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Background Report
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RECENT ENACTMENTS ON RELIGIOUS INSTRUCTION IN POLAND

Although there is still more freedom in Poland than in any other country of the Soviet bloc, and although from the point of view of religious freedom there are no violent persecutions, day-to-day religious services are held and the population's freedom of worship is respected, in some respects the freedom of the Church's teaching is curtailed even more than during the "period of errors and distortions".

Religious instruction of Polish youth has for centuries been going along two lines. On the one hand it formed a part of the general teaching of the Church (any church for that matter, not only the Roman Catholic one). Along with sermons, rosary brotherhoods, social gatherings on parochial premises, there were also courses for choir boys, retreats for youth and children and similar activities, which often covered much of the same ground as formal lessons of religion in schools. And there were schools where, before the war at any rate, the clergy of all denominations not only held classes in their respective subjects, but also gave marks for them which were duly entered in school certificates, and participated in all the pedagogic activities of the school's teaching staff, being recognized as their members. The first Church-State agreement of 14 April 1950 stated that the government "does not intend to introduce limitations into the present state of religious instruction in schools... Inspectors of religious instruction in schools will be appointed in consultation with the episcopate". "In the case of opening lay schools or transferring the existing ordinary school into a lay school, Catholic parents, wishing to do so, will have the right and opportunity to send their children to a school where religion is taught." How that looked in practical application is another story. It was often interfered with and obstructed by the regime, but the freedom of the priest for unlicensed and unsupervised pastoral activities within his parish was theoretically recognized.

The "thaw" and October 1956 brought regularization of the Church-State relations and the new Church-State agreement,

recognizing the lay character of schools, provided for religious teaching in these schools for those children whose parents wished them to have it. Practically all parents wished that and in 1957 in the whole country there were only 60 schools without religious instruction.

With the deterioration of State-Church relations, in fact if not in law, the situation of religious instruction gradually worsened till at last the Sejm by its law on "the development of instruction and education system", passed on 15 July 1961 (Dziennik Ustaw No. 32/1961, Item No. 160), drastically altered the legal situation of religious instruction in schools. Article 2 of that law states that: "Schools and other institutions of instruction and education are lay institutions. The whole system of instruction and education in these institutions is lay in its character." Another article stipulates that "the state establishes, runs and maintains schools and other instruction-educational institutions" (Art. 4). A further (39th) article provides for the operation of non-state institutions: "1) schools, institutions of instruction, education, tutelary education and other educational establishments or institutions can be run by professional or youth organizations as well or social institutions and other organizations and institutions, with permission of the Minister of Education, on principles laid out by him and under his supervision. 2) Any extra-mural activities in respect to instruction and education and all other forms of work with children and youth are subject to supervision by the Minister of Education, who can establish the principles and conditions of conducting such activities or work. 3) Granting permission referred to in Para 1 (of this article) to organizations or institutions of denominational character, the Minister of Education can waive provisions of Art. 2 (quoted above and referring to the lay character of education)."

The provisions of this law were further elaborated in three subsequent ministerial acts:

- 1) "Regulation of the Minister of Education of 19 August 1961 on the Matter of the Management of Catechistic Classes" (Dziennik Urzędowy Ministerstwa Oświaty No. 10 of 20 August 1961, Item No. 124).
- 2) Instruction of the Ministry of Education of 12 September 1961 on the registration of catechistic classes (Dziennik Urzędowy Ministerstwa Oświaty No. 11/1961, Item No. 144).
- 3) "Instruction of the Ministry of Education of 21 November 1961 Regarding the Method of Implementation of the Regulation of

the Minister of Education of 19 August 1961, Referring to the Subject of Running "Catechistic Classes" (Dziennik Urzędowy Ministerstwa Oświaty No. 13 of 25 November 1961, Item No. 177).

Actually the regulation of August 19 is most detailed and the whole of religious instruction in the country could be organized on its basis without further elaboration. This regulation however encountered sharp opposition from Roman-Catholic ecclesiastical quarters. Consequently, the regime, while keeping the regulation in force, issued the instruction of September 12 which probably softened the points most offensive to the Church. The provisions of this instruction were deemed insufficient by the Church and eventually the new instruction of November 21 was issued, rescinding the instruction of September 12. Thus at the present moment there are three acts setting up the principles of religious instruction: 1) The Law of 15 July 1961; 2) the Regulation of the Minister of Education of 19 August 1961 and 3) The Instruction of the Ministry of Education of 21 November 1961 implementing the above regulation.

