of pastor.¹² This act may be placed freely or for reason of necessity.

2.1 FREE CONFERRAL

The diocesan bishop may place such an act freely only in the case of a presbyter incardinated in the diocese and in relation to “diocesan” parish.¹³ However, if a candidate belongs to a clerical institute of consecrated life or to a clerical association of apostolic life, this may occur only after he obtains the consent of his competent superior.¹⁴

2.2 NECESSARY CONFERRAL

If the diocesan bishop confers a legal title on a presbyter who belongs to a clerical institute of consecrated life or a clerical association of apostolic life and does so in relation to the office of pastor in a parish entrusted to such an institute or association, he always does so in a necessary manner and only after a candidate has been presented by the competent superior.¹⁵

¹¹ For more on this, see WNUK, “Prowizja kanoniczna,” 107.

¹² In synodal legislation, there are no regulations concerning emergency situations related to the office of the pastor, such as: *sede impedita* and *sede vacante*; more on this in M. SITARZ, “Zarządzenie parafią w sytuacjach nadzwyczajnych,” in *Parafia w prawie kanonicznym i w prawie polskim*, ed. S.L. Głódź, J. Krukowski, and M. Sitarz (Lublin: Towarzystwo Naukowe KUL, 2013), 133–54.

¹³ See *I Synod Archidiecezji Białostockiej*, st. 611; *I Synod Diecezji Drohiczyńskiej*, st. 85; *I Synod Diecezji Elckiej*, st. 338; *III Synod Gdański. Misja ewangelizacyjna Kościoła Gdańskiego na początku Nowego Tysiąclecia*, vol. 1, *Statuty* (Gdańsk: Kuria Metropolitalna Gdańska, 2001), st. 62; *Pierwszy Synod Diecezji Kaliskiej*, st. 1 and 26; *II Synod Diecezji Lubelskiej*, st. 585; *I Synod Diecezji Łomżyńskiej*, st. 156; *III Synod Archidiecezji Łódzkiej*, art. 277; *Synod Archidiecezji Poznańskiej 2004–2008. Zwołany i przeprowadzony przez Arcybiskupa Stanisława Gądeckiego*, vol. 1, *Dokumenty* (Poznań: Wydawnictwo Świętego Wojciecha, 2008), st. 55; *Synod Archidiecezji Przemyskiej*, st. 196, §2; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 127, §1; *I Synod Diecezji Sosnowieckiej*, st. 44; *I (XIV) Synod Archidiecezji Warmińskiej*, st. 21.

¹⁴ See *Pierwszy Synod Diecezji Kaliskiej*, st. 315.

¹⁵ See *I Synod Diecezji Drohiczyńskiej*, st. 91; *I Synod Diecezji Elckiej*, st. 339; *Pierwszy Synod Diecezji Kaliskiej*, st. 312; *I Synod Diecezji Łomżyńskiej*, st. 156; *I Synod Diecezji Łowickiej*,

Only in the archdiocese of Poznań, the provision of the office of a pastor in a parish entrusted to a clerical institute of consecrated life or a clerical association of apostolic life is preceded by an appropriate agreement between the archbishop and the superior of the respective institute or association.¹⁶

2.3 DECREE OF NOMINATION

Canon 156 provides as follows: “The provision of any office is to be put in writing.” In the particular law of the archdioceses of Białystok, Gniezno, Łódź, Poznań, Warmia and Warsaw, and the dioceses of Ełk, Kalisz, Kielce, Łomża, Łowicz, Płock, Rzeszów, Sandomierz, Sosnowiec, Toruń, Warszawa–Praga and Włocławek, when regulating the assumption of the office of pastor, the form of provision was specified indirectly by making reference to a decree of nomination.¹⁷ Therefore, the conferral of a legal title should, in any event, be effected by the presentation of a decree or its notification made in accordance with the norm of canon law.¹⁸ The document is to be issued in writing and must contain all the essential elements of a singular administrative act.¹⁹

The decree appointing a pastor should detail the full name and the office of the diocesan bishop who issued the decree (e.g. “Bishop N., Bishop of the Diocese N.”). This information is typically placed together with the episcopal

st. 124; *Statuty I Synodu Diecezji Pelplińskiej*, st. 37 and 39; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 127, §1; *Drugi Synod Diecezji Włocławskiej*, st. 346; *Synod Archidiecezji Poznańskiej*, vol. 2, st. 90.

