

## Recent Legal Changes in the Organization of Religious Education in Polish Schools

Aktualne zmiany prawne w organizacji nauki religii  
w polskich szkołach

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**Abstract:** In many educational systems within democratic countries, curricula typically include both values education and religious instruction. The reintroduction of confessional religious education into Polish schools in 1990—and, more significantly, subsequent legal changes governing religious instruction—have consistently generated a range of responses, from strong support to public dissatisfaction and criticism from various groups. Legislative reforms introduced since 2024 have substantially modified the legal framework surrounding religious education. The manner in which these changes have been implemented has provoked considerable concern and resistance in multiple sectors of society. This study analyzes the key aspects of these legal changes: the incorporation of religious education into the national curriculum framework; the removal of religion/ethics grades from the overall grade point average; the authorization to merge religious education classes across different age groups and grade levels; and the reduction of religious instruction from two hours to one hour per week.

**Keywords:** religious education, religious instruction, right to religious education, curriculum reform, organization of religion classes

**Abstrakt:** W powszechnej strukturze wielu systemów edukacyjnych, obowiązujących obecnie w państwach demokratycznych, umieszcza się również zajęcia obejmujące kształcenie w obszarze wartości, a także religii. Powrót lekcji religii, organizowanej w formie wyznaniowej (konfesyjnej) do polskich szkół od 1990 roku, a przede wszystkim proces zmian prawnych, mających wpływ na naukę religii, wywołują niezmiennie różne emocje, pozytywne i negatywne nastroje społeczne oraz sprzeciw niektórych środowisk. Decyzje legislacyjne wprowadzane od roku 2024 zmienia-

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ją w sposób znaczący status prawny nauczania religii, a forma przeprowadzanych reform budzi w wielu środowiskach uzasadniony sprzeciw i niepokój. W opracowaniu zostaną przeanalizowane podstawowe elementy wprowadzanych zmian: osadzenie nauki religii w ramowych planach nauczania, kwestię likwidacji wliczania oceny z religii/etyki do średniej ocen, a następnie zgodę na organizację łączenia zajęć z religii w grupach międzyoddziałowych i międzyklasowych czy wreszcie zmniejszenie wymiaru godzin lekcji religii z dwóch do jednej godziny tygodniowo.

**Słowa kluczowe:** nauka religii, edukacja religijna, prawo do nauki religii, zmiany w organizacji lekcji religii

## Introduction

The presence of religious education in Polish schools since 1990 has consistently elicited diverse public reactions, particularly due to political involvement and opposition from certain societal groups. For many years, the issue has served as a platform for political debate, with various actors attempting to build political capital around it. This remains a relevant concern in the current context. Legislative decisions enacted from 2024 onward have significantly altered the legal status of religious education. The nature of these reforms has prompted justified concern and criticism across multiple sectors of society.

This study aims to examine the fundamental components of the ongoing changes. Specifically, it analyzes: the incorporation of religious education into the national curriculum framework; the removal of religion/ethics grades from the overall grade point average; the authorization to combine religious education classes across different schools and grade levels; and the reduction in weekly instructional hours for religious education from two to one.

## Legal Basis for Teaching Religion in Schools

The systemic transformations in Poland following 1989 provided an opportunity to reinstate religious education in Polish schools. Consequently, beginning on September 1, 1990, religion classes were introduced in all schools and kindergartens in accordance with the Instruction of the Ministry of National Education dated August 3, 1990, and the subsequent Instruction of August 24, 1990. This development necessitated several adjustments to the Polish legal framework to accommodate the inclusion of religious education in the national education system. The first major legal provision was included in the *Education System Act* of September 7, 1991, which laid the foundation for subsequent implementing regulations. One such regulation was the *Ordinance of the Minister of National Education* dated April 14, 1992, which defined the conditions and procedures for organizing religious education in public kindergartens and schools. Subsequent

steps included the development of appropriate legal provisions within an international agreement—the Concordat between the Holy See and the Republic of Poland—as well as the incorporation of relevant clauses into the supreme law of the land, namely the Constitution of the Republic of Poland. The following analysis will examine the role and status of religious education within the Polish public education system, based on the aforementioned legal documents.

### **a. Education System Act**

Article 12, paragraphs 1 and 2 of the *Education System Act* of 7 September 1991 state the following:

1. Public kindergartens and primary schools are required to organize religious education at the request of parents. In public secondary schools, such instruction is organized at the request of either the parents or the students themselves; upon reaching the age of majority, students independently decide whether to participate in religious education.
2. The Minister responsible for education and upbringing, in consultation with the authorities of the Catholic Church, the Polish Autocephalous Orthodox Church, and other recognized churches and religious associations, shall determine, by means of a regulation, the conditions and procedures for schools to carry out the tasks referred to in paragraph 1.<sup>2</sup>

Attention should be drawn to the provision in paragraph 2, which stipulates that specific regulations governing religious education must be established through an agreement with the authorities of the Catholic Church and the Polish Autocephalous Orthodox Church. This requirement effectively precludes the possibility of unilateral amendments to these regulations by the competent minister. The recent legal changes concerning the organization of religious education, as discussed in this study, have significant implications for the interpretation of paragraph 2. Accordingly, the following section will present a detailed analysis of the arguments put forward by the various parties involved in the debate.

Under Article 12 of the *Education System Act*, the Minister of National Education issued a regulation governing the organization and implementation of religious education in public schools and kindergartens.

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<sup>2</sup> Ustawa z dnia 7 września 1991 r. o systemie oświaty [*Act of 7 September 1991 on the Education System*], Dz. U. 1991, No. 95, item 425, as amended; consolidated text: Dz. U. 2018, items 1457, 1560, 1669.

## **b. Regulation of the Minister of National Education on the Conditions and Manner of Organizing Religious Education in Public Kindergartens and Schools**

According to the established hierarchy of legal norms, implementing acts—such as regulations, orders, or resolutions—are issued by executive authorities (e.g., the head of state, government, or ministers) to elaborate on and enforce the provisions of statutory law. In line with this legal principle, the issue of religious education in public kindergartens and schools was formally addressed in the Regulation of the Minister of National Education of April 14, 1992, on the conditions and manner of organizing religious education in public kindergartens and schools.

