教宗方濟各「自動諭」宗座牧函

《主耶穌，寬仁的審判者》

論天主教法典宣布婚姻無效訴訟法定程序的革新

天主教臺灣地區主教團

LITTERAE APOSTOLICAE MOTU
PROPRIO DATAE

MITIS IUDEX DOMINUS IESUS

QUIBUS CANONES CODICIS IURIS CANONICI
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DECLARANDAM REFORMANTUR

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FRANCISCUS

Mitis Iudex Dominus Iesus, Pastor animarum nostrarum, Petro Apostolo eiusque Successoribus potestatem clavium concredidit ad opus iustitiae et veritatis in Ecclesia absolvendum; quae suprema et universalis potestas, ligandi nempe ac solvendi his in terris, illam Ecclesiarum particularium Pastorum asserit, roborat et vindicat, cuius vi iidem sacrum ius et coram Domino officium habent in suos subditos iudicium faciendi.[1]

Labentibus saeculis Ecclesia in re matrimoniali, nitidiorem adepta Christi verborum conscientiam, doctrinam sacri connubii vinculi indissolubilitatis profundius intellexit exposuitque, nullitatum matrimonialis consensus systema concinnavit atque processum iudicialem ad rem aptius ordinavit, ita ut ecclesiastica disciplina magis magisque cum veritate fidei, quam profitebatur, cohaereret.

1 Cf. Concilium Oecumenicum Vaticanum II, Const. dogm. *Lumen Gentium*, n. 27.

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主耶穌，寬仁的審判者、人靈的牧者，曾把在教會內執行真理與正義之「鑰匙」的權柄授予伯多祿宗徒及其繼承人；這在現世和全球束縛及解除的最高權力，肯定、加強及維護了地方教會牧者的權力，藉此權力，牧者們在主面前享有裁決其屬下的神聖權利和當盡的義務[1]。

世世代代以來，教會在婚姻事務上，對基督聖言理解既日漸加深，也對婚姻神聖不可拆散性的教義，更深入地理解和加以闡釋。爲此，教會曾制定了婚姻合意無效的制度，並更充份地釐定了婚姻的司法程序，使教會的紀律常與它所宣示的信仰真理日益相符。

1 參：梵二《教會憲章》，27節。

Quae omnia facta semper sunt duce salutis animarum suprema lege,[2] quoniam Ecclesia, ut sapienter docuit Beatus Paulus PP. VI, divinum Trinitatis consilium est, ideoque omnes eius institutiones, utique semper perfectibiles, eo tendere debent ut divinam gratiam transmittant, atque christifidelium bono, utpote ipsius Ecclesiae fini essentiali, pro cuiusque munere ac missione, continenter faveant.[3]

Cuius rei conscii decrevimus reformationem processuum de matrimonii nullitate suscipere, huncque in finem Coetum congregavimus Virorum, iuris doctrina, pastorali prudentia et forensi usu insignium, qui, sub moderamine Exc.mi Rotae Romanae Decani, rationem reformationis delinearent, in tuto utique posito principio vinculi matrimonialis indissolubilitatis. Alacriter operans, brevi tempore Coetus huiusmodi novae legis processualis adumbrationem concepit, quae ponderatae considerationi subiecta, vel cum aliorum peritorum auxilio, nunc in praesentibus Litteris transfunditur.

Salutis ergo animarum studium, quae – hodie sicut heri – institutionum, legum, iuris supremus finis manet, Romanum impellit Antistitem ad Episcopis hasce ref-

2 Cf. CIC, can. 1752.

3 Cf. Paulus VI, Allocutio iis qui II Conventui Internationali Iuris Canonici interfuerunt, diei 17 septembris 1973.

教會所做的一切都是以人靈的得救這一最高法律爲指引[2]；誠如教宗真福保祿六世睿智地教導，教會既然是源於天主聖三的神聖計劃，其種種制度，儘管常可更臻於完善，但都應按各自所領受的恩寵和使命，通傳聖寵，並不斷地致力於信友的福祉，作爲教會的基本目標[3]。

有鑒於此，我決定著手革新婚姻無效的訴訟程序，並爲此召集了一個由羅馬聖輪法院院長領導，並由精通法學，具有牧靈智慧與司法經驗的人士所組成的小組，在維護婚姻不可拆散的原則下，着手草擬一份革新計劃。這小組迅速行事之後，提供了一份革新方案，經慎重審閱及在其他專家協助後，將它納入此自動諭。

對人靈得救的關注，今如往昔，是教會所有體制、規範及法律的最崇高目標。該種關注，促使羅馬主教向主教們提供這份革新文

2 參：《天主教法典》，1752條。

3 參：保祿六世，在關於教會法的第二次國際研討會上向與會者的講話，1973年9月17日。

ormationis tabulas praebendas, quippe qui secum sint muneris Ecclesiae participes, unitatis nempe tutandae in fide ac disciplina de matrimonio, familiae christianae cardine et scaturigine. Alit reformationis studium ingens christifidelium numerus, qui conscientiae suae consulere cupientes ab Ecclesiae structuris iuridicis ob physicam vel moralem longinquitatem saepius arcentur; postulant igitur caritas et misericordia ut ipsa Ecclesia tamquam mater proximam se faciat filiis qui semet segregatos sentiunt.

Hunc in sensum evaserunt optata quoque maioris partis Fratrum Nostrorum in Episcopatu, in recenti extraordinaria Synodo adunatorum, iudicia agiliora ac faciliora accessu flagitantis.[4] Quibus optatis omnino consonantes, statuimus hisce Litteris dispositiones edere quibus non matrimoniorum nullitati, sed processuum celeritati faveatur non minus quam iustae simplicitati, ne, propter elongatam iudicii definitionem, fidelium sui status declarationem exspectantium dubii tenebrae diutine opprimant praecordia.

