

APOSTOLIC LETTER
IN THE FORM OF 'Motu Proprio'

OF POPE **FRANCIS**

MITIS iudex Dominus IESUS

REFORM PROCESS FOR CANON CAUSES OF DECLARATION OF NULLITY
OF MARRIAGE
IN THE CODE OF CANON LAW

The Lord Jesus, Judge Clement, Shepherd of our souls, entrusted to the Apostle Peter and his successors the power of the keys to perform in the Church the work of justice and truth; this supreme and universal power of binding and loosing on earth, affirms, strengthens and vindicates that of the Pastors of the particular Churches, to the effect that they have the sacred right and the duty before the Lord to judge his subjects. [1]

In the course of the centuries the Church in matrimonial matters, acquiring better appreciation of Christ's words, he understood and explained in more detail the doctrine of the indissolubility of the sacred bond of marriage, has developed a system of nullity of marriage consent and regulated more appropriately the judicial process in the field, so that ecclesiastical discipline was more consistent with the truth of faith professed.

Everything was always done having as guide the supreme law of the salvation of souls, [2] since the Church, as has wisely taught Blessed Paul VI , is a divine plan of the Trinity, to which all its institutions, still perfectible to strive to communicate the divine grace and favor continuously, according to the gifts and the mission of each one, the good of the faithful, as essential purpose of the Church. [3]

Aware of this, I decided to put hand to the reform process of nullity of marriage, and to this end have appointed a group of eminent persons to legal doctrine, pastoral prudence and experience of tribunal that, under the guidance of the most excellent dean of the Roman Rota , abbozzassero a reform project, in any event, the principle of the indissolubility of the marriage bond. Working hard, this Coetus has drawn up a draft reform, which, subjected to thoughtful consideration, with the help of other

experts, is now instilled in this Motu Proprio .

It is therefore the concern of the salvation of souls, which - today as yesterday - remains the supreme goal of the institutions, laws, the right, to push the Bishop of Rome to offer bishops this reform document, since they share with him the To the Church, that is to protect the unity in faith and discipline regarding marriage, hinge and origin of the Christian family. Feeds the pressure to reform the huge number of faithful who, while wishing to provide their own conscience, are too often diverted from legal structures of the Church because of the distance or entity; therefore charity and mercy require that the same Church as mother becomes closer to the children who consider themselves separate.

In this sense, they even went the votes of the majority of my Brother Bishops, gathered in recent Extraordinary Synod , which called processes faster and more accessible. [4] In total harmony with those desires, I decided to give this Motu Proprio provisions by which is not conducive to the nullity of marriages, but the speed of the process, not unless a just simplicity, so that, because of the delayed final judgment, the hearts of the faithful awaiting clarification of their status not long oppressed from the darkness of doubt.

I did that, however, following in the footsteps of my Predecessors, who wanted the causes of nullity of marriage are treated through judicial and not administrative, not because it is required by the nature of the thing, but it requires the need to protect it to the maximum the truth of the sacred bond: and this is exactly secured by the guarantees of the judicial order.

There has been some fundamental criteria that guided the work of reform.

I. - A single judgment in favor of the nullity executive. - It seemed appropriate, first of all, that it no longer required a double conforming decision in favor of the nullity of marriage, so that the party may be entitled to a new marriage canon, but it is sufficient moral certainty achieved by the first court in accordance with law.

II. - The single judge under the responsibility of the bishop. - The creation of the single judge, however cleric, in the first instance, be put to the responsibility of the bishop, who in the exercise of its judicial power ministry will ensure that you do not indulge in any laxity.

III. - The Bishop himself is judge. - To be finally translated into practice

the teaching of the Second Vatican Council in an area of great importance, it was decided to make it clear that the Bishop himself in his Church, of which it is composed shepherd and head, He is thereby judge among the faithful entrusted to him. It hopes that, in large as in small diocese the Bishop himself offers a sign of the conversion of ecclesiastical structures, [5] and not leave fully delegated to the offices of the curia the judicial function in matrimonial matters. This applies especially in the process shorter, which is established to resolve cases of nullity most obvious.