Paragraph 1, Section 1 of this regulation directly references the provisions of the Education System Act, stating:

In public kindergartens and kindergarten departments within public primary schools (hereinafter referred to as ‘kindergartens’), religious education is organized at the request of parents. In public primary and secondary schools (hereinafter referred to as ‘schools’), religious education and ethics are organized:

1. in primary schools—at the request of parents;
2. in secondary schools—at the request of either parents or the students themselves; after reaching the age of majority, students independently decide whether to participate in religious education or ethics classes.<sup>3</sup>

In addition to the aforementioned executive act regulating religious education in schools, it is also important to consider other regulations issued under the authority of the relevant Minister, which contain provisions relating to this subject. Notably, the Regulation of the Minister of National Education of August 1, 2017, on the detailed qualifications required of teachers and the specification of schools and circumstances in which teachers without higher education or completed teacher training may be employed addresses the qualifications for teaching religion. According to § 8 of this regulation: “Qualifications to teach religion are held by a person who meets the qualification requirements specified in agreements between the minister responsible for education and upbringing and the Polish Episcopal Conference, as well as the authorities of other churches and re-

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<sup>3</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 14 kwietnia 1992 r. w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach [*Regulation of the Minister of National Education of 14 April 1992 on the conditions and manner of organizing religious education in public kindergartens and schools*], Dz. U. 1992, No. 36, item 155, as amended: Dz. U. 1993, No. 83, item 390; 1999, No. 67, item 753; 2014, item 478; 2017, item 1147.

ligious associations.”<sup>4</sup> Based on this provision, the Agreement between the Polish Episcopal Conference and the Minister of National Education of April 3, 2019, on the professional qualifications required of teachers of religion was established and remains in force to this day.<sup>5</sup>

### c. Concordat between the Holy See and the Republic of Poland

An international agreement binding in Poland is the Concordat concluded between the Holy See and the Republic of Poland on July 28, 1993, signed by the President of Poland on February 23, 1998, and ratified on April 25, 1998.<sup>6</sup> This binding international treaty clearly regulates the issue of religious education within the Polish education system. Article 12, point 1, states:

Acknowledging the right of parents to religious education of their children and the principle of tolerance, the State guarantees that public primary and secondary schools, as well as kindergartens managed by state and local government authorities, organize religious education in accordance with the wishes of those interested, within the framework of the school and kindergarten curricula.<sup>7</sup>

According to this article, the parties to the international agreement responsibly undertake the task of ensuring religious education for children and youth of the Roman Catholic faith, from kindergarten through secondary schools.

It is important to clarify the legal framework concerning the introduction of changes to, or the termination or suspension of, an applicable international agreement, specifically the Concordat. Article 89 of the Constitution of the Republic of Poland provides for the possibility of terminating an international agreement and stipulates that the principles and procedures for such actions are defined in a separate statute. The Act on International Agreements, enacted on April 14, 2000, specifies that decisions regarding the modification of the scope or validity

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<sup>4</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 1 sierpnia 2017 r. w sprawie kwalifikacji wymaganych od nauczycieli [*Regulation of the Minister of National Education of 1 August 2017 on the qualifications required of teachers*], Dz. U. 2017, item 1575.

<sup>5</sup> Porozumienie pomiędzy Konferencją Episkopatu Polski a Ministrem Edukacji Narodowej z dnia 3 kwietnia 2019 r. w sprawie kwalifikacji zawodowych wymaganych od nauczycieli religii [*Agreement between the Polish Episcopal Conference and the Minister of National Education of 3 April 2019 on the professional qualifications required of teachers of religion*], available at: <https://katecheza.episkopat.pl/kwk/porozumienie-z-dnia-3-kwietnia-2019> [accessed 24 April 2025].

<sup>6</sup> *Konkordat między Stolicą Apostolską i Rzeczpospolitą Polską z dnia 28 lipca 1993 r.* [*Concordat between the Holy See and the Republic of Poland of 28 July 1993*], Dz. U. 1998, No. 51, item 318.

<sup>7</sup> Ibid.

of a ratified international agreement are made by the President of the Republic of Poland upon the request of the Council of Ministers. Such changes require the consent granted through an act of parliament, in accordance with Article 89, Section 1, and Article 90 of the Constitution.<sup>8</sup> It is important to emphasize that the currently binding Concordat does not include provisions permitting its termination or withdrawal. In the final statement of the document signed by the President of the Republic of Poland, the following declaration is made:

Having reviewed the aforementioned Concordat, on behalf of the Republic of Poland, I declare that:

- it has been recognized as correct in its entirety, including each of its provisions;
- it has been accepted, ratified, and confirmed;
- it shall be maintained without change.<sup>9</sup>

The norm of international law regarding the termination or withdrawal from a previously concluded agreement, which does not include a sunset clause, is established in Article 56 of the Vienna Convention on the Law of Treaties (1969), which entered into force for Poland on August 1, 1990. This article stipulates that:

1. A treaty that contains no provision for its termination and does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:
  - (a) it is established that the parties intended to allow the possibility of denunciation or withdrawal; or
  - (b) a right to denunciation or withdrawal is implied by the nature of the treaty.
2. Furthermore, a party must give at least twelve months' notice of its intention to denounce or withdraw from the treaty under paragraph 1.<sup>10</sup>

The following articles of the cited Treaty (Articles 57–64) outline the legal norms governing international agreements in cases of:

- suspension of a treaty's operation based on its provisions or with the consent of the parties (Article 57);
- suspension of a multilateral treaty's operation by agreement among only some of the parties (Article 58);
- termination or suspension of a treaty's operation due to the conclusion of a subsequent treaty (Article 59);

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<sup>8</sup> Ustawa z dnia 14 kwietnia 2000 r. o umowach międzynarodowych [*Act of 14 April 2000 on International Agreements*], Dz. U. 2000, No. 39, item 443, art. 25(1)–(5).

<sup>9</sup> *Konkordat...*

<sup>10</sup> *Konwencja Wiedeńska o Prawie Traktatów z 1969 r.* [*Vienna Convention on the Law of Treaties, 1969*], Dz. U. 1990, No. 74, item 439, Annex.

- termination or suspension of a treaty's operation resulting from a breach of the treaty (Article 60);
- the occurrence of circumstances that render the execution of the treaty impossible, or fundamental changes in circumstances (Articles 61–62);
- severance of diplomatic or consular relations, or the emergence of a new peremptory norm of general international law (*jus cogens*) (Articles 63–64).<sup>11</sup>

#### d. Constitution of the Republic of Poland

The current Constitution was adopted by the National Assembly on April 2, 1997, and its text was published on July 16, 1997, in the Journal of Laws (Journal of Laws No. 78, item 483; subsequent amendments include: 2001 No. 28, item 319; 2006 No. 200, item 1471; 2009 No. 114, item 946). Articles 48 and 53 of the Constitution define fundamental principles concerning freedom and personal rights, which are essential for all citizens.

Article 48, Section 1, states: “Parents have the right to raise their children in accordance with their own beliefs. This upbringing should take into account the child’s degree of maturity, as well as the freedom of their conscience and religion and their beliefs.”<sup>12</sup> This general constitutional provision grants parents the right to determine the direction of their children’s upbringing, including ideological and religious education. Such education is implemented, among other means, through the State’s role in upbringing and education as outlined in Article 70 of the Constitution of the Republic of Poland.

