

Report on Law and Religion in Poland in 2023–2024

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Abstract:

The article provides an overview of legislative developments and judicial approaches in Poland in 2023–2024. The period was marked by a change of government in 2023, accompanied by declarations of substantial reforms in Church and State relations. An attempt to implement one of these reforms –concerning the status of religious instruction within the school system– generated significant tensions between the State and religious organisations. This not only strained mutual relations but also resulted in the adoption of regulations whose constitutionality has been questioned. Apart from the issue of religious instruction, no other reforms were introduced, including those relating to changes in the system of financing religious organisations and the decriminalisation of the insult to religious feelings.

Key words:

Poland, religious education, religious feelings.

1. Preliminaries

In 2023, Poland experienced a change of government, which opened the possibility of advancing previously announced reforms in matters relating to law and religion. Among the proposals were the introduction of a church tax and the abolition of the Church Fund. During the election campaign, issues related to religion were raised frequently, as they have long constituted a central point of contention among political parties and a persistent subject of public debate.

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In retrospect, it should be noted that the years 2023–2024 did not bring any significant reforms in the sphere of law and religion. The government focused solely on changes concerning religious education in schools, which in turn triggered a conflict between representatives of the churches and the State. The desire to implement electoral pledges as quickly as possible resulted in the religious organisations being excluded from the decision-making process regarding the substance of the reform. This situation demonstrated the importance of adhering to constitutional norms, as their violation –combined with the inherent shortcomings of provisions based on indeterminate concepts– weakens the legal protection afforded to churches and religious organisations.

The purpose of this article is to provide an overview of legislative developments and judicial trends in Poland in 2023–2024. The article is structured as follows. First, I outline the background and the process leading to the introduction of changes concerning religious instruction in public schools. Particular attention is devoted both to issues related to the organisation of religious education at school and to the inclusion of religion grades on school certificates. In each case, I examine the legislative path of the proposed amendments –from their initial drafting to their subsequent assessment by the Constitutional Tribunal. Next, I briefly discuss recent judicial developments regarding offences against freedom of religion or belief. The final section summarises the changes and identifies possible future directions.

2. Election Pledges Related to Law and Religion

The 2023 election campaign brought numerous promises concerning reforms in the field of law and religion. Left-wing parties pledged to terminate the Concordat, introduce a financial separation between the Church and the State and abolish the conscience clause for healthcare professionals. The Poland 2050 (Polska 2050) party emphasised the need to limit the financing of the economic activities of religious organisations, introduce regulations governing cemetery fees, and define the rules for the participation of public officials in religious ceremonies. It also advocated establishing a vaguely defined commission tasked with examining financial

irregularities in relations between the State and religious organisations. The Polish People's Party (Polskie Stronnictwo Ludowe) acknowledged the need for reform in this area while emphasising that any changes should respect the idea of a 'friendly separation' between Church and State. However, its programme in this field lacked detail and, apart from the proposal to abolish the Church Fund,² did not include any significant measures. The Civic Coalition (Koalicja Obywatelska) proposed introducing a ban on the use of public funds to support the economic activities of dioceses, parishes, religious orders and other church institutions, allowing exceptions only for humanitarian, charitable, caregiving, educational and scientific activities.³ The proposals also included introducing a church tax.⁴

During the election campaign, a range of proposals were presented, ranging from highly ambitious to more modest ones, some of which were unlikely to be implemented from the outset. Nevertheless, they generated political tension and stimulated debate during the campaign, which was likely their principal objective.⁵

Ultimately, the election was won by the Civic Coalition, which formed a coalition government together with the Third Way (Trzecia Droga)⁶ and the New Left (Nowa Lewica). Following the election, the newly appointed Prime Minister, Donald Tusk, declared that the '100 specifics' would be delivered within the first 100 days of the new government. These included: abolishing the Church Fund; removing religion grades from school certificates;

² The Church Fund, established in Poland in 1950, was originally intended to provide compensation for the nationalisation of property belonging to the Catholic Church. In 1989, its scope was extended to other churches and religious denominations. The Fund is financed from the state budget. At present, its resources are allocated, among other things, to financing social security contributions for clergy and to the reconstruction and renovation of sacred buildings. <https://fsspx.news/en/news/poland-new-government-wants-change-church-financing-41718>, accessed 14 November 2025.

