

PRINCIPLES CONCERNING THE OPERATION OF CHURCH INSTITUTIONS OF A MISSIONARY, CHARITABLE AND WELFARE NATURE (ARTICLE 21(1) AND 22(1) OF THE POLISH CONCORDAT)

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Abstract. The 1993 Concordat between the Holy See and the Republic of Poland (ratified in 1998) provides a crucial legal framework for the Catholic Church's activities in Poland. Among its provisions, Articles 21(1) and 22(1) affirm the Church's right to carry out its missionary, charitable, and welfare works, and obligate the Polish State to treat these works on par with similar state activities. These articles are grounded in both legal and theological principles. Legally, they reflect Poland's constitutional commitment to Church-state cooperation for the common good (Article 25(3) of the Polish Constitution). Theologically, they echo the Catholic teaching that evangelization and acts of charity are integral to the Church's mission. This paper presents the analysis of these Concordat provisions, explaining the legal guarantees they establish and the theological rationale behind them, with references to Polish law, canon law, and authoritative commentaries.

Keywords: Concordat; principle of cooperation; state; Catholic Church; missionary.

INTRODUCTION

The 1993 Concordat between the Holy See and the Republic of Poland (ratified in 1998)¹ provides a crucial legal framework for the Catholic Church's activities in Poland. Among its provisions, Articles 21(1) and 22(1) affirm the Church's right to carry out its missionary, charitable, and welfare works, and obligate the Polish State to treat these works on par with similar state

¹ Concordat between the Holy See and the Republic of Poland signed 28 July 1993, Journal of Laws of 1998, No. 51, item 318.

activities. These articles are grounded in both legal and theological principles. Legally, they reflect Poland's constitutional commitment to Church-state cooperation for the common good (Article 25(3) of the Polish Constitution).² Theologically, they echo the Catholic teaching that evangelization and acts of charity are integral to the Church's mission.³ This paper presents the analysis of these Concordat provisions, explaining the legal guarantees they establish and the theological rationale behind them, with references to Polish law, canon law, and authoritative commentaries.⁴

1. LEGAL FRAMEWORK UNDER THE POLISH CONCORDAT AND DOMESTIC LAW

Article 21(1) of the Concordat stipulates that “the proper ecclesiastical institutions shall have the right, each according to its relevant nature, to carry out missionary, charitable and welfare activities”. In other words, Catholic Church entities (dioceses, orders, charities, etc.) are guaranteed the freedom to pursue evangelization (“missionary” work) and organized assistance to those in need (“charitable and welfare” activities) in accordance with their specific ecclesial character. To facilitate this, Article 21(1) further acknowledges that the Church may “set up organizational structures and raise public funds” for these purposes. This means the Church can establish charities, aid agencies, missionary societies, hospitals, schools, shelters and other institutions, and conduct fund-raising drives to support them, without impediment. Article 21(2) reinforces this autonomy by exempting internal Church fund-raising from state regulation: “The provisions of Polish law on public fund-raising shall not apply to the collection of offerings for religious purposes [or] church charitable-welfare, scientific, educational and upbringing activities [...] if they take place on church premises or in circumstances customarily accepted.” In practical terms, collections conducted on parish property or during religious services – for example, donations for missions or the poor gathered at Mass – do not require a state permit. This exemption respects the Church's self-governance in mobilizing resources for its mission.

Article 22(1) of the Concordat addresses the state's obligation toward Church-run social works. It declares that “activity undertaken by ecclesiastical persons for humanitarian, charitable, welfare, scientific aims, and for

² Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended.

³ Sacrosanctum Concilium Vaticanum II, *Decretum de activitate missionali ecclesiae Ad gentes* (07.12.1965), AAS 58 (1966), pp. 947-90, no. 2; Benedictus PP. XVI, *Litterae encyclicae de christiano amore Deus caritas est* (25.12.2005), AAS 98 (2006), pp. 217-52 [hereinafter: DCE], no. 25.

⁴ See Krukowski 1999; Idem 2000; Pietrzak 2013; Góralski 1998.

upbringing and educational purposes shall enjoy legal parity with activity carried out for similar purposes by civil institutions". In effect, Catholic institutions serving the public – such as church schools, universities, hospitals, orphanages, nursing homes, relief organizations, etc. – must be treated equally under the law as their state-run or secular counterparts. This parity principle entails that Church organizations benefit from the same legal conditions, tax exemptions, and eligibility for public subsidies as comparable state institutions. Article 22(1) essentially obliges the State to extend tax reliefs and budget subventions to Church legal persons engaging in welfare, educational, or humanitarian work. Notably, this principle was "not new" in 1993. Polish law already leaned toward such equal treatment, but the Concordat elevated it to a bilateral guarantee. Article 22(1) thus enshrines in the treaty what had become a norm in Poland's legal system: church-administered charity or educational services are to be supported and regulated on the same footing as public services.

