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## DUTIES OF THE PENITENT AND CONFESSOR IN THE LIGHT OF 21 CONSTITUTION OF THE FOURTH LATERAN COUNCIL

1. Introduction. 2. Obligation to confess. 3. The own priest's duties. 4. Duties of the confessor. 5. Conclusion

**Key words:** Canon law, sacrament of Penance, duty of annual confession, duties of confessor

### 1. INTRODUCTION

At the beginning of the 13th century, there was a growing crisis in the Church. Although Europe was still a great community of *Christianitas*, based on the doctrine and activity of the Latin Church, problems were swelling in many dimensions of social and religious life. This was clearly seen by Pope Innocent III, who characterised the situation at the time in his sermon at the opening of the Fourth Lateran Council as follows: „Faith is perishing, religion is being deformed, liberty is being confounded, justice is being trampled upon, heretics are multiplying, schismatics are being insolent, the faithful are being sullied, the [sons of] Hagar are prevailing”<sup>1</sup>. In his sermons, this great pope condemned both the laziness and sin of the clergy<sup>2</sup>, and the superficial practice of the laity<sup>3</sup>. The aim of the greatest universal council of the Middle

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<sup>1</sup> Innocentius III, *Sermo de diversis VI. In Concilio Generali Lateranensi habitus*, in *Patrologia Latina* (hereafter: PL) 217, 673: „Perit fides, religio deformatur, libertas confunditur, iustitia conculcatur, haeretici pullulant, insolescunt schismatici, perfidi saeviunt, praevalent Agareni”.

<sup>2</sup> Cf. *Ibidem*: „Nam omnis in populo corruptela principaliter procedit a clero: quia ‘si sacerdos, qui est unctus, peccaverit, facit delinquere populum (Levit. IV)’: quippe dum laici vident turpiter et enormiter excedentes, et ipsi eorum exemplo ad iniquitatem et scelera prolabantur. Cumque reprehenduntur ab aliquo, protinus se excusant, dicentes: ‘Non potest filius facere, nisi quod viderit patrem facientem (Ioan. V)’; et ‘Sufficit discipulo, si sit sicut magister eius (Matth. X)’”. Impletum est illud propheticum: ‘Erit sicut populus, sic sacerdos (Ose. IV)’: quinimo ‘erubescet, Sidon, ait mare (Isa. XXIII)’. Hinc etiam mala provenerunt in populo Christiano”.

<sup>3</sup> Cf. Innocentius III, *Sermo XV. In die sancto parasceves*, in: PL 217, 528–530.

Ages was a profound transformation and reformation of the Church community, as contained in the letter *Vineam Domini Sabaoth* of 1213<sup>4</sup>, in which Innocent III announced the convocation of the council: „In order to root out vices, to root out virtues, to rebuke abuses, to reform customs, to eliminate heresies, to strengthen the faith, to settle disputes, to establish peace, to stop violence, to support liberty...”<sup>5</sup>.

In the documents of the Fourth Lateran Council, which can be considered the fruit of the personal work of Pope Innocent III and his curia<sup>6</sup>, the holy sacraments are portrayed as fundamental and effective signs of God’s action, as can already be seen in the Lateran *Creed*<sup>7</sup>, which opens the collection of Council constitutions. One of the fundamental levels of man’s encounter with God’s mercy is sacramental penance, the role of which is emphasised by the same first constitution of the Council<sup>8</sup>. In contrast, of fundamental importance for the practice of the sacrament of Penance is Constitution 21 of the Fourth Lateran Council, called from the first words *Omnis utriusque sexus*<sup>9</sup>. The provisions of this conciliar constitution can be divided into three groups: those concerning the duty of every believer to confess, those concerning the person and role of one’s priest (*sacerdos proprius*), and those concerning the duties of confessors. These three strands of the aforementioned law will determine the three areas of interest of the present study. In the analysis of the meaning of the various passages of the conciliar constitution, a special place will be given to the first glosses of the provisions of the Fourth Lateran Council, whose commentaries have been collected by Garcia y Garcia in a fundamental critical edition<sup>10</sup>: John of Teutonia<sup>11</sup>, Vincent of Spain<sup>12</sup> and Damasus<sup>13</sup>. At the same time, it should not be forgotten that Constitution 21 of the Fourth Lateran Council became the canon *Omnis utriusque sexus* contained in the Decretals of Gregory IX<sup>14</sup>, and thus remained in force for another 700 years until the promulgation of the Pio-Benedictine Code. In the current Code of Canon Law we find explicit references to this medieval law, which will be cited at the end of the work.