4 Cf. Relatio Synodi, n. 48.

件，因爲他們與他共同分擔教會在維護信仰統一及婚姻紀律上的職務，而婚姻是基督徒家庭的關鍵和根源所在。宣判婚姻無效程序的改革，也是由眾多的信友所引發。他們儘管渴望按照良心行事，卻常受制於他們與教會司法架構身心上的分隔而無從求助；因此，愛德和慈悲要求教會有如慈母，走近這些自以爲是遠離教會的子女。

在最近召開的世界主教代表會議非常務會議上，我的主教弟兄們大部分朝着這方向投了票：要求有可行而簡捷的訴訟程序[4]。我與他們的意願完全一致。藉此自動諭，我決定釐定一些守則。這些守則並非爲助長宣判婚姻無效，而旨在既加速而亦合理地簡化婚姻無效訴訟程序，以免信友們在自己的身份有待澄清期間，因司法判決的遲延而致內心長期被疑惑的陰影所壓抑。

4 參：主教代表會議結束報告，48條。

Quod fecimus vestigia utique prementes Decessorum Nostrorum, volentium causas nullitatis matrimonii via iudiciali pertractari, haud vero administrativa, non eo quod rei natura id imponat, sed potius postulatio urgeat veritatis sacri vinculi quammaxime tuendae: quod sane praestant ordinis iudiciarii cautiones.

Quaedam enitent fundamentalia criteria quae opus reformationis rexerunt.

I. – *Una sententia pro nullitate exsecutiva.* – Visum est, imprimis, non amplius requiri duplicem decisionem conformem pro matrimonii nullitate ut partes ad novas canonicas nuptias admittantur, sed sufficere certitudinem moralem a primo iudice ad normam iuris adeptam.

II. – *Iudex unicus sub Episcopi responsabilitate.* – Constitutio iudicis unici, clerici utique, in prima instantia Episcopi responsabilitati committitur, qui in pastorali exercitio suae iudicialis potestatis caveat ne cuilibet laxismo indulgeatur.

III. – *Ipse Episcopus iudex.* – Ut sane Concilii Vaticani II in quodam magni ponderis ambitu documentum ad effectum tandem ducatur, decretum est palam proferri ipsum Episcopum in sua Ecclesia, cuius pastor et caput

當然，我所制定的，是追隨我的前任教宗們。他們的意旨，是以司法程序而非行政程序來處理婚姻無效的案件。這並不是因爲事情的性質有此要求，而是爲在最大程度上維護神聖婚約不可拆散的真理。這一點恰恰藉司法程序而得以確保。

以下是一些指引這項革新的基本準則：

1. 宣判婚姻無效之執行僅需一審：首先，爲宣判婚姻無效，使男女雙方能合法再婚，看來合適不必再要求雙重一致的判決，而只需一審審判員依法達到常情確實性。

2. 主教負責下單獨一位審判員審理案件：在一審中，獨立審判員應是一位由主教任命的聖職人員，而主教在履行其牧職上之司法權時，應確保不陷於任何寬鬆主義。

3. 主教本人即是審判員：爲了最終落實梵二大公會議在如此重要之領域之教導，須確切地突顯，主教本人在其教會中既被立爲牧者

constituitur, eo ipso esse inter christifideles sibi commissos iudicem. Exoptatur ergo ut in magnis sicut in parvis dioecesibus ipse Episcopus signum offerat conversionis ecclesiasticarum structurarum,[5] neque munus iudiciarium in re matrimoniali curiae officiis prorsus delegatum relinquat. Idque speciatim valeat in processu breviori, qui ad dirimendos casus manifestioris nullitatis stabilitur.

IV. – *Processus brevior.* – Namque, ordinario processu matrimoniali expeditiore reddito, efficta est quaedam processus brevioris species – praeter documentalem prout in praesentiarum vigentem –, in iis applicanda casibus in quibus accusata matrimonii nullitas pro se habet argumentorum peculiariter evidentium fulcimen.

Nos tamen non latuit, in quantum discrimen ex breviato iudicio principium indissolubilitatis matrimonialis adduci possit; eum nimirum in finem voluimus ipsum Episcopum in tali processu iudicem constitui, qui in fide et disciplina unitati catholicae cum Petro ob suum pastoris munus quam qui maxime cavet.

5 Cf. Franciscus, Adhort. apost. *Evangelii gaudium*, n. 27, in AAS 105 (2013), p. 1031.

和首領，因此他本人就是付託給他的信友們的審判員。故極祈願，無論是在大教區還是在小教區，主教本人能夠成爲教會結構「皈依」的標記[5]，而不會把婚姻訴訟的司法權完全委託給主教公署轄下辦公室。這特別適用於爲處理那些較明顯地是無效的婚姻而制定的簡式訴訟。

4. 簡式訴訟：事實上，除了使婚姻訴訟更爲便捷，還擬定了一種補充現行文書訴訟，且較爲簡短的訴訟，適用於有特別明顯的論證來支撐的婚姻無效訴訟。

然而，我也留意到：簡短的審理如何會危及婚姻不可拆散性的原則；正是爲此，我的意願是：在這類訴訟中，由主教本人擔任審判員，使他藉牧者職權，與伯多祿一起做天主教信仰和紀律上團結合一的最大擔保人。

5 參：教宗方濟各，《福音的喜樂》宗座勸諭，27節，宗座公報 105(2013)1031。

V. – *Appellatio ad Sedem Metropolitanam.* – Appellatio ad Sedem Metropolitae restituatur oportet, quippe quod munus per saecula stabile, tamquam provinciae ecclesiasticae capitis, insigne perstat synodalitatis in Ecclesia.