³ J. Matwiejuk, 'State Relations with Churches and Other Religious Organizations in Poland – Proposals for Changes after the Parliamentary Elections in 2023' (2023) 7 *Studia Sieci Uniwersytetów Pogranicza* [The Studies of the Borderland Universities Network] 182 doi:10.15290/sup.2023.07.10.

⁴ <https://www.gazetaprawna.pl/wiadomosci/kraj/artykuly/9328275,fundusz-koscielny-do-likwidacji-co-partie-obiczywaly-w-sprawie-koscio.html>; <https://fsspx.news/en/news/poland-new-government-wants-change-church-financing-41718>, accessed 14 November 2025.

⁵ Matwiejuk (n 2) 183.

⁶ The Third Way (Trzecia Droga) is an electoral coalition composed of Poland 2050 and the Polish People's Party, which entered the 2023 parliamentary elections as a joint political grouping.

ensuring that religious education in schools is scheduled only during the first or last lesson of the day; prohibiting the use of public funds to finance the economic activities of dioceses, parishes, religious orders, and other economic entities of churches and religious associations, except where such activities serve humanitarian, charitable, caregiving, scientific, or educational purposes; and entrusting local governments with setting fees for the use of denominational cemeteries.⁷

3. The Dispute over Religion in Schools

Under Article 53(4) of the Polish Constitution, ‘the religion of a church or other legally recognized religious organization may be taught in schools’.⁸ The general rules governing religious instruction in public schools are set out in the Educational System Act,⁹ the Concordat,¹⁰ and the statutes regulating relations between the state and individual churches.¹¹

Under Article 12 of the Educational System Act, public preschools and primary schools provide religious instruction at the request of parents, while public secondary schools do so at the request of either the parents or the students themselves; once a student reaches the age of majority, the decision to attend religious instruction is made by the student. The conditions and procedures for carrying out these tasks by schools are determined by the minister, in agreement with the authorities of the Roman Catholic Church, the Polish Autocephalous Orthodox Church, and other churches and religious organisations. These matters are governed

⁷ <https://100konkretow.pl/wszystkie-konkrety/>, accessed 14 November 2025.

⁸ Journal of Laws No 78, item 483, English text available at <https://trybunal.gov.pl/en/about-the-tribunal/legal-basis/the-constitution-of-the-republic-of-poland>, accessed 14 November 2025.

⁹ Act of 7 September 1991 on the educational system, Journal of Laws 2025, item 881, hereinafter: Educational System Act.

¹⁰ Article 12 of The Concordat between the Holy See and the Republic of Poland, signed in Warsaw on July 28, 1993, Journal of Laws 1998, No. 51, item 318, hereinafter: Concordat.

¹¹ For example: art 15 of Act of 4 July 1991 on the Relationship between the State and the Polish Autocephalous Orthodox Church, Journal of Laws 2023, item 544; art 15 of Act of 13 May 1994 on the Relationship between the State and the Evangelical-Augsburg Church in the Republic of Poland, Journal of Laws 2020, item 983.

by the Regulation of the Minister of National Education of 14 April 1992 on the conditions and manner of organising religious instruction in public kindergartens and schools.¹²

In recent years, the number of children attending religious instruction in schools has dropped significantly, especially at the secondary level. According to a recent survey, 51% of respondents support the presence of religious education in public schools, while 43% oppose it. A clear majority of respondents believe that religious instruction should remain non-compulsory (72%). Among those who favour voluntary attendance, opinions are nearly evenly split between those who believe it should be offered in parish catechetical centres (37%) and those who prefer it to be provided in schools (35%).¹³ In light of these trends, the government decided to introduce changes to the system of religious instruction in public schools.

