

GINTER DZIERŻON

THE SCOPE OF THE POWER OF GOVERNANCE IN THE
CANONICAL LEGAL ORDER (CANON
130 OF THE 1983 CODE OF CANON LAW)

Title VIII of Book I “General Norms” of the Code of Canon Law of 1983¹ contains canon 130 in which the legislator included general principles related to scopes of power of governance. The canon prescribes: “Of itself, the power of governance is exercised for the external forum; sometimes, however, it is exercised for the internal forum alone, so that the effects which its exercise is meant to have for the external forum are not recognized there, except insofar as the law establishes it in determined cases.” In this study, we will scrutinize the provision of this regulation.

1. THE MEANING OF “FORUM” AS USED IN CANON 130 CIC/83

The concept of forum appearing in canon 130 CIC/83 has a different meaning than that used in Roman law.² As Remigiusz Sobański wrote, in this

Rev. GINTER DZIERŻON, PhD, Hab, Titular Professor, is the head of the Department of History, Theory and General Norms of Canon Law, Faculty of Canon Law of the Cardinal Stefan Wyszyński University in Warszawa; address: Dewajtis 5, 01–815 Warszawa, Poland; e-mail: g.dzierzon@uksw.edu.pl; <https://orcid.org/0000-0002-5116-959X>.

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*, approved by the Polish Episcopal Conference (Poznań: Pallottinum, 1984); for the English translation of the article, the English version available on www.vatican.va was used [hereafter CIC/83].

² For more on this see M. JOŃCA, “Forum,” in *Leksykon tradycji rzymskiego prawa prywatnego. Podstawowe pojęcia*, ed. A. Dębiński and M. Jońca (Warszawa: Wydawnictwo C.H. Beck,

regulation, the term “[...] denotes the manner of performing acts of governance with the addressees identified by name (external scope) or with the addressees kept anonymous (internal forum).”³

2. THE WORDING OF CANON 196 CIC/17 AND THE RELATED DIFFICULTIES IN INTERPRETATION

One of the direct sources of canon 130 CIC/83 is canon 196 of the Code of Canon Law of 1917.⁴ In canon law jurisprudence under the discipline of the Pio-Benedictine Code the content of this regulation raised interpretation difficulties. First of all, commentators questioned the legislator’s definition of the internal forum as the forum of conscience (*forum internum, seu conscientiae*).⁵ Some of them believed that the functioning of this forum is limited to the moral domain only.⁶ Such a view can be found, among others, in the commentary written by Franciszek Bączkiewicz, Józef Baron and Władysław Stawinoga. With regard to the question of the jurisdictional authority for the internal forum, they argued that “[...] it is the authority which the Church exercises over people's conscience [...]”⁷ Other canonists had doubts concerning the nature of the exercised authority. They maintained that in this case the legislator had in mind power in the moral sense rather

2016), 155–56. In that legal order, the term “forum” denoted both a place used for dispute resolution and court jurisdiction.

³ See R. SOBAŃSKI, “Komentarz do kan. 130,” in *Księga I. Normy ogólne*, ed. J. Krukowski, vol. 1 of *Komentarz do Kodeksu Prawa Kanonicznego* (Poznań: Pallottinum, 2003), 215.

⁴ *Codex Iuris Canonici Pii X Maximi iussu digestus Benedicti Papae XV auctoritatis promulgatus*, May 27, 1917, *AAS* 9 (1917), pars II, 1–593 [hereafter quoted as CIC/17].

⁵ C. 196 CIC/17 reads as follows: “Potestas iurisdictionis seu regiminis quae ex divina institutione est in Ecclesia, alia est fori externi, alia fori interni, seu conscientiae, sive sacramentalis, sive extra-sacramentalis [The power of jurisdiction or governance, which exists in the Church by divine institution, is for the external forum and for the internal forum or conscience, whether sacramental or extra-sacramental]; the English translation as appearing in *The 1917 Pio-Benedictine Code of Canon Law*, ed. E.N. Peters (San Francisco: Ignatius Press, 2001).”