VI. – *Episcoporum Conferentiarum officium proprium.* – Episcoporum Conferentiae, quas potissimum urgere debet apostolicus zelus in fidelibus pertingendis dispersis, officium praefatae conversionis participandae persentiant, et sartum tectumque servent Episcoporum ius potestatem iudicialem in sua particulari Ecclesia ordinandi.

Proximitatis inter iudicem et christifideles restauratio secundum enim exitum non sortietur, nisi ex Conferentiis singulis Episcopis stimulus una simul cum auxilio veniat ad reformationem matrimonialis processus adimplendam.

Una cum iudicis proximitate curent pro posse Episcoporum Conferentiae, salva iusta et honesta tribunalium operatorum mercede, ut processuum gratuitati caveatur et Ecclesia, generosam matrem se ostendens fidelibus, in re tam arcte animarum saluti cohaerente manifestet Christi gratuitum amorem quo salvi omnes facti sumus.

5. 向都會總教區上訴：宜恢復向都會總教區上訴的做法，因爲數世紀以來所確立的教省首席職權，是教會共議精神的一個特色。

6. 主教團的本有職務：主教團，尤其應在宗徒熱忱的推動下，照顧散居各地的信友。主教團應強烈地意識到分擔上述「皈依」的義務，同時絕對尊重主教們在各自的地方教會中安排司法權的權利。

   實際上，個別主教若無法從主教團獲得執行婚姻訴訟革新的動力和援助，便無法恢復審判員與信友身處就近地點，彼此易於接觸之原則。

   在確保審判員與當事人易於就近接觸之原則的同時，主教團在給予法庭職員合理和符合身份的酬勞的前提下，還應盡量確保免費的訴訟程序。如此，教會在這件與人靈之得救有如此密切關係的事上，向信友們顯示其慈母般的慷慨心懷時，能彰顯我們眾人賴以得救的基督白白施予的愛。

VII. – *Appellatio ad Sedem Apostolicam.* – Appellationem ad Apostolicae Sedis Tribunal ordinarium, seu Rotam Romanam, utique servari oportet, antiquissimo spectato iure, ita ut vinculum inter Petri Sedem et Ecclesias particulares confirmetur, cauto tamen in eiusdem appellationis disciplina ut quilibet cohibeatur iuris abusus, neque quid salus animarum detrimenti capiat.

Rotae Romanae, autem, lex propria quam primum regulis reformati processus, quatenus opus sit, adaequabitur.

VIII. – *Provisiones pro Ecclesiis Orientalibus.* – Rationem demum habentes peculiaris Ecclesiarum Orientalium ecclesialis et disciplinaris ordinationis, statuimus accommodatas normas separatim hoc ipso die edere ad disciplinam matrimonialium processuum in Codice Canonum Ecclesiarum Orientalium innovandam.

Quibus omnibus mature consideratis, decernimus ac statuimus Libri VII Codicis Iuris Canonici, Partis III, Tituli I, Caput I De causis ad matrimonii nullitatem declarandam (cann. 1671-1691), inde a die VIII mensis Decembris anni MMXV, integre substitui prout sequitur:

7. 向宗座上訴：向宗座普通法院——即羅馬聖輪法院——上訴的慣例，必須保留，以尊重這項最古老的司法權利，使伯多祿宗座與地方教會之間的聯繫得以加強。惟務須在該上訴紀律上避免任何權利的濫用，以免損及人靈之得救。

   羅馬聖輪法院的本有法則，將盡快依這次革新訴訟的守則，按需要加以調整。

8. 東方教會法的革新：最後，鑑於東方教會制度和紀律之特殊性，我決定同日另行頒佈東方教會法典中婚姻訴訟法之革新守則。

   在慎重考慮一切相關事項後，我決定並敕令：《天主教法典》第七卷、第三編，第一題，第一章關於「聲明婚姻無效之訴訟」（《法典》 1671-1691條），自 2015 年12月8日起，完全由以下條款取代：

Art. 1 - De foro competenti et de tribunalibus

Can.1671 § 1. Causae matrimoniales baptizatorum iure proprio ad iudicem ecclesiasticum spectant.

§ 2. Causae de effectibus matrimonii mere civilibus pertinent ad civilem magistratum, nisi ius particulare statuat easdem causas, si incidenter et accessorie agantur, posse a iudice ecclesiastico cognosci ac definiri.

Can.1672. In causis de matrimonii nullitate, quae non sint Sedi Apostolicae reservatae, competentia sunt:

1° tribunal loci in quo matrimonium celebratum est;

2° tribunal loci in quo alterutra vel utraque pars domicilium vel quasi-domicilium habet;

3° tribunal loci in quo de facto colligendae sunt pleraeque probationes.

Can.1673 § 1. In unaquaque dioecesi iudex primae instantiae pro causis nullitatis matrimonii iure expresse non exceptis est Episcopus dioecesanus, qui iudicialem potestatem exercere potest per se ipse vel per alios, ad normam iuris.

第一節 主管法庭和法院

1671條 - 1項：處理已領洗者之婚姻案件，是天主教會審判員的本有權利。

2項：婚姻案件之純屬國法效力者，由國家法院處理，除非特別法規定，此等案件遇有中間或附帶提出，得由教會審判員審理及裁定之。

1672條：對於未被宗座保留之婚姻無效案件，由下列法庭管轄之：

1°婚姻締結地之法庭；

2°一方或雙方住所或類住所之所在地之法庭；

3°實際上應在該處蒐集多數證據之地點之法庭。

1673條 - 1項：在每個教區，教區主教在第一審有權審理一切未被法律明言保留之婚姻無效案件，並得依照法律的規定，親自或委託他人來行使此司法權。

§ 2. Episcopus pro sua dioecesi tribunal dioecesanum constituat pro causis nullitatis matrimonii, salva facultate ipsius Episcopi accedendi ad aliud dioecesanum vel interdioecesanum vicinius tribunal.

