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## THE CONCEPT AND COMPETENCES OF THE CONFERENCE OF BISHOPS

The conferences of bishops are collective meetings. Over time, the Apostolic See began to issue normative acts, gradually creating legal regulations modifying the meetings of bishops. As a legal institution, it found its regulation in universal legislation in the 1983 Code of Canon Law.<sup>1</sup> Initially, the conferences of bishops began to be formed on the initiative of the grassroots. Over the years, they began to deal with the issues of teaching faith and the unification of legal provisions. They took the form of a continuation of the apostles' meetings. The Apostolic See was initially concerned about collective meetings in this form because of fear of a return to Caesaropapism. From the pontificate of Pius IX and his successors, only began to appreciate and support the form of bishops' meetings during the conferences.

### 1. The concept of a conference of bishops

The term conference comes from *conférence* in French. The genesis of this word can be found in medieval Latin [Sołtyszewski 1967, 29]. The Latin verb *confero* means first to put something into one place, to store it up, and then to collect something [Jougan 1958, 137]. A synonym for *confero* is the Latin noun *coetus*, meaning meeting or assembly. In Polish, a conference means: meeting or meeting of people [Szymczak 1978, 986]. E. Sztafrowski notes that the subject index of the 1917 Code of Canon Law<sup>2</sup> did not include notions *conferentia* or *coetus*, but both terms were included in the content of

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<sup>1</sup> *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, p. 1-317 [henceforth cited as: CIC/83].

<sup>2</sup> *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus* (27.05.1917), AAS 9 (1917), pars II, p. 1-593.

the new collection. In the normative acts, the term *Episcoporum Conferentia* has the meaning of a technical concept.<sup>3</sup> Moreover, the conference of bishops is, as it were, a council (CD 38).

The definition of the conference of bishops is first found in the schema of decree concerning the pastoral office of bishops in the Church.<sup>4</sup> There is an item entitled “*Conferentiarum Episcoporum notio*,” but, as E. Szafranski emphasizes, there is no definition of this institution. This term is included in the point entitled: “*Conferentiarum structura, competentia et cooperatio*.” In no. 35 of the schema it was emphasized that the consent and close cooperation of the bishops is necessary, without which there can be no effective exercise of the episcopal ministry. On the other hand, no. 36 of the schema contains the definition: “An episcopal conference is, as it were, a council in which the shepherds of a given nation or territory jointly exercise their pastoral office to promote the greater good which the Church offers mankind, especially through appropriate forms of apostolate and mode of action, properly adapted to modern conditions.”

The above definition of the conference of bishops was incorporated without major changes into CD. The content of the decree consists of practical conclusions drawn from the dogmatic constitution *Lumen Gentium* [ibid., 16].<sup>5</sup> CD defines the conferences of bishops descriptively as follows: “In these days especially bishops frequently are unable to fulfill their office effectively and fruitfully unless they develop a common effort involving constant growth in harmony and closeness of ties with other bishops. Episcopal conferences already established in many nations have furnished outstanding proofs of a more fruitful apostolate. Therefore, this sacred synod considers it to be supremely fitting that everywhere bishops belonging to the same nation or region form an association which would meet at fixed times. Thus, when the insights of prudence and experience have been shared and views exchan-

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<sup>3</sup> Sacrosanctum Concilium Oecumenicum Vaticanum II, *Decretum de pastorali episcoporum munere in Ecclesia Christus Dominus* (28.10.1965), AAS 58 (1966), p. 673-96 [henceforth cited as: CD], no. 37.

<sup>4</sup> Idem, *Schema Decreti de pastorali Episcoporum munere in Ecclesia* (27.04.1964), Typis Polyglottis Vaticanis 1964.

<sup>5</sup> Idem, *Constitutio dogmatica de Ecclesia Lumen gentium* (21.11.1964), AAS 57 (1965), p. 5-75 [henceforth cited as: LG].

ged, there will emerge a holy union of energies in the service of the common good of the churches” (CD 37, 1). This is not a definition in the proper sense, but a certain analytical description [Sołtyszewski 1967, 30].