In the context of religious education in Polish schools, Article 53 of the Constitution of the Republic of Poland plays a fundamental and particularly expressive role. This article underscores the overarching right of all citizens to freedom of conscience and religion (paragraphs 1 and 2). The matter of religious education is explicitly addressed in paragraph 4, which states: “The religion of a church or other legally recognized religious association may be taught in schools, provided that the freedom of conscience and religion of others is not infringed.”<sup>13</sup> Thus, it must be emphasized that, pursuant to Article 53, paragraphs 2, 3, and 4 of the Constitution, the inclusion of religious education in Polish schools is grounded in the constitutional rights of every citizen and is enshrined in the highest normative legal act in

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<sup>11</sup> Ibid.

<sup>12</sup> *Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.* [Constitution of the Republic of Poland of 2 April 1997], art. 48, ust. 1, available at: <https://www.sejm.gov.pl/prawo/konst/polski/kon1.htm>.

<sup>13</sup> Ibid., art. 53, ust. 3–4 [accessed 24 April 2025].

Poland.<sup>14</sup> As the foundational source of law, the Constitution serves as the point of reference for all subsequent legal acts and regulations. This reflects the hierarchical structure of the legal system, in which higher-ranking normative acts take precedence over lower-ranking ones. According to the principle *lex superior derogat legi inferiori* (a higher law overrides a lower one), a subordinate act cannot contradict a superior one. The basis for this principle is outlined in Article 87 of the 1997 Constitution of the Republic of Poland. Accordingly, the legal framework concerning religious education in public schools and kindergartens must be analyzed in the following hierarchical order: the Constitution of the Republic of Poland, the Concordat, statutory acts, regulations, and other acts of local law.

### **Current Legislative Changes Affecting the Status of Religious Education in the Polish Education System**

The legal foundations of religious education in Polish schools, as outlined above, provide a suitable context for analyzing recent legislative changes concerning its organization. The legislative decisions implemented since 2024 have significantly altered the legal status of religious education, and the manner in which these reforms have been introduced has generated justified concern and opposition in various sectors of society.

This section highlights the core aspects of the changes introduced, including:

1. The incorporation of religious education into the national core curriculum framework;
2. The removal of religion and ethics grades from the calculation of the overall grade point average;
3. The approval for organizing combined religious education classes across different administrative units and grade levels; and
4. The reduction of weekly religious education hours from two to one.

#### **a. Religious Education as a School Subject**

The status of religious education as a school subject has long been a topic of public debate in Poland, particularly concerning whether it should be classi-

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<sup>14</sup> It is worth noting that in recent years, especially following the reinstatement of religious education in Polish schools, a debate has persisted regarding the teaching of religion in public schools and kindergartens. As early as 1991 and 1993, the Constitutional Tribunal, responding to a complaint from the Ombudsman, twice confirmed the compliance of religious education in public schools with the prevailing legal order (on 30 January 1991 and 20 April 1993). See J. Krukowski, *Kościół i państwo. Podstawy relacji prawnych*, Lublin 1993, pp. 240–242.



fied as a compulsory subject, an additional (optional) course, or another form of educational activity. The placement of religious education within the organizational framework of Polish educational institutions has been regulated by relevant legal provisions. A notable development occurred with the amendment to the Regulation on Framework Curricula in Public Schools, effective from September 1, 2012. This amendment specified both compulsory subjects and additional classes within the framework curricula. A significant change was the categorization of religious education under the group of additional classes. At the time, the Ministry of National Education clarified that religion—alongside ethics and education for family life—is classified within the framework curricula as an optional subject.

Each framework curriculum for a particular type of school includes various types of classes, divided into two categories: subjects whose instructional hours are explicitly defined in the curriculum itself, and subjects whose instructional hours are determined by separate regulations issued by the Minister of National Education. The first category includes compulsory educational classes (as well as rehabilitation classes for students with disabilities). The second category includes subjects such as religious education, ethics, education for family life, the language of a national or ethnic minority, regional languages, sports classes conducted in sports departments, and specialized sports schools.<sup>15</sup>

The position of the Catholic Church in response to this change was clear and consistent from the outset. The Church advocated for the reintegration of religious education into the framework curriculum, in accordance with the provisions of the Concordat and to ensure access to free religious education in kindergartens and schools. The changes introduced by the amended regulation were also linked to a new model of state funding for both compulsory and additional classes.<sup>16</sup>

The provisions introduced in Article 109(2) of the Education Law Act of December 14, 2016 state that: “The forms of teaching and educational activity of the school also include educational activities referred to in the provisions issued pursuant to Article 12(2) of the Education System Act.”<sup>17</sup> This change

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<sup>15</sup> On Wednesday, the Deputy Chairman of the Polish Episcopal Conference, Archbishop Stanisław Gądecki, declared that the episcopate demands the reinstatement of religion into the core curriculum in schools. See: *Episkopat domaga się przywrócenia religii do ramowego planu nauczania w szkołach*, Gość Niedzielny, available at: <https://www.gosc.pl/doc/1105416.Religia-do-ramowego-planu-nauczania> [accessed 24 April 2025].

<sup>16</sup> The discussion and the Catholic Church’s position on this issue have been explored in detail by the author of this article in the monograph: J. Szpet, and M. Gogolik, *Nauczanie religii w polskim przedszkolu i szkole*, in: *Katecheza — Rodzina, Parafia i Szkoła*, t. 16, Poznań 2018, pp. 77–84.

<sup>17</sup> See: Ustawa z dnia 14 grudnia 2016 r. — Prawo oświatowe [*Act of 14 December 2016—Education Law*], Dz. U. 2017, item 59, art. 109, ust. 2.

necessitated corresponding amendments to the relevant implementing acts, “particularly the Regulation on framework curricula for public schools.” As a result, § 2, item 3 of the regulation now stipulates: “The framework curriculum also includes: 1) religion or ethics classes, carried out in accordance with the provisions issued on the basis of Article 12(2) of the Education System Act of September 7, 1991.”<sup>18</sup>

The above legal provisions were amended by the Regulation of the Minister of National Education of May 20, 2024, concerning the framework curricula for public schools.<sup>19</sup> According to § 2(1) of the amended regulation, the framework curriculum specifies the weekly number of hours allocated to:

- compulsory educational classes in the field of general education,
- rehabilitation classes for students with disabilities,
- first aid instruction,

and it also includes the following components:

1. Religion or ethics classes, conducted in accordance with the provisions issued pursuant to Article 12(2) of the Education System Act of September 7, 1991 (Journal of Laws of 2024, item 750), hereinafter referred to as the ‘Education System Act’;
2. Family life education classes, conducted pursuant to provisions issued under Article 4(3) of the Act of January 7, 1993 on Family Planning, Protection of the Human Foetus and Conditions for the Admissibility of Termination of Pregnancy (Journal of Laws of 2022, item 1575);
3. Instruction in the language of a national or ethnic minority, regional language, and learning one’s own history and culture, conducted in accordance with the regulations issued under Article 13(3) of the Education System Act;
4. Sports activities conducted in sports departments and schools as well as in schools and departments for sports championship, carried out under regulations issued pursuant to Article 18(5) of the Education Law Act;
5. Additional educational activities referred to in Article 109(1)(2) of the Education Law Act (hereinafter: ‘additional educational activities’), as well as sign language classes and instruction in the geography of the country associated with the cultural area of the relevant national minority, in accordance with provisions issued under Article 13(3) of the Education System Act;
6. Classes within the scope of psychological and pedagogical assistance, conducted pursuant to regulations issued under Article 47(1)(5) of the Education Law Act;

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<sup>18</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 28 marca 2017 r. w sprawie ramowych planów nauczania dla szkół publicznych [*Regulation of the Minister of National Education of 28 March 2017 on framework curricula for public schools*], §2 point 3, Dz. U. 2017, item 703.