⁶ See also A. VIANA, “Comento al can. 130 CIC,” in *Comentario exegetico al Código de Derecho Canónico*, ed. A. Marzoa, J. Miras, and R. Rodríguez-Ocaña (Pamplona: EUNSA, 1996), 845. For more on this see J.M. PAMMARES, “Le deuxième principe pour la réforme de droit canonique du synode des évêques de 1967. La coordination des fors dans droit canonique revistè trente ans après,” in *I principia per la revisione del Codice di Diritto Canonico*, ed. J. Canosa (Milan: Giuffrè Editore, 2000), 104.

⁷ See F. BĄCZKOWICZ, J. BARON, and W. STAWINOĞA, *Prawo kanoniczne. Podręcznik dla duchowieństwa* (Opole: Wydawnictwo św. EUNSA, 1958), 1: 415.

than legal one.⁸ According to Antonio Viana, these views were unacceptable because the scope of authority for the internal forum cannot be limited only to the moral dimension.⁹

Another problem was that canon 196 CIC/17 contained the structure “alia...alia.” It was therefore argued that in the canonical legal order there were two categories of jurisdictional authority related to the external and internal forums.¹⁰ In this respect, however, canonist thought did evolve. In the Schema on General Norms of 1976, we find a provision that according to the current doctrine and the consensus of the consultors, no longer a distinction is made between the power of governance for the external forum and the governance for the internal forum; instead, there are differences between the effects of exercising power.¹¹

The remarks made by the canonists were discussed during the work on the revision of the Code of 1917. Some consultors suggested that the revised canon should abandon the emphasis on the internal forum because it concerns conscience; others argued that it was necessary to coordinate the external and internal forums to avoid conflict between them. These comments specifically referred to two areas of law, namely matrimonial law and criminal law.¹²

The suggestions indicated above found their reflection in the second principle of the revision work on the Code of Canon Law, approved during the First Synod of Bishops, with the following wording: “Confirmare autem oportet et indolem iuridicam nostri Codicis his quae forum externum respiciunt, et necessitatem fori interni prout a Ecclesia optimo iure per saecula viguit. Normae igitur in recognito Codice tradentur respicientes omnia quae

⁸ See V. DE PAOLIS and A. D’AURIA, *Le norme generali di Diritto Canonico. Commento al Codice di Diritto Canonico* (Rome: Urbaniana University Press, 2008), 427.

⁹ See VIANA, “Comento al can. 130 CIC,” 845.

¹⁰ See H. SOCHA, “Allgemeine Normen,” in *Münsterischer Kommentar zum Codex Iuris Canonici*, ed. K. Lüdicke, vol. 1 (Essen: Ludgerus Verlag, 1985), ad 130, p. 6; P. VALDRINI, *Comunità, persone, governo* (Rome: Lateran University Press, 2013), 256.

¹¹ See PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF CANON LAW, *Schema canonum Libri I De normis generalibus* (Typis Polyglotis Vaticanis, 1977), 8: “Notetur quoque in schemate non contradistingui potestatem regimini fori externi et potestatem fori interni seu conscientiae (uti fit in CIC, can. 196). Re quidem vera, potestas fori externi et potestas fori interni secundum hodiernam doctrinam et de univariis omnium consultorum scientia, est eadem potestas regimini cuius vero exerciti effectus possunt esse diversi.” For more on this see: SOCHA, “Allgemeine Normen,” ad 130, p. 12.

¹² See DE PAOLIS and D’AURIA, *Le norme generali*, 427.

ad forum externum attinent atque etiam, ubi salus animarum id exigat, normae quae pertinent ad provisiones in foro interno elargiendas.

Fori externi et interni optima coordinatio in Codice Iuris Canonici existat oportet quilibet conflictus inter utrumque vel dispareat vel ad minimum reductatur. Quod in iure sacramentali et in iure poenali peculiariter curandum est.”¹³

3. THE REVISED WORDING OF CANON 130 IN CIC/83 AND ITS SIGNIFICANCE FOR THE DOCTRINE

There is no doubt that the wording of canon 130 CIC/83 is more precise. The current regulation no longer uses the concept of forum of conscience.¹⁴ When interpreted, two interesting aspects emerge, namely, the meaning of normative terms: “external forum”—“internal forum” and the problem of how to relate the power of governance to these areas of governance. In addition, it sets out the principles of effectiveness of measures taken in particular forums.

