

Controversy over the Legal Definition of a Privilege

included in can. 76 § 1 CIC 1983

Summary

The author of the presented study focused his attention on the issue of the doctrinal dispute over the introduction of a legal definition of a privilege included in can. 79 § 1 CIC 1983.

According in the research performed, there is no longer a category of privileges of a general character in the current legal order since they can be now gained only through a separate administrative act. The act, however, is atypical since it is usually produced by the legislator. Taking into consideration the fact that in the canon system the separation of powers concentrates in one person, it should be assumed that the decision itself is made by the legislator through his executive power.

Mercy shown to person through the power of privilege does not in any case contradict the equality of the faithful in the community of the Church because through a decision of this type a competent authority wishes to come across the needs of someone who found himself in specific conditions.

The study also points out that the addressees of privilege can only be the members of the Catholic Church since non-Catholics are not within the jurisdiction of church legislator.