

**The status of religious organizations in Poland:
equal rights and differentiation**

According to art. 25 para. 1 of the Polish Constitution of 1997, “Churches and other religious organizations shall have equal rights”. This rule has easily gained common acceptance and is now generally perceived as a consequence of equality of everybody before the law and one of the guarantees of freedom of conscience and religion. It is also unanimously regarded as one of the guiding principles of Polish law on religion. At the same time, it is often emphasized that it cannot be equated with schematic egalitarianism and that differential treatment is permitted when it is justified primarily on grounds of the actual differences in characteristic features. This view is also shared by the Polish Constitutional Tribunal, who stated in the judgment of 2nd April 2003 that equal treatment (neither preferential nor discriminatory) ought to be given to entities which, in equal degree, are characterized by a given distinctive feature. Thus, the obligation of equal treatment does not pertain to entities which do not possess a common distinctive feature. Moreover, in special cases it is possible to diversify the legal status of similar entities, when it is justified on account of other constitutionally protected values (for instance, social justice).

The interpretation of the principle of equal rights of religious organizations which was adopted by the Constitutional Tribunal (and which had in practice been applied earlier) harmonizes with the existence of three different forms of regulating the legal status of these entities. These forms are as follows: 1) a concordat and acts 2) acts based on agreements concluded by the Council of Ministers with the representatives of religious organizations, 3) an entry in the register of religious organizations. In consequence, besides the act of 17th May 1989 on the guarantees of freedom of conscience and religion and a number of other normative acts which generally define the legal situation of religious organizations in various spheres of life, there are more than a dozen of normative acts which apply to individual religious groups. These acts usually have a similar structure and follow the same general principles, though they tend to differ in detail, as they take into account special expectations of individual religious groups. As a result, in Polish law there exist regulations which apply only to some religious organizations or diversify their legal status depending on various factors. The question of whether such solutions are in conformity with the constitutional principle of equal rights of religious organizations constantly provokes lively debates, which

reflect discussions held in other states and on the international agenda. They pertain to the following issues, among other things: what entities should be considered as religious organizations, whether non-confessional organizations should be treated on a par with religious organizations, what conditions should be fulfilled by individual religious organizations in order for them to gain certain rights (for example, the right to celebrate religious marriages with civil effects or the right to teach their religion at schools).