<sup>4</sup> Cf. W. Maleczek, *Vineam Domini. Das papstliche Rundschreiben vom 13. April 1213 zur Einberufung des Konzils*, in: *Il lateranense IV. Le ragioni di un Concilio*. Atti del LIII Convegno storico internazionale. Todi, 9–12 Ottobre 2016, Fondazione Centro Italiano di Studi sull’Alto Medioevo, Spoleto 2017, 45–74.

<sup>5</sup> Innocentius III, Letter *Vineam Domini Sabaoth*, 19 April 1213, in *Dokumenty Soborów Powszechnych, jak przy tym Innocentym w bibliografii*, vol. II (869–1312), ed. A. Baron, H. Pietras, Krakow 2005, (hereafter: DSP), 215.

<sup>6</sup> Cf. M. Rainini, *Firmiter Credimus. Premesse teologiche e obiettivi polemici della costituzione I del Concilio Lateranense IV*, in: *Il lateranense IV...*, *op.cit.*, 121.

<sup>7</sup> *Ibidem*, 125–127.

<sup>8</sup> Cf. Fourth Lateran Council, Constitution 1, 12: Et si post susceptionem baptismi quisquam prolapsum fuerit in peccatum, per veram poenitentiam semper potest reparari, (DSP II, 224).

<sup>9</sup> Cf. Fourth Lateran Council, Constitution 21, in: *Decrees of the Ecumenical Councils*, vol. I, ed. N.P. Tanner, London-Washington D.C. 1990, 245 (hereinafter: DEC).

<sup>10</sup> Cf. *Constitutiones Concilii Quarti Lateranensis una cum Commentariis glossatorum*, ed. A. García García, Monumenta Iuris Canonici. Series A: Corpus Glossatorum, vol. 2, Città del Vaticano 1981 (hereinafter: CCQL)

<sup>11</sup> Cf. Johannes Teutonicus, *Apparatus in Concilium Quartum Laterense*, in CCQL, 187–270.

<sup>12</sup> Cf. Vincentius Hispanus, *Apparatus in Concilium Quartum Laterense*, in CCQL, 287–384.

<sup>13</sup> Cf. Damasus, *Apparatus in Concilium Quartum Laterense*, in CCQL, 419–458.

<sup>14</sup> Cf. X. 5, 12, 32.

## 2. OBLIGATION TO CONFESS

The first part of the Constitution of the XXI Lateran Council sets the following task for every Catholic: „All the faithful of either sex, after they have reached the age of discernment, should individually confess all their sins in a faithful manner to their own priest at least once a year, and let them take care to do what they can to perform the penance imposed on them. Let them reverently receive the sacrament of the eucharist at least at Easter unless they think, for a good reason and on the advice of their own priest, that they should abstain from receiving it for a time”<sup>15</sup>.

As stated above, a universal ecclesiastical law imposing an annual obligation to confess one’s sins is formulated here for the first time<sup>16</sup>. Such a practice had already been suggested to the faithful before<sup>17</sup>, but the role of the formulation of this injunction by the universal council cannot be overestimated. It is also extremely important to link this obligation to the commandment of Easter confession, since in this way the sacrament of penance is more firmly linked to the preparation for a worthy and fruitful practice of the sacrament of penance<sup>18</sup>. The authors emphasise the role of this provision of the Council both in spreading the custom of confession before Holy Communion<sup>19</sup>, and in the frequent practice of the sacrament of Penance in general<sup>20</sup>.