These Concordat norms are fully consistent with Poland's domestic legal acts. Even before the Concordat's ratification, the Act of 17 May 1989 on the relation between the State and the Catholic Church in the Republic of Poland⁵ had restored the Church's freedom to conduct charitable work after decades of communist restrictions. Under the communist regime (1945-1989), Church charities were severely curtailed – in 1950 the authorities dissolved Catholic Caritas and all religious charitable institutions, eliminating their legal status. The legislator in the aforementioned Act reversed this policy, explicitly affirming that the Church conducts charitable and care activities in accordance with its mission and enabling the reactivation of church charitable organizations (Article 38). As one historical account notes, "only the Act of 17 May 1989 restored to the Church full freedom of action, including in the charitable sphere, which allowed the reactivation of various charitable associations." Indeed, Caritas Polska, the Church's primary charitable arm, was re-established in 1990 and quickly grew into the country's largest non-governmental relief network. Likewise, numerous Catholic orders and lay associations resumed or expanded their welfare work – running hospitals, orphanages, shelters, and aid programs – once legal barriers were lifted. The Concordat of 1993 built upon this foundation by giving these rights international treaty force, ensuring stability and clear obligations on the Polish State's part. In the words of one commentator, "the state party [in the Concordat] guaranteed respect for the right of church institutions to conduct missionary and charitable-caretaking activities and to create the special organizational structures needed." Article 21 thus reaffirms in the treaty the Church's autonomy in pursuing its religious and social mission, while Article 22(1) binds the State to facilitate and financially support those church-run initiatives just as it does its own public institutions.

⁵ Journal of Laws No. 29, item 154.

It should be emphasized that these arrangements operate within the Polish legal system. The Concordat did not create a “state within a state” for the Church, but rather integrated Church activities into the broader framework of public benefit and social welfare law. For example, church charities in Poland generally register as organizations of public benefit and are subject to financial oversight and standards akin to secular NGOs, while enjoying applicable tax benefits.⁶ Article 22(2) of the Concordat even foresaw a joint commission to adjust financial regulations concerning church institutions under scoring that details of funding and taxation would be worked out in line with Polish legislation and the Church’s needs. In practice, church institutions today partner with state agencies and often receive public grants for educational, medical, or relief projects, exemplifying the principle of co-operation envisioned by both the Concordat and the Polish Constitution. Notably, Article 25(3) of the Constitution explicitly calls for the State and churches to “work together for the good of the person and the common good,” while respecting their autonomy.

The Concordat’s guarantees for missionary and charitable work are a direct manifestation of this constitutional principle of “friendly Church-State cooperation.” Poland’s model of church-state relations is one of coordinated separation: the State and the Church are independent in their spheres yet collaborate to serve society’s welfare. The legal parity of church charitable institutions ensures that the Catholic Church, as the largest religious community, can fully contribute its extensive social ministry to the common good on an equal legal footing, without discrimination or undue hindrance.

2. THEOLOGICAL AND CANONICAL FOUNDATIONS

Beyond the legal texts, Articles 21(1) and 22(1) of the Concordat are deeply rooted in Catholic theology and canon law, which recognize evangelization and charitable service as fundamental aspects of the Church’s identity and mission. Theologically, the Catholic Church understands itself as entrusted with a threefold mission: to preach the Gospel, to sanctify through the sacraments, and to exercise the ministry of charity. Pope Benedict XVI taught that “the Church’s deepest nature is expressed in her three-fold responsibility: proclaiming the word of God (*kerygma*), celebrating the sacraments (*leitourgia*), and exercising the ministry of charity (*diakonia*). These duties [...] are inseparable. For the Church, charity is not a kind of welfare activity which could equally well be left to others, but is a part of her nature, an indispensable expression of her very being” (no. 25). In other words, acts of charity – caring

⁶ Act of 24 April 2003 on Public Benefit Activity and Volunteer Work, Journal of Laws of 2025, item 1338.

for the poor, the sick, the vulnerable – are not merely external philanthropy. They are intrinsic to the Church's religious mission. This doctrinal stance, articulated in the encyclical *Deus Caritas Est*, provides a clear rationale for why the Church insists on the freedom to establish and run charitable institutions. It is exercising a core element of its faith in action. The Concordat's protection of church charities thus safeguards a form of religious exercise: service to neighbor grounded in spiritual conviction.

