

WOJCIECH LECH

REGULATION AND THE FORMS OF CELEBRATION OF THE SACRAMENT OF PENANCE IN CANON LAW

INTRODUCTION

The main and most important minister of each sacrament, including the sacrament of penance, is Jesus Christ Himself,¹ while priests – as the conciliar fathers taught – are “signed with a special character and are conformed to Christ the Priest in such a way that they can act in the person of Christ the Head” (*in persona Christi Capitis*).² “When he celebrates the sacrament of Penance, the priest is fulfilling the ministry of the Good Shepherd who seeks the lost sheep, of the Good Samaritan who binds up wounds, of the Father who awaits the prodigal son and welcomes him on his return, and of the just and impartial judge whose judgement is both just and merciful.”³ The confessor is not a master sitting in a confessional, but rather a servant of God’s forgiveness, who acts *in persona Christi* in charity.

Rev. WOJCIECH LECH (S.T.L.) is a doctoral student at the Department of Political Science, Institute of European Studies, Faculty of Law, Canon Law and Administration of the John Paul II Catholic University of Lublin; address: Spokojna 1, 20-074 Lublin, Poland; e-mail: wojteklech3@wp.pl

¹ H. STAWNIAK, „Wybrane funkcje szafarza sakramentu pokuty – aspekt prawny,” *Seminare* 24 (2007), 69.

² SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II, *Decretum de presbyterorum ministerio et vita Presbyterorum ordinis* 2, December 7, 1965, *AAS* 58 (1966), 991–1024, Polish translation in SOBÓR WATYKAŃSKI II, *Konstytucje. Dekrety. Deklaracje*, Polish text, new translation (Poznań: Pallottinum, 2002), 478–508; cf. IDEM, *Constitutio dogmatica de Ecclesia Lumen gentium* 10, November 21, 1964, *AAS* 57 (1965), 5–67, Polish translation in SOBÓR WATYKAŃSKI II, *Konstytucje. Dekrety. Deklaracje*, 104–166 [hereafter LG].

³ *Catechismus Catholicae Ecclesiae* (Città del Vaticano: Libreria Editrice Vaticana, 1997). Polish translation in *Katechizm Kościoła Katolickiego*, 2nd ed. (Poznań: Pallottinum, 2012) [hereafter CCC], par. 1465.

The sacrament of penance and reconciliation is subject to regulation in both the norms of canon law and liturgical law.⁴ When referring to this sacrament, the Code of Canon Law of 1983⁵ uses the term *sacramentum paenitentiae* (c. 959), which was adopted from *Ordo paenitentiae*.⁶ Moreover, the legislator calls it also “sacramental confession” (cc. 914; 916; 1550 §2, 2°).⁷ Also Pope John Paul II describes it as “the sacrament of conversion and reconciliation”, “the sacrament of forgiveness”,⁸ because “in this sacrament God’s infinite mercy the sinner’s contrition come together.”⁹

Both the observance and the form of this sacrament has evolved over time.¹⁰ In the consciousness of the Church there has always been a firm and unchanging certainty that by the will of Christ its essence rests in forgiveness of sins, which is granted to all through sacramental absolution as administered by the priests of the

⁴ S. CZERWIK, „Wprowadzenie do odnowionej liturgii pokuty i pojednania,” in *Sakrament pokuty*, ed. A. Skowronek (Katowice: Księgarnia św. Jacka, 1980), 161–82.

⁵ *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].

⁶ *Rituale Romanum ex decreto Sacrosancti Oecumenici Concilii Vaticani II instauratum auctoritate Pauli PP. VI promulgatum Ordo poenitentiae*, editio typica (Città del Vaticano: Typis Polyglottis Vaticanis, 1974). Polish translation in *Obrzędy pokuty dostosowane do zwyczajów diecezji polskich* (Katowice: Księgarnia św. Jacka, 2010) [hereafter OP].

⁷ A. SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich w liturgii Kościoła łacińskiego. Studium kanoniczne* (Lublin: Towarzystwo Naukowe KUL, 2014), 113–14.

⁸ IOANNES PAULUS PP. II, Adhortatio apostolica post Synodum Episcoporum edita de reconciliatione et paenitentia in hodierno Ecclesiae munere *Reconciliatio et Paenitentia*, December 2, 1984, AAS 77 (1985), 185–275. Polish translation in *Adhortacja apostolska Reconciliatio et Paenitentia o pojednaniu i pokucie w dzisiejszym posłannictwie Kościoła* (Wrocław: Wydawnictwo Wrocławskiej Księgarni Archidiecezjalnej, 1999) [hereafter RP], nos. 27, 30.