<sup>19</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 20 maja 2024 r. w sprawie ramowych planów nauczania dla szkół publicznych [*Regulation of the Minister of National Education of 20 May 2024 on framework curricula for public schools*], Dz. U. 2024, item 781.

7. Classes conducted within the framework of military training programs in military preparation units, pursuant to regulations issued under Article 18(6) of the Education Law Act.<sup>20</sup>

The above provision excludes religious education classes from the category of compulsory subjects and additional educational activities, classifying them instead as other forms of educational activity. This legal classification has enabled the introduction of further changes, including the removal of the religion/ethics grade from the calculation of the grade point average, as well as the inclusion of a provision stipulating that religion or ethics classes should be scheduled before or after compulsory classes. These changes will be further analyzed in the context of the legislative amendments introduced on January 17, 2025.

## **b. Religion Grade Not Included in the Grade Point Average**

Assessment, as a fundamental principle of didactics validated across various educational systems over centuries, serves multiple purposes: it acts as a form of reward and recognition for students' efforts, provides feedback and diagnostic insight into educational progress, and serves as a motivational tool encouraging further learning. Teachers, parents, and students commonly regard the assessment of religious education in this multifaceted way.

A detailed description of the procedures and scope of assessment in educational institutions is contained in the regulation of the Minister of National Education, issued pursuant to Chapter 3a *Assessment, Classification, and Promotion of Students in Public Schools* of the Act of February 20, 2015 amending the Act on the Education System.<sup>21</sup> In particular, the Regulation of April 30, 2007 on the conditions and manner of assessing, classifying, and promoting pupils and students, and conducting examinations and tests in public schools (Journal of Laws of May 11, 2007, No. 83, item 562), in §1(5), states: "The principles of assessing religion and ethics are specified in separate regulations."<sup>22</sup> These separate regulations on the assessment of religion, referenced in the above-mentioned act,

<sup>20</sup> Ibid.

<sup>21</sup> Ministerstwo Edukacji Narodowej, *Ocenianie, klasyfikowanie i promowanie uczniów* [Assessment, classification and promotion of students], available at: <https://men.gov.pl/zycie-szkoly/ksztalcenie-ogolne/sprawdzian-i-egzaminy/ocenie-klasyfikowanie-i-promowanie-uczniow.html> [accessed 24 April 2025].

<sup>22</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 30 kwietnia 2007 r. w sprawie warunków i sposobu oceniania, klasyfikowania i promowania uczniów... [Regulation of the Minister of National Education of 30 April 2007 on the conditions and manner of assessing, classifying, and promoting pupils...], Dz. U. 2007, No. 83, item 562.

and the efforts of those responsible for catechesis in the Catholic Church, led to the development of a uniform national document entitled *Principles of Assessing Educational Achievements in Roman Catholic Religion in Public Schools*. Its aim was to assist catechists in formulating educational requirements and addressing challenges related to the assessment of students' educational achievements and progress in religious education.<sup>23</sup> However, this document has not been updated or adapted to align with the current legal and organizational framework of the education system for many years. As a result, it is no longer applicable under the present regulatory conditions.

It is worth emphasizing that the cited 2007 regulation on the assessment and classification of students, which introduced the inclusion of religion/ethics grades in a student's grade point average, was subjected to legal scrutiny by the Constitutional Tribunal. The Tribunal examined whether this provision was consistent with the Constitution of the Republic of Poland and the broader Polish legal framework. In its 2009 ruling, the Constitutional Tribunal stated, in the reasoning of its decision, that

the inclusion of grades in religion or ethics in the annual or final grade point average is a logical consequence of including those grades on the school report. The presence of such grades on the report card justifies the possibility of factoring them into the overall grade point average, thereby treating them equally with other school subjects. The allegation that including religion grades in the grade point average violates the principles of secularism and state neutrality must be considered in light of the broader legal context—specifically, the introduction of religious education into public schools. The difference in assessment criteria, as pointed out by the applicant, is inevitable, since the subject in question is religion, not religious studies. Teaching religion represents an exercise of religious freedom in accordance with the standards of a pluralistic, democratic society. Furthermore, the Tribunal emphasized that it is not the role of the state to impose a curriculum for religious education or to reduce its scope to that of religious studies. Such interference would not only contravene the Constitution but also breach the state's obligation to maintain impartiality in matters of religious belief and the free expression of those beliefs in public life.<sup>24</sup>

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<sup>23</sup> Komisja Wychowania Katolickiego, *Zasady oceniania osiągnięć edukacyjnych z religii rzymsko-katolickiej w szkołach publicznych* [Commission for Catholic Education, *Principles of assessing educational achievements in Roman Catholic religion in public schools*], [www.katecheza.episkopat.pl](http://www.katecheza.episkopat.pl) [accessed 24 April 2025].

<sup>24</sup> Trybunał Konstytucyjny, *Wliczenie do średniej ocen z obowiązkowych zajęć lekcyjnych ocen z religii lub etyki*, U 10/2007 [Constitutional Tribunal, *Inclusion of grades from religion or ethics in the grade point average for compulsory classes*, U 10/2007], <https://trybunal.gov.pl/s/u-1007> [accessed 26 May 2025].

Pursuant to the Regulation of the Minister of National Education of February 22, 2019 amending the regulation on the conditions and manner of assessing, classifying, and promoting pupils and students and conducting tests and examinations in public schools, § 18(2) states: "In the case of a student who attended additional educational classes, religion or ethics, the grade average referred to in paragraph 1 also includes the annual classification grades obtained in these classes." Similarly, § 19(2) provides: "In the case of a student who attended additional educational classes, religion or ethics, the grade average referred to in paragraph 1 also includes the final classification grades obtained in these classes."<sup>25</sup> It should be noted, however, that the inclusion of religion grades in the overall grade point average did not influence decisions regarding a student's promotion to the next grade level.