In CD 38 there is an official definition: “An episcopal conference is, as it were, a council in which the bishops of a given nation or territory jointly exercise their pastoral office to promote the greater good which the Church offers mankind, especially through the forms and methods of the apostolate fittingly adapted to the circumstances of the age.” E. Szafrowski breaks down definitions into prime factors, showing individual phrases. The conference is, as it were, a council. The same term is used in LG 19 for the apostolic college. The council consists of the clergy superiors of a given nation or territory. The definition uses the term *sacrorum Antistites* meaning superiors or bishops. The territorial scope was also emphasized. Superiors jointly perform their pastoral service together [Szafrowski 1984, 17]. The current definition of the conference of bishops can be found in CIC/83: “The conference of bishops, a permanent institution, is the group of bishops of some nation or certain territory who jointly exercise certain pastoral functions for the Christian faithful of their territory in order to promote the greater good which the Church offers to humanity, especially through forms and programs of the apostolate fittingly adapted to the circumstances of time and place, according to the norm of law” (can. 447).

In can. 450 lists all the bishops of a given country, while can. 448 § 2 also allowed other conferences. According to can. 448 § 2, having heard the diocesan bishops concerned, the conference of bishops can be erected for a territory of lesser or greater area. According to E. Szafrowski, “the territory is more precisely defined by the Apostolic See” [ibid., 321]. The conference may cover a region or a province.

The conference of bishops is concerned with evangelization and pastoral care without prejudice to the powers of diocesan bishops. In CIC/83 conferences of bishops was granted legislative powers, but only in those matters where the law allows it. According to can. 455 § 1, the conference of bishops can only issue general decrees in cases where universal law has prescribed it or a special mandate of the Apostolic See has established it either *motu proprio* or at the request of the conference itself. The decrees of conferences, in order to be enacted validly in a plenary meeting, must be passed by at least

a two thirds vote of the prelates who belong to the conference and possess a deliberative vote (can. 455 § 2).

## **2. Competences of the conference of bishops**

In CIC/83 the conferences of bishops were granted legislative, executive and judicial powers, but only in those matters where the law allows it. The conferences of bishops were granted law-making powers, but only in strictly defined matters.

According to can. 455 § 1, the conferences of bishops can only issue general decrees in cases where universal law has prescribed it or a special mandate of the Apostolic See has established it or at the request of the conference itself. The decrees of conferences, in order to be enacted validly in a plenary meeting, must be passed by at least a two thirds vote of bishops possess a deliberative vote (can. 455 § 2).

The right to issue general decrees is the exercise of the legislative power of the conference of bishops. Bishops gathered during the conference have ordinary and proper power, which can be exercised jointly by a supra-diocesan collegiate body [Żurowski 1970, 38]. By law ordinary power is related to the conference of bishop because it is a collegial body. However, it is proper, because it is organized by the conference on its own behalf [Krukowski 2005, 327]. This power is exercised by virtue of office in conjunction with the Bishop of Rome [Hemperek 1970, 40].

The dispute in doctrine concerns can. 455 § 1 concerning the phrase “a special mandate of the Apostolic See has established it.” W. Góralski claims that the power on the basis of the Apostolic See is delegated [Góralski 1989, 50], while J. Krukowski states that it still remains ordinary [Krukowski 2005, 327]. The mandate given to the conference of bishops by the Apostolic See should be understood as a license, permission or authorization [Lewicka 2012, 72].

However, can. 455 § 4, because the intact competence of every diocesan bishop to legislate in his diocese is unquestionable. The legislator in can. 381 § 1 gave the diocesan bishop ordinary, proper and immediate power. CIC/83, however, provided for the situation that neither the universal law nor the mandate of the Apostolic See made it possible for the legislative activity of the

conference of bishops. On the basis of can. 455 § 4: “all the bishops and every bishop has given consent,” the bishops of a given conference may, with the consent of all members, establish a general decree [Sitarz 2009, 229]. It should be emphasized that a normative act established by the conference of bishops is binding only after having been reviewed by the Apostolic See.