IV. - The process shorter. - In fact, in addition to making the process more agile bed, has drawn a form of the process shorter - in addition to the document as currently in force -, to be applied in cases where the accused nullity of marriage It is supported by arguments particularly evident.

It did not however escaped as a shortened procedure may endanger the principle of the indissolubility of marriage; precisely why I wanted to be a judge in the process the Bishop himself, who by virtue of his pastoral office is Peter with the greatest guarantor of Catholic unity in faith and discipline.

V - The appeal to the Metropolitan. - It is desirable that you restore the appeal to the international office of Metropolitan, since this office of head of the ecclesiastical province, stable over the centuries, is a hallmark of collegiality in the Church.

VI. - The proper task of the Episcopal Conferences. - The Episcopal Conferences, which should be especially driven by anxiety apostolic reach the faithful dispersed, they warn strongly the duty to share the aforementioned conversion , and absolutely respect the right of bishops to organize the judicial power in his particular Church.

Restoring the closeness between the court and the faithful, in fact, it will not be successful if the Conference will not be the stimulus to individual bishops and together help to implement the reform of the bed.

Together with the proximity of the judge as far as possible look after the Episcopal Conferences, saves the just and decent wage workers of the courts, that the securing gratuity procedures, because the Church, showing the faithful generous mother, in a matter so closely linked to salvation of souls manifest the gratuitous love of Christ by which we were saved.

VII. - The appeal to the Apostolic See. - It should however be retained

appeal to the Ordinary Court of the Apostolic See, that is the Roman Rota, in respect of an ancient legal principle, be strengthened so that the bond between the See of Peter and the Churches, taking care however, in the discipline of this appeal, to limit any abuse of the law, because they do not have to give to receive the salvation of souls.

The proper law of the Roman Rota will soon adapted to the rules of the reformed process, where the need exists.

VIII. - Forecast for Eastern Churches. - Considering, finally, the peculiar church law and discipline of the Eastern Churches, I decided to issue separately, on the same date, the rules for the reform process discipline double in the Code of Canons of the Eastern Churches .

Everything properly considered, that the decree and statuisco Book VII of the Code of Canon Law, Part III, Title I, Chapter I of the causes for the declaration of nullity of marriage (can. 1671 to 1691), from December 8 2015 be fully replaced as follows:

Art. 1 - The jurisdiction and courts

Can. 1671 § 1. The matrimonial causes of the baptized in its own right belong to the ecclesiastical judge.

§ 2. Cases concerning the merely civil effects of marriage belong to the civil magistrate, unless particular law provides that those same cases if they are an incidental or accessory, can be heard and decided by an ecclesiastical judge.

Can. 1672. In causes of nullity of marriage which are not reserved to the Apostolic See, are competent: 1 ° the tribunal of the place where the marriage was celebrated; 2 ° the tribunal of the place in which one or both parties have a domicile or quasi-domicile; 3 ° the tribunal of the place in which in fact it should collect most of the tests.

Can. 1673 § 1. In each diocese the judge of first instance for causes of nullity of marriage, for which the right is not expressly exception, is the diocesan bishop, who can exercise judicial power personally or through others, in accordance with law.

§ 2. The Bishop for his diocese constitutes the diocesan tribunal for the cause of nullity of marriage, may opt for the same bishop to access another viciniore diocesan or interdiocesan tribunal.

§ 3. The causes of nullity of marriage are reserved to a panel of three judges. It should be chaired by a judge cleric, the remaining judges may also be secular.

§ 4. The Bishop Moderator, if you can be the collegial tribunal in the diocese or in the nearby court that has been adopted in accordance with § 2, entrust causes to a single clerical judge who, where possible, join two assessors of life mirrored, experts in legal sciences or human, approved by the bishop for this task; the same single judge compete unless it is otherwise, the functions assigned to the College, the dean or the west.

§ 5. The court of second instance to the validity should always be collective, in accordance with the previous § 3.