Regarding the elements of the sacrament of Penance, the obligation to faithfully confess all sins was formulated. The early commentators write clearly that this refers to mortal sins (*mortalia*)<sup>21</sup>, and not to venial sins<sup>22</sup>, which is confirmed by Thomas

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<sup>15</sup> Fourth Lateran Council, Constitution 21, in DEC, 245: „Omnis utriusque sexus fidelis, postquam ad annos discretionis pervenerit, omnia sua solus peccata confiteatur fideliter, saltem semel in anno proprio sacerdoti, et iniunctam sibi poenitentiam studeat pro viribus adimplere, suscipiens reverenter ad minus in Pascha eucharistiae sacramentum, nisi forte de consilio proprii sacerdotis ob aliquam rationabilem causam ad tempus ab eius perceptione duxerit abstinendum”.

<sup>16</sup> According to the Pseudo-Augustinian treatise *De vera et falsa poenitentia*, cited by Barthomew of Exeter’s *Summa de Poenitentia* of 1160–1170, confession of sins involves overcoming shame and is already part of penance Cf. M. Wehrli-Johns, *Des Summae de Poenitentia au canon 21 de Latran IV (1215)*, in: *Il lateranense IV...*, *op.cit.*, 208.

<sup>17</sup> Cf. Alanus ab Insulis, *Liber Poenitentialis*, vol. II, ed. J. Longere, Louvain–Lille 1965, 158: „Specialiter autem in initio quadragesimae, quod dicitur caput ieiunii, parochianos convocet sacerdos, eisque specialiter de poenitentia proponat sermonem eosque ad poenitentiam invitetet...” Cf. also J. Dohnalik, *Il precetto pasquale. La normativa sulla Comunione e la confessione annuale (cann. 920 e 989) alla luce della tradizione canonica*, Roma 2015, 54–55.

<sup>18</sup> Cf. Alanus ab Insulis, *op.cit.*, 158: „...monens ne eam differant sed per totum tempus ieiunii poeniteant, ut sic ad recipiendum corpus Chirsti se dignos preparant, ne indigne sumentes, iudicium sibi manducent”.

<sup>19</sup> Cf. L. Braekmans, *Confession et communion au moyen âge et au concile de trente*, Gembloux 1971, 22.

<sup>20</sup> Cf. C. Clinton, *The paschal precept. An historical synopsis and commentary*, Washington D.C. 1932, 34; J. Dohnalik, *Il precetto pasquale...*, *op.cit.*, 136.

<sup>21</sup> Damasus, *Apparatus in Conclium Quartum Laterense*, in const. 21, v. *omnia sua peccata confitatur: mortalia*. in: CCQL, 428.

<sup>22</sup> Cf. Johannes Teutonicus, *Apparatus in Concilium Quartum Laterense*, in const. 21, v. *omnia sua peccata confiteatur fideliter*: „non tamen venialia, quia illa tolluntur per orationem dominicam

Aquinas when he claims that it is impossible to confess all venial sins. On the other hand, Aquinas takes the position that if one has not committed grave sins, one should still benefit annually from the sacrament of penance, or at least come and give an account to one's own priest of the state of one's soul<sup>23</sup>. The latter would be the leading solution in the Middle Ages, as more certain and safer for salvation<sup>24</sup>.

Although in the words of the constitution *Omnis utriusque sexus* we do not find a direct reference to repentance, conversion and a resolution to improve, the mention of a reasonable cause on which to abstain from Easter Communion on the advice of the priest seems to be indirectly referred to. Innocent III, in his 15th sermon, describes the situation of a man who confesses the sin of debauchery but does not resolve to improve. The Pope makes an earnest plea for true conversion, for which the alternative is to postpone Holy Communion<sup>25</sup>. The penitent in the example given prefers to postpone Communion rather than break with sin, which is the wrong choice. However, in the alternative presented, it is clear that only confession with genuine sorrow and a resolution to improve allows one to receive Easter Communion with dignity<sup>26</sup>. It is also worth noting the emphasis on the role of sacramental penance, which one should try to fulfil oneself.