S. Kądziołka emphasizes that the canons related to the discussed issue were placed by the legislator in various places of CIC/83 [Kądziołka 1997, 15].

## **2.1. The scope of legislative powers**

In the exercise of legislative powers, the conference of bishops is entitled to: enact general decrees, enact doctrinal declarations and make “other decisions” of a pastoral nature [Krukowski 2010, 48]. CIC/83 contains a catalogue of matters referred to be regulated by the conference of bishops: establishing the age and required qualifications of men as candidates for the ministry of lector and acolyte (can. 230 § 1), issuing norms on the formation of candidates for permanent diaconate (can. 236), establishing a national program of priestly formation (can. 242), defining the part of the liturgy of the hours which permanent deacons are obliged to carry out (can. 276 § 2, 3<sup>o</sup>), issuing norms on the suitable ecclesiastical garb of clerics (can. 284), issuing framework norms for statutes of presbyteral councils (can. 496), establishing norms on the suitable support and housing for a retired pastors (can. 538 § 3), establishing prescriptions on transmitting Christian doctrine by radio or television (can. 772 § 2), issuing norms regulating the catechumenate by determining what things must be expected of the catechumens and by defining what prerogatives are to be recognized as theirs (can. 788 § 3), establishing norms concerning the requirements for clerics and members of religious institutes to take part on radio or television in dealing with questions of Catholic doctrine or morals (can. 831 § 2), adapting the rite of baptism for adults and issuing special norms on admission to the catechumenate (can. 851, 1<sup>o</sup>), issuing prescriptions on recording the baptism of adopted children (can. 877 § 3), issuing norms regarding the confessional (can. 964 § 2), issuing norms on pre-marriage engagements (can. 1062 § 1), establishing norms about the examination of spouses and about the marriage banns or other opportune means to accomplish the investigations necessary before marriage (can. 1067), establishing the method in which declarations and promises before

entering into a mixed marriage and defining the manner of informing the non-Catholic party (can. 1126), issuing norms specifying the manner of providing material support to the Church by the faithful (can. 1262), issuing norms limiting the right to use benefices properly so called still exist (can. 1272), defining which acts undertakings in the diocese are to be considered of extraordinary administration (can. 1277), determination of the minimum and maximum amounts in the alienation of church property (can. 1292 § 1), establishing norms for the leasing of Church goods, especially regarding the permission to be obtained from competent ecclesiastical authority (can. 1297).

W. Góralski also emphasizes that the legislator gave the conferences of bishops the possibility to legislate, but it is not their duty. The conference may constitute legal norms that are optional [Góralski 1989, 53]. The matters allowed to be regulated are: establishing that the functions of the college of consultors are to be entrusted to the cathedral chapter (can. 502 § 3), issuing a decree permitting the appointment of pastors for a specified period (can. 522), issuing prescriptions on the type and manner of keeping parochial registers (can. 535 § 1), imparting practical norms according to the various needs and opportunities of the circumstances of the ecumenical movement (can. 755 § 2), issuing prescriptions on allowing the lay faithful to proclaim the Word of God in a church or oratory (can. 766), issuing general norms on religious instruction and education which are imparted in any schools whatsoever or are provided through the various instruments of social communication (can. 804 § 1), issuing norms on administering the sacraments: penance, the Eucharist and anointing of the sick to non-Catholic Christians (can. 844 § 4-5), issuing regulations specifying the manner of administering baptism (can. 854), determining the age at which the faithful should confer the sacrament of confirmation (can. 891), issuing norms on keeping a parochial register of confirmed (can. 895), establishing norms which require an older age for the presbyterate and the permanent diaconate (can. 1031 § 3), establishing a higher age for the licit celebration of marriage (can. 1083 § 2), producing its own rite of marriage (can. 1120), determining the manner of performing in the marriage register the names of the spouses, the person who assisted, the witnesses, and the place and date of the celebration of the marriage (can. 1121 § 1), establishing norms on granting a dispensation from keeping the canonical form when concluding mixed marriages (can. 1127 §