3.1 The meaning of the basic notions of “external forum” and “internal forum”

3.1.1 The external forum

Under canon law, the external forum is a natural scope of governance.¹⁵ Its functioning is connected with the social aspect of the Church’s life.¹⁶ The normative phrase “Potestas regiminis de se exercetur” contained in canon 130 CIC/83. In this forum, acts of general utility to the public are placed. They regulate external relations of the community members and the activity

¹³ See PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF CANON LAW, *Principia quae Codicis Iuris Canonici recognitionem dirigat a Pontificia Commissione proposita et primi generali coetus «Synodi Episcoporum» examini subiecta* (Typis Polyglotis Vaticanis, 1967), 9. For more on this see J. ARRIETA, “Commento al can. 130 CIC,” in *Codice di Diritto Canonico e le leggi complementari*, ed. J. Arrieta (Rome: Coletti a San Pietro, 2007), 144; Socha, “Allgemeine Normen,” ad 130, p. 6.

¹⁴ See P. ERDŐ, “Forum zewnętrzne i forum wewnętrzne w prawie kanonicznym,” in *Forum externum i forum internum w prawie kanonicznym. Między prawem a sumieniem*, ed. A. Skorupa (Lublin: Wydawnictwo KUL, 2006), 14.

¹⁵ See ARRIETA, “Commento ai can. 130 CIC,” 144.

¹⁶ See also J. GARCÍA MARTÍN, *Le norme generali del Codex Iuris Canonici* (Rome: EDIURCLA, 1999), 481.

of the community.¹⁷ They are characterised by their public nature and the ability to be proved.¹⁸

3.1.2 The internal forum

In the internal forum, however, power is exercised in a secret manner.¹⁹ This forum can be sacramental or extra-sacramental.²⁰ It is sacramental if authority is exercised in the sacrament of penance; it is extra-sacramental if authority is exercised outside the sacrament without being public.²¹ When talking about this forum, we must bear in mind that, as some canonists have suggested, we must not limit it to the sphere of human conscience; nor must we forget that it encompasses human conscience.²² For these reasons, during the codification work, a decision was taken not to introduce the term “forum conscientiae” in canon 130 CIC/83.²³ In this realm, the Church examines the matters of the faithful concerning their private good.²⁴ Most often the consequences of decisions taken in this sphere concern only person(s); typically, they cannot usually be proven externally.²⁵

3.2 The power of governance and forums for the exercise of power

The amended wording of canon 130 CIC/83 dispelled the doubts mentioned earlier, emerging among commentators of the 1917 Code with respect to the dualistic nature of the power of government. Currently, canonists are unanimous in their position that there are no two authorities in the canonical legal order, but there is one authority exercised either externally or internally.²⁶ Developing this theme, they claim that both these domains form integral parts

¹⁷ See F.J. URRUTIA, “Foro giuridico,” in *Nuovo dizionario di Diritto Canonico*, ed. C. Corral Salvador, V. De Paolis, and G. Ghirlanda (Cinisello Balasamo: San Paolo, 1993), 536; F. WERNZ and P. VIDAL, *Ius Canonikum* (Rome: Aedes Universitatis Gregoriana, 1923), 2: 353. “Iuridictio fori externi illa est quae primario et di recte refertur ad bonum publicum sive commune fidelium, sive Ecclesiae, ordinat relationes sociales membrorum Ecclesiae atque exercetur publice in facie Ecclesiae et cum effectibus iuridicis et socialis.”

¹⁸ See ERDŐ, “Forum zewnętrzne,” 15.

¹⁹ See GARCÍA MARTÍN, *Le norme generali*, 481.

²⁰ This distinction was found in c. 196 CIC/17.

²¹ See ARRIETA, “Comento ai can. 130 CIC,” 144; VIANA, “Comento al can. 130 CIC,” 846; SOCHA, “Allgemeine Normen,” ad 130, p. 4.