3.1. Religion lessons in combined groups

On 26 July 2024, the Minister of Education amended the Regulation on the organising religious instruction. The existing rule was formally retained: religion lessons are to be provided within specific classes or year groups if at least seven students enroll, and where interest is lower, inter-class or inter-group units are to be formed. At the same time, however, the amendment expressly allowed such combined groups to be created even when the requirement of seven students in a given class or year group is met –on the condition that the combined group does not exceed 28 students.

The draft regulation was presented for public consultation to churches and other religious organisations in April 2024. Their position on the draft was clearly negative. Apart from concerns about the substance of the regulation, criticism focused primarily on the procedure adopted in preparing it. Under the Educational System Act, any amendment to the regulation on religion lessons may be made only in agreement with the religious party. The phrase ‘in agreement with’ was interpreted differently by the government and by religious organisations.

¹² Journal of Laws 2020, item 983, hereinafter: Regulation on the organising religious instruction.

¹³ Research Report from the Public Opinion Research Center: Religion in Schools, https://cbos.pl/SPISKOM.POL/2024/K_097_24.PDF, accessed 14 November 2025.

The Ministry argued that the Act requires only that churches and other religious organisations be consulted. The religious representatives maintained that the regulation may be amended only after its content has been agreed upon with religious organisations and a consensus has been reached.¹⁴

The Commissioner for Human Rights also raised numerous concerns about the draft. He noted that the amendment could result in many religion teachers losing their jobs and expressed concern about the inadequate level of consultation with religious organisations.¹⁵

The regulation was scheduled to enter into force on 1 September 2024. However, in August 2024, the First President of the Supreme Court made an application to the Constitutional Tribunal for a constitutional review of the regulation and simultaneously applied for interim relief in the form of suspending the application of the contested provisions. In the decision of 29 August 2024, the Constitutional Tribunal granted interim relief by suspending the application of the contested regulation.¹⁶

In its judgment of 27 November 2024, the Constitutional Tribunal held that the Regulation of the Minister of Education of 26 July 2024 was, in its entirety, incompatible with the Constitution and the Educational System Act.¹⁷ In the reasoning of the judgment, the Tribunal stated that the statutory authorisation enabling the participation of churches and other religious organisations in the process of issuing the regulation gives effect to the constitutional principles governing cooperation in matters of state-church law. According to the Tribunal, the basic formal requirement for satisfying the condition of acting ‘in agreement with’ is to submit

¹⁴ P. Staniszkis and D. Walencik, ‘Tryb nowelizacji rozporządzenia Ministra Edukacji Narodowej z dnia 14 kwietnia 1992 roku w sprawie warunków i sposobu organizowania nauki religii w publicznych przedszkolach i szkołach’ [The procedure for amending the regulation of the Minister of Education of 14 April 1992 on the conditions and manner of organising religious instruction in public kindergartens and schools] (2024) 27 *Studia z Prawa Wyznaniowego* [Studies in Law on Religion] 371–376 doi:10.31743/spw.17760.

¹⁵ Opinion of the Commissioner for Human Rights on the draft regulation, <https://bip.brpo.gov.pl/pl/content/rpo-szkola-religia-organizacja-men-odpowiedz>, accessed 14 November 2025.

¹⁶ Constitutional Tribunal (Poland), decision of 29 August 2024, U 10/24.

¹⁷ The Constitutional Tribunal held that the Regulation of the Minister of Education of 26 July 2024 was, in its entirety, incompatible with Article 12(2) of the Educational System Act in conjunction with Article 92(1), Article 25(3), Article 2 and Article 7 of the Constitution.

the signed regulation to the authorities of the Roman Catholic Church, the Polish Autocephalous Orthodox Church, and other churches and religious organisations for their signature. Acting ‘in agreement’ in respect of the amendments introduced by the regulation would thus be demonstrated by the signatures of the relevant church authorities.¹⁸