¹⁶ See *Synod Archidiecezji Poznańskiej*, vol. 2, st. 90.

¹⁷ See *I Synod Archidiecezji Białostockiej*, st. 50; *III Powojenny Synod Archidiecezji Gnieźnieńskiej z okazji Milenium jej powstania* (Gniezno: Prymasowskie Wydawnictwo „Gaudentium”, 2001), st. 41, §1; *III Synod Archidiecezji Łódzkiej*, art. 25 and 28; *Synod Archidiecezji Poznańskiej*, vol. 2, st. 91; *I (XIV) Synod Archidiecezji Warmińskiej*, st. 24; *IV Synod Archidiecezji Warszawskiej*, st. 52; *I Synod Diecezji Ełckiej*, st. 341–342; *Pierwszy Synod Diecezji Kaliskiej*, st. 28; “Parafie i Rektoraty. Zarządzenia i zalecenia,” in *III Synod Diecezji Kieleckiej*, p. 146, no. 4; *I Synod Diecezji Łomżyńskiej*, st. 158; *I Synod Diecezji Łowickiej*, st. 91; „*Gdzie jest Bóg, tam jest przyszłość*”. *XLIII Synod Diecezji Płockiej. Prawo partykularne i program odnowy pastoralnej Kościoła Płockiego* (Płock: Płocki Instytut Wydawniczy, 2015), st. 37; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §2; *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej*, st. 64; *I Synod Diecezji Sosnowieckiej*, st. 60; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §1; *Pierwszy Synod Diecezji Warszawsko-Praskiej*, st. 125, §5. “Obrzęd wprowadzenia nowego proboszcza,” in *II Synod Diecezji Włocławskiej*, 145, Annex 1.

¹⁸ See M. SITARZ, “Notyfikacja,” in *Encyklopedia Katolicka* (Lublin: Towarzystwo Naukowe KUL, 2009), vol. 13, col. 1456.

¹⁹ For more on this, see M.J. GARCÍA, *Le norme Generali del Codex Iuris Canonici* (Rome: Edizioni Istituti Iuridico claretiano, 1995), 555.

coat of arms in the upper part in the middle or on the left-hand side of the document. The decree should also indicate the addressee of the act, that is the full name and the current office of the future pastor (e.g. “Father N., vicar/pastor N.”). In terms of layout, the recipient’s details should be placed in a visible place even before the section giving the motives and disposition, so that there is no doubt who is the author and who is the addressee.²⁰

The main body of the document should set out the reasons for the issuance of the decree of nomination for the office of pastor. In accordance with canon 51, this is an obligatory requirement with no exceptions. The diocesan bishop is to give at least a summary of the actual reasons for issuing the decree (e.g. “Since the parish of N. is vacant and it is necessary to ensure constant and proper exercise of divine worship and pastoral ministry, having carried out necessary consultation and in consideration of all circumstances, guided by the concern for the People of God entrusted to me...”); if a pastor is appointed to a parish entrusted to a religious institute or apostolic life association, it is necessary to indicate the fact that the candidate has been presented by a competent superior (e.g. “as requested...”). The actual motivation stated in the nomination decree is important in so far as its absence makes the document illegitimate.²¹

Next, the decree should include the legal basis indicating the authority to issue the act.²² In this particular case, such wording as the following should be used: “pursuant to canons 523–524 (when appointing a pastor to a parish entrusted to a religious institute or an association of apostolic life: “pursuant to canons 523 and 682, §1”) ... I appoint Father ... pastor of the parish...” When the priest is being transferred, it is necessary to invoke canons 190 and 538, §1. Additionally, it seems very appropriate to include here the date of the appointment, as it does not have to coincide with the issuance of the decree. The specific day of the appointment should be indicated as follows: “... as of the day I appoint...” In the following part of the disposition, depending on the will of the diocesan bishop, other indications may be added, the range of duties of the future pastor or other clauses. Anything that may not be specified

²⁰ See M. SITARZ, *Kompetencje organów kolegialnych w Kościele partykularnym w sprawowaniu władzy wykonawczej według Kodeksu Prawa Kanonicznego z 1983 roku* (Lublin: Towarzystwo Naukowe KUL, 2008), 166; R. KASZAK, “Powierzenie urzędu kanclerza kurii diecezjalnej,” *Kościół i Prawo* 3, no. 2 (2014): 61.