⁹ II POLSKI SYNOD PLENARNY, *Liturgia Kościoła po Soborze Watykańskim II*, in *II Polski Synod Plenarny (1991–1999)* (Poznań: Pallottinum, 2001), chap. 29, p. 195. It should be noted that the various names of this sacrament are explained in CCC as a sacrament of conversion, confession, penance, and reconciliation: „It is called the sacrament of conversion because it makes sacramentally present Jesus’ call to conversion, the first step in returning to the Father from whom one has strayed by sin. It is called the sacrament of Penance, since it consecrates the Christian sinner’s personal and ecclesial steps of conversion, penance, and satisfaction. It is called the sacrament of confession, since the disclosure or confession of sins to a priest is an essential element of this sacrament. In a profound sense it is also a «confession» – acknowledgement and praise – of the holiness of God and of his mercy toward sinful man. It is called the sacrament of forgiveness, since by the priest’s sacramental absolution God grants the penitent «pardon and peace». It is called the sacrament of Reconciliation, because it imparts to the sinner the love of God who reconciles [...]” par. 1423–1424 CCC.

¹⁰ M. PASTUSZKO, „Pojednanie penitenta z Bogiem i Kościołem (kan. 960),” *Prawo Kanoniczne* 42, nos. 1–2 (1999), 3–56.

Church.¹¹ This certainty was solemnly acknowledged by the Council of Trent,¹² and then during the Second Vatican Council in its dogmatic constitution *Lumen gentium* (see *LG* 11). The significance of this sacrament was brought to attention by Pope John Paul II on numerous occasions in his addresses, especially his apostolic adhortation *Reconciliatio et paenitentia* and in the motu proprio *Misericordia Dei*.¹³ The pope stated that the practice of celebrating this sacrament in the modern era is in crisis since human awareness of sin is impaired (cf. *RP* 18, *MD* introduction).

Our analysis of the subject in question aims to answer the following questions: how did the CIC legislator define the sacrament of penance and reconciliation? Who administers this sacrament? What are the ways of hearing confession? What are the requirements for a minister to grant absolution? Furthermore, the article is intended to present the applicable norms concerning individual and integral confession of sins and reconcile many penitents under the current legislation of the Latin Church.

1. DEFINITION OF THE SACRAMENT OF PENANCE

CIC provides the following definition of the sacrament of penance and reconciliation, based on theological premises: “In the sacrament of penance the faithful who confess their sins to a legitimate minister, are sorry for them, and intend to reform themselves obtain from God through the absolution imparted by the same minister forgiveness for the sins they have committed after baptism and, at the same, time are reconciled with the Church which they have wounded by sinning” (c. 959). In this definition one can distinguish several elements, such as: forgiveness of sins, specific conditions to be met by the minister of the sacrament and the penitent, and the effect, that is his or her reconciliation with God and the Church.¹⁴

¹¹ J. KRUKOWSKI, “Sakrament pokuty,” in *Księga IV. Uświęcające zadanie Kościoła. Część I. Sakramenty. Część II. Pozostałe akty kultu Bożego. Część III. Miejsca i czasy święte*, vol. III/2 of *Komentarz do Kodeksu Prawa Kanonicznego*, ed. J. Krukowski (Poznań: Pallottinum, 2011), 141.

¹² COUNCIL OF TRENT, Session 14, November 11, 1551, *Doctrina de sacramento paenitentiae De ministro huius sacramenti et absolutione*, cap. 6, in *Sacrorum Conciliorum Nova et Amplissima Collectio*, ed. J.D. Mansi, vol. 33 (Paris: Expensis Huberti Welter, Bibliopolae, 1902), col. 95. Polish translation in *Dokumenty Soborów Powszechnych. Tekst łaciński i polski (1511–1870). Lateran V, Trydent, Watykan I*, ed. A. Baron and H. Pietras, vol. IV/1 (Kraków: Wydawnictwo WAM, 2007), 495.

¹³ IOANNES PAULUS PP. II, *Litterae apostolicae motu proprio datae Misericordia Dei quibus de Sacramenti paenitentiae celebratione quaedam rationes explicantur*, April 7, 2002, *AAS* 94 (2002), 452–459. Polish translation in *List apostolski w formie motu proprio „Misericordia Dei” o niektórych aspektach sprawowania sakramentu pokuty* (Katowice: Kuria Metropolitalna, 2002) [hereafter MD].

¹⁴ SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 114.

A unique element of the sacrament of penance is remission of sins that have been committed since baptism. There is a certain analogy between the sacrament of penance and reconciliation and the sacrament of baptism because their essence lies in forgiveness for sins.¹⁵ The difference consists in the fact that by receiving baptism man's all sins are remitted and he is endowed with a supernatural life unconditionally, whereas in the sacrament of penance man's sins that have been committed since baptism or the last confession are remitted and he is endowed with a supernatural life that was lost because of grave sins, and subject to appropriate conditions.¹⁶