Finally, it is also important to note the age at which the commandment of annual confession takes effect. The age of discernment (*aetas discretionis*) is the time when a person begins to distinguish between good and evil and becomes capable of committing conscious sin (*capax doli*)<sup>27</sup>. In the light of the early commentators,

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[...]”, in CCQL, p. 208; VINCENTIUS HISPANUS, *Apparatus in Concilium Quartum Laterense.*, in const. 21, v. *omnia sua ...peccata*: „Quid si non recolit? Numquid remittuntur? Et numquid infunditur gratia? [...] Dico quod illa non impediunt gratiam”, in CCQL, 315.

<sup>23</sup> Cf. J. Dohnalik, *Il precetto pasquale...*, *op.cit.*, 132–133.

<sup>24</sup> *Ibidem*, 134–136.

<sup>25</sup> Cf. Innocent III, *Sermo XV*, in: PL 217, 528–530: „Nonne ipsa mulierem abhorreret? Nonne et pugno eam percuteret? Modo attende quid soles dicere: Vellem abstinere, si possem. Ecce potes, quia oculum perdere times. Quod potes per oculum, non potes per Deum: nisi quia plus diligis oculum, quam Deum? Num plus valet oculus, quam Deus? Noli itaque dicere, quod soles: Vellem, videlicet abstinere, si possem: imo dic: Possem, si vellem. Corrige voluntatem, et dilige castitatem, et continendi accipies potestatem. Si autem te profitris infirmum, quare non curris ad medicum? Si pateris infirmitatem, cur non amplecteris sanitatem? Si te conspicias impotentem, quare non suscipis omnipotentem? O infelix, respice teipsum et despice, suscipe et suspice. Ipse totum erit, si ad te venerit, ipse curabit, ipse sanabit, et ipse virtutem praestabit; ipse enim medicus, ipse salus, ipse etiam virtus, ipse sanitas. Aquiete nostro consilio, et dimitte fornicationem, et fac castitatis promissionem, et sic accipies communionem”.

<sup>26</sup> Cf. *Ibidem*, 529–530: „O filli hominum, intendite, quid hic socius vester respondeat, videte quid eligat: «Si, inquit, aliter communicare nequeo, nisi castitatem promittam, melius volo differre communionem, quam ultra meum posse ferre promissionem». O stulta responsio, o Judaica electio. Quid responderunt Pilato Iudei? Non hunc, sed Barabbam. Quid respondit Filius hominis sacerdoti? Si verborum ejus discutimus sensum, quid aliud respondet, nisi, «non Christum, sed scortum?» Quid enim aliud dicit, cum dicit, «melius volo communionem differre, quam castitatem promittere». O quam periculosum differre, o infelix hic differre, quando potes scire ferre? Nonne melius tibi esset tentationem sufferre, quam communionem differre”.

<sup>27</sup> Cf. J. Dohnalik, *Wiek rozeznania w Kodeksie prawa kanonicznego (kan. 891 i 989) w świetle tradycji kanonicznej*, *Roczniki Nauk Prawnych* 30 (2020)/1, 154–156.

such an age can be set at about seven years<sup>28</sup>. Although this age has sometimes been overestimated in later centuries<sup>29</sup>, there is no doubt that the 21st Constitution of the Second Lateran Council influenced the practice of the sacrament of penance by children and adolescents. It was no coincidence that it was invoked by Pope Pius X when he approved the famous decision of the Congregation for the Sacraments to admit children to First Communion and Confession as early as „about seven years of age, a little earlier or later”<sup>30</sup>. The decision of the Lateran Council thus proved providential not only from the point of view of the sacramental experience of God’s mercy from an early age.

### 3. THE OWN PRIEST’S DUTIES

In the second part, the constitution *Omnis utriusque sexus* introduces sanctions for non-observance of the commandment of annual confession and prescribes the promulgation of this commandment. In this context, the role of one’s own priest is emphasised: „Otherwise they shall be barred from entering a church during their lifetime and they shall be denied a christian burial at death. Let this salutary decree be frequently published in churches, so that nobody may find the pretence of an excuse in the blindness of ignorance. If any persons wish, for good reasons, to confess their sins to another priest let them first ask and obtain the permission of their own priest; for otherwise the other priest will not have power to absolve or to bind them”<sup>31</sup>.