²¹ See J. KRUKOWSKI, “Konkretne akty administracyjne,” in *Komentarz do Kodeksu*, 1: 114–15; KASZAK, “Powierzenie urzędu kanclerza,” 61.

²² See F. PRUSAK and M. SITARZ, *Propedeutyka prawa. Zagadnienia podstawowe* (Warszawa: Wyższa Szkoła Handlu i Prawa im. Ryszarda Łazarskiego, 2000), 48.

in universal or particular law should be indicated here, for example the date of the canonical taking possession of the office. A reference to regulations of particular law can be made, including the statutes of the diocesan synod. The decree appointing the pastor should be transparent, precise and without unnecessary clutter that could obscure its transparency.²³

The decree of nomination should also include the date (day, month and year) and the name of the place in which it was issued. Additionally, the address and telephone number of the diocesan curia can be supplied. This information is usually placed in the top right corner of the document or at the very bottom of the layout. It is necessary to provide a date if the dispositional content provides some dates but the text does not.²⁴

The decree of nomination for the office of pastor should contain two signatures: one of the competent authority issuing the decree and another of the chancellor or, if any impediments exist (e.g. the chancellor is physically unavailable), of the vice-chancellor or the notary of the curia (c. 474). The signatures should be placed under the dispositional part. Their placement relative to the sides of the document or whether they need to be opposite each other or one above the other is of secondary importance. If they are to be one above the other, it seems appropriate to place the signature of the competent authority first. In addition, the decree must be stamped with the personal stamp of the competent authority. This seal should contain not only the insignia but also the full name of the issuer as well as the name of the diocese he heads. The seal of the diocesan curia can also be added to a document prepared in this way. As a rule, seals are affixed at the bottom of the document next to the signatures.²⁵

To have legal force, the decree is to be properly made known to the newly appointed pastor (cc. 54–56). As a rule, the appointee receives the original copy of the decree. Certified copies are submitted to other interested parties. One is submitted to the dean of the vicariate forane in which the entrusted parish is located, and in the case of the appointment of a pastor in a parish referred to in canon 520 another copy is submitted to the superior who presented the candidate for the office. A copy of the decree should also be attached to the personal files of the pastor, kept in the archives of the curia, and the text of the decree is to be published in the diocesan official journal.²⁶

²³ KASZAK, "Powierzenie urzędu kanclerza," 62.

²⁴ Ibid.; see E. LABANDERIA, *Trattato di diritto amministrativo canonico* (Milan: Giuffrè, 1994), 402.

²⁵ KASZAK, "Powierzenie urzędu kanclerza," 62–3; see F. D'OSTILIO, *Il diritto amministrativo della Chiesa* (Vatican City: Libreria Editrice Vaticana, 1995), 310.

²⁶ KASZAK, "Powierzenie urzędu kanclerza," 63–4.

A proper notification of the decree of nomination for the office of pastor ends the second stage of canonical provision, or the award of the title.²⁷ However, the pastor, in accordance with the law, may validly exercise his office only after he takes canonical possession of it or obtains a dispensation from the ordinary of the place which replaces the act (c. 527).