The Law of July 15 providing that all sorts of educational establishments run by other than the state agencies are subject to state supervision did not explicitly threaten religious instruction outside schools, such as extramural religious instruction, as in fact most of the Church's pastoral work is run in an informal non-institutional manner.

The Regulation of August 19 institutionalized extra-mural religious instruction. It permits establishment of "catechistic classes" by "parish administration". Classes can be established in churches and in ecclesiastical buildings, but in the latter only when sanitary and hygienic conditions are satisfactory. Classes can be attended by school-age children only, for a time not exceeding two hours per week, which must not coincide with the school time-table. Religious teachers should in principle be the parish clergy, who obtain permission from education authorities. In "justified cases" also properly qualified lay persons are admissible. In certain circumstances these permissions, both for clergy and lay, can be withdrawn. Classes must be registered with education authorities, after they are satisfied that preliminary conditions are fulfilled. Classes already existing are also subject to this regulation. Classes will be inspected by school inspectors. Teachers in them will sign agreements with authorities and will receive monthly payments, while any money collection among parents and children is forbidden. Forms of agreement between the authorities and the teaching clergyman (attached to this regulation) grant the

teacher treatment equal with other state employees and make him subject to a regulation (of 1928) on employment of white collar workers.

Before the regulation was issued the Church (at least formally) enjoyed freedom of teaching outside schools and accepted certain limitations as a necessary condition of teaching within the schools. When religious instruction within the schools was terminated, logically the Church should have been virtually free from all restrictions. Instead limitation thus far binding within the schools were spread and applied to all church education activities among youth and turned all priests active in religious instruction into state employees.

The matter was serious and there are reports that the authorities issuing the regulation did not appreciate the serious encroachments against the fundamental rights of the Church, its jurisdiction over clergy and its right to spread the word of God.

A letter to priests, dated at Jasna Gora in Czestochowa on 2 September 1961 and signed by all the Polish bishops, forbade priests to register as religious instructors and to accept salaries. Although couched in very sharp words the letter does not attack the regulation as such and does not directly mention its provisions. It attacks only the agreement which priests are demanded to sign with the authorities and only indirectly enumerates all the dangers of the regulation as if ensuing from the signed agreement and enumerates the points which make it impossible for clergy to sign these agreements even if refusal would expose them to persecutions.

The Episcopate objections are as follows:

- 1) Signing agreements by priests with lay authorities, imposed without previous consultations with the Episcopate, constitutes encroachment on Church jurisdiction.
- 2) It constitutes a violation of the fundamental rights of parents to the religious instruction and education of their children.
- 3) Restriction of opportunities to teach religion are contrary to the Church-State agreement.
- 4) Introduction of school inspectors even to classes held in consecrated buildings constitutes violation of the Church's freedom of cult.

- 5) The very existence of religious instruction is not secure, as the authorities have complete discretion to decide whether these classes are up to requirements imposed by the very same authorities.
- 6) Not only places of instruction are limited to churches and church buildings but teaching staff is also limited. Especially excluded are junior parish priests (curates) and monastic clergy.
- 7) Even classes held within churches can be closed by authorities.

The regime took note of those complaints but did not rescind the offensive regulation. Instead soon after the Episcopate's letter, already on 12 September 1961, an instruction to the regulation was issued. We do not know its text, but it must have introduced some changes along the line demanded by the Church. It must have been considered insufficient by the Episcopate. We also do not know the details of the Episcopate's reaction. From the scraps of information available it appears that the authorities' demand for compulsory registration of religious instructors and the offer of salaries was withdrawn. Also withdrawn was the deadline for registration (31 October 1961), (cf. "Frankfurter Allgemeine Zeitung" 7 November 1961). On 16 November 1961 a conference of Polish bishops was held in Warsaw. Some bishops reportedly criticized the cardinal for his intransigent stand on the subject, but he was able to point out that his efforts already bore some fruit and that in the past two weeks there were signs of further relaxation of the government stand.

The new changes are incorporated into the new instruction (issued on 21 November 1961) to the old regulation of August 19. It does rescind the instruction of September 12 but stresses that the regulation of August 19 is in full force, although the following modifications are introduced to it:

- 1) Besides classes in churches and on church premises also classes on private premises are permitted.
- 2) Classes in monastic buildings are expressly forbidden.
- 3) Provisions of sanitary and hygienic character are enumerated in detail.
- 4) Classes held within the consecrated buildings have no conditions imposed as to their sanitary and hygienic state and

need not be registered. They are not subject to inspection. The religious instructor is only bound to submit once a year a report on class activities according to form prescribed for all the other classes and this is actually the only form of regime supervision of them.