1), defining another worthy and solid material than natural stone from which the table of a fixed altar can be made (can. 1236 § 1), suppressing some of the holy days of obligation or transfer them to a Sunday (can. 1246 § 2), determining of foods other than meat that may be subject to the mandatory abstinence (can. 1251), determining more precisely the observance of fast and abstinence as well as substitute other forms of penance, especially works of charity and exercises of piety, in whole or in part, for abstinence and fast (can. 1253), establishing norms for begging for alms which all must observe, including those who by their foundation are called and are mendicants (can. 1265 § 2).

## **2.2. The scope of executive powers**

The legislator in CIC/83 granted coordination powers to the conferences of bishops. S. Kądziołka reminds that the coordination activity was the primary task of the conferences [Kądziołka 1997, 29]. E. Szafranski stressed, on the other hand, that broad coordination powers raised the moral authority of the conferences of bishops [Szafranski 1984, 29].

The legislator entrusted the conference of bishops with the right to: erect interdiocesan seminaries with the approval of the Apostolic See (can. 237 § 2), erect public national associations of the faithful (can. 312 § 1, 2°), approve their statutes (can. 314), confirm the moderator of a public association elected by the public association itself, install the one presented, or appoint the moderator in his own right, and appoint the chaplain or ecclesiastical assistant (can. 317 § 1), suppress associations it has erected for grave causes (can. 320 § 2), acquire juridic personality to a private national association of the faithful (can. 322), suppress of such association if its activity causes grave harm to ecclesiastical doctrine or discipline or is a scandal to the faithful (can. 326), convoke a plenary council (can. 441, 1°), select the place to celebrate the plenary council within the territory of the conference of bishops (can. 441, 2°), select from among the diocesan bishops a president of the plenary council whom the Apostolic See must approve (can. 441, 3°), determine the agenda and questions to be treated, set the opening and duration of a plenary council, transfer, extend, and dissolve it (can. 441, 4°). The legislator also assigns to the conferences of bishops the following tasks: ensuring the suitable and decent support of retired bishops (can. 402 § 2), ensuring social

security of clerics (can. 1274 § 2) and maintaining cooperation with the conferences of major superiors (can. 709).

Regarding the teaching task of the Church, the codex legislator also granted the conferences of bishops the authority to teach religion. The conference of bishops can: take care that catechisms are issued for its territory, with the previous approval of the Apostolic See (can. 775 § 2) and establish a catechetical office whose primary function is to assist individual dioceses in catechetical matters (can. 775 § 3). Regarding the missionary activity of the Church, the conference is to show concern for immigrants from mission areas (can. 792). The conferences of bishops are to take care that there are universities or at least faculties suitably spread through their territory, in which the various disciplines are studied and taught, with their academic autonomy preserved and in light of Catholic doctrine (can. 809). The conferences of bishops have the duty and right of being watchful so that the principles of Catholic doctrine are observed faithfully in these same universities (can. 810). The conferences of bishops are to make provision so that where possible, higher institutes of the religious sciences are established, namely, those which teach the theological disciplines and other disciplines which pertain to Christian culture (can. 821). The conferences of bishops have the duty and right to be watchful so that no harm is done to the faith or morals of the Christian faithful through writings or the use of instruments of social communication (can. 823 § 2). The conference of bishops also has the right to approve the publication or translation of the sacred scriptures (can. 825 § 1) and can allow an ecumenical translation of the sacred scriptures provided with appropriate annotations (can. 825 § 2). The conference of bishops can compile a list of censors outstanding in knowledge, correct doctrine, and prudence to be available to diocesan curias or can also establish a commission of censors which local ordinaries can consult (can. 830 § 1).

In the field of liturgy, it pertains to the conferences of bishops to faithfully prepare versions of the liturgical books in vernacular languages, suitably accommodated within defined limits, and to approve and publish the liturgical books for the regions for which they are responsible after the confirmation of the Apostolic See (can. 838 § 3). For a shrine to be called a national shrine, the conference of bishops must give its approval (can. 1231). The conference of bishops is competent to approve the statutes of a national shrine (can. 1232 § 1).