The minister of this sacrament is a priest (c. 965). The term "priest" (Latin *sacerdos*) has a relatively broad scope. Basically, a priest is a man who professionally performs acts of worship in his religion.¹⁷ The CIC legislator lays down the doctrinal principle that only a priest (*solus sacerdos*) is the minister of the sacrament of penance and reconciliation (c. 965).¹⁸ He also acts as a judge and a physician (c. 978 §1). B. Migut traces the origin of the Polish word *kapłan* to the Latin word *capellanus*, the latter denoting a clerical person associated with a place of worship.¹⁹ The word *sacerdos*, used in canon 965, is a general term and denotes both a presbyter and a bishop, and it derives from two Latin words: *sacer* (saint) and *dos* (gift, talent).²⁰ M. Sitarz remarks that the priest is an intermediary between God and people, who holds and exercises religious authority given to him by the choice of God and people, and who conducts and safeguards religious worship. Only bishops and presbyters are priests in the Catholic Church.²¹ This is explicitly stressed by

¹⁵ T. PAWLUK, *Lud Boży jego nauczanie i uświęcanie*, vol. 2 of *Prawo kanoniczne według Kodeksu Jana Pawła I* (Olsztyn: Warmińskie Wydawnictwo Diecezjalne, 2002), 362.

¹⁶ KRUKOWSKI, *Sakrament pokuty*, 142.

¹⁷ S. SKORUPKA, H. AUDERSKA, and Z. ŁEMPICKA, *Mały słownik języka polskiego* (Warsaw: Państwowe Wydawnictwo Naukowe, 1968), 261.

¹⁸ It should be noted that in the history of canon law different regulations are known. In his own research, B.W. Zubert remarks that: "Under particular law, we find peculiar provisions which today evoke some amazement. A distinct example of this was – in conformance with the statutes passed by Nanker, the bishop of Kraków, in 1320 – the possibility of confession, or rather revealing one's sins, when death is imminent, made available to a lay person, even a woman. B.W. ZUBERT, „Prawo do sakramentów świętych,” in *Zagadnienia międzywyznaniowe w realizacji misji uświęcającej Kościoła*, ed. J. Krukowski, M. Sitarz, and K. Dziub (Lublin: Towarzystwo Naukowe KUL, 2010), 49; SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 115.

¹⁹ B. MIGUT, „Kapłan,” in *Encyklopedia Katolicka*, vol. 7 (Lublin: Towarzystwo Naukowe KUL, 2000), col. 680.

²⁰ Cf. P. HEMPEREK, „Uświęcające zadanie Kościoła,” in P. HEMPEREK et al., *Księga III. Nauczycielskie zadanie Kościoła. Księga IV. Uświęcające zadanie Kościoła*, vol. 3 of *Komentarz do Kodeksu Prawa Kanonicznego z 1983 r.* (Lublin: Redakcja Wydawnictw KUL, 1986), 155.

²¹ M. SITARZ, *Słownik prawa kanonicznego* (Warsaw: Instytut Wydawniczy PAX 2004), col. 87.

Pope John Paul II. He points out that the ministry of the sacrament of penance and reconciliation with God and the Church springs from priestly ordination by virtue of which a priest can act *in persona Christi* (RP 8).

The power to remit sins is conditional upon a valid presbyteral ordination. Canon 1024 CIC defines two essential conditions a candidate needs to meet in order to be licitly ordained: the person must be male and baptised. Therefore, women and non-baptised men are incapable of being ordained because sacramental baptism incorporates one into the Church and makes one able to receive other sacraments.²² It must be noted that in canon 965 the legislator uses the term “alone” (*solus*) along with “priest” (*sacerdos*). This means that a sacramental confession of sins and a grant of absolution lies within the discretion of none other than a priest.²³ Although sacramental absolution is in fact an act of power of orders, the possession of this entitlement is not sufficient to administer the sacrament of penance.²⁴ Other than priestly ordination, a minister is required to have the faculty (*facultas*) of hearing the confessions of the faithful (c. 966 §1).²⁵

The conditions to be satisfied by the penitent to have his or her sins remitted are: confession of sins, contrition and a purpose of amendment (cc. 987–991).²⁶ Contrition, as T. Rincón-Pérez notes, implies both repentance and voluntary rejection of committed sins by having a purpose of amendment and confession.²⁷ Fundamental to the sacrament is satisfaction attempted by the penitent, which is “the final act which crowns the sacramental sign of penance”, though the actual performance of the undertaken obligations occurs outside of the sacrament (c. 981; RP 31).²⁸

²² J. KRUKOWSKI, „Święcenia,” in *Komentarz do Kodeksu Prawa Kanonicznego*, vol. III/2: 221–223.

²³ STAWNIAK, *Wybrane funkcje szafarza sakramentu pokuty*, 71.

²⁴ HEMPEREK, *Uświęcające zadanie Kościoła*, 3:156.

²⁵ L. ADAMOWICZ, *Wprowadzenie do prawa o sakramentach świętych według Kodeksu Prawa Kanonicznego oraz Kodeksu Kanonów Kościołów Wschodnich* (Lublin: Polihymnia, 1999), 143. „A priest can be given this faculty either by the law itself or by a grant made by the competent authority according to the norm of can. 969” (c. 966 §2).