The above provision was amended pursuant to the regulation of March 22, 2024, which introduced changes to the Regulation on the Assessment, Classification, and Promotion of Students and Adult Learners in Public Schools.<sup>26</sup> The amended provision entered into force on September 1, 2024. The amendment involved the removal of the words "religion or ethics" from § 18 and § 19, respectively. Additionally, § 18(2) was revised to read as follows: "For a student who attended additional educational classes, the average grade referred to in paragraph 1 shall also include the annual classification grades obtained from these classes." Likewise, § 19(2) was revised to read: "For a student who attended additional educational classes, the average grade referred to in paragraph 1 shall also include the final classification grades obtained from these classes."<sup>27</sup>

On May 22, 2025, the Constitutional Tribunal, as stated in the official announcement,

issued a judgment following the consideration of an application submitted by a group of Members of Parliament. The case concerned the organization of religious education in public kindergartens and schools. The Tribunal ruled that § 1 points 2 and 3 of the Regulation of the Minister of Education of March 22, 2024, amending the

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<sup>25</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 22 lutego 2019 r. zmieniające rozporządzenie w sprawie warunków i sposobu oceniania, klasyfikowania i promowania uczniów i słuchaczy oraz przeprowadzania sprawdzianów i egzaminów w szkołach publicznych, § 18, § 19 [*Regulation of the Minister of National Education of 22 February 2019 amending the regulation on the conditions and manner of assessing, classifying and promoting pupils and students, and conducting tests and examinations in public schools, § 18, § 19*], Dz. U. 2019, item 373.

<sup>26</sup> Rozporządzenie Ministra Edukacji Narodowej z dnia 22 marca 2024 r. zmieniające rozporządzenie w sprawie warunków i sposobu oceniania, klasyfikowania i promowania uczniów i słuchaczy oraz przeprowadzania sprawdzianów i egzaminów w szkołach publicznych [*Regulation of the Minister of National Education of 22 March 2024 amending the regulation on the conditions and manner of assessing, classifying and promoting pupils and students, and conducting tests and examinations in public schools*], Dz. U. 2024, item 438.

<sup>27</sup> Ibid.

Regulation on the Assessment, Classification, and Promotion of Pupils and Students in Public Schools (Journal of Laws, item 438), insofar as it excludes the classification grade obtained in religion from being included in a student's grade point average—and insofar as it was issued without consultation and agreement with the competent authorities of the Catholic Church (Polish Episcopal Conference)—is inconsistent with Article 25(3) and (4) of the Constitution, in conjunction with Article 12(1) and (2) and Article 27 of the Concordat between the Holy See and the Republic of Poland, signed in Warsaw on July 28, 1993 (Journal of Laws of 1998, No. 51, item 318), as well as Article 12(2) of the Act of September 7, 1991, on the Education System (Journal of Laws of 2024, item 750, as amended). The proceedings were discontinued with respect to the remaining claims. The ruling was unanimous.<sup>28</sup>

### c. Amendment of the Regulation of July 26, 2024, and January 17, 2025

Significant changes to the organization of religious education in Polish schools were introduced through subsequent amendments to the Regulation of the Minister of National Education dated July 26, 2024, and January 17, 2025.

The legislative process began with the publication, on April 29, 2024, by the Ministry of National Education, of a draft amendment to the aforementioned regulation, which was simultaneously submitted for public consultation. On the same day, the Ministry forwarded the draft to 28 entities, including churches and religious associations, requesting their opinions within 30 days.<sup>29</sup> The proposed amendments concerning the organization of religious education related to § 2 of the regulation and were formulated as follows:

1) Paragraph 1 shall read as follows:

‘§ 1. Kindergartens and schools shall organize religious education classes for groups consisting of no fewer than seven pupils from a given section or class’.

2) After paragraph 1, the following paragraphs 1a–1e shall be added:

‘§ 1a. In the event that fewer than seven pupils from a given section or class enrol in religious education in a kindergarten or school, religious education shall be organized in an inter-sectional or inter-class group’.<sup>30</sup>

<sup>28</sup> Trybunał Konstytucyjny, *Komunikat do Wyroku U 11/24, Nauka religii w publicznych przedszkolach i szkołach* [Constitutional Tribunal, *Statement on Judgment U 11/24, Religious education in public kindergartens and schools*], available at: <https://trybunal.gov.pl/s/u-10-24> [accessed 26 April 2025].

<sup>29</sup> Rządowe Centrum Legislacji, *Projekt rozporządzenia Ministra Edukacji zmieniającego rozporządzenie w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach* [Government Legislative Centre, *Draft regulation of the Minister of Education amending the regulation on the conditions and method of organising religious education in public kindergartens and schools*], available at: <https://legislacja.rcl.gov.pl/projekt/12384702/katalog/13056494#13056494> [accessed 10 May 2025].

<sup>30</sup> Ibid.

The above provision, establishing a minimum number of pupils for organizing religious education in a given class, reflects a reiteration of previously existing legal regulations. However, the subsequent provisions introduce significant changes, and in the draft version were formulated as follows:

§ 1b. Kindergartens and schools may also organize religious education in inter-sectional or inter-class groups consisting of: 1) pupils from sections or classes in which no fewer than seven pupils have enrolled in religious education; or 2) a combination of pupils from sections or classes in which no fewer than seven pupils have enrolled in religious education and pupils from sections or classes in which fewer than seven pupils have enrolled.<sup>31</sup>

According to the aforementioned legal provision, the school principal may organize religious education in inter-unit and inter-class groups, provided that more than seven students are enrolled. The organization of inter-class groups for religious education is further specified in the draft provision § 1c, which states: “§ 1c. In the case of primary schools, the inter-class group referred to in paragraphs 1a and 1b may include only students from grades I–III or IV–VIII.”<sup>32</sup> The proposed approach to forming inter-class groups has elicited negative responses, as evidenced by letters submitted to the Ministry of National Education. For example, the Polish Ecumenical Council raised concerns regarding the combining of students into inter-unit groups, stating:

when combining students into inter-unit groups, it is permissible to include students from the same class, provided that their number does not exceed the agreed limit. However, the creation of mandatory inter-class groups (comprising students from different classes) should not be allowed, as such arrangements fail to account for psychological, emotional, and didactic considerations.<sup>33</sup>

Similar arguments and a negative assessment were presented by the Head of the Orthodox Church, who, in a letter dated May 24, 2024, stated, among other things:

I express a negative opinion on the draft regulation proposed by the Ministry of National Education, dated April 29, 2024, amending the regulation on the conditions and manner of organizing religious education in public kindergartens and schools, which

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Polska Rada Ekumeniczna, *Stanowisko Kościołów Polskiej Rady Ekumenicznej w sprawie zmian MEN* [Polish Ecumenical Council, *Position of the churches of the Polish Ecumenical Council on the changes proposed by the Ministry of National Education*], available at: <https://legislacja.rcl.gov.pl/docs//579/12384702/13056494/13056497/.pdf> [accessed 24 April 2025].



provides for combining different classes into groups of up to 25 students (grades I–III) and 30 students (grades IV–VIII). For psychological, emotional, didactic, and organizational reasons, combining classes into such groups is unacceptable. It is not possible to effectively implement the religious education curriculum in combined inter-class groups.<sup>34</sup>

Bishop Jerzy Samiec, the Presiding Bishop of the Evangelical-Augsburg Church in Poland, responded with similar firmness and disapproval. He emphasized that:

Following a ruling of the European Court of Human Rights, in 2014 a provision was removed from the regulation of April 14, 1992, which had made the establishment of inter-school groups or extra-school catechetical points conditional upon the enrolment of at least three students. This amendment enabled access to religious education for students who, due to their affiliation with small churches or religious associations, had previously been unable to participate in religious education classes at school—thus infringing Article 53(4) of the Constitution of the Republic of Poland.

