

RELIGION IN PUBLIC EDUCATION. POLAND

JÓZEF KRUKOWSKI

I. GENERAL BACKGROUND

1. Facts and figures

A. Demography

According to the records provided by the Central Statistical Office (publication issued in 2010), the population of Poland is approximately 38,135,900¹.

In terms of religion, Polish society is pluralistic. There are 163 religious denominations in Poland. In terms of numbers, the Catholic Church holds the first position (35,104,500), the Orthodox Church is second (504,600) and Protestant Churches come third (158,600). There are also Muslim religious communities (2,700), Jewish religious communities (1,400), as well as new oriental and western religious communities (9,100). The Catholic Church comprises 92.1% of the total population. The Catholic Church in conjunction with all registered religious communities, represents 94.7% of the population. The percentage of people who do not belong to any of the registered religious communities amounts to 5.3% of the total population². This group includes atheists, agnostics and people who believe in God but do not identify with any of the registered religious communities.

B. State and Church Relations

In Poland, religious instruction in public education constitutes one of the elements of the constitutional system of State-Church relations, which in the 20th century was subject to radical changes³. During the interwar period (1918-1939), according to the Constitution of 1921, religious instruction in public schools was a National Curriculum subject, in accordance with the denominational affiliation of students. During the Communist dictatorship (1945-1989), the system of State-Church relations was based on the Soviet Union's hostile separation rule; religion was removed from public schools, and the whole system of education was based on the Marxist-Leninist ideology. Transformation of the Polish political system, initiated in 1989, led to the transition from an atheistic totalitarian communist state to a democratic secular state. Within this new political regime, religious instruction in public schools was guaranteed by the Constitution of Poland (1997)⁴, the Concordat between the

¹ Główny Urząd Statystyczny. Wyznania religijne. Narodowe i etniczne mniejszości w Polsce 2006-2008 (Central Statistical Office. Religious Denominations. National and ethnic minorities in Poland 2006-2008), Warszawa 2010, p. 17-18.

² Ibidem.

³ J. Krukowski, Polskie prawo wyznaniowe (Polish Law on Church-State Relations), 4th edition, Warszawa 2008, p. 35-44.

⁴ Dziennik Ustaw (Journal of Laws), 1997, No. 78, item 483.

Holy See and Poland of 1993 (Art. 12)⁵ and ordinary acts defining the State's relation to individual churches and other religious communities⁶.

The Constitution of Poland guarantees the right to freedom of conscience and of religion in an individual (Art. 53) as well as an institutional dimension (Art. 25)⁷. The key principles of State-Church relations are as follows: equal rights for churches and other religious communities; the autonomy and independence of State and Church, each in their own domain; the impartiality of public authorities towards religious, worldview and philosophical convictions, while ensuring the freedom to manifest those convictions in public areas; the cooperation between State and Church for the good of man and for the common good (Art. 25). Religious instruction in public schools is the accomplishment of the principle of cooperation between State and Church in the framework of respecting the parents' rights to educate their children within the conception of morality and religion compatible with their own convictions.

The guarantees concerning religious instruction in public schools, which are included in the Concordat as regards the Catholic Church (Art. 12), have been expanded, through relevant acts, to other religious communities, whose legal situation is regulated by law.

C. Numbers of Private and Public Schools in the Country

In Poland, in the school year 2009/2010 there were 26,970 public schools and 2,080 non-public schools with the public status. In total 14,072 primary public and non-public schools with public status had 427,804 students; 13,089 lower secondary schools (Polish: gimnazja) – public and non-public with public status - educated 949,362 students; and 7,349 general secondary schools – public and non-public with public status - had 459,269 students⁸. The total number of schools with public and non-public status without religions instruction was 211⁹.

D. Description of the General School System

In Poland the public educational system is pursuant to the provisions of the Education Act of 7 September 1991¹⁰. This system embodies: pre-school education and three-tiered school education: 1) primary education (6 years); 2) lower secondary school education (Polish: system gimnazjalny) (3 years); 3) higher secondary school education (3 years) – high schools, technical colleges, vocational schools (Polish: szkoły ponadgimnazjalne). Compulsory education is required for children and youth who are aged 6 to 18. It is also required for

⁵ Dziennik Ustaw, 1998, No. 51, item 318.

⁶ In Poland, the legal situation of 11 churches and other religious communities is regulated by individual acts, while the situation of 152 has been regulated by entering them into a Register kept by the Minister of Internal Affairs and Administration, on the basis of the Act on the Guarantees of Freedom of Conscience and of Religion of 1989. Cfr: J. Krukowski, op. cit., p. 79-87.