3. TAKING POSSESSION OF THE OFFICE

The taking possession of and placement in possession of the office ends the process of canonical provision of the office of pastor. It is regulated in particular law that this act may take place only after the decree of nomination has been received and is necessary for the valid exercise of the authority related to the office (c. 527, §1).²⁸

3.1 THE ENTITY COMPETENT TO PLACE A PASTOR IN POSSESSION

According to the Code, a pastor is placed in possession of the office by the local ordinary or a priest delegated by him (c. 527, §2). In the archdioceses of Białystok, Gniezno and Wrocław, and in the dioceses of Ełk, Tarnów, Włocławek and Zamość–Lubaczów, this act is performed personally by the diocesan bishop or his delegate.²⁹ In the archdioceses of Łódź, Poznań, Przemyśl, Warmia and Warsaw, as well as in the dioceses of Kalisz, Kielce, Koszalin–Kołobrzeg, Łowicz, Opole, Pelplin, Płock, Rzeszów, Sandomierz,

²⁷ For more on this, see G. DZIERŻON, “Dekret poszczególny,” in *Prawo kanoniczne*, ed. B. Hołyst, R. Hauser, and G. Leszczyński, vol. 2 of *Wielka Encyklopedia Prawa* (Warszawa: Fundacja „Ubi societas, ibi ius”, 2014), 42.

²⁸ See I Synod Archidiecezji Białostockiej, st. 50; I Synod Diecezji Ełckiej, st. 341; III Powojenny Synod Archidiecezji Gnieźnieńskiej, st. 41, §1; Pierwszy Synod Diecezji Kaliskiej, st. 28; “Parafie i Rektoraty. Zarządzenia i zalecenia,” in III Synod Diecezji Kieleckiej, p. 146, no. 4; III Synod Archidiecezji Łódzkiej, art. 28; “Gdzie jest Bóg, tam jest przyszłość”. XLIII Synod Diecezji Płockiej, st. 37; Synod Archidiecezji Poznańskiej, vol. 2, st. 91; Pierwszy Synod Diecezji Rzeszowskiej, st. 128, §2; I Synod Diecezji Sosnowieckiej, st. 60; Uchwały Pierwszego Synodu Diecezji Toruńskiej, st. 182, §2; Pierwszy Synod Diecezji Warszawsko-Praskiej, st. 125.

²⁹ See I Synod Archidiecezji Białostockiej, st. 50; III Powojenny Synod Archidiecezji Gnieźnieńskiej, stat. 41, §1; “Proboszcz,” in *Synod Archidiecezji Wrocławskiej 1985–1991* (Wrocław: Kuria Metropolitalna Wrocławska, 1995), 356, st. 77; I Synod Diecezji Ełckiej, st. 345; IV Synod Diecezji Tarnowskiej 1982–1986 (Tarnów: Kuria Diecezjalna, 1990), st. 345; “Obrzęd wprowadzenia nowego proboszcza w diecezji włocławskiej,” in *Drugi Synod Diecezji Włocławskiej*, p. 145, Annex 1; I Synod Diecezji Zamojsko-Lubaczowskiej 1996–2001 (Zamość: Kuria Diecezjalna, 2001), st. 10.

Sosnowiec and Toruń, the placement is done by the dean, vice dean or another priest delegated by the diocesan bishop.³⁰

3.2 THE FORM AND MANNER OF TAKING CANONICAL POSSESSION

The form of canonical possession of the office of pastor is his placement in the possession of the parish conducted by a competent authority.³¹ It is prescribed in canon 527, §2 that this act is to take place in a manner determined by particular law or custom. Pursuant to this prescript, the legislators of some particular Churches have regulated the manner of canonical possession of a parish. They distinguished the legal and liturgical aspects of this act. The legal aspect involves the signing of a properly drafted handover report by the newly appointed pastor, by the outgoing pastor (or administrator if he has not been appointed pastor in that parish), and by the dean or other entity designated by the diocesan bishop (in two or three copies, depending on the diocese).³² The liturgical aspect, on the other hand, involves a solemn