*Sacerdos proprius*, translated as one’s own priest, is, in the most original interpretation, primarily the pastor<sup>32</sup>. It is to him that the faithful are to confess annually<sup>33</sup> since he knows his flock best<sup>34</sup>. If one wished to confess one’s sins to another priest, one should obtain the permission of one’s own parish priest since he holds the authority

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<sup>28</sup> Vincenti Hispanus, *Apparatus in Concilium Quartum Laterense.*, in const. 21, v. *postquam ad annos discretionis pervenerit*: ‘idest ad septennium’, in: CCQL, 315. DAMASUS, *Apparatus...*, *op. cit.*, in const. 21, v. *ad annos discretionis*, in: CCQL, 428.

<sup>29</sup> J. Dohnalik, *Wiek rozeznania...*, *op.cit.*, 156.

<sup>30</sup> Sacra Congregatio de sacramentis, *Decretum de aetate admittendorum ad primam communionem eucharisticam Quam singulari*, AAS 2 (1910), 582, art. I: „circa septimum annum, sive supra, sive etiam infra”.

<sup>31</sup> Fourth Lateran Council, Constitution 21, „Alioquin et vivens ab ingressu ecclesiae arceratur et moriens christiana careat sepultura. Unde hoc salutare statutum frequenter in ecclesiis publicetur, ne quisquam ignorantiae caecitate velamen excusationis assumat. Si quis autem alieno sacerdoti voluerit iusta de causa sua confiteri peccata, licentiam prius postulet et obtineat a proprio sacerdote, cum aliter ille ipsum non possit solvere vel ligare”.

<sup>32</sup> Cf. P.A. Kirsch, *Der sacerdos proprius in der abendlandischen Kirche vor dem Jahre 2015*, „Archiv für katholisches Kirchenrecht”, 84 (1904), 527–537.

<sup>33</sup> Cf. M. Wehrli-Johns, *Des Summae de Poenitentia au canon 21 de Latran IV (1215)*, in: *Il Lateranense IV...*, *op.cit.*, 215. Such a norm is already presented in his Summa by Alanus ab Insulis Cf. Alanus ab Insulis, *Liber Poenitentialis*, Tome I, ed. J. Longère, Louvain Lille 1965, 194–195.

<sup>34</sup> This is how *Petrus Cantor* of Notre-Dame Cathedral in Paris, in his Summa written between 1192 and 1197, explained why the faithful should confess to their own parish priest Cf. M. Wehrli-Johns, *Des Summae de Poenitentia...*, *op.cit.*, 214.

of the keys needed to absolve sins<sup>35</sup>. Robert de Flamborough therefore recommends asking the penitent at the outset whether he has permission from his own parish priest. If he does not have such permission, such a confession will have no value<sup>36</sup>.

Already the early commentators saw the inconvenience of the order to hear confessions from one's own parish priest and sought ways to alleviate this obligation<sup>37</sup>. Subsequently, with the privileges granted to mendicant orders, this right was subject to an increasingly broader interpretation, and the own priest was increasingly understood as the priest who is entitled to hear confessions<sup>38</sup>.

However, the role of the parish priest was still very important for the observance of the injunction contained in *Omnis utriusque sexus*. It was largely incumbent upon him to announce the healing purpose of confession to the faithful<sup>39</sup>. The parish priest was to orient himself on the observance of the commandment of annual communion and confession by his parishioners, which he could do by cards signed by the confessors. It was also the parish priest who was to inform the bishop about parishioners who did not observe the commandment of confession and Easter communion, which could entail severe penalties<sup>40</sup>. Finally, even if the faithful, thanks to papal privileges and a broad interpretation of the conciliar constitution, could also turn to other authorised priests, they always had the right to ask for confession from their own parish priest, who as their own shepherd was under a special obligation to ensure that they were able to benefit from this sacrament.