⁷ Cfr: J. Krukowski, op. cit., p. 60-88.

⁸ According to the information provided by the Ministry of Education, <http://www.cie.men.gov.pl>; 15.10.2010.

⁹ The information provided by Paweł Höffner, an officer in the Ministry of Education, 15.10.2010.

¹⁰ Dziennik Ustaw, 1991, No. 95, item 425; 2004, No. 256, item 2572 (consolidated text).

foreigners, with no difference from Polish citizens in this respect. Public education is free of charge. The management of schools is through the self-governments. An educational part of the general subvention is transferred to the self-governments' budget for managing the schools. Non-public schools also collect tuition fees.

2. Religion as a Subject of Instruction and Its Substitutes

A. Religious Instruction

The majority of school children in Poland attend public schools. Religion has been a school subject on the Polish National Curriculum since 1 September 1990. It was introduced on the basis of the circular of the Minister of Education of 3 August 1990; this was then stabilised on the basis of the Education Act of 7 September 1991 (Art. 12) and the Ordinance of the Minister of National Education of 14 April 1992 on the organisation of religious instruction in public schools¹¹. The motives for this system of religious instruction in Poland are the following: respect for the parents' right to educate their children in the domain of morality and religion and for the universal ethical and Christian values ingrained in the cultural heritage of the nation.

The regulations concerning religious instruction in public schools have been a subject of controversy in the mass-media. Therefore, at the request of the opponents of religious instruction in public schools, the Ombudsman has filed several complaints to the Constitutional Court. However, these interventions have had poor results¹².

Religious instruction is provided by public pre-schools and primary schools on the parents' (or legal guardians') request. In lower and higher secondary schools, either parents or students themselves, once they reach the age of majority, may declare whether they will follow religious instruction. At pre-school level, religion has been a subject of a complaint by the Ombudsman to the Constitutional Court. However, the Court in its judgment of 20 April 1993 stated that conducting religious instruction is consistent with the Constitution of Poland¹³.

The parents and students may express their request concerning participation in religious instruction to the school headmaster. The Constitutional Court, in its judgement of 30 January 1991, declared that the parents' statement does not infringe upon the freedom of conscience

¹¹ Dziennik Ustaw, 1992, No. 36, item 155.

¹² The first complaint filed by the Ombudsman concerned the reinstatement of religious instruction on the basis of the circulars of the Minister of National Education of 1990. However, on 20 January 1991 (case No. K 11/90), the judgement of the Constitutional Court dismissed the complaint, referring to art. 2 and Protocol no.1 of the European Convention on the Human Right and Fundamental Freedoms, which concerns the respecting by the education system of the parents' right to educate their children in the domain of morality and religion in accordance with their own convictions. On a second occasion, the Ombudsman filed a complaint against the Ordinance of the Minister of National Education of 14 April 1992, in which he challenged: introducing ethics as a school subject alternative to religious instruction, the qualifications of religious instruction teachers, and saying prayers by the students outside lessons of religious instruction. The Judgement of the Constitutional Court, on 20 April 1993 (case No. U 12/92), declared the main objections of the Ombudsman as unfounded, stating that the Minister did not exceed his legal competences.

¹³ Judgement of the Constitutional Court, case No. K 11/90.

and religion because “also a non-believer may submit such a statement, whereas a believer may relinquish it.”¹⁴

B. Confessional Teaching

School authorities are obliged to organise religious instruction at pre-school level and in public schools in accordance with their denominational affiliation. In this respect the Polish Constitution states that: “Parents have the right to provide their children with moral and religious education in accordance with their own convictions” (Art. 53, 3); “Religion of a church or of another religious community whose legal situation is regulated by law, may be a school subject, however the freedom of conscience and of religion of other persons may not be infringed upon” (Art. 53, 4).

Not all religious communities are interested in enjoying the right to provide religious instruction in public schools. Therefore, in the school year 2009/2010, students who are members of 24 religious communities took religious instruction. Those communities were: The Catholic Church, The Polish Autocephalous Orthodox Church, The Evangelic-Augsburg Church, The Methodist Church, The Evangelic-Reformist Church, The Polish Catholic Church, The Free Christians Church, The Church of Christ, The Baptist Christians Church, The Church of the Mariavites, The Evangelical Christian Church, The Seventh Day Adventists Church, The Church of Pentecost, The New Apostolic Church, The Church of God in Christ, The Christian Reformed Church, The Church of Evangelical Christians, The Polish Church of Free Christians, The Community of Christian Churches, The Pentecost Communities, The Evangelical Brethren Church, The Christian League, The Union of Jewish Confessional Communities, The Islamic League¹⁵.