This judgment was not published in the Journal of Laws, which reflects the broader crisis affecting the judiciary in Poland. For the purposes of this analysis, it should be noted that the current government does not recognise the judgments of the Constitutional Tribunal due to the improper appointment of some of its judges. Consequently, a policy of withholding the publication of the Tribunal’s judgments in the Journal of Laws has been adopted. Under Polish law, a judgment of the Constitutional Tribunal becomes part of the legal order only once it has been promulgated in the Journal of Laws. In the absence of such promulgation, the provisions found by the Constitutional Tribunal to be in breach of constitutional norms temporarily remain in force.¹⁹

3.2. Including religion in the grade point average

The above changes were not the only ones relating to the teaching of religion in schools. In March 2024, the Minister of Education issued a regulation amending the regulation on student assessment.²⁰ It was decided that, starting from the 2024/2025 school year, final grades in religion and ethics would no longer be included in students’ annual and end-of-year grade averages.

¹⁸ CT, judgment of 27 November 2024, U 10/24.

¹⁹ M. Florczak-Wątor, ‘O skutkach prawnych nieopublikowanego orzeczenia Trybunału Konstytucyjnego: rozważania na tle oczekującego na publikację wyroku z 9.03.2016 r. (K 47/15)’ [On the legal effects of the Constitutional Tribunal judgment that has not been published: comments with regards to the judgment of 9 March 2016 (K 47/15)] (2016) 10 *Przegląd Sądowy* [Court Review] 11. But the matter remains unclear, and the legal effects of the non-publication of the judgment are ambiguous. See the judgment of the Constitutional Tribunal in which the Tribunal held that a judgment delivered and announced in open court –even if not formally promulgated in the Journal of Laws– produces legal effects and must be strictly applied by public authorities, CT, judgment of 23 September 2025, P 3/25.

²⁰ Regulation of the Minister of National Education of 22 March 2024 amending the regulation on the assessment, classification and promotion of pupils and students in public schools, Journal of Laws 2024, item 438, hereinafter: Regulation on student assessment.

During the public consultation process, representatives of religious organisations expressed a negative view of the proposed changes. They pointed to the broader educational dimension of religion and the need to recognise the efforts of both students and teachers. It was argued that the proposed amendment could diminish the importance that students attach to religion. In contrast, non-religious groups assessed the change positively.²¹

In August 2024, a group of Deputies made an application for the constitutional review of this regulation. In its judgment of 22 May 2025, the Constitutional Tribunal held that §1 points 2 and 3 of the regulation of the Minister of Education amending the Regulation on student assessment were incompatible with the Constitution, the Concordat, and the Educational System Act.²²

In its reasoning, the Tribunal explained that a regulation governing the system of student assessment directly concerns the organisation of religion lessons within the meaning of Article 12 of the Educational System Act, if it alters the status of religion grades. This includes situations where those grades are excluded from the grade point average. Therefore, in the Tribunal's view, excluding religion from the grade point average required reaching an agreement with religious organisations. The lack of such agreement constituted a breach of the procedure for issuing the regulation.²³

This judgment was likewise not published in the Journal of Laws. Because it was issued in May –towards the end of the school year– schools faced considerable uncertainty as to whether the religion grade should be included in the grade point average. This question was particularly important for students completing primary school, as the grade point average is taken into account in the admission process to secondary schools. It also determines eligibility

²¹ <https://legislacja.rcl.gov.pl/projekt/12381254/katalog/13033410#13033410>, accessed 14 November 2025.

²² The Constitutional Tribunal held that §1 points 2 and 3 of the Regulation of the Minister of Education amending the regulation on student assessment –insofar as they excluded the classification grade in religion from a student's grade point average and had been issued without agreement and consultation with the authorities of the Roman Catholic Church (the Polish Bishops' Conference)– were incompatible with Article 25(3) and (4) of the Constitution, in conjunction with Article 12(1) and (2), Article 27 of the Concordat, and Article 12(2) of the Educational System Act.

