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Diocesan Synod from the Catholic and Lutheran Perspectives

Abstract: The aim of the article is to verify the hypothesis that the institutions of diocesan synod in the perspective of the Roman Catholic Church and that of the Evangelical Church of the Augsburg Confession in the Republic of Poland are very similar. The method to achieve the aim is the comparable analysis of the legal provisions of the fundamental laws of the Churches which refer to diocesan synod. The general conclusion is that the institutions of diocesan synod seen in the two perspectives are completely incompatible. They are different institutions.

Keywords: Roman Catholic Church, Evangelical Church of the Augsburg Confession in the Republic of Poland, diocesan synod, bishop

The identical term “diocesan synod” is used in the milieu of the two Christian Churches, that is, the Roman Catholic Church and the Evangelical Church of the Augsburg Confession in the Republic of Poland.

The aim of the article is to verify the hypothesis that the institutions of diocesan synod in the perspectives of the Churches in question are very similar institutions.

The method to achieve the aim will be the comparable analysis of the legal provisions which refer to diocesan synod. The regulations will be taken from the fundamental laws of the two stated Churches, that is, from the Roman Catholic Church side — *Codex Iuris Canonici* from 1983¹ — and from the Evangelical Church of the Augsburg Confession

¹ *Codex Iuris Canonici* auctoritate Ioannis Pauli PP. II promulgatus (25.01.1983). AAS 75 (1983) pars II, pp. 1—301. English translation: *Code of Canon Law Annotated*: Prepared under the Responsibility of the Instituto Martín de Azpilcueta. Eds. E. CAPAR-

(Lutheran) side — *Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 1996,² *Regulamin Diecezjalny Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 2000,³ and *Pragmatyka Służbowa Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 1999.⁴

It is important to notice that, generally speaking, in the Christian Churches, legal regulations have their foundations, that is, justification for their existence and normative essence in the theological statements of the Churches.⁵ It is the case with the two Churches in question, but in less intensive manner with the Evangelical Church of the Augsburg Confession than the Roman Catholic Church.⁶

The following elements will be taken into consideration, which will be at the same time the parts of the paper: 1) Catholic and Lutheran views about the Church and diocese; 2) the general characteristics of diocesan synod; 3) the composition of diocesan synod, 4) the competences of the diocesan synod. All these subjects will be referred, first, from the Catholic perspective, and, next, from the Lutheran point of view.

1. Catholic and Lutheran views about the Church, diocese and office of bishop

The Catholic teaching about the Church is rich and deep. “The Church, in Christ, is like a sacrament — a sign and instrument, that is,

ROS, M. THÉRIAULT, J. THORN, H. AUBÉ. 2nd ed., rev. and updated of the 6th Spanish language edition. Montréal 2004 (hereinafter: CIC).

² Taken from: <https://bik.luteranie.pl/files/Prawo/2017-01-01ZPW-tekstujednolicony.pdf> (accessed 2.04.2018). English title: *The Essential Inner Law the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: ZPW).

³ Taken from: <http://www.bik.luteranie.pl/files/Prawo/20150313RegulaminDiecezjalny.pdf> (accessed 12.03.2016). Title in English: *The Diocesan Regulations of the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: RD).

⁴ Taken from: <http://www.bik.luteranie.pl/files/Prawo/2015-04-11PragmatykaSubowav.pp.pdf> (accessed 20.01.2016). Title in English: *The Official Policy of the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: PS).

⁵ Cf. P. KROCZEK: *Prawo wewnętrzne związków wyznaniowych w perspektywie organów władzy publicznej. Klauzule generalne*. Kraków 2017, pp. 105—110.

⁶ P. KROCZEK: *Parafia w optyce katolickiej i luterskiej. Studium teologiczno-prawne*. Kraków 2017, p. 17.

of communion with God and of unity among all men (LG⁷ 1).”⁸ This sacramental dimension of the Church does not eliminate the institutional dimension of the Church. *The Catechism of the Catholic Church* from 1992⁹ in no. 1140 teaches that the Church is the holy people, united and organised under the authority of bishops. Among them, the supreme place occupies the bishop of Rome (the Roman Pontiff) who has full and supreme power in the Church (can. 332 §1 CIC). The presented theological teaching underlies the provisions of canon law which states that the one and only Church (*una et unica Ecclesia*) exists in (*subsistit in*) and is composed of the particular Churches (*Ecclesiis particularibus*). The particular Churches are principally dioceses (can. 368 CIC and LG 23). A diocese, in turn, is defined in can. 369 CIC as “a portion of the people of God, which is entrusted to a Bishop to be nurtured by him, with the cooperation of the presbyterium. The faithful and the presbyterium are remaining close to its pastor and gathered by him through the Gospel and the Eucharist in the Holy Spirit.” It means that the main *raison d’être* of diocese is the theological one.