²² See GARCÍA MARTÍN, *Le norme generali*, 481.

²³ Ibid.

²⁴ See DE PAOLIS and D’AURIA, *Le norme generali*, 428; ERDŐ, “Forum zewnętrzne,” 13

²⁵ See A. MONTAN, *Il diritto nella vita e nella missione della Chiesa* (Bologna: EDB, 2000), 169–70.

²⁶ See DE PAOLIS and D’AURIA, *Le norme generali*, 428; URRUTIA, “Foro giuridico,” 536.

of the canonical legal order. They also point out that these spheres cannot be treated as separated from each other.²⁷ This principle is implemented in the content of canon 74 CIC/83, according to which “although one can use in the internal forum a favour granted orally, the person is bound to prove the favour in the external forum whenever someone legitimately requests it.”²⁸ Addressing the problem of differentiation between these forums, canonists underscore that the difference is not in the nature of authority, as there is one authority, but in the way it is exercised²⁹ and in the consequences of its exercise.³⁰

3.3 Effectiveness of governance in individual forums

The external forum, understandably, is the essential domain of ecclesiastical authority.³¹ This is evidenced by the normative phrase “*de se exercetur*,” for the exercise of authority in the Church is essentially for the public good.³² On the other hand, its internal implementation is more limited. Commentators speak of its unique character.³³ It contributes to the salvation of the faithful.³⁴

As a rule, actions taken in this forum have effects only in this domain.³⁵ They concern specific cases (*la persona in causa*). An example is the granting of a dispensation from an occult impediment (c. 1079, §3 CIC/83), or exemption from censorship (c. 1357 CIC/83).³⁶ Incidentally, we should add that under the current codification canon 202, §§ 1–3 CIC/17 is repealed, according to which an act of jurisdictional power, whether ordinary or delegated and placed for the external forum, was also applicable internally, but not vice versa (§1). Whoever had the power for the internal forum could also

²⁷ See L. CHIAPPETTA, *Il Codice di Diritto Canonico. Commento giuridico-pastorale* (Rome: Edizioni Dehoniane, 1996), 1:207; GARCÍA MARTÍN, *Le norme generali*, 482; J. MAZAÑAREZ, “Comento al can. 130 CIC,” in *Código de Derecho Canónico. Edición bilingüe comentada*, ed. L. De Echeverría (Madrid: Biblioteca de autores cristianos, 1985), 105.

²⁸ See URRUTIA, “Foro giuridico,” 537.

²⁹ See ERDÖ, “Forum zewnętrzne,” 14.

³⁰ See MONTAN, *Il diritto*, 169.

³¹ See MAZAÑAREZ, “Comento al can. 130 CIC,” 105.

³² See GARCÍA MARTÍN, *Le norme generali*, 482.

³³ See DE PAOLIS AND D’AURIA, *Le norme generali*, 429.

³⁴ See C.M. FABRIS, “Il foro interno nell’ordinamento giuridico ecclesiale,” *Prawo Kanoniczne* 58, no. 3 (2015): 45–53.

³⁵ See GARCÍA MARTÍN, *Le norme generali*, 482.

³⁶ *Ibid.*

exercise it outside confession, unless in a particular case the sacrament of penance was required (§2). If the scope for which authority was granted was not clearly defined, it had to be assumed that the power was granted for both forums, unless it appeared otherwise from the nature of the thing (§3).³⁷

As Velasio De Paolis and Andrea D'Auria write, conflicts between the external and internal forums are largely resolved when internal decisions are also recognised in the external forum.³⁸ It should be noted, however, that a completely different general principle was codified in canon 130 CIC/83. The legislator provides that the effects of the exercise of power in this forum are usually not recognised in external forums. The adoption of such a rule results from the fact that decisions taken internally do not have a public character.³⁹