§ 3. Causae de matrimonii nullitate collegio trium iudicum reservantur. Eidem praeesse debet iudex clericus, reliqui iudices etiam laici esse possunt.

§ 4. Episcopus Moderator, si tribunal collegiale constitui nequeat in dioecesi vel in viciniore tribunali ad normam § 2 electo, causas unico iudici clerico committat qui, ubi fieri possit, duos assessores probatae vitae, peritos in scientiis iuridicis vel humanis, ab Episcopo ad hoc munus approbatos, sibi asciscat; eidem iudici unico, nisi aliud constet, ea competunt quae collegio, praesidi vel ponenti tribuuntur.

§ 5. Tribunal secundae instantiae ad validitatem semper collegiale esse debet, iuxta praescriptum praecedentis § 3.

§ 6. A tribunali primae instantiae appellatur ad tribunal metropolitanum secundae instantiae, salvis praescriptis cann. 1438-1439 et 1444.

2項：主教須爲自己的教區設立一個審理婚姻無效案件的法庭，然主教訴諸其它較鄰近之教區法庭或教區聯合法庭之權利保持不變。

3項：婚姻無效案件保留給三人審判員之合議庭審理。其主席審判員應由聖職人員擔任，其餘審判員亦可由平信徒擔任。

4項：若不可能在教區或依 2 項規定所選之臨近教區法庭設立合議法庭，仲裁主教可委任唯一聖職人員爲審判員，此審判員在可能範圍內，聯合兩位品行正直、精通法學或人文知識，並由主教核准勝任此職務者，擔任陪審員；除明顯地另有指示外，唯一審判員擔任法律賦予合議庭、審判長或記述員之職務。

5項：依以上 3 項之規定，第二審法庭常該是合議庭，否則判決無效。

6項：自第一審法庭得上訴至都會總教區第二審法庭，惟法典 1438-1439 和 1444 條規定者除外。

Art. 2 - De iure impugnandi matrimonium

Can.1674 § 1. Habiles sunt ad matrimonium impugnandum:

1° coniuges;

2° promotor iustitiae, cum nullitas iam divulgata est, si matrimonium convalidari nequeat aut non expediat.

§ 2. Matrimonium quod, utroque coniuge vivente, non fuit accusatum, post mortem alterutrius vel utriusque coniugis accusari non potest, nisi quaestio de validitate sit praeiudicialis ad aliam solvendam controversiam sive in foro canonico sive in foro civili.

§ 3. Si autem coniux moriatur pendente causa, servetur can. 1518.

Art. 3 - De causae introductione et instructione

Can.1675. Iudex, antequam causam acceptet, certior fieri debet matrimonium irreparabiliter pessum ivisse, ita ut coniugalis convictus restitui nequeat.

第二節 抗婚權

1674條 - 1項：下列人士有抗婚之能力：

1°配偶；

2°檢察員，但僅以婚姻無效已公開，而其不能補救或不合適補救者爲限。

2項：對於雙方配偶生前未起訴之婚姻，於一方或雙方配偶死亡後，不得起訴，除非婚姻是否有效的問題，將會影響教會法庭或國家法庭裁決另一訴訟。

3項：如一方配偶於訴訟期間死亡，應從1518條之規定。

第三節 案件之起訴和預審

1675條：審判員，於受理案件之前，應確定婚姻已無法補救，不可能恢復夫妻生活。

Can.1676 § 1. Recepto libello, Vicarius iudicialis si aestimet eum aliquo fundamento niti, eum admittat et, decreto ad calcem ipsius libelli apposito, praecipiat ut exemplar notificetur defensori vinculi et, nisi libellus ab utraque parte subscriptus fuerit, parti conventae, eidem dato termino quindecim dierum ad suam mentem de petitione aperiendam.

§ 2. Praefato termino transacto, altera parte, si et quatenus, iterum monita ad suam mentem ostendendam, audito vinculi defensore, Vicarius iudicialis suo decreto dubii formulam determinet et decernat utrum causa processu ordinario an processu breviore ad mentem cann. 1683-1687 pertractanda sit. Quod decretum partibus et vinculi defensori statim notificetur.

§ 3. Si causa ordinario processu tractanda est, Vicarius iudicialis, eodem decreto, constitutionem iudicum collegii vel iudicis unici cum duobus assessoribus iuxta can. 1673, § 4 disponat.

§ 4. Si autem processus brevior statutus est, Vicarius iudicialis agat ad normam can. 1685.

§ 5. Formula dubii determinare debet quo capite vel quibus capitibus nuptiarum validitas impugnetur.

1676條 - 1項：司法代理接到訴狀後，若認爲其有若干根據，則受理之，並在訴狀末尾簽署受理法令，且應責令將一副件送達婚約辯護人；若訴狀未獲雙方簽署，副件亦應送達被告。被告應於十五日內表達其對訴狀之立場。

2項：期限屆滿，並如有需要，經再次告誡被告表達立場之後，司法代理應在徵詢婚約辯護人之後，以法令裁定訴訟標的，並明示案件應以普通訴訟審理或應根據 1683-1687 條之規定以簡式訴訟審理。此裁定應立即通傳給雙方當事人及婚約辯護人。

3項：若案件應以普通訴訟審理，司法代理應藉同一法令著手合議庭之設立，或依 1673 條 4 項之規定，設立唯一審判員及兩名陪審員。

4項：若決定使用簡式訴訟，司法代理則應依1685 條之規定進行。

5項：擬定訴訟標的時，應確立以哪一項或哪幾項依據來起訴婚姻之有效性。

Can.1677 § 1. Defensori vinculi, partium patronis et, si in iudicio sit, etiam promotori iustitiae ius est:

1° examini partium, testium et peritorum adesse, salvo praescripto can. 1559;

2° acta iudicialia, etsi nondum publicata, invisere et documenta a partibus producta recognoscere.