As Polish society is religiously pluralistic, a need arises to specify the number of students who should be provided by the public school with religious instruction, according to their denominational affiliation. The Ordinance of the Minister of National Education of 14 April 1992 specifies this issue as follows:

1. Pre-schools and schools are obliged to organise religious instruction for a group of no less than seven students of a given class or children (of a pre-school group). For a smaller number of students in a given class or pre-school groups, religious instruction should be organised in inter-class and inter-pre-school groups;
2. If less than seven students of a given denomination or of several different denominations wish to attend religious instruction in a given school or pre-school, the management of this school or preschool shall organise, in consultation with the relevant church, religious instruction in an inter-school group or in a catechetical facility out of school. The number of students in such a group should be no less than three.
3. If students from schools managed by different authorities are members of one inter-school group or out-of-school (out-of-preschool) group, then those authorities shall determine, through consultation, the rules for managing those groups;

¹⁴ Judgement of the Constitutional Court, case No. U 12/92.

¹⁵ Information provided by the Ministry of Education.

4. In particularly justified cases, the authority that manages the school or preschool may organise, using the available financial resources, religious instruction for a given denomination in a different manner than the one described above (clauses 1-3).

The purpose of the above rules is to enable religious instruction for students who belong to minority religious communities, which, within the whole school, or even in the whole town, have relatively few students.

Students in school classes and those in catechetical facilities organised through consultation with the school authorities are to be provided with two, or, at least one hour of religious instruction a week.

The above rules of organising religious instruction are also applicable to the head teachers of correctional facilities for young offenders and juvenile shelter homes¹⁶.

C. Religious Studies

In the Polish education system there is no specific subject called “Instructions on Religions” or “Religious Studies” However, basic information about different religions is introduced through the teaching of other subjects (cfr. E).

D. Ethics

Ethics, as a school subject, is stipulated in the Polish educational system. The Ordinance of the Minister of Education of 14 April 1992 contains the following rules:

1. The school shall organise lessons of ethics, based on the National Curriculum which has been admitted for use at school on the terms specified in the Education Act, for those students whose parents express such a wish, or who themselves express it.
2. Depending on the number of students who declare their participation, classes of ethics may be organised pursuant to the terms applicable to religious instruction.
3. The school is obliged to provide, at the time when classes of religious instruction or ethics take place, supervision or educational activities for those students who do not take religion or ethics at school.”

Ethics handbooks are prepared by centres interested in secular education, and are then approved by the Minister of Education. Within the basic programme, the teaching of ethics is provided at primary, lower secondary and higher secondary level.

Ethics classes are supposed to have an educational character; so for instance dialogue should be conducted in such a way that it supports the process of searching for and revealing or “discovering” values.

¹⁶ Ordinance of the Ministry of Justice of 14 September 2001 on the detailed regulations of participation in lessons of religious instruction and religious practices, and the organisation of religious practices in correctional facilities for young offenders and juvenile shelter homes; Dziennik Ustaw, 2001, No. 106, item 1157.

Poland does not lack teachers of ethics. Every teacher qualified to be a form teacher also holds qualifications to teach ethics at the primary-school level. On a higher level, only teachers of humanities subjects, who have been adequately trained, may teach ethics. In fact, there are more teachers ready to conduct classes than are actually needed.

The teaching of ethics is realised on the basis of rules analogous to those which are applicable to religious instruction. The school management is obliged to provide the teaching of ethics when parents, or students themselves – once they reach the age of majority - express such declaration. Difficulties in the practical organisation of ethics classes result from the lack of students – within a given class, school, or even the entire town – interested in taking lessons in ethics.

Ethics, just like religious instruction, is an optional subject within the school education system. A question arises: why did the Polish legislator not provide for obligatory participation in lessons of ethics for those students whose parents, or the students themselves, once they have come of age, did not wish to participate in religious instruction? The following arguments are presented as an answer to this question: 1) the legislator did not wish to introduce a formal division of students into believers – who take part in religious instruction, and non-believers – who take part in lessons of ethics; 2) the legislator wished to take into account the fact that there are religious communities which are neither interested in religious instruction, nor in the teaching of ethics at public school (e.g. Jehovah's Witnesses), and they are likely to boycott them; 3) the legislator did not wish to exclude the opportunity of participation in lessons of ethics for those students, whose parents – or the students themselves – expressed the wish to participate in classes of religious instruction and ethics.