³⁰ See *III Synod Archidiecezji Łódzkiej*, art. 26; *Synod Archidiecezji Poznańskiej*, vol. 2, st. 72; *Synod Archidiecezji Przemyskiej*, st. 196, §4; *I (XIV) Synod Archidiecezji Warmińskiej*, st. 23–24; *IV Synod Archidiecezji Warszawskiej* (Warszawa: Wydawnictwo Archidiecezji Warszawskiej, 2003), st. 50; *Pierwszy Synod Diecezji Kaliskiej*, st. 18 (unless otherwise stated in the nomination decree, see st. 28); “Parafie i Rektoraty. Zarządzenia i zalecenia,” in *III Synod Diecezji Kieleckiej*, p. 146, no. 4; *I Synod Diecezji Koszalińsko-Kołobrzeszkiej. Koszalin 1986–1990* (Koszalin: Kuria Biskupia Koszalińsko-Kołobrzeszka, 1990), st. 288, §1; *I Synod Diecezji Łowickiej 1995–1999*, st. 92, §1; *Pierwszy Synod Diecezji Opolskiej (2002–2005). Statuty i aneksy. Parafia u progu nowego tysiąclecia* (Opole: Wydawnictwo Świętego Krzyża, 2005), st. 240; *Statuty I Synodu Diecezji Pelplińskiej*, st. 40; *Gdzie jest Bóg, tam jest przyszłość. XLIII Synod Diecezji Płockiej*, st. 68; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §§2–3; *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej. Dekrety i Instrukcje* (Sandomierz: Hodie Wydawnictwo Diecezjalne, 1999), st. 63; *I Synod Diecezji Sosnowieckiej*, st. 60; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §1.

³¹ For more on this, see F. COCCOPALMERIO, *De paroecia* (Rome: Editrice Pontificia Università Gregoriana, 1991), 134–39.

³² In some particular Churches, the handover report is signed also by other persons: for the Archdiocese of Łódź, see *III synod Archidiecezji Łódzkiej*, art. 26; for the Diocese of Sandomierz, see *Aby byli jedno. Drugi synod Diecezji Sandomierskiej*, st. 63; and for in the Diocese of Toruń, see *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §2—two witnesses. In the Archdiocese of Gniezno, see *III Powojenny Synod Archidiecezji Gnieźnieńskiej*, st. 41, §2, and in the Archdiocese of Warmia, a representative of the parish finance council is required, whereas in the Diocese of Rzeszów a delegate of the diocesan finance council attends, see *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §3; in the Archdiocese of Poznań, one representative of the parish finance council and one of the economic department of the diocesan curia are present, see *Synod Archidiecezji Poznańskiej 2004–2008*, vol. 2, st. 101. It should be noted that pursuant to canon 537, the parish finance council is a consultative body and is governed not only by the provisions of universal law but also by those issued by the diocesan bishop. The synodal

introduction of the pastor into his pastoral ministry. This takes place according to the ritual practised in a given diocese,³³ in the presence of a large congregation gathered in the parish church, and is usually accompanied by the celebration of Mass by the new pastor.³⁴

3.3 DISPENSATION FROM THE METHOD OF ASSUMING THE OFFICE

According to canon 527, §2, the local ordinary, for a just cause, may grant a dispensation from the manner of assuming the parish by the pastor specified in the particular Church. The dispensation, made known to the parishioners, replaces the taking of possession in the legitimate manner.³⁵ The legislators of the dioceses of Ełk and Kalisz (replicating the code provisions) regulated in the particular law the possibility of granting a dispensa-

statutes mentioned above give the council members broader competences than those indicated by the Code's legislator; for more on this, see KRUKOWSKI, "Parafie, proboszczowie," 446–47; M. SITARZ and E. LEWICKA, "Kompetencje diecezjalnej rady do spraw ekonomicznych w partykularnym prawie polskim," *Biuletyn Stowarzyszenia Kanonistów Polskich* 19, no. 22 (2009): 65–85; M. SITARZ, "Rada ds. Ekonomicznych diecezji," in *Wielka Encyklopedia Prawa*, 2: 197–98.

³³ The liturgical ceremony for the induction of a pastor is included, for example, in *Agenda liturgiczna. Opracowanie zbiorowe Archidiecezjalnej Komisji Liturgicznej*, 443–46 (Katowice: Księgarnia św. Jacka, 2005). According to this book, it is the dean of the vicariate forane who inducts the pastor. During the ceremony, the dean also reads the decree of nomination and presents the new shepherd to the parishioners. The liturgical rite emphasizes the duties of the pastor as he the teacher, priest and shepherd of all parishioners entrusted to his pastoral care. A telling sign is the handing over of the keys to the church and to all other parish buildings to the new pastor. The words accompanying this ceremony show the parish temple as the centre of parish life. Also of particular importance are: the handover of the pulpit because it demonstrates that the pastor is the teacher of the parish community, the handover of the altar because it presents the pastor as the parish priest, and the handover of the spot from which liturgy is celebrated because it emphasizes that the pastor is the shepherd of the parish.