§ 2. Examini, de quo in § 1, n. 1, partes assistere nequeunt.

Can.1678 § 1. In causis de matrimonii nullitate, confessio iudicialis et partium declarationes, testibus forte de ipsarum partium credibilitate sustentae, vim plenae probationis habere possunt, a iudice aestimandam perpensis omnibus indiciis et adminiculis, nisi alia accedant elementa quae eas infirment.

§ 2. In iisdem causis, depositio unius testis plenam fidem facere potest, si agatur de teste qualificato qui deponat de rebus ex officio gestis, aut rerum et personarum adiuncta id suadeant.

§ 3. In causis de impotentia vel de consensus defectu propter mentis morbum vel anomaliam naturae psychicae iudex unius periti vel plurium opera utatur, nisi ex adiunctis inutilis evidenter appareat; in ceteris causis servetur praescriptum can. 1574.

1677條 - 1項：婚約辯護人、當事人之律師及參加訴訟之檢察員，有下列權利：

1˚參加當事人、證人及專家之審查，但1559 條之規定，不在此限；

2˚閱覽訴訟案卷，包括尚未公開者在內，及查驗當事人所提供之書證。

2項：一項1款之審查，當事人不得參與。

1678條 - 1項：在婚姻無效案件中，當事人之供認和聲明，甚或可能有證據支撐當事人之可信性者，經審判員在斟酌一切線索和佐證細節後，若無其它可反駁之因素，可視之爲完全充份之證據。

2項：在相同案件中，一個證人的證據已足夠，如果此證據是由一位可靠合格的專家按其職務提出，或人和事實情況顯示如此。

3項：在不能人道或因精神病症或不正常之心理因素而缺乏合意的情況下，審判員應請一位或數位專家協助，但按情況顯然無此需要者，不在此限；在其他案件中，應從 1574 條之規定。

§ 4. Quoties in instructione causae dubium valde probabile emerserit de non secuta matrimonii consummatione, tribunal potest, auditis partibus, causam nullitatis suspendere, instructionem complere pro dispensatione super rato, ac tandem acta transmittere ad Sedem Apostolicam una cum petitione dispensationis ab alterutro vel utroque coniuge et cum voto tribunalis et Episcopi.

Art. 4 - De sententia, de eiusdem impugnationibus et exsecutione

Can.1679. Sententia, quae matrimonii nullitatem primum declaravit, elapsis terminis a cann. 1630-1633 ordinatis, fit exsecutiva.

Can.1680. § 1. Integrum manet parti, quae se gravatam putet, itemque promotori iustitiae et defensori vinculi querelam nullitatis sententiae vel appellationem contra eandem sententiam interponere ad mentem cann. 1619-1640.

§ 2. Terminis iure statutis ad appellationem eiusque prosecutionem elapsis atque actis iudicialibus a tribunali superioris instantiae receptis, constituatur collegium iudicum, designetur vinculi defensor et partes moneantur ut animadversiones, intra terminum praesti-

4項：在預審案件時，每當對婚姻之已遂很可能存疑時，法庭在聆聽雙方當事人意見後，可中止對無效之案件，爲完成對既成未遂婚姻之豁免之調查；之後，可將卷宗及一方或雙方配偶之請求豁免書，以及法庭和主教之意見書，一併呈送宗座。

第四節 判決、上訴及執行

1679條：首次聲明婚姻無效之判決，於1630-1633 條規定之期限屆滿後，即可執行。

1680條 - 1項：自認受損之一方，以及檢察員和婚約辯護人，均仍有權依 1619-1640 條之規定，對判決之有效性提出抗辯，或反對判決而提出上訴。

2項：法定上訴及受理期限屆滿，上訴法庭於收到案卷後，應設立合議庭、任命婚約辯護人，並告誡雙方當事人於指定之期限內呈遞各自之意見；此期限屆滿，若上訴明顯地只爲拖

tutum, proponant; quo termino transacto, si appellatio mere dilatoria evidenter appareat, tribunal collegiale, suo decreto, sententiam prioris instantiae confirmet.

§ 3. Si appellatio admissa est, eodem modo quo in prima instantia, congrua congruis referendo, procedendum est.

§ 4. Si in gradu appellationis novum nullitatis matrimonii caput afferatur, tribunal potest, tamquam in prima instantia, illud admittere et de eo iudicare.

Can.1681. Si sententia exsecutiva prolata sit, potest quovis tempore ad tribunal tertii gradus pro nova causae propositione ad normam can. 1644 provocari, novis iisque gravibus probationibus vel argumentis intra peremptorium terminum triginta dierum a proposita impugnatione allatis.

Can.1682 § 1. Postquam sententia, quae matrimonii nullitatem declaraverit, facta est exsecutiva, partes quarum matrimonium declaratum est nullum, possunt novas nuptias contrahere, nisi vetito ipsi sententiae apposito vel ab Ordinario loci statuto id prohibeatur.

§ 2. Statim ac sententia facta est exsecutiva, Vicarius iudicialis debet eandem notificare Ordinario loci in quo matrimonium celebratum est. Is autem curare debet ut quam primum de decreta nullitate matrimonii et de vetitis forte statutis in matrimoniorum et baptizatorum libris mentio fiat.