If, then, a situation were to arise in which the effects caused in the internal forum were not recognised in the external forum, and if, at the same time, such effects were expected to affect the latter forum too, then a decision would have to be taken by a competent authority externally. Such an eventuality is provided for in canon 1357, §§1–2 CIC/83, whereby a confessor can remit an undeclared *latae sententiae* censure of excommunication or interdict if it is difficult for the penitent to remain in grave sin for the time necessary for the competent superior to remedy this (canon 1357, §1 CIC/83). Within one month, however, the confessor should make a recourse to this authority in order to remedy the situation. It should be added that under the current codification does not reproduce the wording of canon 2251 CIC/17, pursuant to which in such a case it was sufficient to prove a specific absolution or presume it.⁴⁰

In the same vein, it should be concluded that canon 130 CIC/83 also contains a clause saying “except insofar as the law establishes it in determined cases.” Therefore, the legislator does not exclude the possibility of introducing different solutions.⁴¹ According to Julio García Martín, acceptance of such an eventuality stems from a desire to avoid conflicts between the two domains.⁴² Thus, in specific cases, a decision taken in the internal forum becomes also effective in the external forum. This solution is found

³⁷ See F. URRUTIA, *De normis generalibus. Adnotationes in Codicem: Liber I* (Rome: Pontificia Universitas Gregoriana, 1983), 90.

³⁸ See DE PAOLIS AND D'AURIA, *Le norme generali*, 429.

³⁹ See SOCHA, “Allgemeine Normen,” ad 130, p. 12.

⁴⁰ See URRUTIA, “Foro giuridico,” 537.

⁴¹ See SOBAŃSKI, “Komentarz do kan. 130,” 215.

⁴² See GARCÍA MARTÍN, *Le norme generali*, 482.

in canon 1082 CIC/83: “Unless a rescript of the Penitentiary provides otherwise, a dispensation from an occult impediment granted in the non-sacramental internal forum is to be noted in a book which must be kept in the secret archive of the curia; no other dispensation for the external forum is necessary if afterwards the occult impediment becomes public.”⁴³ Therefore, if the fact becomes public, it is sufficient that the prospective spouses present a document obtained from the secret archives of the curia and a dispensation from the impediment will be granted in the internal forum.⁴⁴ However, the situation would be different if a particular case were not envisaged by law and the decision taken in the internal forum were made public. In such circumstances, for the decision to be effective externally, an appropriate act would have to be placed by a competent authority in this forum.⁴⁵

4. CONFLICT OF FORUMS

The aforementioned second principle of the codification work assumes that conflicts should be reduced to a minimum. However, it cannot be ruled out that they may occur in systemic solutions. This problem was discussed in detail by Piotr Steczkowski in his monograph “Il conflitto fra foro interno e foro esterno nel diritto matrimoniale canonico.”⁴⁶ Therefore, we also need to address this issue.

If there is a conflict between the external and the internal forums in the canonical legal system, it does not spring from a conflict between conscience and law, or a conflict between norms existing in different areas. Importantly, there occurs a conflict between two canonical norms in the area of this system, one of which is secret and the other is public.⁴⁷ In his analysis of the problem, Peter Erdö says: “If the motives—for which the criterion provided for by the law is not fulfilled in a specific case—are hidden while there is a presumption that this case corresponds to a case described in the law, tension appears. However, this tension does not occur between the legal reality and the reality of moral order, since reality is objectively one. Tension arises between the presumed reality, which in the external forum must be treated as

⁴³ Ibid.

⁴⁴ See URRUTIA, “Foro giuridico,” 537–38.

⁴⁵ See CHIAPPETTA, *Il Codice*, 207.

⁴⁶ See P. STECZKOWSKI, *Il conflitto fra foro interno e foro esterno nel diritto matrimoniale canonico* (Rome: Pontificia Universitas Gregoriana, 1998), 53–180.