- 5) On the other hand in respect to the classes held outside churches the old conditions of registering, adhering to sanitary and hygienic standards are retained and inspection of the premises as well as the lessons is still in force, although "religious subject matter" of the teaching is not subject to inspection.
- 6) Conditions as to the time of instruction (two hours weekly), their non-interference with the school time-table are retained and further limitation in their activities is introduced by forbidding them any sport and other social, cultural and club activities. This provision is absent in the original regulation of August 19.
- 7) Restriction on staffing remains in principle unchanged. There is only one concession: "In particularly important cases school inspectors, with the permission of the chief of the voivodship education authority, can grant temporary permission for teaching to a monastic priest."
- 8) Agreements and salaries for religious instructors connected with them are retained, but not as binding for all of them. Any teaching clergyman (there is no mention of lay teachers), can sign such an agreement on his own initiative and draw salary.

This instruction can be analyzed in two ways: 1) by comparing it with the Episcopate letter of 2 September 1961 which puts forward the Church's stand on religious instruction. 2) by comparing it with the regulation of 19 August 1961 which will show the extent of the regime's concessions.

- 1) The main objection of the Church was against the clergy's duty of contracting an agreement with the authorities and accepting a salary for teaching. This has been revoked as a principle but is retained as a possibility for individual priests, who can do it of their own free will. Thus an arbitrary interference of lay authorities into the Church jurisdiction has been revoked, but the opportunity for priests to be disloyal to the Church is left open. All the provisions for dismissals of religious instructors by lay authorities are retained.

- 2) The second main objection of the interference of lay authorities with work conducted within the precincts of consecrated buildings was also met. Classes run within the churches are not registered and not inspected. The only formality in respect to them is the necessity of submitting the yearly report, which enables authorities to know of their existence, size, and the names of instructors.
- 3) Another objection, regarding limitations of places of instruction to ecclesiastical premises only, was solved in a particularly annoying manner. Classes can now be held also on private premises, but monastic premises, not mentioned in the regulation, are now expressly excluded.
- 4) Classes for religious instruction, in spite of the Episcopate's objection, can still be closed down at the lay authority's discretion, but no longer "those in consecrated buildings"

On the other hand restrictions on the monastic clergy remain in force. The above quoted possibility of employing individual members of monastic orders temporarily and in special important cases at the worst are lip-service and at the best can apply to few individuals.

The principle of state inspection of all classes (except those held in churches) also remains in full force both from sanitary and scholastic standpoints (how to reconcile these latter inspections with the provision that "religious subject matter of teaching" is not subject to inspection remains a puzzle). But even classes held in churches, while free from the physical presence of inspectors are recognized as subject to inspection. Only "the supervision of catechistic classes held in churches is carried out by the school inspectorate through the analysis of reports" submitted yearly by all classes, including those housed in churches.

In some cases, such as exclusion from monastic premises of religious classes or strict limitation of classes to teaching alone, to the exclusion of all other social activities, including children's games, the instruction is more restrictive than the regulation of August 19.

Finally the instruction of November 21 is a very well and lucidly written act providing for all needs of religious instruction and can serve as a complete and independent basis for all activities in this field. Thus it makes the regulation of August 19 obsolete and useless. In fact as an official act it is much better and more competently styled than the regulation.

Yet the regulation is still in force and the instruction is only treated as its elucidation.

There are presumably two reasons for that: One is the usual Communist obstinacy and feeling of selfrighteousness and selfimportance. They will twist and interpret out of recognition a misshapen piece of legislation, rather than rescind it and issue a new one. The second could be the intention of keeping the Church in a state of suspense. The instruction is undoubtedly a concession to it. It eliminates the most intolerable provisions (though many onerous ones are still left). Now it is enough to revoke the instruction and the regulation of August 19 automatically comes in force.

From the Church point of view the victory if any is very limited. The most intolerable provisions have been removed, but only to the barest necessity, and even there rather in fact only, leaving the principle unchanged (inspection of classes held in churches). The principle of state inspection of religious classes has been upheld and great principles of the freedom of religious teaching in general, of parents' freedom to have religious upbringing for their children and adherence to the Church-State agreement were all bypassed.

Perhaps those considerations, i.e. influenced Cardinal Wyszyński when he wrote his letter to the Marshal of the Sejm demanding parliamentary enquiry into the situation of the Church in Poland.

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