延，合議庭可立即以其法令裁定維持一審之判決。

3項：上訴一旦受理，應按一審所使用之同樣程序進行，並作恰當的適應。

4項：若在上訴時引用某項新的婚姻無效之依據，法庭可予以受理並審理之，猶如一審。

1681條：若判決已被宣佈執行，於任何時候，均可依 1644 條之規定，按新的案情向第三審法庭提起上訴，並於提出上訴後三十日之有效期限內，呈遞新而重大之證據或理由。

1682條 - 1項：聲明婚姻無效之判決執行後，其婚姻被聲明無效之當事人可締結新婚，但判決書附有禁令，或教區教長明令禁止結新婚者不在此列。

2項：判決一經執行，司法代理應立即將判決通知婚姻舉行地之教區教長；此教長務須盡早將婚姻無效判決及可能附加之禁令，記錄於婚姻及聖洗冊簿內。

Art. 5 - De processu matrimoniali breviore coram Episcopo

Can.1683. Ipsi Episcopo dioecesano competit iudicare causas de matrimonii nullitate processu breviore quoties:

1° petitio ab utroque coniuge vel ab alterutro, altero consentiente, proponatur;

2° recurrant rerum personarumque adiuncta, testimoniis vel instrumentis suffulta, quae accuratiorem disquisitionem aut investigationem non exigant, et nullitatem manifestam reddant.

Can.1684. Libellus quo processus brevior introducitur, praeter ea quae in can. 1504 recensentur, debet:

1° facta quibus petitio innititur breviter, integre et perspicue exponere;

2° probationes, quae statim a iudice colligi possint, indicare;

3° documenta quibus petitio innititur in adnexo exhibere.

Can.1685. Vicarius iudicialis, eodem decreto quo dubii formulam determinat, instructore et assessore nominatis, ad sessionem non ultra triginta dies iuxta can. 1686 celebrandam omnes citet qui in ea interesse debent.

第五節 向主教提出之婚姻簡式訴訟

1683條：在下列情況，教區主教常有權以簡式訴訟審理婚姻無效案件：

1°訴訟申請由配偶雙方提出，或由一方在對方的同意下提出；

2°有證據或文書支撐之人或事物佐證，重複地顯示婚姻爲無效，而仔細調查及預審已無必要。

1684條：欲採用簡式訴訟之訴狀，除陳明1504 條所列舉之事項外，還應：

1°簡短、完整而清晰地陳明訴狀所依據之事實；

2°指明審判員可立即搜集之證據；

3°在附件出示訴狀所依據之文書。

1685條：司法代理，於指定訴訟標的之同一法令中，應委任預審員和一位陪審員，並按1686條文規定，在三十日之內進行庭審，並傳喚所有應參與庭審之人士。

Can.1686. Instructor una sessione, quatenus fieri possit, probationes colligat et terminum quindecim dierum statuat ad animadversiones pro vinculo et defensiones pro partibus, si quae habeantur, exhibendas.

Can.1687 § 1. Actis receptis, Episcopus dioecesanus, collatis consiliis cum instructore et assessore, perpensisque animadversionibus defensoris vinculi et, si quae habeantur, defensionibus partium, si moralem certitudinem de matrimonii nullitate adipiscitur, sententiam ferat. Secus causam ad ordinarium tramitem remittat.

§ 2. Integer sententiae textus, motivis expressis, quam citius partibus notificetur.

§ 3. Adversus sententiam Episcopi appellatio datur ad Metropolitam vel ad Rotam Romanam; si autem sententia ab ipso Metropolita lata sit, appellatio datur ad antiquiorem suffraganeum; et adversus sententiam alius Episcopi qui auctoritatem superiorem infra Romanum Pontificem non habet, appellatio datur ad Episcopum ab eodem stabiliter selectum.

§ 4. Si appellatio mere dilatoria evidenter appareat, Metropolita vel Episcopus de quo in § 3, vel Decanus Rotae Romanae, eam a limine decreto suo reiciat; si autem admissa fuerit, causa ad ordinarium tramitem in altero gradu remittatur.

1686條：預審員應盡可能在一次庭審中搜集所有證據，並指定十五日期限爲呈遞支持婚約之意見書及可能有之當事人之辯詞。

1687條 - 1項：收到案卷後，教區主教，在諮詢預審員和陪審員，並斟酌婚約辯護人之意見及可能有的當事人之辯詞後，若就婚姻之無效已達至常情確定性，即可宣佈判決，否則應循普通訴訟審理案件。

2項：載有裁決理由之完整判決書應盡早送達當事人。

3項：如對主教之判決不滿，可上訴至都會總教區法庭或羅馬聖輪法院；如判決由都會總教區法庭宣佈，可上訴至較資深的省區主教；對其他除羅馬教宗以外無任何上級權威之主教的判決，可上訴至教宗固定指派之主教。

4項：若上訴明顯地只爲拖延，都會總主教或 3 項所言之主教，或聖輪法院院長，應自起初就以法令將之駁回；然上訴一旦受理，應展開第二審普通訴訟。

Art. 6 - De processu documentali

Can.1688. Recepta petitione ad normam can. 1676 proposita, Episcopus dioecesanus vel Vicarius iudicialis vel Iudex designatus potest, praetermissis sollemnitatibus ordinarii processus sed citatis partibus et cum interventu defensoris vinculi, matrimonii nullitatem sententia declarare, si ex documento, quod nulli contradictioni vel exceptioni sit obnoxium, certo constet de exsistentia impedimenti dirimentis vel de defectu legitimae formae, dummodo pari certitudine pateat dispensationem datam non esse, aut de defectu validi mandati procuratoris.