²⁶ M. PASTUSZKO, „Chrześcijanin jako penitent (kanony 987–991),” *Prawo Kanoniczne* 39, nos. 3–4 (1996), 68–82.

²⁷ T. RINCÓN-PÉREZ, “Sakrament pokuty,” in *Codex Iuris Canonici. Kodeks Prawa Kanonicznego. Komentarz. Powszechnie i partykularne ustawodawstwo Kościoła katolickiego. Podstawowe akty polskiego prawa wyznaniowego*, ed. P. Majer, Polish translation based on Spanish edition (Kraków: Wolters Kluwer Polska, 2011), 719.

²⁸ “The confessor is to impose salutary and suitable penances in accord with the quality and number of sins, taking into account the condition of the penitent. The penitent is obliged to fulfil these personally” (c. 981).

Through the sacrament of penance man becomes reconciled with God and the Church (c. 960).²⁹ This disposition clearly makes reference to the teaching of the Second Vatican Council: “Those who approach the sacrament of Penance obtain pardon from the mercy of God for the offence committed against Him and are at the same time reconciled with the Church, which they have wounded by their sins, and which by charity, example, and prayer seeks their conversion” (*LG* 11). The legislator emphasises, then, the twofold dimension of this sacrament: the personal dimension involving man’s reconciliation with God and the social dimension which involves man’s reconciliation with the Church (*OP* 196; *RP* 31).

2. FORMS OF CELEBRATING THE SACRAMENT OF PENANCE

Ordo Paenitentiae distinguishes three different forms of celebrating the sacrament of penance and reconciliation: rite A, which is intended to reconcile one penitent (c. 960, 988; *OP* 15–21, 41–48); rite B, which is intended to reconcile many penitents but by way of individual confession and absolution (c. 960; *OP* 22–30, 49–60); and rite C, which is meant to reconcile many penitents by way of integral confession and absolution (cc. 961–963; *OP* 31–35, 61–68). In this article, they will be presented as individual and integral confession (rituals A and B) and general absolution (ritual C).

2.1. INDIVIDUAL AND INTEGRAL CONFESSION

Canons 960–962 specify the ways to celebrate the sacrament of penance, which constitutes reconciliation of the faithful with God and the Church. In canon 960,³⁰ the legislator provides that the only way to celebrate the sacrament of penance for the faithful by way of confession which should be individual, namely, it should constitute a personal statement of sins with individual absolution,³¹ and it should be formally integral in respect of sins (*OP* 31).³²

²⁹ For more see RINCÓN-PÉREZ, *Sakrament pokuty*, 719.

³⁰ “Individual and integral confession and absolution constitute the only ordinary means by which a member of the faithful conscious of grave sin is reconciled with God and the Church. Only physical or moral impossibility excuses from confession of this type; in such a case reconciliation can be obtained by other means” (c. 960).

³¹ Pope John Paul II emphasised that this manner of confession should not “fall into disuse or be neglected.” See *RP* 32.

³² For more see PASTUSZKO, *Pojednanie penitenta z Bogiem i Kościołem (kan. 960)*, 3–56.

Integrity is to be understood as confession of grave sins committed after baptism and not yet remitted (c. 988). The position of the Church in this regard is founded upon Divine Law. As a dogma of the faith it was specified at the Council of Trent,³³ and affirmed by Vatican II (*LG* 11).

This question was explained by John Paul II in detail: “The individual and integral confession of sins with individual absolution constitutes the only ordinary way in which the faithful who are conscious of serious sin are reconciled with God and with the church. From this confirmation of the church’s teaching it is clear that every serious sin must always be stated, with its determining circumstances, in an individual confession” (*RP* 33). Moreover, the Congregation for the Divine Worship and the Discipline of the Sacraments, in its circular letter on the integrity of the sacrament of penance of March 20, 2000, added that both individual and integral types of confession imply a verbal statement of one’s sins in the so-called auricular confession. The feature of integrity of this sacrament requires that the moral circumstances of a sin be revealed.³⁴

The subject matter of the sacrament of penance and conciliation are grave sins.³⁵ The canonist literature often raises the question whether venial sins can constitute the object of the sacrament of penance and thereby sacramental confession.³⁶ It is worth noting that other forms of forgiving venial sins, such as the act of perfect contrition, good works of charity, prayer, penitential acts, especially the sacrament of the Eucharist. It must be noted, though, that the sacrament of penance – being a sacrament of the Paschal Mystery – also encompasses forgiveness of venial sins, even if their confession is not necessary.³⁷ For certain pastoral reasons, under some circumstances the ecclesiastical legislator recommends the practice of confessing only venial sins. An example of this would be the duty to hear the confessions of children before they receive their First Communion.³⁸

³³ COUNCIL OF TRENT, Session 14, November 25, 1551, *Doctrina de sacramento poenitentiae, De necessitate et institutione sacramenti poenitentiae*, cap. 1, in *Sacrorum Conciliorum*, vol. 33, col. 91–92. Polish translation in *Dokumenty Soborów*, vol. IV/1, 483–485; IDEM, *Canones de sanctissimo poenitentiae sacramento (can. 1)*, in *Sacrorum Conciliorum*, vol. 33, col. 99. Polish translation in *Dokumenty Soborów*, vol. IV/1, 507.