### **2.3. The scope of judicial powers**

The conference of bishops may establish legal norms in the judicial field which are precisely defined by the legislator and are optional. The conference of bishops can: permit the appointment of lay persons as judges and when – it is necessary – one of them can be selected to form a college (can. 1421 § 2), issue norms concerning an agreement, a compromise, and an arbitrated judgment (can. 1714), determine that each diocese establish in a stable manner an office or council whose function is to seek and suggest equitable solutions according to the norms determined by the conference (can. 1733 § 2).

According to can. 1439 § 1, if a single tribunal of first instance has been established for several dioceses, the conference of bishops must establish a tribunal of second instance with the approval of the Apostolic See unless the dioceses are all suffragan of the same archdiocese. The conference of bishops can establish one or more tribunals of second instance (can. 1439 § 2). Over those tribunals of second instance the conference of bishops or the bishop it designates has all the powers which a diocesan bishop has over his own tribunal (can. 1439 § 3).

### **Conclusion**

The conference of bishops found its legal regulation in CIC/83. The definition of the conference of bishops was shaped by creating schemas for LG and CD. The definition of the conference of bishops was shaped in the schemas indicated above. The legal definition of the conference of bishops is found in can. 447.

In CIC/83 the conferences of bishops were given the right to legislate, but only in strictly defined matters. The bishops of a given province exercise their powers within the scope specified by the legislator. According to can. 455 § 1, the conference of bishops can only issue general decrees in cases where universal law has prescribed it or a special mandate of the Apostolic See has established it either *motu proprio* or at the request of the conference itself. The decrees, in order to be enacted validly in a plenary meeting, must be passed by at least a two thirds vote of the bishops who belong to the conference and possess a deliberative vote (can. 455 § 2).

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### The Concept and Competences of the Conference of Bishops

#### Summary

The conferences of bishops follow the meetings of the apostles. They were established on a grassroots initiative and initially had a private character. The aim of such meetings was to establish the same method of teaching the truths of faith and

normalizing church discipline. The Holy See understood the need for such meetings of bishops and allowed them. From the pontificate of Pius IX, the form of meetings of bishops forming conferences began to be appreciated and supported. During the council discussions, the need for legal regulation of this institution in the Church was noticed. The conference of bishops found its regulation in the 1983 Code of Canon Law. The legislator gave the conference of bishops legislative, executive and judicial powers. These competences, included in the individual dispositions of the codex legislator, constitute a catalogue of matters requiring regulation by the conference of bishops.

**Key words:** particular Church, assembly of the bishops, legislative powers, executive powers, judicial powers

## **Pojęcie i kompetencje konferencji biskupów**

### Streszczenie

Konferencje biskupów są następstwem spotkań apostołów. Powstały z inicjatywy oddolnej i początkowo miały charakter prywatny. Celem takich spotkań było ustalanie jednakowego sposobu nauczania prawd wiary i normowania dyscypliny kościelnej. Stolica Apostolska rozumiała potrzebę takich spotkań biskupów i na nie zezwalała. Od pontyfikatu Piusa IX zaczęto doceniać i wspierać formę spotkań biskupów tworzących konferencje. Podczas dyskusji soborowych dostrzeżono potrzebę regulacji prawnej tej instytucji w Kościele. Swoje uregulowanie konferencja biskupów znalazła w Kodeksie Prawa Kanonicznego z 1983 r. Ustawodawca przyznał konferencji biskupów kompetencje ustawodawcze, wykonawcze i sądownicze. Kompetencje te, zawarte w poszczególnych dyspozycjach ustawodawcy kodeksowego, tworzą katalog spraw wymagających uregulowania przez konferencję biskupów.

**Słowa kluczowe:** Kościół partykularny, zebranie biskupów, kompetencje ustawodawcze, kompetencje wykonawcze, kompetencje sądownicze

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