⁴⁷ See URRUTIA, “Foro giuridico,” 537–38.

if it were true and objective, and which could not be proven and is not proven publicly.”⁴⁸ A similar view was expressed by Franciscus Urrutia, who pointed out that in this case it is a situation in which the competent authority permits an action which, even if valid in the internal forum, cannot be effected in this domain because it is contravenes the public norm. Since it is impossible to prove the decision taken, the community cannot acknowledge the legal character of the undertaken action.⁴⁹

CONCLUSION

Our considerations presented above demonstrate that the introduction of a modified wording of canon 130 CIC/8 resolved some interpretation issues that existed among the commentators of canon 196 CIC/17. It would be absurd to reduce the scope of governance to the external forum only. The nature of the Church is not expressed only in this dimension. After all, the Church exists both in the visible and the invisible spheres.⁵⁰ Most acts of governance are carried out externally because they serve the public good.⁵¹ Despite this undeniable fact, some of them are acts placed in the internal forum. This scope is not limited to the sphere of conscience since it covers a wider area. It is logical that, as a rule, internal acts, due to their concealed nature and non-public character, produce effects only in this forum. By introducing a clause to the effect that “except insofar as the law establishes it in determined cases,” the legislator does not rule out a different solution whereby decisions taken in the internal forum are also effective in an external forum. The assumption of such a possibility is intended to prevent conflicts between these domains.

⁴⁸ See ERDŐ, “Forum zewnętrzne,” 18.

⁴⁹ See URRUTIA, “Foro giuridico,” 537–38.

⁵⁰ See GARCÍA MARTÍN, *Le norme generali*, 480; ARRIETA, “Commento ai can. 130 CIC,” 144; VIANA, “Commento al can. 130 CIC,” 845.

⁵¹ See GARCÍA MARTÍN, *Le norme generali*, 482.

BIBLIOGRAPHY

SOURCES OF LAW

- Codex Iuris Canonici Pii X Maximi iussu digestus Benedicti Papae XV auctoritatem promulgatus, May 27, 1917. AAS 9 (1917), pars II, 1–593.
- Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus, January 25, 1983. AAS 75 (1983), pars II, 1–317. *Kodeks Prawa Kanonicznego*, Polish translation approved by the Polish Episcopal Conference. Poznań: Pallottinum, 1984.
- PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF CANON LAW. *Principia quae Codicis Iuris Canonici recognitionem dirigat a Pontificia Commissione proposita et primi generali coetus «Synodi Episcoporum» examini subiecta*. Typis Polyglotis Vaticanis, 1967.
- PONTIFICAL COMMISSION FOR THE REVISION OF THE CODE OF CANON LAW, *Schema canonum Libri I De normis generalibus*. Typis Polyglotis Vaticanis, 1977.

LITERATURE

- ARRIETA, Juan. “Comento al can. 130 CIC.” In *Codice di Diritto Canonico e le leggi complementari*, edited by Juan Ignacio Arrieta, 144. Rome: Coletti a San Pietro, 2007.
- BĄCZKOWICZ, Franciszek, JÓZEF BARON, and WŁADYSŁAW STAWINOGA. *Prawo kanoniczne. Podręcznik dla duchowieństwa*. Vol. 1. Opole: Wydawnictwo św. Krzyża, 1958.
- CHIAPPETTA, Luigi. *Il Codice di Diritto Canonico. Commento giuridico-pastorale*. Vol. 1. Rome: Edizioni Dehoniane, 1996.
- DE PAOLIS, Velasio and ANDREA D’AURIA. *Le norme generali di Diritto Canonico. Commento al Codice di Diritto Canonico*. Rome: Urbaniana University Press, 2008.
- ERDŐ, Peter. “Forum zewnętrzne i forum wewnętrzne w prawie kanonicznym.” In *Forum externum i forum internum w prawie kanonicznym. Między prawem a sumieniem*, edited by Ambroży Skorupa, 11–36. Lublin: Wydawnictwo KUL, 2006.
- FABRIS, Constantino M. “Il foro interno nell’ordinamento giuridico ecclesiale.” *Prawo Kanoniczne* 58, no. 3 (2015): 59–64.
- GARCÍA MARTÍN, Julio. *Le norme generali del Codex Iuris Canonici*. Rome: EDIURCLA, 1999.
- JOŃCA, Maciej. “Forum.” In *Leksykon tradycji rzymskiego prawa prywatnego. Podstawowe pojęcia*, edited by Antoni Dębiński and Maciej Jońca, 155–56. Warszawa: Wydawnictwo C.H. Beck, 2016.
- MAZAÑAREZ, Juan. “Comento al can. 130 CIC.” In *Código de Derecho Canónico. Edición bilingüe comentada*, edited by Lamberto De Echeverría, 105–6. Madrid: Biblioteca de autores cristianos, 1985.
- MONTAN, Agostino. *Il diritto nella vita e nella missione della Chiesa*. Bologna: EDB, 2000.
- PAMMARES, Jean Marie. “Le deuxième principe pour la réforme de droit canonique du synode des évêques de 1967. La coordination des fors dans droit canonique revistè trente ans après.” In *I principia per la revisione del Codice di Diritto Canonico*, edited by JAVIER Canosa, 104–26. Milan: Giuffrè Editore, 2000.
- SOBAŃSKI, Remigiusz. “Komentarz do kan. 130.” In *Księga I. Normy ogólne*, edited by Józef Krukowski. Vol. 1 of *Komentarz do Kodeksu Prawa Kanonicznego*, 214–15. Poznań: Pallottinum, 2003.