²³ CT, judgment of 22 May 2025, U 11/24.

for a certificate with distinction. To address these concerns, the government published a notice on its official website stating that the regulation amending the Regulation on student assessment ‘was promulgated in the Journal of Laws of the Republic of Poland in accordance with the rules governing the publication of normative acts and remains in force, as no other normative act or judgment has been promulgated in that official journal that would terminate its binding force’. As a result, the religion grade is currently not included in the grade point average, even though the Constitutional Tribunal has held that the provisions introducing this change are unconstitutional.²⁴

3.3 Religion at the start or the end of the school day

In October 2024, the Minister of Education submitted yet another draft regulation amending the Regulation on the organising religious instruction. Under the proposed rules, religion lessons may be scheduled only as the first or last period of the school day –that is, immediately before regular classes begin or directly after they end. In addition, the number of religion lessons was reduced from two periods per week to one.

Under the decision of the Joint Commission of the Representatives of the Government and the Polish Bishops’ Conference of 16 October 2024, a Sub-Commission on Religion in Schools was established. The Sub-Commission held two meetings, on 7 and 28 November 2024. However, the parties did not reach a common position and thus failed to achieve consensus. Despite the objections raised by the religious representatives, the amended regulation was issued by the Minister, in the proposed form, in January 2025.²⁵

In an application made on 22 April 2025, the First President of the Supreme Court requested that the Constitutional Tribunal review the constitutionality of the amended Regulation on the organising religious instruction. On 3 July 2025, the Constitutional Tribunal held that the regulation providing that, as of 1 September 2025, religion or ethics would be

²⁴ <https://www.gov.pl/web/edukacja/komunikat-o-niewliczaniu-ocen-z-religii-i-etyki-do-sredniej-ocen>, accessed 14 November 2025.

²⁵ CT, judgment of 3 July 2025, U 2/25.

taught only one hour per week and scheduled ‘immediately before or immediately after compulsory classes’ was incompatible with the Constitution.²⁶

This judgment, once again, was not published in the Journal of Laws. As a result, beginning in September 2025, religion has been taught as a one-hour weekly subject and scheduled directly before or directly after regular school classes.

4. Case Law on Offences Against Freedom of Religion or Belief

In the years 2023–2024, there was no major shift in the case law relating to religious matters. At present, the cases most frequently heard by the common courts concern offences against freedom of religion or belief. In Poland, the offence of insulting religious feelings remains criminalised and is punishable by up to two years of imprisonment (Article 196 of the Criminal Code). Courts have also issued judgments in cases involving malicious interference with a religious act (Article 195 of the Criminal Code).

Among the judgments concerning the offence of insulting religious feelings, particular attention should be given to the judgment of the Regional Court in Toruń of 4 December 2024. The court acquitted a man who had offered for sale at a charity auction an artwork entitled ‘The Kermitian Madonna’, an image of the Virgin Mary in which the infant Jesus is replaced with Kermit the Frog. The court emphasised that in cases of this kind the emotions of an ‘average’ believer, rather than those of an orthodox one, must be considered. The court found that although the conduct of the auction organiser could be described as ‘improper, inappropriate, and certainly ill-considered’, it did not amount to a criminal offence. While the court acknowledged that the defendant could have anticipated that the image would not appeal to everyone, he neither intended to offend anyone nor accepted such a consequence. Participation in the auction was voluntary, and the event gained wider publicity only after it was disseminated by the media –something that lay beyond the defendant’s control. In the court’s view, the individuals who reported the offence expressed a highly orthodox, fanatical

²⁶ *Ibidem*.

even, approach to the practice of the Catholic faith. The court stressed that the offence of insulting religious feelings cannot be reduced to a situation in which the alleged victim ‘actively seeks out’ events or circumstances that might be perceived as offensive to their religious feelings.²⁷

In 2024, the proceedings concerning the so-called ‘Rainbow Madonna’ case also came to a final conclusion. The Supreme Court held that the acquittal of the activists accused of insulting religious feelings did not violate the law.²⁸ The activists had been charged with insulting religious feelings by distributing posters depicting the Virgin Mary with a rainbow halo. These events took place within a broader context of ongoing tensions concerning the status of LGBT+ persons during the term of the previous government. The common courts found that an expression or conduct that conveys a negative assessment of a religious object of worship, or uses such an object in artistic expression, does not amount to insulting that object unless its form contains degrading or offensive elements.²⁹

These judgments were delivered after the ECtHR’s judgment in *Rabczewska v. Poland*, in which the Court held that Poland had violated Article 10 of the Convention.³⁰ At this stage, it is difficult to determine whether the Court’s ruling influenced a liberalisation of the domestic case law concerning the offence of insulting religious feelings. Nevertheless, it should be noted that these judgments are consistent with the most recent ECtHR case law in this area.