³⁴ CONGREGATION FOR DIVINE WORSHIP AND THE DISCIPLINE OF THE SACRAMENTS, *Circular Letter concerning the integrity of the Sacrament of Penance*, March 20, 2000, Prot. N. 7000/00/L. Polish text in *Anamnesis* 29, no. 2 (2002), 49–52.

³⁵ PASTUSZKO, *Pojednanie penitenta z Bogiem i Kościołem*, 43.

³⁶ KRUKOWSKI, *Sakrament pokuty*, 143.

³⁷ PASTUSZKO, *Chrześcijanin jako penitent*, 107.

³⁸ KRUKOWSKI, *Sakrament pokuty*, 143.

The most important effect of the sacrament of penance is the reconciliation of man with God, which takes place deep down in the conscience of every penitent.³⁹ Pope John Paul II says that such reconciliation enables the penitent to “regain his own true identity” (*RP* 31 section V), noting that it “leads to other reconciliations which repair the breaches caused by sin.” These reconciliations are with brethren who have somehow been harmed and with the Church. “Through the minister of penance it is the ecclesial community, which has been wounded by sin, that welcomes anew the repentant and forgiven sinner” (*RP* 31).

The CIC legislator indicates that individual confession should be practised within one’s physical and moral capability (c. 960). T. Rincón-Pérez notes that physical or moral impossibility is to be interpreted in the light of individual confession because another kind of physical or moral impossibility which justifies collective absolution is regulated by canon 961. Physical impossibility is to be understood as resulting from a serious illness, insufficient time in danger of death, impossibility to speak, involuntary ignorance or forgetfulness.⁴⁰ Moral impossibility involves a fear of the seal of the confessional being broken, danger of scandal or sin for the penitent or confessor, profound pangs of conscience, danger of significant and likely damage, danger of infamy outside confession. All these cases give rise to the obligation of going to confession upon the cessation of the circumstance which would justify its postponement.⁴¹

For a proper interpretation of canon 960 it should be noted, as underscored by Pope John Paul II in his encyclical *Redemptor hominis*,⁴² that “in faithfully observing the centuries-old practice of the Sacrament of Penance – the practice of individual confession with a personal act of sorrow and the intention to amend and make satisfaction – the Church is therefore defending the human soul’s individual right: man’s right to a more personal encounter with the crucified forgiving Christ. [...] As is evident, this is also a right on Christ’s part with regard to every human being redeemed by him: his right to meet each one of us in that key moment in the soul’s life constituted by the moment of conversion and forgiveness” (*RH* 20).

³⁹ PASTUSZKO, *Pojednanie penitenta z Bogiem i Kościołem*, 44.

⁴⁰ *Ibid.*, 50.

⁴¹ RINCÓN-PÉREZ, *Sakrament pokuty*, 721.

⁴² IOANNES PAULUS PP. II, *Litterae encyclicae Redemptor hominis*, March 4, 1979, *AAS* 71 (1979), 257–324. Polish translation in *Encykliki Ojca Świętego Jana Pawła II* (Kraków: Znak, 1996), 5–76.

In its *Instruction for the clergy on the introduction of new rites of penance*,⁴³ the Polish Episcopal Conference resolved that reconciliation of many penitents combined with individual confession and absolution may take place during a religious retreat, days of recollection and confession of small groups of the faithful.⁴⁴ This form comprises common preparation and listening to the Word of God, homily, and individual confession with absolution.⁴⁵

If it is impossible to go to individual confession, two extraordinary measures can be taken, as provided by the legislator in canons 961–63.

2.2. GENERAL ABSOLUTION

In canon 961 CIC, the legislator specifies the conditions necessary for the celebration of the sacrament of penance and reconciliation for many penitents, that is the granting of general absolution) without individual confession of all grave sins beforehand.⁴⁶ These are two extraordinary cases in which general absolution can be granted.

One is the imminent danger of death (*periculum mortis*) facing penitents in the absence of a priest or priests who could grant individual absolution to all persons in such circumstances, for example under bombardment during wartime. The danger of death (*periculum mortis*) exists when the loss of life is very likely though the possibility to survive the state of danger cannot be entirely excluded. The danger of death is to be distinguished from the agonal state (*articulus mortis*), in which death is morally certain and imminent.⁴⁷ Life risk appraisal regarding penitents under specific circumstances is left to the sound judgement of the confessor. He is not obliged to consult anyone in a particular situation.⁴⁸

The other case is when there exists a state of grave necessity regarding penitents (*gravis necessitatis*) and the following conditions are met. Firstly, there is an insufficient number of priests to hear the individual confessions of all penitents properly

⁴³ KONFERENCJA EPISKOPATU POLSKI, *Instrukcja Episkopatu Polski dla duchowieństwa dotycząca wprowadzenia w życie nowych Obrzędów pokuty*, December 11, 1982, in *Dokumenty duszpastersko-liturgiczne Episkopatu Polski (1966-1998)*, ed. C. Krakowiak and L. Adamowicz (Lublin: Polihymnia 1999), 98–105.