Likewise, Catholic teaching emphasizes the Church's missionary nature. The Second Vatican Council's Decree *Ad gentes* famously proclaimed: "The pilgrim Church is missionary by her very nature" (no. 2). Pope John Paul II reiterated this in his encyclical *Redemptoris missio*, stating that the Church "cannot do other than proclaim the Gospel" to all peoples.⁷ Evangelization – whether through preaching, catechesis, or the Christian witness of charity – is considered a divine mandate, not just an optional activity. Therefore, any legal provision (such as Article 21(1) of the Concordat) that guarantees the Church's right to carry out "missions" is reinforcing the Church's God-given right and duty to evangelize. In the Polish context, "missionary activity" includes not only foreign missions but also domestic evangelization initiatives, parish missions, youth ministry, media apostolates, etc., all of which the Church conducts according to its canon law and pastoral strategies.⁸ The Concordat acknowledges this by allowing "each [institution] according to its nature" to engage in the appropriate form of mission or charity. For example, a religious order devoted to missionary work can operate missions freely, while a congregation dedicated to the care of the sick can run hospitals and hospices – each pursuing its specific charism under the umbrella of the Church's mission.

In canon law, the rights and responsibilities of the Church in these areas are clearly delineated. The Church legislator affirms the Church's inherent authority to acquire and use temporal goods for its religious and charitable purposes. According to Cano. 1254 § 1 CIC/83: "The Catholic Church by innate right is able to acquire, retain, administer, and alienate temporal goods independently of civil power, to pursue its proper purposes." Those purposes are defined in § 2 as "principally: to order divine worship, to provide decent support for the clergy and other ministers, and to exercise works of the sacred apostolate and of charity, especially toward the needy."

Thus, under canon law, engaging in works of apostolate (mission preaching, teaching of faith) and works of charity is just as fundamental

⁷ Ioannes Paulus PP. II, Litterae encyclicae de perenni vi mandati missionalis *Redemptoris missio* (07.11.1990), AAS 83 (1991), pp. 249-340, no. 5.

⁸ *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, pp. 1-317 [hereinafter: CIC/83], Cano. 781.

as maintaining churches or supporting clergy. Canon law also encourages the faithful's involvement in these works, for instance by allowing bishops to establish diocesan Caritas agencies and by recognizing lay associations for charitable or missionary outreach (Cano. 215-216, 298 CIC/83). Religious institutes (orders) often have apostolic aims in education, health care, or social service. The legislator in Cano. 675 § 1 CIC/83 teaches that "apostolic action belongs to the very nature of institutes dedicated to works of the apostolate", and that charity toward the neighbor is part of their witness. All these canonical norms create an internal ecclesiastical mandate that the Church must be free to organize and carry out charitable and missionary institutions. The Concordat's provisions can be seen as civil law recognition of these canonical rights. Indeed, Polish commentators have observed that Article 21 of the Concordat essentially mirrors the principle of church autonomy in performing its salvific mission through pastoral and charitable works [Góralski 1998, 85]. By embedding this in an international agreement, both Church and State acknowledge that the Church's evangelical and charitable activities deserve protection and support as part of the common good.

Another theological principle is the idea of cooperation without confusion of Church and State roles, as emphasized in the Church's social teaching. The Church distinguishes her religious mission from the State's duties, yet she also seeks collaboration in areas of humanitarian concern. Pope Benedict XVI wrote that a just secular order and the Church's charitable work are complementary: "The State may not impose religion, but it must guarantee religious freedom [...]. The two spheres [Church and State] are distinct, yet always interrelated" (DCE 28a). He further noted that building a just society is primarily the role of politics and law, but works of charity are an irreplaceable manifestation of faith and love that the Church contributes, even in a well-ordered society (DCE 28b-29). In this light, the Concordat's Article 22(1) – requiring the state to treat Church charitable endeavors on equal terms – is an application of the Catholic social teaching that the Church's charitable service complements the state's responsibility for justice. Neither is subsumed into the other: the Church remains independent but works alongside public authorities. This arrangement reflects what Polish Constitution calls "coordinated separation" or "friendly separation". The Church's charitable institutions in Poland often fill gaps in social welfare, motivated by Christian *caritas*, but do so in harmony with public objectives. For example, Catholic orphanages, hospitals, or hospice centers operate under state health and safety regulations and often cooperate with government programs, yet they retain their religious character and inspiration. This is precisely the scenario envisioned by Article 22(1)'s parity clause and by Article 25(3) of the Constitution – a partnership for human dignity and the common good, each respecting the other's identity.