Among the cases concerning malicious interference in 2023–2024 were proceedings relating to events that took place during the protests of 2020 following the Constitutional Tribunal’s judgment on abortion. One form of protest involved entering churches during Mass while holding signs with slogans advocating women’s rights to decide on terminating a pregnancy. The Supreme Court held, however, that such conduct could not be regarded as malicious within the meaning of Article 195 §1 of the Criminal Code. The Court stated that

²⁷ Regional Court in Toruń, judgment of 4 December 2024, II K 1478/22.

²⁸ Supreme Court (Poland), decision of 28 March 2024, V KK 430/22.

²⁹ District Court in Płock, judgment of 12 January 2022, V Ka 418/21.

³⁰ *Rabczewska v Poland* (ECtHR, 15 September 2022) application no 8257/13.

although the behaviour partially disrupted the course of the Mass, it did not bring it to a halt. The only inconvenience experienced by the participants was the distraction caused by the protester's presence in an unusual location and the display of written messages addressing an important issue forming part of public debate. Given these circumstances, the conduct could not be considered malicious, and therefore the offence under Article 195 §1 of the Criminal Code had not been committed.³¹

5. Conclusions and Future Directions in Church and State Relations

The amendments of regulations in 2023–2024 concerning the presence of religion in the educational system proved unsatisfactory from the perspective of religious organisations. Many of them emphasised that both the pace of the legislative process and the manner in which the proposed solutions were consulted, diverged from the established standard of cooperation developed under the Educational System Act. This procedure was intended to serve as a guarantee of the constitutional principle of cooperation between the State and religious organisations –a principle aptly captured by the phrase ‘nothing about us without us’. Ignoring this mechanism during the legislative process gives rise to legitimate concerns about the quality of the resulting legislation, irrespective of the public evaluations of the substantive merits of the reforms themselves.

At the same time, the case law of the common courts indicates a gradual liberalisation in the approach to religious matters and a more balanced interpretation of the provisions criminalising the insulting of religious feelings. It should be stressed, however, that these judgments do not have a law-making character: they cannot substitute for legislative action but merely highlight an increasing need to revise the existing framework. Given current social conditions, increasing ideological and religious pluralism and the dynamics of online communication, the legislature will have to reassess, in the near future, whether maintaining the present construction of the offence of insulting religious feelings remains justified. Particular attention is required with regard to the still-applicable penalty of imprisonment,

³¹ Supreme Court (Poland), decision of 1 August 2024, V KK 121/24.

which increasingly departs from European trends concerning the protection of freedom of expression and freedom of religion.³² In many European states, the criminalisation of the insult to religious feelings has been abolished, with the protection of religiously grounded personal interests being transferred to civil-law instruments.

In light of the electoral promises, it should be emphasised that –even if the direction of the proposed reforms in religious matters aligns with the expectations of a significant part of society– the way such changes are introduced cannot disregard the constitutionally guaranteed dialogue with the religious communities concerned. Future regulatory developments in this field will require not only a careful balancing of constitutional values, but also the restoration of an appropriate standard of consultation and legislative procedure –one that strengthens trust in the State and ensures the stability of legal solutions in such a sensitive area. The coming years will reveal how relations between the State and churches and religious organisations evolve and whether it will be possible to establish a model based on respect for pluralism, freedom of religion or belief and genuine cooperation between the State and religious organisations.

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³² See European Commission for Democracy Through Law (Venice Commission), Report on the Relationship Between Freedom of Expression and Freedom of Religion: The Issue of Regulation and Prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred (76th Plenary Session, Venice, 17–18 October 2008), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2008\)026-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2008)026-e), accessed 14 November 2025.

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