#### 4. DUTIES OF THE CONFESSOR

The Fourth Lateran Council does not limit itself to prescribing the practice of annual confession to all the faithful and to obliging pastors to enforce it. In the last part of the Constitution *Omnis utriusque sexus*, the church authorities give binding instructions to the confessor and firmly forbid him to violate the secrecy of confes-

<sup>35</sup> Cf. *Ibidem*, 214.

<sup>36</sup> Cf. Robert of Flamborough, *Liber Poenitentialis*. A critical Edition with Introduction and Notes, ed. J.J. Francis Firth, Toronto 1971, Liber primus, p. 57: „Alioquin adultera esset confessio tua, immo nec confessio. Nullus enim te ad poenitentiam recipere potest sine licentia qui tui curam habet, nisi forte in necessitate, ut si forte pastorem tuum habere non potes, vel si forte ita contumax es quod ei nullo modo confiteri velis”.

<sup>37</sup> Cf. Johannes Teutonicus, *Apparatus... v. Proprio sacerdoti*: “Nisi ille sit imperitus”, in: CCQL, p. 208; Vincentius Hispanus, *Apparatus... in const. 21, v. Proprio sacerdoti*: “Et si non habet, proximo”, in: CCQL, 315.

<sup>38</sup> Cf. R. Gerardi, ‘Regimen animarum’. *Predicazione e disciplina dei sacramenti al Concilio Lateranense IV*, in: *Il Concilio Lateranense IV, a 800 anni dalla sua celebrazione. Una rilettura teologica*, ed. N. Ciola, A. Sabetta, P. Sguazzardo, Città del Vaticano 2016, p. 302–304; J. Dohnalik, *Il precetto pasquale...*, 143–164.

<sup>39</sup> Cf. C. Canonici, *Hoc salutare statutum frequenter in Ecclesiis publicetur. La ricezione del canone 21 De confessione nella normativa sinodale pre-tridentina (secoli XIII–XV)*, in: *Il Concilio Lateranense IV, a 800 anni dalla sua celebrazione. Una rilettura teologica*, ed. N. Ciola, A. Sabetta, P. Sguazzardo, Città del Vaticano 2016, 338–343.

<sup>40</sup> Cf. J. Dohnalik, *Il precetto pasquale...*, *op.cit.*, 137–141.

sion in any way: „The priest shall be discerning and prudent, so that like a skilled doctor he may pour wine and oil over the wounds of the injured one. Let him carefully inquire about the circumstances of both the sinner and the sin, so that he may prudently discern what sort of advice he ought to give and what remedy to apply, using various means to heal the sick person”<sup>41</sup>.

The quoted text of the conciliar constitution indicates the duties of the confessor, both during and after the sacrament of penance. In the first place, the Council enjoins the priest to be prudent and to assist the penitent, and then it imposes an absolute obligation to preserve the secrecy of confession. This last injunction carries a very serious penal sanction in the event of non-compliance on the part of the confessor.

The instruction given to the confessor is linked to the comparison of the confessor to the physician of the soul, inspired by the parable of the Good Samaritan from the Gospel<sup>42</sup>. Through this reference of confession to the dressing of wounds, the aspect of mercy and forgiveness in the celebration of this sacrament is exposed<sup>43</sup>. In this context, it is important to emphasise the prudence of the confessor as physician and judge<sup>44</sup>.