The head of the diocese is the bishop (called: the diocesan bishop). In Catholic terms, the position of the bishop in the Church is inseparably connected with the ecclesiastical office. The powers associated with this office have their source in God’s law. In the diocese entrusted to the care of the bishop, he has all the ordinary, proper and immediate power required for the exercise of his pastoral office, except in those matters which the law or a decree of the Supreme Pontiff reserves to the supreme or to some other ecclesiastical authority (can. 381 §1 CIC).

Contrary to what was presented above, the Reformation did not emphasise explicitly the mission of the Church as the salvific institution.¹⁰ The important element for the Lutheran theology was the inner (or hidden) Church and it does not refer to any territory. The work of the Church is based on the work of the Holy Spirit. In this context, in the Lutheran understanding, the diocese is only local administrative unit of the Church (§42 ZPW; §1 item 1 RD). The unit consists of parishes located in a specific area (§42 ZPW; §1 item 2 RD). The task of the dio-

⁷ SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II: *Constitutio dogmatica “Lumen gentium” de Ecclesia* (21.11.1964). AAS 57 (1965), pp. 5—75. Translations of the Second Vatican Council documents are taken from: *Documents of Vatican II*, in a new and definitive translation, with commentaries and notes by Catholic, Protestant, and Orthodox authorities. Ed. W. M. ABBOTT. New York 1966.

⁸ The classical position on this subject is: O. SEMMELROTH: *Die Kirche als Ursakrament*. Frankfurt am Main 1978.

⁹ Revised edition, London 2011.

¹⁰ M. HINTZ: “Kościół jako wspólnota pastoralna.” *Gdański Rocznik Ewangelicki* 5 (2011), p. 204.

cese is to coordinate and control the activities of the parishes, and to organise the cooperation between them in its area (§ 43 ZPW), and also to conduct religious, educational, ecclesiastical, charitable activities and providing care, and other activities serving the parishes belonging to the diocese (§ 3 item 1 RD).

The Lutherans in Poland teach also that bishops “lead the entire People of God and serve the service of the Word and the Sacraments” (§ 10 item 1 PS), but although the evangelical diocese is headed by a diocesan bishop, he is mainly “a spiritual head” of the diocese (§ 24 item 1 RD; § 52 item 1 ZPW; § 16 item 1 PS). He is only one among many authorities of the Church (§ 10 item 1 point 3 letter c ZPW), but without real power to govern the diocese. In this respect, the Lutheranism remains based on conciliarism.¹¹

Two findings are necessary to emphasise at this point. First, diocese and its institutions in the Catholic Church have rich theological background and significance. The Lutheran approach is different. It is more about the effectiveness of acting as the administrative unity with little theological sense. Second, in the Catholic approach the indispensable element of diocese is bishop who is in charge of the diocese. It is not the case from the Lutheran perspective.

2. General characteristics of diocesan synod

The diocesan synod in the law of the Roman Catholic Church (i.e. canon law), and the law of Evangelical Church of the Augsburg Confession in Poland (i.e. Lutheran law) is the part of the internal order of the diocese in the two Churches. The results of the analysis of the characteristics of the institution in the two legal systems indicate that there are many differences between them. Three of them, that seem to be worth mentioning, are as follows.

First, in the canon law the diocesan synod is a temporary institution. It can be called when circumstances suggest it in the judgment of the diocesan bishop after he has heard the presbyteral council (can. 461 § 1 CIC). Only the diocesan bishop can convoke a diocesan synod (can. 462 § 1 CIC), and his decision is final. It means that the diocese can exist and function without the synod. Contrary to this, the diocesan synod in the Evangelical

¹¹ T. KONIK: “*Kościół w paragrafach.*” In: R. BORSKI, T. KONIK, M. LIS: *Kościół w paragrafach. Projekty, studia, dyskusje.* Ed. TADEUSZ KONIK. Katowice 2007, p. 59.

