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Catholic parish as a third sector unit

SUMMARY

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The presented dissertation consists of four chapters, introduction and ending. Its main purpose is to define the limits of the possibility of a Catholic parish to operate in the field of public benefit under the Polish law, considering the regime resulting from canon law.

The first chapter describes the motives for the functioning of the third sector: there are both definitions and its scope presented. Taking the assumption confirmed by the doctrine that the Catholic Church in general belongs to the third sector and conducts public benefit activities, the first chapter also discusses the foundations of the Church's social activity.

There is a so-called third sector between the public sector responsible for exercising power and satisfying the basic needs of citizens and the private profit-oriented sector. Many people discussed the subject, including the outstanding French thinker Alexis de Tocqueville, who - while traveling around America - appreciated the civil society model functioning there. This model was based on supporting the government in organizing a state in which a group of entities was able to gather around a common cause and independently meet their needs - build a road, school or organize care for the homeless. Civil society is based on the free decision of an individual who wants to devote to a certain extent to achieve a specific goal. The entities involved, by uniting and organizing in various legal forms, form institutions of the third sector in which private funds are used to achieve public purposes.

Among the third sector, non-governmental organisations stand out. Polish legislation describes a group of these entities, listing foundations and associations among them. Non-governmental organizations may also be other entities, also without legal personality, if they meet the conditions referred to in art. 3 section 2 of the Act of 24th April 2003 on public benefit activities and volunteering (Journal of Laws of 2019, item 688, as amended). The Act explicitly excludes certain entities, including church legal persons, from non-governmental organizations. They may, however, conduct public benefit activities as long as their statutory objectives include conducting such activities. This justifies their inclusion in the third sector.

The basic organizational units of the Catholic Church are the parishes, i.e. small communities entrusted to their own parson. The second chapter of the dissertation focuses on the parish as such; describes its structure and scope of activity as well as the parish's connection with other entities operating at the same level. Relationships between parish members are based on brotherly love

(Greek *ἀγάπη*, Latin. *caritas*), which is an attitude of being ready for selfless service, an attitude based on altruism and spiritual bond. The main purpose of the parish is to sanctify and teach according to church doctrine. Historically, Christian communities, which were the prototypes of modern parishes, also fulfilled other functions - provided support to individual members of the community, especially the sick and prisoners, supported the poor and provided educational activities. Currently, in Catholic ecclesiology, a parish is sometimes defined as a community of communities in which small groups act for the good of the whole.

The existence of the parish has organizational significance - under canon law, it received legal personality. Since the entry into force of the so-called May laws regulating religious issues, the legal personality of the parish is also recognized on a state basis, with the subject that they govern canon law in their matters. Recognition of the legal personality of the parish in the state created additional opportunities for functioning in public space. The framework for this action is determined by state and church legislation. The analysis of the regulations shows that parishes can carry out tasks belonging to a very wide range of public benefit activities described by law. Identified areas in which parishes cannot conduct public benefit activities are, among others, public order and security, rescue and civil protection, as well as the dissemination and protection of consumer rights.

In many cases, parishes do not carry out public benefit tasks on their own, but establish cooperation with the organizations operating in close vicinity - mainly foundations and associations. The coexistence of both entities is usually task-based (dividing duties), property (shared use of property) or personal (performing management or control functions by the same persons). Dividing tasks can facilitate the organization of activities and the conduct or settlement of actions taken, especially when they are co-financed from public funds. However, there are negative consequences of the division, including the need to service two entities in administrative and financial terms.

In addition to external organizations cooperating with parishes, there are also such communities that function in some way within the structures of the parish, at the same time being under the responsibility of the relevant church superiors, who set the direction of activities of a given type of community. At that time, the parish priest exercises a control and pastoral function over the group functioning in his parish. Examples of such organizations are Caritas and its parish complexes, the Catholic Youth Association (Katolickie Stowarzyszenie Młodzieży), the Light-Life Movement (Ruch Światło-Życie) and others. The

establishment of a given community in a parish makes it easier to achieve a specific goal among parishioners, while supporting the relevant church superiors responsible for setting directions, controlling and assisting in fulfilling the mission.

The third chapter discusses the financing of the parish and the basic requirements regarding the use of public funds. The parishes make their living mainly because of the mass attendants: the so-called tray, donations made on the occasion of pastoral visits, the blessing of food on Good Saturday, as well as from other various donations. An additional source of income for some parishes include donations with regard to the use of the parish cemetery. Organizational units of the Church have the right to conduct business activity, which is subject to notification to the head of the relevant tax office. The parish's expenses include, most of all, financing religious worship, but also the maintenance of the church and other church properties, employees' remuneration and expenses for charity. The parish's income is not payable, for example in the form of dividends, but is intended for further operations.

The parishes were also granted the right to apply for public funds, similar to NGOs. One of the most important sources of financing is the Church Fund, currently at the disposal of the Minister of the Internal Affairs and Administration. Subsidies are also awarded by other government and self-government bodies in connection with the implementation of specific public tasks - especially within the scope of culture, education, child and youth care, heritage protection and others. Parishes have the opportunity to benefit from tax privileges (which are the source of the so-called negative financing) and obtain the status of a Public Benefit Organization, which involves the possibility of exercising the rights provided for this type of entities.

In the case of co-financing of the parish's activity from public funds, parishes become subject to the regulations on public finance discipline. Failure to comply with them may result in the parson's responsibility. We are talking here about, among others, appropriate documentation of economic events, reporting or document archiving. The Polish reality lacks solutions which would normalize the performance of certain obligations, in particular the accounting separation of operations carried out on public funds. Practitioners, in consultation with administrative bodies and *think tanks*, developed and implemented a model document called "Cumulative statement of expenditure", which contains a list of all accounting evidence documenting incurred expenses related to the implementation of a specific public activity.

The parish's obligations related to the use of public funds also apply to the provision of public information. The empirical research shows that not all church entities (including parishes) are aware of their obligations in this respect. In 2017, one of the cases regarding this issue found its final in the Supreme Administrative Court, which admitted that a parish using public funds is obliged to provide information in this regard.

The last chapter includes the analysis of the practice carried out by parishes from the Łódzkie Voivodeship. It showed that the main areas of public benefit activity carried out in parishes are: culture and national heritage as well as charity and care activities. Other areas include: education, tourism and the organization of recreation for children and youth. These tasks - especially in the first area - are subsidized from public funds, mainly the Minister of Culture and National Heritage, the Church Fund, the voivodeship conservator of monuments, as well as local government units. Similarly, charitable activities are financed from public funds, but in this case co-financing is in a smaller proportion. Conducting charity help many times requires the involvement of own parish resources and additional fund collections among parishioners, which corresponds to the idea of volunteering.

The facts presented in the dissertation, including the analysis of provisions from two legal orders and examples cited, indicate that Catholic parishes in Poland should be included in the third sector. They can and they do conduct appropriate activities, engaging their resources for the common good. As a result, they implement their social mission and the principle of subsidiarity, whose echo also appears in the state legal order.

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