The Council’s Constitution is also unequivocal on the strict obligation to maintain the secrecy of confession. The injunction to keep secret the sins confessed as part of the Church’s penance goes back to apostolic tradition, as Pope Leo the Great testified<sup>45</sup>. With the development of oral confession, there are numerous references to the obligation of secrecy in authors such as Raban Maur and Hincmar<sup>46</sup>, and Lanfrancus at the end of the 11th century devotes a treatise to it under the significant title *De celanda confessione*<sup>47</sup>. Petrus Cantor, cited earlier, at the end of the twelfth century, explained that the confessor was in a sense to ignore and not know about the sins confessed to him since the believer confesses more to God than to a priest<sup>48</sup>. Between 1208 and 1215, Robert de Flamborough affirmed the strict obligation of confessional secrecy and ordered it to be punished by deposition and penitential pilgrimage for the rest of one’s life<sup>49</sup>. The Fourth Lateran Council made this doctrine universally binding and threatened serious sanctions: „Let him take the utmost care, however,

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<sup>41</sup> Fourth Lateran Council, Constitution 21, in: in DEC, 245. „Sacerdos autem sit discretus et cautus, ut more periti medici superinfundat vinum et oleum vulneribus sauciati, diligenter inquerens et peccatoris circumstantias et peccati, per quas prudenter intelligat, quale illi consilium debeat exhibere et cuiusmodi remedium adhibere, diversis experimentis utendo ad sanandum aegrotum”.

<sup>42</sup> Cf. Lk 10:34.

<sup>43</sup> Cf. Alanus ab Insulis, *Liber Poenitentialis*, Tome I, ed. J. Longere, Analecta Mediaevalia Namurcensia 17, Louvain Lille, 1965, 195–196.

<sup>44</sup> Cf. M. Wehrli-Johns, *Des Summae de Poenitentia...*, *op.cit.*, 212.

<sup>45</sup> Cf. M. Pastuszko, *Sacrament of Penance and Reconciliation*, Kielce 2004, 493.

<sup>46</sup> Cf. A.S. Camarena, *Aspectos de secreto de la confesion en algunos autores anteriores al Concilio Lateranense IV. Excerpta ex dissertatione ad Lauream in Facultate Theologiae Pontificiae Universitatis Gregoriana*, Mexici 1961, 20–23.

<sup>47</sup> Cf. *Ibidem*, 29–63.

<sup>48</sup> Cf. Cf. M. Wehrli-Johns, *Des Summae de Poenitentia...*, *op.cit.*, 213.

<sup>49</sup> Cf. Robert of Flamborough, *Liber...*, *op.cit.*, 160: „Sacerdos revelans confessionem deponatur et profugus et vagus sit super terram”, 273: „Sacerdos ante omnia caveat ne eorum qui ei confitentur peccata alicui recitet, non propinquis, non extraneis, nec quod absit pro aliquo scandalo; nam si hoc fecerit, deponatur et omnibus diebus vitae suae ignominiosus peregrinando poeniteat”.

not to betray the sinner at all by word or sign or any other way. If the priest needs wise advice, let him seek it cautiously without any mention of the person concerned. For if anyone presumes to reveal a sin disclosed to him in confession, we decree that he is not only to be deposed from his priestly office, but also to be confined to a strict monastery to do perpetual penance”<sup>50</sup>.

By assigning such a serious penalty to this offence, the provision on the obligations of the confessor becomes somehow parallel to the obligations of the penitent, who, if they are disregarded, is also burdened with serious penalties. Acceptance of the injunction to confess annually becomes possible in the perspective of the absolute secrecy that is guaranteed in the perspective of the consequences threatening the confessor.

## 5. CONCLUSION

The first universal ecclesiastical law on the obligation to go to the sacrament of Confession annually was an important response to the crisis of faith and morals characteristic of the time. Constitution 21 of the Fourth Lateran Council also had fundamental consequences for canonical and theological doctrine on the sacrament of Penance and on the practice – not only obligatory – of this sacrament.

Many of the norms concerning the sacrament of Penance contained in *Omnis utriusque sexus* are included today – in new formulations – in the current Code of Canon Law. In it, one can find the obligation of annual confession (can. 989), as well as the canons concerning the tasks of the confessor, who is to act at the same time as doctor and judge (can. 978), to be prudent and discreet (can. 979) and to always maintain the absolute secrecy of confession (can. 983). This shows the validity of some of the solutions adopted by the reforming Fourth Lateran Council more than 700 years ago. When today we are experiencing a crisis of faith and communion in the Church, when the sense of sin and the awareness of the need for God’s mercy are being lost, perhaps it is worth returning to a tried and tested practice that shows the sacrament of Penance as one of the fundamental places of renewal.