§ 6. From the district court appeals to the metropolitan court of second instance, without prejudice to cann. 1438-1439 and 1444.

Art. 2 - The right to challenge the marriage

Can. 1674 § 1. They ability to challenge a marriage: 1 ° the spouses; 2 ° the promoter of justice, when the nullity has already been released, though we can not validate the marriage or is not appropriate.

§ 2. The marriage, living both spouses, it was not accused, can not be after the death of both or one of them, unless the question of validity does not affect the solution of the dispute is in another hole Canon is in the civil forum.

§ 3. But if a spouse dies during the process, note the can. 1518.

Art. 3 - The introduction and examination of the case

Can. 1675. The judge, before he accepts a case, needs to be sure that the marriage is irretrievably failed, so that it is impossible to restore conjugal living.

Can. 1676 § 1. After receiving the petition, the judicial vicar, if it considers that it enjoys some basis, admit it and, by a decree appended to the bottom at the same pamphlet, orders that a copy is served on the defender of the bond and, if the petition has not It has been signed by both parties, to the respondent, giving it a period of fifteen days to express his views on the question.

§ 2. After the said period, until he has warned, if and when it deems it

appropriate, the other party to express its position, the judicial vicar by decree determines the formulation of the doubt and establish whether the case should be with the ordinary process or the process shorter in accordance with cann. 1683-1687. This decree is immediately notified to the parties and the defender of the bond.

§ 3. If the case must be dealt with the ordinary process, the judicial vicar, with the same decree, has the establishment of the panel of judges or of a single judge with two assessors according to can. 1673 § 4.

§ 4. If the process is willing shorter, the judicial vicar proceed in accordance with can. 1685.

§ 5. The formulation of the doubt must determine by which ground or for such leaders is contested the validity of the marriage.

Can. 1677 § 1. The defender of the bond, the patrons of the parties, and, if they intervene in the proceedings, also the promoter of justice, have the right: 1 ° to be present at the examination of the parties, the witnesses and the experts, without prejudice Can. 1559; 2 ° to inspect the judicial acts, even though not yet published, and to inspect documents produced by the parties.

§ 2. The parties can not attend the examination mentioned in § 1, 1.

Can. 1678 § 1. In causes of nullity of marriage, judicial confession and the statements of the parties, supported by any text on the credibility of the same, can have value of full proof, to be assessed by the judge considered all the evidence and amminicoli, if not there are other elements that disprove.

§ 2. In the same cases, the testimony of one witness can make full faith, if it is a qualified witness who is testifying concerning matters carried out ex officio, or the circumstances of the facts and of the people suggest.

§ 3. In causes concerning impotence or defect of consent for mental illness or abnormality of psychological nature the court makes use of the work of one or more experts, if the circumstances do not appear obviously futile; in other cases the prescript of can. 1574.

§ 4. Whenever In the instruction of the cause had risen a very probable doubt that the marriage was not consummated, the court, after hearing the parties, stay the cause of nullity, complete the investigation in view of the dispensation super rato , and finally remit the matter to the Apostolic

See together with the application for dispensation of one or both spouses and the votum of the tribunal and of the Bishop.

Art. 4 - The judgment, his appeals and his execution

Can. 1679. The sentence which first declared the nullity of marriage, expiration of the terms established in cann. 1630-1633, becomes enforceable.

Can. 1680 § 1. In the part, which considers himself or herself aggrieved, and also the promoter of justice and defender of the bond is the right to introduce a complaint of nullity of the judgment or appeal against the judgment in accordance with cann. 1619-1640.

§ 2. After the time limits set by law for the appeal and its continuation, after the court of higher instance has received court documents, it constitutes the board of judges, designating the defender of the bond and the parties are in amonition submit observations within a specified period; after this period, the member court, if the appeal is manifestly dilatory, a decree confirming the judgment of first instance.

§ 3. If the appeal is admitted, you must proceed in the same way as in the first instance, with appropriate adaptations.