³⁴ For more on this, see *I Synod Archidiecezji Białostockiej*, st. 50; *I Synod Diecezji Drohiczyńskiej*, st. 85; *I Synod Diecezji Ełckiej*, st. 343; *III Powojenny Synod Archidiecezji Gnieźnieńskiej*, st. 41, §§1–2; *Pierwszy Synod Diecezji Kaliskiej*, st. 18; "Parafie i Rektoraty. Zarządzenia," in *III Synod Diecezji Kieleckiej*, p. 146, no. 4; *I Synod Diecezji*, st. 158; *I Synod Diecezji Łowickiej*, st. 90, §§ 1–4; *III Synod Archidiecezji Łódzkiej*, art. 26–27, 29; *Pierwszy Synod Diecezji Opolskiej*, st. 240; "Gdzie jest Bóg, tam jest przyszłość". *XLIII Synod Diecezji Płockiej*, st. 37; *Synod Archidiecezji Przemyskiej*, st. 196, §4; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §3; *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej*, st. 64; *IV Synod Diecezji Tarnowskiej*, st. 738, §§1–3; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §§1–3; *I (XIV) Synod Archidiecezji Warmińskiej*, st. 23; *IV Synod Archidiecezji Warszawskiej*, st. 50–51; *Pierwszy Synod Diecezji Warszawsko-Praskiej*, st. 125, §§1–3; "Proboszcz," in *Synod Archidiecezji Wrocławskiej*, p. 356, statute 77; *I Synod Diecezji Zamojsko-Lubaczowskiej*, st. 10; 194–195.

³⁵ For more on this, see KRUKOWSKI, "Parafie, proboszczowie," 428; COCCOPALMERIO, *De paroecia*, 134–39.

tion replacing the canonical assumption of the parish, effected by the diocesan bishop.³⁶ On the other hand, in the archdiocese of Łódź and the dioceses of Sandomierz and Toruń, provisions were promulgated to allow only an exemption from the liturgical aspect of this act.³⁷

3.4 THE TIME OF TAKING POSSESSION OF THE OFFICE

It is prescribed in canon 527, §3 that the ordinary of the place determine the time when the parish is to be embraced by the pastor.³⁸ Accordingly, the term in which the canonical possession of the office is to take place is specified in particular law. In the archdioceses of Warmia and Warsaw, and in the dioceses of Ełk and Płock, unless the decree of nomination stipulates otherwise, this should be done within one month from the date of issue.³⁹ In the Archdiocese of Gniezno and the Diocese of Sosnowiec, the office is to be assumed within 15 days of the appointment.⁴⁰ In the dioceses of Łowicz and Warszawa–Praga, the pastor is obliged to take possession of his office within two weeks of receiving the decree of nomination (unless it sets a different date).⁴¹ What is more, in the Diocese of Warszawa–Praga, the pastor is to set the exact date of his taking the office with the dean and the outgoing pastor.⁴² In the Archdiocese of Łódź, the newly appointed pastor is obliged to take over the parish within one month from the date of receiving the decree (unless the decree states otherwise).⁴³ In the dioceses of Łomża and Toruń, the date of taking possession of the parish is determined in the decree of nomination.⁴⁴ In the Diocese of Rzeszów, the newly appointed parish priest is obliged to take possession of the parish within the time limit established by the local ordinary, and the detailed time when the parish will be handed over

³⁶ *I Synod Diecezji Ełckiej*, st. 341; *Pierwszy Synod Diecezji Kaliskiej*, st. 28.

³⁷ See *III Synod Archidiecezji Łódzkiej*, art. 31; *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej*, st. 63; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §3.

³⁸ For more on this, see KRUKOWSKI, "Parafie, proboszczowie," 428.