The changes currently proposed will, in effect, limit the possibility of organizing religious education classes for students belonging to small churches and religious associations, as they grant schools or their governing bodies discretionary authority to establish inter-class groups for such students.<sup>35</sup>

Another negative assessment of the proposed changes—specifically, the grouping of students for religious education into inter-class groups—was submitted by the Catholic Church, which, in its opinion, raised the following concerns:

The draft amendments to the Regulation of the Ministry of National Education of April 14, 1992, on the conditions and method of organizing religious education in public kindergartens and schools, include the following provisions:

- a) the retention of a minimum of seven students as a condition for organizing religious education classes for a given class or kindergarten section;
- b) the introduction of the possibility to combine kindergarten sections or school classes, with a maximum group size of 30 students (25 students for grades I–III), and a lower limit for integration classes;

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<sup>34</sup> Prawosławny Metropolita Warszawski i Całej Polski, *Stanowisko w sprawie zmian MEN dotyczących nauki religii* [Orthodox Metropolitan of Warsaw and All Poland, *Statement on the Ministry of National Education's changes concerning religious education*], available at: <https://legislacja.rcl.gov.pl/docs//579/12384702/13056494/13056497/dokument674401.pdf> [accessed 24 April 2025].

<sup>35</sup> Kościół Ewangelicko-Augsburski w Rzeczypospolitej Polskiej (*Evangelical Augsburg Church in the Republic of Poland*), available at: <https://legislacja.rcl.gov.pl/docs//579/12384702/13056494/13056497/dokument674402.pdf> [accessed 24 April 2025].



c) the above provision also allows the combination of classes within educational stages that differ in terms of curriculum and are not necessarily adjacent (e.g., grades IV and VIII of primary school).

The near-unrestricted possibility of grouping students from different classes is subject to particular criticism. This solution appears to be inconsistent with Article 1(1) and (5) of the Act of December 14, 2016—Education Law. These provisions impose an obligation on all entities involved in shaping the educational system to ensure, among other things, ‘the realization of the right of children and young people to education and care appropriate to their age and level of development’ and ‘the adaptation of the content, manner, and organization of teaching to the psychophysical abilities of students’. Furthermore, the ability to combine students from different classes into groups may result in religious instruction being delivered in a manner different from that intended by the Church. In this context, Article 12(2) of the Concordat between the Holy See and the Republic of Poland clearly states that ‘the curriculum of Catholic religious education and textbooks shall be developed by the Church authorities and made known to the competent state authorities’.<sup>36</sup>

In the following provision, the Ministry specified the maximum number of students allowed in combined groups. The proposed provision reads:

§ 1d. The number of students in an inter-class or inter-grade group, referred to in paragraphs 1a and 1b, may not exceed 30, and in the case of a group comprising students from grades I–III of primary school, may not exceed 25. The number of students in an inter-class group, as referred to in paragraphs 1a and 1b, may not exceed 25.<sup>37</sup>

This proposed regulation concerning the maximum number of students in inter-class and inter-grade groups has also been met with criticism from representatives of Churches, religious associations, and other institutions involved in the public consultation process. Detailed justifications for the negative assessments of this provision can be found in the opinion letters submitted by these entities, which are available on the website of the Government Legislation Centre.<sup>38</sup>

The next provision concerns special schools and specifies the principles for organizing religious education in combined groups, namely:

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<sup>36</sup> Komisja Wychowania Katolickiego Konferencji Episkopatu Polski, *Opinia odnośnie do projektu rozporządzenia Ministra Edukacji zmieniającego rozporządzenie w sprawie warunków i sposobu organizowania nauki religii w szkołach publicznych* (Opinion on the draft regulation of the Minister of Education amending the regulation on the conditions and manner of organizing religious education in public schools), available at: <https://legislacja.rcl.gov.pl/docs//579/1238470/2/13056494/13056497/dokument674405.pdf> [accessed 10 May 2025].

<sup>37</sup> Ibid.

<sup>38</sup> Rządowe Centrum Legislacji, *Projekt...* [accessed 10 May 2025].

§ 1e. The number of pupils or students with a decision on the need for special education in the inter-class or inter-grade group referred to in paragraphs 1a and 1b shall not exceed the maximum number of pupils or students set forth in the regulations issued pursuant to Article 111 of the Act of December 14, 2016—Education Law (Journal of Laws of 2023, items 900, 1672, 1718, and 2005) concerning the permitted number of children or students in integrated or special kindergarten or school classes, or in integrated or special classes within mainstream kindergartens or schools, respectively.<sup>39</sup>

Despite numerous negative opinions and objections, the legislative process concluded with the signing, on July 26, 2024, of the regulation on the conditions and manner of organizing religious education in public schools and kindergartens. The regulation reflects only the new division of inter-class groups and the limits on group size. Accordingly, paragraph 2 was amended to read as follows:

§ 1c. In primary schools, the inter-class group referred to in paragraphs 1a and 1b may include students from grades I–III, IV–VI, or VII–VIII; § 1d. The number of pupils in an inter-class group in kindergarten, as referred to in paragraphs 1a and 1b, may not exceed 25. The number of pupils in an inter-class or inter-grade group in schools, as referred to in paragraphs 1a and 1b, may not exceed 28, except that in inter-class or inter-grade groups including students from grades I–III of primary school, the maximum number is 25.<sup>40</sup>

The entry into force of the above-mentioned changes, scheduled for September 1, 2024, was met with criticism from numerous Churches, religious associations, and various social and educational organizations. Among others, the Polish Episcopal Conference submitted a request to the First President of the Supreme Court, seeking referral of the contested regulation to the Constitutional Tribunal. In response, the Constitutional Tribunal issued a decision on August 29, 2024, suspending the application of the Regulation of the Ministry of National Education concerning the organization of religious education classes. Immediately following the publication of the Tribunal's decision, the Ministry of National Education released the following statement:

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<sup>39</sup> Ibid.

<sup>40</sup> Rozporządzenie Ministra Edukacji z dnia 26 lipca 2024 r. zmieniające rozporządzenie w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach (*Regulation of the Minister of Education of 26 July 2024 amending the regulation on the conditions and manner of organizing religious education in public kindergartens and schools*), available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20240001158/O/D20241158.pdf> [accessed 12 May 2025].

In connection with media reports regarding the issuance by the Constitutional Tribunal of interim relief in the form of suspension of the application of the Regulation of the Minister of Education of July 26, 2024, amending the regulation on the conditions and method of organizing religious education in public kindergartens and schools (Journal of Laws of 2024, item 1158), the Minister of Education informs that the aforementioned interim relief has no legal effect. The regulation was issued in accordance with the law and has been in general force since September 1, 2024.<sup>41</sup>

This situation has created a degree of legal and interpretative uncertainty.