Can.1689 § 1. Adversus hanc declarationem defensor vinculi, si prudenter existimaverit vel vitia de quibus in can. 1688 vel dispensationis defectum non esse certa, appellare debet ad iudicem secundae instantiae, ad quem acta sunt transmittenda quique scripto monendus est agi de processu documentali.

§ 2. Integrum manet parti, quae se gravatam putet, ius appellandi.

Can.1690. Iudex alterius instantiae, cum interventu defensoris vinculi et auditis partibus, decernet eodem modo, de quo in can. 1688, utrum sententia sit

第六節 文書訴訟

1688條：如依據無可反駁或抗辯之文件，確知有某項使婚姻無效之阻礙，或欠缺法定儀式，同時確知未曾給予豁免，又或確定結婚代理人未獲有效授權，則教區主教或司法代理或所指定之審判員，於接到依 1676 條之規定而提出之申請後，經傳喚雙方當事人，並在婚約辯護人之參與下，可省略普通訴訟程序，宣判婚姻無效。

1689條 - 1項：如婚約辯護人經審斷，認爲對 1688 條所言之阻礙或對豁免是否欠缺，並不確定，應對此判決聲明向第二審之審判員提出上訴，並應將全部案卷呈交上訴法庭，同時以書面提醒該法庭，原案爲文書訴訟程序。

2項：自認受到傷害之當事人，仍有上訴權。

1690條：第二審之審判員，經婚約辯護人介入及聆聽雙方當事人之意見後，得依 1688 條之程序，裁定是否確認該判決，抑或應依普通

confirmanda, an potius procedendum in causa sit iuxta ordinarium tramitem iuris; quo in casu eam remittit ad tribunal primae instantiae.

Art. 7 - Normae generales

Can.1691 § 1. In sententia partes moneantur de obligationibus moralibus vel etiam civilibus, quibus forte teneantur, altera erga alteram et erga prolem, ad sustentationem et educationem praestandam.

§ 2. Causae ad matrimonii nullitatem declarandam, processu contentioso orali, de quo in cann. 1656-1670, tractari nequeunt.

§ 3. In ceteris quae ad rationem procedendi attinent, applicandi sunt, nisi rei natura obstet, canones de iudiciis in genere et de iudicio contentioso ordinario, servatis specialibus normis circa causas de statu personarum et causas ad bonum publicum spectantes.

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Dispositio can. 1679 applicabitur sententiis matrimonii nullitatem declarantibus publicatis inde a die quo hae Litterae vim obligandi sortientur.

訴訟程序審理之；在後一情況下，應將案件發還第一審法庭。

第七節 訴訟總則

1691條 - 1項：在判決書內應提醒雙方當事人，對彼此間和對子女所負的贍養和教育之道德責任，甚或依國法所承擔的義務。

2項：宣告婚姻無效之案件，不得以1656-1670條所規定之言詞訴訟程序審理。

3項：其它一切有關訴訟程序之事項，除非有違事情之性質，應採用訴訟總則及民事普通訴訟條款，惟應遵守有關個人身份及公益案件之特別規定。

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1679 條之規定將適用於自本「自動諭」生效之日起宣佈婚姻無效之判決。

Praesentibus adnectitur ratio procedendi, quam duximus ad rectam accuratamque renovatae legis applicationem necessariam, studiose ad fovendum bonum fidelium servanda.

Quae igitur a Nobis his Litteris decreta sunt, ea omnia rata ac firma esse iubemus, contrariis quibusvis, etiam specialissima mentione dignis, non obstantibus.

Gloriosae et benedictae semper Virginis Mariae, Matris misericordiae, et beatorum Apostolorum Petri et Pauli intercessioni actuosam exsecutionem novi matrimonialis processus fidenter committimus.

Datum Romae, apud S. Petrum, die XV mensis Augusti, in Assumptione Beatae Mariae Virginis, anno MMXV, Pontificatus Nostri tertio.

Franciscus

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謹附上與本「自動諭」相關的訴訟守則。我認爲，該等守則爲正確而認真地實施所革新之法律，是必需的，應用心遵守之，以保障信友之利益。

我責令此「自動諭」所規定之一切落實生效；任何與之牴觸之規定，即使最值得提及者，均無任何效力。

我以信賴之心將此新的婚姻訴訟之勉力實施，交託給光榮及可讚頌的卒世童貞瑪利亞、仁慈之母及聖伯多祿和聖保祿宗徒之代禱。

2015 年 8 月 15 日，聖母蒙召升天節，就任教宗第三年，於聖伯多祿大殿頒布。

教宗 **方濟各**

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Ratio procedendi in causis ad matrimonii nullitatem declarandam

III Coetus Generalis Extraordinarius Synodi Episcoporum mense octobri anni 2014 habitus difficultatem fidelium adeundi Ecclesiae tribunalia perspexit. Quoniam vero Episcopus, sicut bonus Pastor, subditos suos speciali cura pastorali egentes obire tenetur, una cum definitis normis ad processus matrimonialis applicationem, visum est, pro comperta habita Petri Successoris Episcoporumque conspiratione in legis notitia propaganda, instrumenta quaedam praebere ut tribunalium opus respondere valeat fidelibus veritatem declarari postulantibus de exsistentia annon vinculi sui collapsi matrimonii.

Art. 1. Episcopus vi can. 383 § 1 animo apostolico prosequi tenetur coniuges separatos vel divortio digressos, qui propter suam vitae condicionem forte a praxi religionis defecerint. Ipse igitur cum parochis (cfr. can. 529 § 1) sollicitudinem pastoralem comparticipatur erga hos christifideles in angustiis constitutos.