In fact, there is a small number of parents and students interested in the teaching of ethics in public schools in Poland. In the school year 2009/2010 lessons of ethics were conducted in 948 public schools in the whole country¹⁷. This state of affairs is subject to severe criticism coming from the secular mass-media, which insist on teaching ethics with no religious motivation, as well as to claims from some bishops of the Catholic Church who argue that ethics should be introduced into the school education programme as an obligatory subject for students who do not participate in religious instruction. One should note, however, that the above-mentioned demands are not supported by any rational arguments. This is so because the students who do not participate in lessons of ethics in public schools are provided with educational activities, within which the programme of ethics is realised. Therefore, the students whose parents did not wish for them to participate in religious instruction or ethics classes, are not deprived of the school's educational influence.

The issue of ethics in public schools in Poland has been the subject of a judgement by the European Court of Human Rights in Strasbourg¹⁸. A Polish citizens filed a claim against

¹⁷ The information provided by Grażyna Płoszczajska, an officer in the Ministry of Education.

¹⁸ The European Court of Human Rights. Case of Grzelak v. Poland, Strasbourg 15 June 2010, Application no. 7710/02, <http://cmiskp.echr.coe.int/tkp197/view.asp>; 15.10.2010. The Court decided: "Both subjects (religion and ethics) are optional and the choice depends on the wish of parents or pupils, subject to the proviso that a certain minimum number of pupils were interested in following any of the two subjects. The Court notes that it remains, in principle, within the national margin of appreciation left to the States under Article 2 of Protocol No. 1 to decide whether to provide religious instruction in public schools and, if so, what particular system of instruction should be adopted./.../ The Court observes that system of teaching

Poland due to difficulties that they encountered in the realisation of their wish for the school to organise lessons in ethics for their son. The Court, in its judgement of 15 June 2010, stated that the Polish education system provides guarantees for the teaching of ethics for interested persons, while the obstacles in organising lessons of ethics for one particular student arose not due to the lack of corresponding legal regulations but due to the fact that they have not been applied in this particular case.

E. Religion within the Framework of Classes in Literature, History, Philosophy, Arts and Languages

According to the curriculum in force since 1 October 2009, elements of religious studies are introduced to the students through lessons in subjects such as: history, literature, philosophy, and particularly civil education, which includes information about religious denominations and ethnic minorities¹⁹.

II. RELIGIOUSLY MOTIVATED BEHAVIOUR IN PUBLIC SCHOOLS

1. Religion within the Framework of Working Conditions of Teachers and other Staff

Teachers of religion are employed in preschools or public schools on the basis of a written, personal referral to a given preschool or school, issued by a diocesan bishop or the head of another religious community. A revocation of the referral is equal to a loss of qualifications to conduct religious instruction in a given preschool or school by the teacher. However, he or she may teach a different subject.

A teacher of religious instruction is employed by the director of the school or pre-school. Whereas a teacher who gives lessons to an inter-school group or within out-of-school (out-of-pre-school) tuition, is employed by the director designated by the responsible authority.

Teachers of religious instruction are employed pursuant to the Teacher's Charter (26 January 1982) and the National Education Act (7 September 1991). They hold the teacher's qualifications to keep the class register, to write down the final mark in religious instruction/ethics on the school certificate, to receive remuneration and social care on the terms applicable to teachers of other subjects. A teacher of religious instruction is a member of the faculty; however, he may not be a qualified educator.

The pedagogical qualifications required from teachers of religion are determined in the agreement between The Minister of National Education and the Conference of Polish Bishops and the representatives of other religious communities²⁰.

religion and ethics as provided for by Polish law – in its model of application – falls within the margin of appreciation as to the planning and setting of the curriculum accorded to States under Article 2 of Protocol No. 1.”

¹⁹ Ordinance of the Minister of Education of 23 December 2009; *Dziennik Ustaw* 2009 No. 4, item 17.

²⁰ See: Agreement between the Conference of the Polish Episcopate and the Minister of Education of 6 September 2000 on the qualifications required from teachers of religious instruction (*Dziennik Urzędowy Ministra Edukacji Narodowej* – Journal of Ministry of Education, 2000, No. 4, item 20); Agreement between the Polish Ecumenical Council and the Minister of Education of 4 July 2001 on the professional qualifications required from teachers of religious instruction from churches associated in the Polish

2. Religious Symbols at School

In Poland, hanging a cross or other religious symbols in school classrooms is not obligatory. It is, however, possible to place a cross there – as a symbol of the Christian religion and national culture; or a symbol of another religious denomination, provided that this is the parents' or students' (once they have reached the age of majority) wish. It is an expression of realising the Constitutional principle of respect for the right to free manifestation of one's religious convictions in public areas.