- SOCHA, Hubert. "Allgemeine Normen." In *Münsterischer Kommentar zum Codex Iuris Canonici*, edited by Klaus Lüdicke. Vol. 1, ad 130. Essen: Ludgerus Verlag, 1985.
- STECZKOWSKI, Piotr. *Il conflitto fra foro interno e foro esterno nel diritto matrimoniale canonico*. Rome: Pontificia Universitas Gregoriana, 1998. *The 1917 Pio-Benedictine Code of Canon Law*, ed. E.N. Peters. San Francisco: Ignatius Press, 2001.
- URRUTIA, Franciscus. *De normis generalibus. Adnotationes in Codicem: Liber I*. Rome: Pontificia Universitas Gregoriana, 1983.
- URRUTIA, Franciscus. "Foro giuridico." In *Nuovo dizionario di Diritto Canonico*, edited by Carlos Corral Salvador, Velasio De Paolis, and Gianfranco Ghirlanda, 536–39. Cinisello Balasamo: San Paolo, 1993.
- VALDRINI, Patrick. *Comunità, persone, governo*. Rome: Lateran University Press, 2013.
- VIANA, Antonio. "Comento al can. 130 CIC." In *Comentario exegético al Código de Derecho Canónico*, edited by Ángel Marzoa, Jorge Miras, and Rafael Rodríguez-Ocaña, 1: 845–47. Pamplona: EUNSA, 1996.
- WERNZ, Franciscus, and VIDAL Petrus. *Ius Canonicum*. Vol 2. Rome: Aedes Unversitatis Gregoriana, 1923.

THE SCOPE OF THE POWER
OF GOVERNANCE IN THE CANONICAL LEGAL ORDER
(CANON 130 OF THE 1983 CODE OF CANON LAW)

Summary

In the presented study, the author carried out a detailed analysis of canon 130 CIC/83, demonstrating that the amendment of the canon dispelled some interpretative concerns that commentators had with regard to canon 196 CIC/17. The author believes it would be preposterous to reduce the forum of power of governance solely to the external domain. This is because the nature of the Church is not manifested only in this dimension. After all, the Church has both visible and invisible nature. Most acts of governance are placed externally because they serve the public good. Yet some of them are actions carried out in the internal forum, and it cannot be limited to the sphere of conscience because it has a wider scope. It is obvious that, as a rule, decisions taken for the internal forum due to their secrecy and lack of public character have consequences only in that forum. By introducing a clause which goes "except insofar as the law establishes it in determined cases," the legislator does not rule out a different solution whereby internal forum acts also take effect in the external forum. The assumption of such an eventuality is intended to prevent conflicts between these areas.

Key words: power of governance; external forum; internal forum.

Translated by Tomasz Pałkowski



The preparation of the English version of *Roczniki Nauk Prawnych (Annals of Juridical Sciences)* and its publication in electronic databases was financed under contract no. 836/P-DUN/2018 from the resources of the Minister of Science and Higher Education for the popularization of science.