Church is a constant organ which is an immanent part of the diocese (§ 44 item 1 ZPW; § 47 ZPW). The synod in question works on the conventions. The responsible organ for calling a convention is the diocesan council and it must be done at least once a year (§ 47 item 2 ZPW; §12 item 1 RD). Second, in canon law the diocesan bishop presides over a diocesan synod (can. 461 § 2 CIC). He can, however, delegate a vicar general or episcopal vicar to fulfill this responsibility for individual sessions of the synod. In the Lutheran Church, the work of the diocesan synod is led by the diocesan council elected by the diocesan synod at its first session (par. 48 item 1 ZPW, § 10 item 1 RD). The president of the diocesan synod is the diocesan bishop (par. 48 item 2 ZP, § 10 item 2 RD), and he may also authorise other member of the diocesan synod to lead the meeting.¹²

Third, in the Catholic diocese the synod is to offer assistance to the diocesan bishop, who has the highest authority in the diocese (can. 460 CIC in connection with can. 134 CIC), and he is *de iure divino* the only legislator in the diocese entrusted to his care. He may, within the scope of his powers, freely shape diocesan legislation (CD¹³ 8).¹⁴ The help given to the diocesan bishop is the form of collective consultation laid down in the specific form by law. As part of the consultations, the equal and the collegial faithful may express their opinions on the matters on which the diocesan bishop wishes to acquire knowledge (can. 465 CIC). The directory of the Congregation for the Bishops titled *Apostolorum successores*¹⁵ calls the diocesan synod “the advisory assembly” (*assemblea consultiva*).¹⁶ The way in which the synod formulates its opinions, postulates or prepares the (final) documents is to be defined by the statute of the synod. The law in question is to be given by the diocesan bishop. There are no legal nor theological obstacles that the way would be ruled by the principles of democracy.

In the Lutheran Church, the highest authority of the diocese is the diocesan synod itself (§ 44 item 1 ZPW; § 7 item 1 RD). The legislator (within the limits prescribed by law) is the synod itself, and the decisions are made by the rules of democracy. It means two things. First, that the quorum required for making decisions, that is, the minimum number of

¹² Commentary to § 10 of *Regulamin Diecezjalny*. In: *Prawo Kościoła Ewangelicko-Augsburskiego. Komentarz*. Ed. J. CEBULA. Warszawa 2017.

¹³ SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II: *Decretum Christus Dominus de pastorali Episcoporum* (28.10.1965). AAS 58 (1966), pp. 673—696.

¹⁴ See CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *Instructio de synodis dioecesis agendis* (19.03.1997). AAS 89 (1997), pp. 706—721 and *Additamentum ad Instructionem de synodis dioecesis agendis*, pp. 722—727.

¹⁵ CONGREGATIO PRO EPISCOPIS: *Direttorio Apostolorum Successores per il ministero pastorale dei vescovi*. Libreria Editrice Vaticana 2004.

¹⁶ *Apostolorum successores*, no. 168.

members of this body necessary to adopt resolution, is for more than a half of its members to be present in order to pass its resolutions effectively (§ 13 RD; § 13 ZPW). Second, that the decision to be made requires the adoption of an absolute majority of votes, that is, more than half of the votes validly cast. The absolute majority of votes is determined taking into account valid votes cast, that is, only those votes (“for” or “against” or “abstaining”) that have been formally cast (expressed) are counted. However, the votes of those present who have abstained from voting, that is, have not cast their votes or have cast invalid votes, shall not be taken into account (§ 13 item 2 ZPW). Only the resolutions of the diocesan synod in the financial matters specified in § 9 item 1 letter n RD must be approved by the consistory of the Church.

3. Competences of diocesan synod

The competencies of the synod of the Roman Catholic Church and the Evangelical Church are so different that it is impossible to present them simultaneously or find any connection between them. The differences are both in the subject matter and in the way in which the competencies are regulated in laws of the Churches.

The competencies of the diocesan synod in the Catholic Church are not *expressis verbis* enumerated or limited. Canon law describes the aim of the diocesan synod very generally. Diocesan synod is to “offer assistance to the diocesan bishop for the good of the whole diocesan community” (can. 460 CIC).

The competencies of the diocesan synod in the Evangelical Church are literally presented in the § 46 item 1 of ZPW and § 9 RD. They can be divided into the following groups: 1) the group of the judicial competencies; 2) the group of the supervisory and control competencies; 3) the group of competencies connected with the election.

To the first group one can ascribe strictly judicial competencies like: 1) settlement of the religious and ecclesial life-of-diocese disputes; 2) examination of appeals against disciplinary measures. It is practical to add to the group in question another competence, which is used in the conflict situation, that is: 3) submission of *ad hoc* requests for amendments to establish the boundaries between the parishes and to establish and maintain the rules of operation of the parish and its subsidiaries.