3. Religious Garments

In Poland there are no problems connected with religious garments being worn by teachers of religious instruction who are clergymen or members of a monastery. Neither are there any problems with religious garments being worn by the students, especially – Muslim girls. So far, there has been no need for the public school authorities to take any position towards this kind of problem.

4. The Possibility of Benediction of School Buildings

In Poland, the benediction of school buildings is not prohibited. In practice, there are cases of such buildings being blessed by clergymen, if the parents and the management of a given school express such a wish. It is consistent with the provision of Art. 25, clause 2 of the Polish Constitution.

5. Special Issues, e.g. Religiously Motivated Behaviour of Pupils, Teachers and the Staff in School, Prayers in Public, Prayer within the Framework of Classes or Other School Events, Religious Services

In Poland, students may say a prayer in school classrooms before and after the classes – in these public schools, where parents or students themselves (once they have reached the age of majority) expressed such a wish towards the school director. It is an expression of the public authorities' respect for each person's right to demonstrate their beliefs in public sphere. The Ordinance of the Minister of National Education of 1992 reads as follows: "Saying prayers at school should be an expression of the students' common aspirations, as well as – of tact and sensitivity on the part of the teachers and form teachers".

In the period of Lent, students, who participate in religious instruction "are provided with three subsequent days of holiday from school classes, in order to take part in the retreat, if the Church or the other religious denomination to which they belong, obliges its members to do this." Retreat takes place beyond school buildings. The entities obliged to respect these guarantees are the school headmasters and teachers.

In the period of Christmas, in accordance with a Polish common custom, festive "wafer" (Polish – *opłatek*) meetings take place in schools, during which the students and teachers

exchange Christmas greetings while sharing a Christmas wafer and sing Christmas carols. The participation in those meetings – both by the students, as well as the teachers – is entirely optional.

III. OPTING OUT OF SCHOOL OBLIGATIONS FOR RELIGIOUS REASONS

1. Religious Holidays: the Possibility of and Conditions for Taking Days off

The respect for religious holidays as days free of work in public institutions, and free of school, is connected with protecting the freedom of religion in the public sphere. Polish law guarantees the respect for the right of believers of the Catholic Church and of other religious communities, whose legal situation has been regulated, to celebrate their holidays.

A catalogue of holidays of the Catholic Church is included in the Concordat of 1993 (art. 9), while of other religious communities – in individual statutes. The Act on Guarantees of Freedom of Conscience and of Confession ensures to persons belonging to churches and other religious communities whose holidays are not public holidays, the right to a holiday from work or school, if they wish for such a holiday – the adults themselves, and minors – on their parents' or their guardians' request. The course of action to be undertaken by the students in order to be granted a holiday from school, is specified in the Ordinance of the Government²¹. Students may submit a request for granting them a holiday from school no later than 7 days prior to the holiday. They may submit this request at school, in the manner established at a given school, also at the beginning of the school year. It is a duty of the person granting the holiday to define how the student shall make up for his or her lack of educational accomplishment resulting from the holiday.

2. Opting-out of Religious Instruction or Instruction about Religions

In fact, in Poland there are no problems connected with being released from religious instruction or instruction about religions at school because participating in religious instruction is optional, and the curriculum does not include a separate school subject on religions.

Parents or students themselves, once they reach the age of majority, who have submitted a declaration on the subject of their participation in lessons of religious instruction or ethics, may submit another statement, in the course of the school year, stating their withdrawal from continuing this participation. Should they do this before their performance is assessed, they shall not be given a grade in religious instruction/ethics on their school certificate. Beginning from the school year 2009/2010, the grade in religious/instruction is included in the grade point average on the school certificate – for those students, whose parents, or they themselves, once they have reached the age of majority, have expressed the wish to participate in religious instruction.

²¹ Ordinance of the Ministers of Labour and Social Policy and of National Education of 11 March 1999 on holidays from work or school for persons who are members of churches and other religious communities for the celebration of religious holidays that are not public holidays; *Dziennik Ustaw* 1999, No. 26, item 235.

3. Opting-out of Physical Education (e.g. Co-educational Swimming Instruction for Muslim Girls)

In the Polish public education system there are no problems with students being granted a release from physical education classes or for Muslim girls being granted a release from co-educational swimming classes.

4. Opting-out of Biology (e.g. due to believing in Creationism)

So far, there have been no problems in Poland regarding the students being released from biology classes, e.g. from being taught about the evolution theory for the benefit of creationism.

5. Religiously Motivated Homeschooling

So far, there has been no need in Poland for school authorities to grant permission for establishing home schools for reasons justified by the choice of religion.