§ 4 . If the appellate level introduces a new ground of nullity of marriage, the tribunal can admit it and judge it as if it was in the first instance.

Can. 1681. If you have issued an enforceable judgment, it can be used at any time to the court of the third degree for the new presentation of the case in accordance with can. 1644, raising new and serious evidence or arguments within the deadline of thirty days from the presentation of the appeal.

Can. 1682 § 1. After the judgment which declared the nullity of marriage has become enforceable, the parties whose marriage was declared null can contract a new marriage, unless it prohibits a prohibition attached to the sentence or established by of the place.

§ 2. As soon as the sentence has become enforceable, the judicial vicar must notify the Ordinary of the place where the marriage was celebrated. These then have to ensure that as soon as mention is made in the registers of marriage and of baptism of the nullity of marriage decreed and any prohibitions established.

Art. 5 - The double process shorter before the Bishop

Can. 1683. At the same diocesan bishop is responsible to judge the causes of the nullity of marriage with the process shorter whenever:

1 ° the application is made by both spouses or by one of them, with the consent of the other;

2nd recourse to facts and circumstances of people, supported by testimony or documents, which do not require a more thorough investigation or education, and make manifest the nullity.

Can. 1684. The pamphlet with which we introduce the process shorter, in addition to the items listed in can. 1504 must: 1 ° set forth briefly, fully and clearly the facts on which the claim is based; 2 ° indicate the evidence, which can be immediately collected by the court; 3rd exhibit attached documents on which the claim is based.

Can. 1685. The judicial vicar, the same decree that determines the formulation of the doubt appoint the instructor and the commissioner and quote for the session, to be celebrated in accordance with can. 1686 not later than thirty days, everyone must participate.

Can. 1686. The instructor, as far as possible, collect the evidence in a single session and fixed a period of fifteen days to submit comments in favor of the bond and the defenses, if any.

Can. 1687 § 1. Received acts, the diocesan bishop, consulting with the instructor and the assessor, examined the observations of the defender of the bond and, if there are, the parties presented oral argument, if it reaches the moral certainty about the nullity of marriage, emanates the judgment. Otherwise it refers the case back to the ordinary process.

§ 2. The text of the judgment, on the grounds is to be communicated as soon as possible to the parties.

§ 3. Against the judgment of the bishop gives appeal to the Metropolitan or the Roman Rota; if the judgment was issued by the Metropolitan, it gives appeal to the senior suffragan; and against the judgment of another bishop who does not have a higher authority under the Roman Pontiff, it gives appeal to the Bishop of it permanently designated.

§ 4. If the appeal evidently appears merely dilatory, or the Metropolitan Bishop of § 3, or the dean of the Roman Rota, the discards in limine by

decree; but if the appeal is allowed, it refers the case to the ordinary examination of the second degree.

Art. 6 - The documentary process

Can. 1688. Upon receipt of the application submitted in accordance with can. 1676, the diocesan bishop or the judicial vicar or the designated Judge, skip the formalities of the ordinary process, however, cited the parties and with the intervention of the defender of the bond, can declare the nullity of the marriage by judgment, if a document that does not is subject to contradiction or exception, is established with certainty the existence of an impediment or nullifying the defect of legitimate form, provided it is clear with equal certainty that it was not granted the dispensation, or the lack of a valid mandate ends of the prosecutor .

Can. 1689 § 1. Against this statement the defender of the bond prudently thinks that there is no certainty of the defects mentioned in can. 1688 or the lack of dispensation, should appeal to the court of second instance, which are to be transmitted acts warning him in writing that it is a documentary process.

§ 2. A party who feels aggrieved retains the right to appeal.

Can. 1690 The judge of second instance, with the intervention of the defender of the bond and having heard the parties, will decide in the same way as mentioned in can. 1688 whether the sentence must be confirmed or whether we should proceed according to the ordinary law; in which case the references to the district court.

Art. 7 - General

Can. 1691 § 1. The judgment shall remind the parties about the moral obligations or even civil, which they may be bound towards each other and towards their offspring, with regard to the maintenance and education.