³⁹ See *I (XIV) Synod Archidiecezji Warmińskiej*, st. 24; *IV Synod Archidiecezji Warszawskiej*, st. 52; *I Synod Diecezji Ełckiej*, st. 342; "Gdzie jest Bóg, tam jest przyszłość". *XLIII Synod Diecezji Płockiej*, st. 37.

⁴⁰ See *III Powojenny Synod Archidiecezji Gnieźnieńskiej*, st. 41, §1; *I Synod Diecezji Sosnowieckiej*, st. 60.

⁴¹ *I Synod Diecezji Łowickiej*, st. 91; *Pierwszy Synod Diecezji Warszawsko-Praskiej*, st. 125, §5.

⁴² *Pierwszy Synod Diecezji Warszawsko-Praskiej*, st. 125, §5.

⁴³ *III Synod Archidiecezji Łódzkiej*, art. 25.

⁴⁴ *I Synod Diecezji Łomżyńskiej*, st. 158; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §1.

should be agreed with the dean and the outgoing pastor or administrator.⁴⁵ In the Diocese of Sandomierz, the pastor has the duty to take possession of the parish within the period specified in the decree of nomination, or, if no such term has been explicitly specified, within one month.⁴⁶ In the Diocese of Włocławek, however, the pastor is to take up his office within a deadline of 15 days of the date specified in the decree.⁴⁷ In the Archdiocese of Poznań, the liturgical induction of the pastor is to take place on the closest Sunday following the date of his legal assumption of the office.⁴⁸

3.5 PROFESSION OF FAITH AND AN OATH OF FIDELITY

Under universal law (c. 833, 6°), all those promoted to the office of pastor are obliged to personally profess their faith before the ordinary of the place or his delegate and to take an oath of fidelity while taking possession of the office exercised in the name of the Church. These acts are to be performed in accordance with the formulae approved by the Holy See.⁴⁹ The legislators of the dioceses of Ełk, Opole, Pelplin, Płock, Rzeszów, Warszawa–Praga, Zamość–Lubaczów and the Archdiocese of Warsaw reminded us about the obligation to profess the faith in accordance with the formula approved by the competent ecclesiastical authority.⁵⁰ However, only the legislators of the dioceses of Ełk, Pelplin and Zamość–Lubaczów reminded us of the obligation to swear an oath of fidelity when taking up an office held in the name of the Church.⁵¹ Only in the particular law of the dioceses of Kalisz, Łomża, Łomża, Łowicz, Sandomierz and Toruń, as well as the

⁴⁵ See *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §§2–3.

⁴⁶ *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej*, st. 64.

⁴⁷ See “Obrzęd wprowadzenia nowego proboszcza,” in *II Synod Diecezji Włocławskiej*, 145, Annex 1.

⁴⁸ *Synod Archidiecezji Poznańskiej*, vol. 2, st. 71.

⁴⁹ CONGREGATION FOR THE DOCTRINE OF THE FAITH. *Professio fidei et Iusurandum fidelitatis in suscipiendo officio nomine Ecclesiae exercendo*, February 9, 1989, AAS 81 (1989), 104–6; Polish translation in *W trosce o pełnię wiary. Dokumenty Kongregacji Nauki Wiary 1966–1994*; trans. and ed. Z. Zimowski and J. Królikowski (Tarnów: Biblos, 1995), 333–35.

⁵⁰ See *I Synod Diecezji Ełckiej*, st. 340; *Pierwszy Synod Diecezji Opolskiej*, st. 239; *Statuty I Synodu Diecezji Pelplińskiej*, st. 39; “Gdzie jest Bóg, tam jest przyszłość”. *XLIII Synod Diecezji Płockiej*, st. 37; *Pierwszy Synod Diecezji Rzeszowskiej*, st. 128, §1; *Pierwszy Synod Diecezji Warszawsko-Praskiej*, st. 124, §2; *I Synod Diecezji Zamojsko-Lubaczowskiej*, st. 10; *IV Synod Archidiecezji Warszawskiej*, st. 49.

⁵¹ See *I Synod Diecezji Ełckiej*, st. 340; *Statuty I Synodu Diecezji Pelplińskiej*, st. 39; *I Synod Diecezji Zamojsko-Lubaczowskiej*, st. 10.