Among the second, that is, the supervisory and control competencies, one can count: 1) supervision over the management and the board

of directors of the institutions that are common to the whole diocese; 2) taking care of the cooperation between the parishes; 3) enactment of the financial estimates for the diocese and the collections or stipends for the diocese and the Church, collected in the diocese; 4) submission of the proposals to the consistory and the Church synod regarding the issues of diocese and the Church; 5) approval of the reports of the diocesan bishop, the diocesan council and the diocesan commission and granting discharge for the diocesan council; 6) votes on the resolutions on matters: giving a consent to the acquisition, disposal and exchange of diocesan property, and the construction of new buildings, except for the acceptance of donations in the form of unencumbered real estate, the disposal of movable property where this is of artistic, historic or scientific value, conducting business activity, establishment of or participation in foundations, encumbering property owned by the diocese, or renting or leasing it for a period longer than 5 years, borrowings if they are not covered by the regular revenue of the financial year, other matters of property, the realisation of which exceeds the financial capabilities of the diocese.

The third group of the competencies of the diocesan synods, which are connected with elections, contains such areas as: 1) election of the following organs: the diocesan bishop, the diocesan council, the audit commissions, and the diocesan commissions; 2) selection of candidates for the disciplinary judges; 3) election of the lay delegates to the synod of the Church and their alternates. The enumeration of the competencies is closed. It means that it exhausts the scope of them.

4. Members of diocesan synod

The canonical definition of the synod from can. 460 CIC gives simultaneously the list of the members of diocesan synod. “A diocesan synod is a group of selected priests and other members of the Christian faithful of a particular church.” The two basic groups of the faithful the Church enumerated in can. 207 § 1 CIC are represented, that is 1) the sacred ministers (*clericorum*), and 2) the lay people (*laicorum*). However, it should be noticed that can. 460 talks about the priests (*sacerdotum*), not clerics (*clericorum*). Deacons are excluded.

For clarity, it is expedient to add that the faithful drawn from both groups (the sacred ministers and the lay people) who are professing the evangelical counsels through vows or other sacred bonds recognised and

approved by the Church, belong to the state of people of consecrated life. Their state, although it does not belong to the hierarchical structure of the Church — only the two states mentioned above, does pertain to the Church's life and holiness.

Particularisation of the rough list of the members from can. 460 CIC was done by the Supreme legislator in can. 463 § 1 CIC. It strictly and precisely orders that the following persons must be called to a diocesan synod and as the members of the synod they are obliged to participate in it.

From the sacred ministers: 1) the coadjutor bishop and the auxiliary bishops; 2) the vicars general and episcopal vicars, and the judicial Vicar; 3) the canons of the cathedral church; 4) the members of the council of priests; 5) the rector of the major seminary of the diocese; 6) the vicars forane; 7) at least one priest from each vicariate forane to be elected by all those who have the care of souls there; another priest is also to be elected, to take the place of the first if he is prevented from attending (can. 463 § 1 no. 1—4 and no. 6—9 CIC).

From members of the consecrated life the law orders to call some superiors of religious institutes and of societies of apostolic life which have a house in the diocese. These are to be elected in the number and the manner determined by the diocesan Bishop (can. 463 § 1 no. 9 CIC).

The rest of the members are chosen from the lay people. The individuals are not named or in any other way indicated. But to the group can belong also the members of institutes of consecrated life, to be elected by the pastoral council in the manner and the number to be determined by the diocesan Bishop or, where this council does not exist, on a basis determined by the diocesan Bishop.

The legislator in can. 463 § 2 CIC opens a little bit the list of the members of the synod and allows the diocesan bishop to invite others to be members of the diocesan synod, whether clerics or members of institutes of consecrated life or lay members of the faithful.

Canon law provides also an ecumenical dimension of the activity of the Catholic Church. If the diocesan Bishop considers it opportune, he may invite to the diocesan synod some ministers or members of Churches or ecclesial communities which are not in full communion with the Catholic Church. They are to act only as observers (can. 463 § 3 CIC).

The following conclusion can be noticed from the list: although the entire spectrum of Christ's faithful must be represented in the diocesan synod (see can. 207), the main core of the members of the synod are the clergy who are responsible for an important element of diocese. One can say that the teaching of the Second Vatican Council about promoting the laity expressed, for instance, in the Decree *Apostolicam actuositatem* on

the Apostolate of Lay People,¹⁷ was not fully absorbed by the code at this point. Although can. 275 § 2 CIC states that “Clerics are to acknowledge and promote the mission which the laity, each for his or her part, exercises in the Church and in the world.” The explanation or justification for such unbalanced representation cannot be the theologically supported rule from can. 129 § 1 CIC that only those who are in sacred orders are capable of the power of governance in the Church. It because the synod has no power at all.