Finally, it is worth noting that the Concordat's principles are not meant to privilege the Catholic Church to the detriment of others, but to affirm a model that is available to all recognized denominations in Poland. Following the Concordat, Poland extended similar rights to other churches via individual statutes. For instance, laws governing other major communities (Orthodox, Protestant, etc.) also guarantee their right to conduct charitable and educational activities and often mirror the language of the canon law⁹. This ensures the constitutional principle of equal rights is maintained (Article 25(1)), even as the Concordat provides a detailed framework for the largest church. Michał Pietrzak, who represented minority churches during the Concordat debates, emphasized that the Concordat's solutions should be consistent with the general regime of freedom of conscience and should not exclude other faiths. Accordingly, subsequent legislation and practice have largely harmonized the treatment of charitable and educational endeavors across denominations. The Catholic Church's extensive network (Caritas, religious orders, lay movements) means it plays a leading role in social charity, but it does so in a legal environment that encourages pluralistic cooperation – a fact frequently highlighted in Polish legal commentaries.

CONCLUSION

Articles 21(1) and 22(1) of the Polish Concordat articulate a set of guiding principles that enable the Catholic Church to fulfill its missionary and charitable mission within Poland's legal order. Through these provisions, the Polish State formally guarantees the Church's right to conduct evangelization and social welfare activities according to the Church's own norms, and pledges to support and equate those activities with similar activities carried out by the state. This Concordat-based framework is firmly grounded in Poland's constitutional values – particularly the autonomy and cooperation of church and state for the common good – and in the universal norms of canon law and Catholic doctrine that see works of faith and love as inseparable. The legal recognition of church institutions “of a missionary, charitable and care-giving character” has had tangible positive effects over the past decades: the Church in Poland operates a vast network of charitable institutions (schools, hospitals, soup kitchens, homes for the elderly, etc.) that complement the public welfare system and reach some of the most vulnerable populations. The Concordat's principles ensured that these church institutions function with legal stability, enjoying tax exemptions and access to public funds on equal terms, in exchange for their public service.

⁹ Act of 30 June 1995 on Relations with the Evangelical-Methodist Church, *Journal of Laws* of 2023, item 85, Article 19; Act of 4 July 1991 on the Polish Orthodox Church 1991, Article 17.

From a broader perspective, the Concordat provisions exemplify how legal and theological principles converge in governing church institutions. Legally, they reinforce the idea that freedom of religion encompasses not only private belief or worship, but also the organized expression of faith in charitable works and social engagement. The Polish Concordat thus serves as a model (studied by scholars like Góralski and Krukowski) of a modern concordat that upholds religious freedom in its collective dimension – enabling the Church’s charitable apostolate to thrive in synergy with the state’s secular efforts. Theologically, the provisions honor the Church’s self-understanding as a servant of humanity: free to preach the Gospel and free to love one’s neighbor in concrete acts. As Pope John Paul II observed, “Charity as practiced by the Church is not philanthropy, but a part of her mission and an essential manifestation of faith.” The legal order in Poland, through the Concordat and related statutes, acknowledges this truth by giving space and support to the Church’s missionary and charitable institutions.

In conclusion, Articles 21(1) and 22(1) of the Polish Concordat provide a robust legal-theological foundation for the Catholic Church’s missionary, charitable, and welfare activities. They embody a balance of church autonomy and public collaboration that has been largely beneficial for Polish society. The Catholic Church, empowered by these norms, continues to contribute significantly to education, health care, and social aid in Poland, acting as both a partner to the state and an independent spiritual authority. The Concordat’s drafters deliberately crafted these articles to respect the Church’s divine mission while integrating it into the nation’s legal fabric. More than two decades after ratification, one can affirm that those principles have stood the test of time: the Church’s charitable institutions operate vigorously, and the State-Church cooperation for the common good – though not without occasional tensions – remains a constitutional and concordatarily enshrined reality. In sum, the Concordat’s treatment of missionary and charitable activity in Articles 21 and 22 exemplifies a successful approach to safeguarding religious freedom and promoting human welfare hand in hand, true to both the spirit of the law and the spirit of the Gospel.

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