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<sup>50</sup> Cf. Fourth Lateran Council, Constitution 21, in DEC, 245: „Caveat autem omnino, ne verbo vel signo vel alio quovis modo prodat aliquatenus peccatorem, sed si prudentiori consilio indiguerit, illud absque ulla expression personae praesumpserit revelare, non solum a sacerdotali officio deponendum decernimus, verum etiam ad agendam perpetuam poenitentiam in arctum monasterium detrudendum”.



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### Summary

At the beginning of the 13th century there was a crisis in the institutional Church, in response to which Pope Innocent III during the Fourth Lateran Council introduced the obligation of annual confession and emphasised the importance of this sacramental practice.

The 21st Council Constitution obliged every believer to go to Confession at least once a year and to receive the Eucharist during the Easter season. This obligation applied to every baptised man and woman upon reaching the age of discernment, which the Council's commentators at the time put at around

seven years. Although, according to the medieval canonists, this obligation referred to confession of mortal sins, in practice all the faithful were encouraged to go to confession annually. The own parish priest had the duty to see that this commandment was fulfilled by the faithful entrusted to his pastoral care.

In response to the serious obligation of the faithful, the Constitution *Omnis utriusque sexus* also imposed important duties on confessors. The confessor was to be prudent towards the confession of the penitent; he was compared to a doctor who must choose the treatment appropriate to the illness. Finally, the 21st Constitution of the Fourth Lateran Council emphasises the obligation of confessional secrecy on the part of the confessor and at the same time introduces severe penalties for a priest who breaks it.

Many of the provisions described are still relevant in contemporary Church legislation. Even today, in the face of the Church's crisis, it seems advisable to return to the fruitful celebration of the sacrament of Penance, which concerns both confessors and penitents.

### Streszczenie

Na początku XIII w. nastąpił kryzys Kościoła instytucjonalnego. Papież Innocenty III podczas Soboru Laterańskiego IV, w odpowiedzi na kryzys, wprowadził obowiązek corocznej spowiedzi i podkreślił znaczenie tej praktyki sakramentalnej.

Konstytucja *Omnis utriusque sexus* zawierała zobowiązanie każdego wiernego do spowiedzi przynajmniej raz w roku oraz do przyjmowania Eucharystii w okresie wielkanocnym. Obowiązek ten dotyczył każdego ochrzczonego mężczyzny i kobiety po osiągnięciu wieku rozeznania, który ówczesni komentatorzy Soboru określali na około siedem lat. Choć według średniowiecznych kanonistów obowiązek ten odnosił się do spowiedzi z grzechów śmiertelnych, w praktyce wszyscy wierni byli zachęceni do corocznej spowiedzi. Własny proboszcz miał obowiązek dopilnować wypełnienia tego przykazania przez wiernych powierzonych jego duszpasterskiej pieczy.

W odpowiedzi na poważne zobowiązanie wiernych Konstytucja *Omnis utriusque sexus* nakładała istotne obowiązki także na spowiedników. Spowiednik miał być roztropny wobec spowiedzi penitenta, był porównywany do lekarza, który musi wybrać leczenie odpowiednie dla danej choroby. Wreszcie 21 Konstytucja Soboru Laterańskiego IV podkreśla obowiązek zachowania tajemnicy spowiedzi ze strony spowiednika i jednocześnie wprowadza surowe kary dla kapłana, który ją złamie.

Wiele z opisanych przepisów jest nadal aktualnych we współczesnym ustawodawstwie kościelnym. Również dzisiaj, w obliczu kryzysu Kościoła, wydaje się wskazane, aby powrócić do owocnego sprawowania sakramentu pokuty, co dotyczy zarówno spowiedników, jak i penitentów.

**Słowa kluczowe:** Prawo kanoniczne, sakrament pokuty, obowiązek corocznej spowiedzi, obowiązki spowiednika

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