Archdiocese of Łódź, it was regulated that these acts should be performed during the liturgical placement of a pastor in possession of the office.⁵²

CONCLUSION

The provision of the office of pastor is a complex administrative act, regulated by common and particular law. The code legislator enabled the legislators of particular law to further specify the stages of canonical provision. Our analysis of the law in force in specific particular Churches permits the following conclusions to be formulated *de lege lata*:

1. The Second Polish Plenary Synod and the First Synod of the Province of Kraków did not promulgate any procedural regulations regulating canonical provision of the office of pastor.

2. Provision of the office of pastor can be either independent or dependent, consisting of three stages: designation of a person, the conferral of the title, and taking possession of the office.

3. In the case of independent provision, the diocesan bishop may freely perform all acts of provision. When electing a candidate for the office, for the validity of the act, the bishop is obliged to obtain the consent of the candidate's superior (if he is subject to a different competent authority than the bishop), consult with the dean of the vicariate forane in which the entrusted parish is located (c. 524); in the Archdiocese of Warmia, the consent of the council for personnel matters must be obtained, whereas in the Diocese of Drohiczyn, however, both the pastoral needs of the parish and the talents of the presbyter are taken into account.

4. In the case of dependent provision, the diocesan bishop merely confers a legal title to the office, since the candidate is presented by his competent superior. This form refers to the provision of office in a parish administered by a clerical institute of consecrated life or a clerical association of apostolic life.

5. Legislators of particular law, according to the disposition of canon 527, §2, regulated the manner in which the canonical assumption of the office by the pastor was achieved. In this act, they distinguished the juridical and liturgical aspects. The legal aspect is related to the taking over of the parish by drawing up and signing a handover report; whereas the liturgical aspect

⁵² See *Pierwszy Synod Diecezji Kaliskiej*, st. 28; *I Synod Diecezji Łomżyńskiej*, st. 158; *I Synod Diecezji Łowickiej*, st. 90, §1; *Aby byli jedno. Drugi Synod Diecezji Sandomierskiej*, st. 63; *Uchwały Pierwszego Synodu Diecezji Toruńskiej*, st. 182, §1; *III Synod Archidiecezji Łódzkiej*, art. 30.

pertains to the solemn induction of the pastor into the parish church in the presence of a large parish community and is conducted in accordance with the current ritual of a specific particular Church.

6. Some legislators also specified in their synodal resolutions the date on which the pastor is obliged to take possession of the parish.

De lege ferenda, it should be proposed that canonical provision of the office of pastor in emergency situations in particular Churches be regulated, such as *sede impedita* and *sede vacante*, because the synodal legislation of individual Polish dioceses lacks appropriate provisions in this respect.

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STAGES IN CANONICAL PROVISION OF THE OFFICE OF PASTOR UNDER THE CURRENT POLISH SYNODAL LEGISLATION

Summary

According to Polish synodal legislation, similarly to the Code of Canon Law, the provision of the office of pastor consists of three stages: 1) designation of a person, 2) conferral of the title, and 3) taking possession of the office.

In accordance with both universal and particular law, the provision may be free or dependent. The diocesan bishop confers the office freely (cc. 523–525). In the case of a dependent provision, however, another competent ecclesiastical authority nominates a candidate, and the diocesan bishop only confers the title to the office (c. 525; 682, §1).

According to legislators of particular law, the conferral of a legal title to an office should take place by a nomination decree. The decree should meet the requirements of a singular administrative act (cc. 48–57).

The placement in the possession of a parish by the local ordinary or his delegate and the assumption of the office by a pastor is the final stage of the provision. Under particular law, two aspects of this act are distinguished: the legal aspect (the drawing up and signing of a handover

protocol by the pastor and other competent bodies), and the liturgical one (solemn entry of a new pastor into the parish church according to the ritual of a specific particular Church).

Legislators of particular law also places the presbyter who has been promoted to the office of pastor under an obligation to make a profession of faith (c. 833, 6°) and take the oath of fidelity, according to the formulas approved by the Holy See.

Key words: designation of person; conferral of title; assumption of office; diocesan bishop; pastor.

Translated by Tomasz Pałkowski



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