§ 2. The reasons for the declaration of nullity of marriage can not be treated with the oral contentious process mentioned in cann. 1656-1670.

§ 3. In all the other things that relate to procedure, should be applied, unless the nature of what is opposed, the canons on trials in general and on the ordinary contentious trial, the special norms for cases concerning the status of persons and cases concerning the public good.

* * *

The provision of can. 1679 will apply to declaratory judgments of nullity of marriage published from the day in which this Motu Proprio come into force.

In this document are merged with the procedural rules, which I considered necessary for the proper and accurate application of the law renewed, to be observed diligently to protect the good of the faithful.

What was I established with this motu proprio, I order to be valid and effective, notwithstanding anything to the contrary, even if worthy of special mention.

I confidently entrust to the intercession of the blessed and glorious ever Virgin Mary, Mother of mercy, and of the holy Apostles Peter and Paul, the active implementation of new matrimonial process.

Given in Rome, at Saint Peter's, on 15 August, Assumption of the Blessed Virgin Mary of the year 2015, the third of my Pontificate.

Francis

Procedural rules for dealing with cases of matrimonial nullity

The III Extraordinary General Assembly of the Synod of Bishops , celebrated in October 2014, noted the difficulty of the faithful of the Church to reach the courts. As the bishop, as the Good Shepherd, is obliged to meet his faithful that they need special pastoral care, together with the detailed rules for the application of the matrimonial process, it seemed appropriate, given for some of the Successor of collaboration Peter and the Bishops in spreading knowledge of the law, provide some tools to the work of the courts can meet the needs of the faithful, which require assessment of the truth about the existence or not of their marriage bond failed.

Art. 1. The Bishop under the can. 383 § 1 is bound to follow with the apostolic spirit divorced or separated couples, that their living conditions may have abandoned religious practice. He then shares with the parish priests (cf.. Can. 529 § 1) the pastoral care of these faithful in difficulty.

Art. 2. The preliminary investigation or pastoral, which includes facilities in parish or diocesan faithful separated or divorced who doubt the validity of

their marriage or are convinced of the nullity of the same, is oriented to know their status and to gather useful elements for any celebration of the judicial process, ordinary or shorter. That investigation will take place as part of the diocesan pastoral bedroom unit.

Art. 3. The same survey will be given to people deemed suitable by the local Ordinary, with skills though not exclusively juridical-canonical. Among them are primarily the proper parish priest or the one who prepared the couple to the wedding celebration. This task of advice can be given to other clerics, consecrated or lay approved by the local.

The diocese, diocese or more together, according to current groups may form a stable structure through which to provide this service and draw up, where appropriate, a handbook that sets forth the essential elements for the most appropriate investigation.

Art. 4. The survey collects pastoral elements useful for the eventual introduction of the cause of the spouses or of their patron before the competent court. An investigation if the parties have agreed to ask the nullity.

Art. 5. Collected all the elements, the survey ends with the petition to be presented, where appropriate, to the competent court.

Art. 6. Since the code of canon law must be applied in all respects, prejudice to special rules, also processes double, in the mind of can. 1691 § 3, these rules do not intend to expose in detail the set of the whole process, but also to clarify the key legislative changes and, where appropriate, incorporate them.

Title I - The jurisdiction and courts

Art. 7 § 1 . The titles of competence mentioned in can. 1672 are equivalent, safeguarded as far as possible the principle of proximity between the court and the parties.

§ 2. Through the cooperation between the courts, then, in the mind of can. 1418, make sure that everyone, or the heads, can participate in the process with the least expenditure.

Art. 8 § 1 . In the dioceses that do not have their own court, the Bishop cares to form as soon as possible, including through continuing education courses and continues, promoted by the diocese or their groupings and by the Apostolic See in common purpose, people they can offer their services

in the court for marriage cases to be established.

§ 2. The Bishop may terminate the interdiocesan tribunal constituted in accordance with can. 1423.