⁴⁴ *Ibid.*, no. IV.

⁴⁵ SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 119.

⁴⁶ KRUKOWSKI, *Sakrament pokuty*, 145.

⁴⁷ M. PASTUSZKO, „Rozgrzeszenie wielu penitentów bez uprzedniej ich spowiedzi indywidualnej,” *Prawo Kanoniczne* 31, nos. 1–2 (1988), 63.

⁴⁸ KRUKOWSKI, *Sakrament pokuty*, 145.

in the time when the priests and penitents are available (see c. 961 §1, 2°).⁴⁹ It must be noted, though, that an insufficient number of priests who would be available to hear the individual confessions of many penitents is not enough to impart general absolution to them.⁵⁰ Also, it is necessary that penitents have good reasons, that is the risk of moral loss sustained by the faithful on account of being deprived for a long time of sacramental grace or having no access to the Holy Communion.⁵¹ The CIC legislator does not specify the length of time which must pass to regard it as the cause of moral loss.⁵² Prudential judgement in this matter lies within the discretion of pastors. The impossibility of hearing the confessions of the faithful and thereby the likelihood of loss should be assessed on the basis of particular circumstances. Undoubtedly, assessment of the conditions in question should consider whether the impossibility of hearing the individual confessions of many penitents under particular circumstances is grave and the sustained loss will have long-lasting effects and whether it can be attributed to the faithful themselves. The legislator provides

⁴⁹ M. Pastuszko remarks that “neither canon 961 §1, 2° nor any other canon nor liturgical regulation specifies the length of time to be used by a confessor to hear the confession of his penitent. This is not to say that canon 961 §1, 2° makes no mention in this regard. It does not specify the duration of confessions but explicitly requires that confession be conducted properly (*rite*) so that the confessor may act as a judge and a physician (see c. 978). To assume such roles proper time is required, and it is difficult to predict how much time is needed to hear one confession because initially the sins of penitents are not known. We can only suppose that, roughly speaking, the time required to hear one confession is so and so much, and this time should be multiplied by the number of the penitents. The result will be the time required for an individual confession. Can therefore a confessor have all this time at his disposal and can the faithful wait that long to have their confession heard? If either confessors or penitents lack time, then the lack of confessors and impossibility of having proper confessions occur, a situation referred to by canon 961 §1, 2°”. M. PASTUSZKO, *Sakrament pokuty i pojednania* (Kielce: Wydawnictwo Jedność, 2004), 116–17.

⁵⁰ SŁOWIKOWSKA, *Uczestnictwo wiernych święckich*, 120.

⁵¹ PAWLUK, *Prawo kanoniczne*, 2:365.

⁵² The loss in question is the one suffered by a member of the faithful who is deprived of sanctifying grace or an opportunity to receive the Holy Communion. The legislator treats the lack of sanctifying grace and impossibility to receive the Holy Communion as separate. For the very possibility to avail oneself of the sacrament of penance whereby sanctifying grace can be regained is a great value in itself, even if the member of the faithful could not receive the Holy Communion. Speaking of a long-term loss suffered by the faithful, it seems that, on the one hand, the objective length of time (day, week, month) should be considered, but on the other hand, the welfare of particular penitents should be taken into account as some of them find it easy to linger for a year but others find it hard to live without confession for a month. Penitents themselves cannot be held responsible for the impossibility to hear the confessions of the faithful and the loss thus incurred. If, for example, the faithful know that their priest intends to leave for a period of time and they delay communicating their intention to confess their sins until the confessor is about to leave, they do not have the right to remind him of the loss which they will suffer if he refuses to hear their confessions. After all, they are the cause of the loss. PASTUSZKO, *Sakrament pokuty i pojednania*, 117–18.

explicitly that the insufficient number of confessors only in relation to the influx of a large number of penitents, which may occur during greater feasts (e.g. a fair in a parish) or during a pilgrimage. In order to ascertain whether there exists a grave necessity to impart general absolution, a great deal of prudence is required. Pursuant to canon 961 §2, it belongs to the diocesan bishop to judge whether the conditions required according to the norm of §1, 2° are present.⁵³

The legislator provides that priests should act in accordance with their conscience with a sense of great responsibility given specific circumstances. They should consider the criteria and guidelines of the diocesan bishop, who should consult his position with the other members of the episcopal conference (*RP* 33). On December 11, 1982, the Polish Episcopal Conference resolved that Polish dioceses need not celebrate the rite of reconciliation of many penitents along with general confession and absolution since every member of the faithful, given his good will, can avail himself of the grace of reconciliation via individual confession.⁵⁴ The only exception to this rule can occur in a situation when general absolution needs to be granted to foreign nationals residing in Poland and it is impossible to communicate with them in their language if the conditions of grave necessity specified in canon 961 §1, 2° (*OP* 38–40) apply.⁵⁵

⁵³ ADAMOWICZ, *Wprowadzenie do prawa o sakramentach świętych*, 140–41.