The next significant legal development was the issuance of a judgment by the Constitutional Tribunal on November 27, 2024. The Tribunal ruled as follows:

The Regulation of the Minister of Education of July 26, 2024, amending the regulation on the conditions and method of organizing religious education in public kindergartens and schools (Journal of Laws, item 1158), is wholly inconsistent with Article 12(2) of the Act of September 7, 1991, on the Education System (Journal of Laws of 2024, item 750, as amended), in conjunction with Article 92(1), Article 25(3), Article 2, and Article 7 of the Constitution of the Republic of Poland. In addition, the Tribunal decided to discontinue the proceedings with respect to the remaining scope of the case.<sup>42</sup>

Pursuant to Article 190 of the Constitution of the Republic of Poland:

1. Judgments of the Constitutional Tribunal have universally binding force and are final.
2. Judgments of the Constitutional Tribunal in matters specified in Article 188 of the Constitution are subject to immediate publication in the official journal in which the normative act was originally promulgated. If the act was not published, the judgment is published in the Official Journal of the Republic of Poland—Monitor Polski.
3. A judgment of the Constitutional Tribunal enters into force on the day of its publication. However, the Tribunal may specify a different date for the loss of binding force of the normative act. This date may not exceed eighteen months in the case of a statute, and twelve months in the case of another normative act. In the case

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<sup>41</sup> Ministerstwo Edukacji Narodowej, *Stanowisko Ministra Edukacji ws. zabezpieczenia TK* (Ministry of National Education, *Position of the Minister of Education on the Constitutional Tribunal's interim measure*), available at: <https://www.gov.pl/web/edukacja/stanowisko-ministra-edukacji-ws-zabezpieczenia-tk> [accessed 12 May 2025].

<sup>42</sup> Trybunał Konstytucyjny, *Nauka religii w publicznych przedszkolach i szkołach* (Constitutional Tribunal, *Religious education in public kindergartens and schools*), available at: <https://trybunal.gov.pl/postepowanie-i-orzeczenia/komunikaty-prasowe/komunikaty-po/art/nauka-religii-w-publicznych-przedszkolach-i-szkolach-5> [accessed 12 May 2025].

of judgments involving financial expenditures not foreseen in the Budget Act, the Constitutional Tribunal shall determine the date of the cessation of the binding force of the normative act after considering the opinion of the Council of Ministers.

4. A judgement of the Constitutional Tribunal stating the non-conformity of a normative act with the Constitution, an international agreement, or a statute—if the act served as the basis for a final court judgment, a final administrative decision, or another final ruling—shall constitute grounds for reopening the proceedings, revoking the decision, or issuing a new ruling, in accordance with the principles and procedures set forth in the provisions applicable to the specific type of proceedings.<sup>43</sup>

In light of the above provision of the Fundamental Law, the judgment of the Constitutional Tribunal of November 27, 2024, file reference 10/24, should also be published. This obligation was emphasized by the Polish bishops in a letter addressed to Prime Minister Donald Tusk, in which they also inquired about

the constitutional and statutory legal basis for the inaction of state authorities and government administration in this matter. Furthermore, they questioned whether the government assumes responsibility for the unlawful actions of the Minister of National Education, namely, the issuance and publication of amending regulations without first obtaining the required agreement with the authorities of the Catholic Church, the Polish Autocephalous Orthodox Church, and other churches and religious associations.<sup>44</sup>

Despite opposition from numerous social groups, churches, and religious associations, the Ministry of National Education has undertaken further legislative initiatives aimed at introducing additional changes to the organization of religious education in public schools in Poland. On October 1, 2024, public consultations were announced, and a draft amendment to the relevant regulation was published. The draft proposes the following measures:

- Unification of the weekly teaching time for religious education and ethics classes in public schools, whereby both subjects would be taught for one hour per week;
- A requirement that religious education and ethics classes be scheduled either before or immediately after a student's compulsory educational classes;

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<sup>43</sup> *Konstytucja...* [accessed 24 April 2025].

<sup>44</sup> Polska Agencja Prasowa, *Biskupi napisali list do premiera w sprawie lekcji religii* (Polish Press Agency, *Bishops sent a letter to the Prime Minister regarding religious education classes*), available at: <https://www.pap.pl/aktualnosci/biskupi-napisali-list-do-premiera-w-sprawie-lekcji-religii> [accessed 13 May 2025].

- Application of the same rules for combining students in religious education classes held outside the school setting (e.g., in inter-school groups or extra-school catechetical points) as those applied within the school.<sup>45</sup>

According to the Ministry of National Education, public consultations on the draft were scheduled to run until November 4, 2024, with the proposed changes intended to take effect on September 1, 2025.<sup>46</sup> As in the previous legislative process, several religious organizations—including the Catholic Church in Poland, the Seventh-day Adventist Church in the Republic of Poland, the Evangelical-Augsburg Church in the Republic of Poland, the Evangelical Reformed Church in the Republic of Poland, the Greek Catholic Church in Poland, the Orthodox Metropolitan of Warsaw and All Poland, and the Religious Union of Polish Native Faith—submitted formal positions and opinions.<sup>47</sup> Most of these submissions reiterated a negative assessment of the proposed changes, particularly the reduction of religious education to one hour per week and the scheduling of religion or ethics classes outside of core curriculum hours. The rationale for this critical stance included the following arguments:

- The procedure for introducing the change violated Article 12, Section 2 of the Education System Act, despite prior critical remarks and the judgment of the Constitutional Tribunal;
- The absence of a transitional period for the implemented changes, including insufficient time for retraining religious education teachers;
- The loss of employment and deterioration of the financial situation of a significant number of religious education teachers;
- The presence of discriminatory elements and intolerance towards religious education, particularly regarding the scheduling of religion classes before or after compulsory lessons;
- The limitation of the educational impact and the ability to shape universal and Christian values, as well as to provide comprehensive education for the younger generation;
- The combining of students into inter-class groups contradicts the principles of didactics and developmental psychology;

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<sup>45</sup> Ministerstwo Edukacji Narodowej, *Projekt rozporządzenia Ministra Edukacji w sprawie sposobu organizowania nauki religii* (Ministry of National Education, *Draft regulation of the Minister of Education on the manner of organizing religious education*), available at: <https://www.gov.pl/web/edukacja/projekt-rozporzadzenia-ministra-edukacji-ws-sposobu-organizowania-nauki-religii-w-szkolach-skierowany-do-konsultacji-spolecznych> [accessed 14 May 2025].

<sup>46</sup> Ibid.

<sup>47</sup> Rządowe Centrum Legislacji, *Stanowiska zgłoszone w ramach opiniowania* (Government Legislative Centre, *Positions submitted as part of the consultation process*), available at: <https://legislacja.rcl.gov.pl/projekt/12390003/katalog/13084339#13084339> [accessed 14 May 2025].