Title II - The right to challenge the marriage

Art. 9. If a spouse dies during the process, before the case is concluded, the instance is suspended until the other spouse or another interested calls for continued; in this case you must try the legitimate interest.

Title III - The introduction and examination of the case

Art. 10. The court may admit the oral petition whenever the part is prevented to present the petition; however, he orders the notary to draw up the act in writing to be read and approved by the party, and which takes the place of the little book written on the side of the law in effect.

Art. 11 § 1. The petition is presented at the Inter-diocesan tribunal or court that has been chosen in accordance with can. 1673 § 2.

§ 2. It considers that it is opposed to the application that the defendant left the matter to the court or justice, duly summoned for the second time, has no answer.

Title IV - The judgment, his appeals and his execution

Art. 12. In order to have the moral certainty necessary by law, not simply a preponderance of the evidence and clues, but it is required that any prudent positive doubt everything except error in law and in fact, although it is not excluded mere possibility of the contrary.

Art. 13. If a party has declared to decline to receive any information about the cause, it is deemed to have given up to obtain a copy of the judgment. In this case it may be served on the only part of the judgment.

Title V - The double process shorter before the Bishop

Art. 14 § 1 . The circumstances which may allow the handling of the case of nullity of the marriage by means of the process shorter according to cann. 1683-1687, for instance include: the lack of faith that can generate the simulation of consent or the error that determines the will, the brevity of married life, procured abortion to prevent procreation, the stubborn persistence in a extramarital affair at the time of the wedding or at a time immediately following, the malicious concealment of infertility or a serious

or contagious disease of children born from a previous relationship or incarceration, the cause of marriage completely foreign to married life or substantial the unplanned pregnancy of the woman, the physical violence inflicted to extort the consent, the lack of use of reason proved by medical documents, etc.

§ 2. Among the documents supporting the application are all the medical documents that may make it unnecessary to acquire an expertise office.

Art. 15 . If the petition was presented to introduce an ordinary trial, but the judicial vicar believes that the cause can be treated with the process shorter, he, in notifying the petition in accordance with can. 1676 § 1, calls the part that has not subscribed to inform the court whether it intends to join the application submitted and participate in the process. He, whenever necessary, invite the party or parties who have signed the petition to integrate as soon as possible in accordance with can. 1684.

Art. 16. The judicial vicar can appoint himself as an instructor; However, as far as possible to appoint an instructor from the diocese of origin of the cause.

Art. 17. In issuing the summons in accordance with can. 1685, the parties are informed that, if they were attached to the petition, they can, at least three days before the session investigation, submit articles of the topics on which the interrogation of the parties or of the texts.

Art. 18. § 1. The parties and their lawyers may attend examination of the other parties and texts unless the instructor considers, in the circumstances of things and people, that we should proceed otherwise.

§ 2. The responses of the parties and of the witnesses they must be made in writing by the notary, but briefly and only in what relates to the issue of marriage.

Art. 19. If the cause is instructed at an interdiocesan tribunal, the bishop who must pronounce the judgment is that of the place under which shall be settled in the mind of can. 1672. If we have more than one, is observed as far as possible the principle of proximity between the parties and the judge.

Art. 20 § 1. The Diocesan Bishop determines according to his care the way they pronounce the judgment.

§ 2. The ruling, however, signed by the Bishop together with the notary,

setting out in a short and tidy the grounds of the decision and ordinarily be notified to the parties within a period of one month from the day of decision.

Title VI - The documentary process

Art. 21. The diocesan bishop and the competent Judicial Vicar is determined in accordance with can. 1672.

[1] Cf. Second Vatican Council, Const. Dogmatic Constitution. Lumen Gentium , n. 27.

[2] Cf. CIC, can. 1752.

[3] Cf. Paul VI, Address to the participants of the II International agree to Canon Law , September 17, 1973.

[4] Cf. Relatio Synodi , n. 48 .

[5] Cf. Francis, Apostolic Exhortation Evangelii Gaudium , n. 27 , in AAS 105 (2013), p. 1031.