⁵⁴ KONFERENCJA EPISKOPATU POLSKI, *Instrukcja Episkopatu Polski dla duchowieństwa dotycząca wprowadzenia w życie nowych Obrzędów pokuty*, no. V, 103. This is not to say that this has never been practised. Regulations in respect of general absolution have been issued to regulate the rules of its application. For more see P. HEMPEREK, „Ogólna absolucja sakramentalna,” *Roczniki Teologiczno-Kanoniczne* 21, bk. 5 (1974), 67–79. Especially during the Second World War the highest church authority issue special norms that would relax the discipline, always in consideration of the welfare of the faithful, not to leave them without the possibility to receive the grace of conversion. Pope Pious XII extended the possibility to impart general absolution onto all priests, even those who did not have jurisdiction, to absolve even whole groups of soldiers at the same time, directly before or during battle, and in cases when deemed necessary to civilians who were in danger of death from bombardment and air shelling. See PIUS PP. XII, *Apostolica adhortatio ad sacerdotes et clericos in exercitus ordines adscitos Asperis commoti*, December 8, 1939, *AAS* 31 (1939), 696–701. A year later, the Apostolic Penitentiary ruled that the right to general absolution granted by the pope may be exercised also when air raids are anticipated. For more see SACRA PAENITENTIARIA APOSTOLICA, *Dubium circa absolutionem generali modo impertiendam militibus In Indice*, December 10, 1940, *AAS* 32 (1940), 571; SACRA PAENITENTIARIA APOSTOLICA, *Instructio circa sacramentalem absolutionem generali modo pluribus impertiendam Ut dubia*, March 13, 1944, *AAS* 36 (1944), 155–156; SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 120.

⁵⁵ Z. JANZEWSKI, „Prawodawstwo Konferencji Episkopatu Polski i Prymasa w zakresie sakramentów uzdrowienia,” *Prawo Kanoniczne* 41, nos. 3–4 (1998), 109–13. „Let us note that our country is visited by a great deal of pilgrimages, mainly from the neighbouring countries. Sometimes these groups of pilgrims have no priests, and in their countries they do not always have easy access to confessors. This is why they wish to obtain absolution in Poland. It would be hard to turn down that

The legislator requires that the faithful who want to be absolved in a general manner in danger of death or in grave necessity meet two conditions.⁵⁶ Firstly, these penitents are to be disposed in the same manner as those absolved individually under the pain of nullity (c. 962 §1).⁵⁷ Secondly, the Code prescribes that a confessor, before conferring general absolution, instruct the penitents on the necessity of them being of proper moral disposition (c. 962 §2), in particular them showing contrition for their sins and an intention to amend their lives, as well as the necessity to confess each grave sin which was remitted in an act of general absolution.⁵⁸

The disposition of penitents who want to validly receive general absolution should take into account an examination of conscience, sincere repentance, and a firm intention to amend.⁵⁹ Besides, they should declare that when the danger of death or grave necessity recedes, they will go to individual confession during which they will reveal all their grave sins as well as those which were forgiven in an act of general absolution.⁶⁰ In this way, the Church conditionally grants the grace of reconciliation to penitents.⁶¹ This implies that under these circumstances their reconciliation with God and the Church takes place because they manifest an intention to confess, in an act of individual confession, those grave sins which were remitted in the act of general confession. It is worth noting that in the future they are not to take advantage of general confession without confessing their grave sins in ordinary individual confession beforehand, which they must do as soon as possible (see *RP* 33). A confessor who is granting general absolution should oblige the penitents to undertake to provide satisfaction (*OP* 60).

It should be noted that canon 963 lays emphasis on the obligation to go to individual confession, a duty mentioned in canon 962, but it uses different wording: “as soon as possible, given the opportunity” (*quam primum, occasione data*). The expression “within a suitable period” (*debito tempore*), used in canon 962, is not as unambiguous as “as soon as possible” (*quam primum*).⁶² This suggests that participation of the faithful in general confession together with others does not satisfy the obligation imposed on them by canon 989.

request. Otherwise they would be deprived of those fruits for which the practice of general absolution was restored.” PASTUSZKO, *Sakrament pokuty i pojednania*, 119.

⁵⁶ PASTUSZKO, *Rozgrzeszenie wielu penitentów*, 63.

⁵⁷ SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 121.

⁵⁸ PAWLUK, *Prawo kanoniczne*, 2:365.

⁵⁹ HEMPEREK, *Uświęcające zadanie Kościoła* 3:151. For more see PASTUSZKO, *Chrześcijanin jako penitent*, 117–46.