- The inability to implement the core curriculum and content included in religious education programs, coupled with insufficient time to develop and apply new didactic planning documents.<sup>48</sup>

The opinions published on the website of the Legislative Office of the Ministry of National Education also emphasize the need for dialogue, consultation, and debate on the matter. It is worth noting that two opinions, namely those submitted by the Seventh-day Adventist Church in the Republic of Poland and the Polish Native American Religious Association RÓD, express a positive assessment of the changes proposed by the Ministry of National Education regarding the organization of religious education.<sup>49</sup>

Following the completion of the public consultations, the Minister of Education, disregarding the negative opinions and arguments presented by stakeholders, signed the regulation incorporating the proposed changes on January 17, 2025, with implementation scheduled for September 1, 2025.<sup>50</sup>

### **Dispute over the ‘Agreement’ with Art. 12 Sec. 2 of the Education System Act**

In art. 12 sec. 2 of the Education System Act of September 7, 1991, already quoted in this study, we read: “The Minister responsible for education and upbringing, in agreement with the authorities of the Catholic Church and the Polish Autocephalous Orthodox Church and other churches and religious associations, shall specify, by way of a regulation, the conditions and manner of performing by schools the tasks referred to in sec. 1.”<sup>51</sup> The term “agreement” used in the Act, in the literal sense, means the participation of Churches and religious associations in the work of the Ministry of Education, in order to develop consistent conditions and manner of organizing religious education in Polish schools. The above provision also applies to each change in the regulation in question. Unfortunately, the current interpretation of art. 12 sec. 2 of the Education System Act turned out to be different and caused a specific social and legal dispute.

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<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Rozporządzenie Ministra Edukacji z dnia 17 stycznia 2025 r. zmieniające rozporządzenie w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach (*Regulation of the Minister of Education of 17 January 2025 amending the regulation on the conditions and manner of organizing religious education in public kindergartens and schools*), available at: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU2025000066/O/D20250066.pdf> [accessed 14 May 2025].

<sup>51</sup> Ustawa z dnia 7 września...

The position of the Catholic Church and other churches and religious associations operating in Poland, as well as their interpretation of Article 12, Section 2, emphasizes the necessity for the parties involved in proposed changes to reach a consensus, agreement, and develop a common, binding provision.

This interpretation is supported, for example, by Paweł Borecki, professor of law at the University of Warsaw, who during the scientific conference *State-Church Relations: Basic Principles of the Rule of Law* addressed the issue. He recalled that “the ministerial regulation of 1992, which specified the principles of organizing religious education in schools, was signed not only by the then Minister of Education but also by the leaders of twelve Christian churches.” Professor Borecki noted that “the phrase ‘in agreement’ has a specific legal meaning; it appears in the legislation of the Second Polish Republic, the Polish People’s Republic, and the Third Polish Republic. ‘In agreement’ denotes a consensus without which the act cannot take effect.” He explained that “this concept was deliberately used in the 1991 Act. During legislative discussions, a proposal to replace it with the phrase ‘after seeking an opinion’ was rejected.” He further emphasized that, contrary to the interpretation of the current Ministry of National Education (MEN) leadership, “this provision does not grant churches a veto power over ministerial regulations. Instead, it requires cooperation between both parties—the church and the government—on specific matters.” He also reminded that the tradition of cooperation and mutual understanding between the state and churches in the field of religious education dates back to the eighteenth century. Professor Borecki concluded that the recent actions of the Ministry of National Education violated a consensus that has existed for over thirty years and which all previous ministers respected, referring specifically to the latest MEN regulations on religious education.”<sup>52</sup>

As stated in the announcement by the Constitutional Tribunal regarding the judgment issued on November 27, 2024, which ruled on the total inconsistency of the Minister of Education’s regulation of July 26, 2024, with Article 12, Section 2 of the Act of September 7, 1991, on the education system, in connection with Article 92, Section 1, Article 25, Section 3, and Articles 2 and 7 of the Constitution of the Republic of Poland:

The procedure for issuing the challenged regulation violated Article 25, Section 3 of the Constitution, which enshrines the principle of consensual regulation of relations between the state and churches. The authorization granted under Article 12, Section 2 of the Education System Act was also breached, as the Minister of Education issued the regulation unilaterally, disregarding the positions of representatives of the Catho-

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<sup>52</sup> P. Borecki, *Działania MEN ws. lekcji religii naruszają obowiązujące prawo (MEN’s actions regarding religious education classes violate applicable law)*, available at: <https://www.ekai.pl/prof-borecki-dzialania-men-ws-lekcji-religii-naruszaja-obowiazujace-prawo/> [accessed 5 July 2025].



lic Church and other churches and religious associations. The Minister did not fulfill the obligation to act “in agreement”, reducing it solely to the requirement to inform the parties about the draft regulation.<sup>53</sup>

The current interpretation of Article 12, Section 2 of the Education System Act by the Ministry of National Education is based on the thesis, already referenced in the announcement of the Constitutional Tribunal, that the public consultations conducted and the opportunity to express opinions on the planned changes constitute an “agreement” and fall within the legal framework defined by the law. This position is further supported by a media statement from Barbara Nowacka, who noted, among other things, that “meetings were held at the ministry, thus these consultations took place, and some comments submitted during the meetings were considered because they had a rational basis.”<sup>54</sup>

Given the numerous controversial issues and differing interpretations of the legal provisions discussed above, it is difficult to provide a definitive summary. It is clear, however, that the current situation is detrimental to building a positive image of Polish education, undermines the coherence of the education and upbringing system, and disrupts proper social order. The question remains: what course of action will the involved parties, particularly the Ministry of Education, choose? Professor Borecki, previously cited in this study, suggests that “administrative and labour courts are likely to express opinions regarding the legality and constitutionality of the Ministry’s and the Government of the Republic of Poland’s actions. This process could effectively function as a form of ‘dispersed constitutional review’.”<sup>55</sup>

Rather than imposing changes and reforms by force, it may be more constructive to respond affirmatively to the appeals of various social groups, as reflected in opinions submitted during public consultations with the Ministry of National Education, and to engage in constructive dialogue and debate to develop solutions that will yield positive outcomes for the future.

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<sup>53</sup> Trybunał Konstytucyjny, *Komunikat...* [accessed 12 May 2025].

<sup>54</sup> *Zmiany w nauczaniu religii w szkołach bez konsultacji z Kościołem? Nowacka uderza w episkopat* (*Changes in religious education in schools without consultation with the Church? Nowacka criticizes the episcopate*), available at: <https://www.portalsamorzadowy.pl/edukacja/zmiany-w-nauczaniu-religii-w-szkolach-bez-konsultacji-z-kosciolem-nowacka-uderza-w-episkopat,561930.html> [accessed 24 April 2025].

<sup>55</sup> P. Borecki, *Działania...* [accessed 24 April 2025].



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