Lutheran law in § 44 item 1 ZPW provides that the members of diocesan synod are: 1) all the priests who belong to the Diocesan Conferences of the Clerics; 2) supervisors of the deacon orders who the subject of supervision of diocesan bishop are; 3) the representative of the ecclesiastical educators, 4) the lay delegates (in the number from 30 to 60) who are elected by the parishes, 5) secular members of the consistory who live in the territory of the diocese, 6) the independent academic employees of the Christian Academy of Theology in Warsaw of the Evangelical-Augsburg denomination who are living in the diocese, 7) the persons (up to 5) elected by the diocesan Synod at the request of the diocesan council, because of their special authority or important competences for the functioning of the Church.

The exact number and allocation of the seats of the secular delegates is determined by the diocesan council. It is regulated according to principle that one seat is granted to each parish and the remaining seats are distributed according to the number of voters in each parish (§ 44 item 2 ZPW). The rules and procedures for the election of delegates to the diocesan synod shall be laid down in the Diocesan Rules of Procedure, which is a separate law (§ 44 item 2 ZPW).

It should be noted that an *ex officio* member of the diocesan synod may also be elected in the course of the election process. The commentary to ZPW explains that in such a case, the basis of the mandate is the election, not the entry into the diocesan synod *ex officio*.¹⁸

The problem that can arise from the list of members of diocesan synod presented above is that some of the members of the synod are, allegedly, “the permanent ones” due to their features like education or the offices they hold (like the clerics). At the same time § 45 ZPW states clearly that the term of office of the diocesan synod, that is, of all the members is five years. Does it mean that the mandate of members in question is really a permanent one until the key feature expires or with the end of the period

¹⁷ SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II: *Decretum “Apostolicam actuositatem” de apostolatu laicorum* (15.11.1965). AAS 58 (1966), pp. 837—864.

¹⁸ Commentaty to § 44 *Zasadnicze Prawo Wewnętrzne*. In: *Prawo Kościoła Ewangelicko-Augsburskiego. Komentarz*. Ed. J. CEBULA. Warszawa 2017.

of five years they lose their mandate and gain it automatically with the next term of the diocesan synod?

Conclusions

The research hypothesis stated at the beginning of the article is negatively verified. The institutions of diocesan synod in the perspectives of the Roman Catholic Church and the Evangelical Church of the Augsburg Confession in the Republic of Poland are not the same institutions. Actually, they are completely different ones. The identical names of the two institutions can be misleading. There are only a few characteristics that can be found as similar. One of them is the wide spectrum of members of the synod. This solution is to show the complete picture of all the faithful in the diocese. But the feature cannot change the general conclusion.

The foundation of the differences can be found in the different theological conceptions of the Church, diocese, and Church office of the bishop. Also, the attachment of the Lutheran Church to the rule of democracy has greater meaning for the Lutheran law than it has in case of the Roman Catholic Church.

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Synode diocésain des points de vue catholique et luthérien

Résumé

Le but de l'article est de vérifier l'hypothèse selon laquelle, en République de Pologne, la perspective de l'Église catholique romaine et celle de l'Église évangélique d'Augsbourg concernant l'institution du synode diocésain sont similaires. La manière d'atteindre cet objectif consiste à proposer une analyse comparative des dispositions des règles fonda-

mentales de ces Églises qui s'appliquent au synode diocésain. La conclusion générale est que l'institution du synode diocésain présentée des deux points de vue est totalement incompatible. Ce sont des institutions différentes.

Mots clés: Église catholique romaine, Église évangélique d'Augsbourg en République de Pologne, synode diocésain, évêque

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Sinodo diocesano dalla prospettiva cattolica e luterana

Sommario

Lo scopo del presente articolo è di verificare l'ipotesi che nella Repubblica di Polonia, la prospettiva della Chiesa cattolica romana e di quella evangelica-augusta riguardante l'istituzione del sinodo diocesano siano simili. La via per raggiungere questo obiettivo consiste in un'analisi comparata delle disposizioni delle regole fondamentali di queste Chiese che si applicano al sinodo diocesano. La conclusione generale della ricerca svolta è che l'istituzione del sinodo diocesano presentata da entrambe le prospettive è del tutto incompatibile. Sono istituzioni diverse.

Parole chiave: Chiesa cattolica romana, Chiesa evangelica-Augusta nella Repubblica di Polonia, sinodo diocesano, vescovo