⁶⁰ PASTUSZKO, *Rozgrzeszenie wielu penitentów*, 79–82.

⁶¹ SŁOWIKOWSKA, *Uczestnictwo wiernych świeckich*, 121.

⁶² HEMPEREK, *Ogólna absolucja sakramentalna*, 75.

It is interesting to bear in mind that the law does not forbid the faithful to take part in general confession and receive general absolution if circumstances referred to in canon 961 §1, 1° and 2° occur, that is if the faithful find themselves in danger of death or in grave necessity again.⁶³ This means that the legislator wishes to discourage the faithful from failing the duty to go to individual confession annually and awaiting an opportunity to participate in general confession with others.⁶⁴ The Church does not leave it to the discretion of the faithful to choose the form of confession and reconciliation which they deem most suitable (*RP* 33).

CONCLUSION

Our analysis of the legal provisions concerning the determination and forms of celebrating the sacrament of penance reveals the legislator's concern for the best possible protection of the spiritual good of the faithful in an act of sacramental confession. The definition of the notion and determination of the forms of its celebration defends this sacrament against abuse and profanation. Our analysis permits the following conclusions *de lege lata*:

1. Individual and integral confession as well as absolution is the only ordinary way the faithful who are conscious of their grave sins to become reconciled with God and the Church. Only physical or moral impossibility exempts them from confession of this type.

2. Individual and integral confession is a confession, made by individual believers before an authorised priest, of grave sins committed after baptism which have not yet been remitted directly through the keys of the Church.

3. The minister of the sacrament of penance is a priest only. The ministry of the sacrament of penance is done through bishops and presbyters. For a valid remittance of sins, the minister needs, besides his priestly ordination, to have the faculty of remitting sins of the faithful whom he absolves.

4. Without a prior individual confession, general absolution cannot be granted unless:

⁶³ KRUKOWSKI, *Sakrament pokuty*, 148.

⁶⁴ SACRA CONGREGATIO PRO DOCTRINA FIDEI, Normae pastorales circa absolutionem sacramentalem generali modo impertiendam *Sacramentum paenitentiae*, June 16, 1972, *AAS* 64 (1972), 510–514. Polish translation in *W trosce o pełnię wiary: dokumenty Kongregacji Nauki Wiary 1966-1994*, ed. & transl. J. Królikowski and Z. Zimowski (Tarnów: Wydawnictwo Diecezji Tarnowskiej Biblos, 2010), no. 7, 51–56. For more see PASTUSZKO, *Rozgrzeszenie wielu penitentów*, 82; IDEM, *Chrześcijanin jako penitent*, 117–46.

– there exists danger of death and there is not time for a priest and priests to hear the confessions of individual penitents;

– there is grave necessity because there are a large number of penitents and not enough priests to properly hear the confessions of individual penitents in a suitable time frame, and penitents would be long deprived of the sacramental grace or the Eucharist through no fault of their own. The lack of confessors, which may occur as a result of a great number of penitents arriving on a feast day or due to a pilgrimage, cannot be regarded as sufficient necessity.

5. Whether the conditions for grave necessity to exist apply is decided by the diocesan bishop. He can, given the criteria agreed with the other members of the conference of bishop, define a case of such necessity.

6. In order to validly receive general absolution, which is granted to many penitents at the same time, is not only to be properly disposed but also have the intention to confess grave sins in detail in due time, which now he is unable to confess so.

7. The person whose grave sins have been remitted is to go to individual confession at the earliest opportunity, before receiving another general absolution unless a just cause intervenes.

It must be postulated *de lege ferenda* that while the legal provisions of the Latin Church are amended particular emphasis should be laid on individual confession among the faithful and abuse related to the application of general absolution by ministers.

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REGULATION AND THE FORMS OF CELEBRATION OF THE SACRAMENT OF PENANCE IN CANON LAW

S u m m a r y

In the sacrament of penance and reconciliation the faithful who confess their sins to a legitimate minister, are sorry for them, and intend to reform themselves to obtain forgiveness for the sins they have committed after baptism. Moreover, they are reconciled with the Church which they have

wounded by sinning. Individual and integral confession as well as absolution constitute the only ordinary means of reconciliation with God and the Church. Therefore, only physical or moral impossibility excuses from confession of this type. In such a case reconciliation can be obtained by other means defined by law.

The extraordinary means of reconciliation with God and the Church is general absolution to many penitents at once without previous individual confession. It can be imparted if danger of death is imminent, if there is insufficient time for the priest or priests to hear the confessions of individual penitents and there is grave necessity. It belongs to the diocesan bishop after agreeing upon with the other members of the conference of bishops to judge whether the conditions required to arise grave necessity are present. For the faithful validly to receive general absolution given to many at one time, it is required that the person is properly disposed and intends to confess within a suitable period of time each grave sin which at the present time cannot be so confessed.

Key words: sacrament; individual confession; general absolution.

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