Art. 2. Investigatio praeiudicialis seu pastoralis, quae in structuris paroecialibus vel dioecesanis recipit christi-

按《主耶穌，寬仁的審判者》「自動諭」之宣告婚姻無效案件之訴訟準則

在2014 年10月舉行的世界主教代表第三屆非常務會議，曾細心考慮信友向教會法庭求助上的困難。主教作爲善牧，務須照顧那些有特別牧靈需要的信友。爲此，既然伯多祿之繼承人和主教們必會通力合作以推廣對教律的認識，在處理婚姻訴訟的細則以外，似乎也合適提供一些相關的工具，好使法庭的工作能回應信友們的需求，即核實他們破裂的婚姻是否確實是婚姻。

1條：依照法典 383 條 1 項之規定，主教有義務本着宗徒精神，照顧那些基於分居或離婚的生活狀況，可能放棄了實踐信仰的夫婦。因此，主教與堂區主任（參法典 529 條 1 項）共同分擔著這些處於困境中的信友的牧靈關顧。

2條：對分居或離異並懷疑其婚姻有效性或堅信其婚姻無效的信友，堂區或教區機構對他

fideles separatos vel divortio digressos de validitate sui matrimonii dubitantes vel de nullitate eiusdem persuasos, in eum finem vergit ut eorum condicio cognoscatur et colligantur elementa utilia ad processum iudicialem, ordinarium an breviorem, forte celebrandum. Quae investigatio intra pastorale opus dioecesanum de matrimonio unitarium evolvetur.

Art. 3. Eadem investigatio personis concredetur ab Ordinario loci idoneis habitis, competentiis licet non exclusive iuridico-canonicis pollentibus. Inter eas habentur in primis parochus proprius vel is qui coniuges ad nuptiarum celebrationem praeparavit. Munus hoc consulendi committi potest etiam aliis clericis, consecratis vel laicis ab Ordinario loci probatis.

Dioecesis, vel plures dioeceses simul, iuxta praesentes adunationes, stabilem structuram constituere possunt per quam servitium hoc praebeatur et componere, si casus ferat, quoddam Vademecum elementa essentialia ad aptiorem indaginis evolutionem referens.

Art. 4. Investigatio pastoralis elementa utilia colligit ad causae introductionem coram tribunali competenti a coniugibus vel eorum patrono forte faciendam. Requiratur an partes consentiant ad nullitatem petendam.

們所展開的預審調查或牧靈調查，最終目標是在於瞭解他們的狀況，並爲可能展開之普通司法訴訟或簡式訴訟搜集有用的材料。此種調查應在教區婚姻牧靈的整體範疇內進行。

3條：此種調查是委託給教區教長認爲合適的人員。該等人員應具備所需才學，但不必局限於司法和教律上的才學。這些人員，首選者爲夫婦本身的堂區主任司鐸或曾擔任夫婦雙方婚前準備的人士。此種調查工作也可委託給教區教長所批准之其他聖職人員、度奉獻生活者或平信徒。

根據目前的規劃狀況，一個教區或多個教區聯合起來，可設立一個固定的組織來展開這項服務，又如合適，也可提供一本刊載基本要素、有助最妥善地進行調查的手冊。

4條：牧靈調查爲配偶雙方或其律師向主管法庭可能提出之訴訟，搜集有用之材料。必須調查是否夫婦雙方都同意申請宣判婚姻無效。

Art. 5. Omnibus elementis collectis, investigatio perficitur libello, si casus ferat, tribunali competenti exhibendo.

Art. 6. Cum Codex iuris canonici undique applicandus sit, salvis specialibus normis, etiam in matrimonialibus processibus, ad mentem can. 1691 § 3, praesens ratio non intendit summam totius processus minute exponere, sed praecipuas legis innovationes potissimum illustrare et ubi oporteat complere.

Titulus I - De foro competenti et de tribunalibus

Art. 7 § 1. Tituli competentiae de quibus in can. 1672 aequipollentes sunt, servato pro posse principio proximitatis inter iudicem et partes.

§ 2. Per cooperationem autem inter tribunalia ad mentem can. 1418 caveatur ut quivis, pars vel testis, processui interesse possit minimo cum impendio.

Art. 8 § 1. In dioecesibus quae proprio tribunali carent, curet Episcopus ut quam primum, etiam per cursus institutionis permanentis et continuae, a dioecesibus

5條：搜集所有材料後，應以擬定訴狀作總結，又如合適，將之呈送至主管法庭。

6條：既然按照 1691 條 3 項規定，天主教法典應實施於任何一方面，包括婚姻訴訟法，故此這些守則無意詳細論及全部訴訟程序，而僅尤其說明主要的法律革新，又如合適，加以補充。

第一節 主管法庭和法院

7條 - 1項：法典 1672 條各項所言的法庭具有同等權限，惟應盡可能確保審判員與當事人可就近接觸之原則。

- 2項：根據法典 1418 條之規定，通過法庭之間的合作，應確保任何人士—當事人或每位證人—都能以最低開支的方式參與訴訟。

8條 - 1項：在未成立法庭之教區，主教應設法盡快成立之，並通過由教區或聯同多個教

earumdemve coetibus et a Sede Apostolica in propositorum communione promotos, personae formentur quae in constituendo tribunali pro causis matrimonialibus operam navare valeant.

§ 2. Episcopus a tribunali interdioecesano ad normam can. 1423 constituto recedere valet.

Titulus II - De iure impugnandi matrimonium

Art. 9. Si coniux moriatur durante processu, causa nondum conclusa, instantia suspenditur donec alter coniux vel alius, cuius intersit, instet pro prosecutione; quo in casu legitimum interesse probandum est.

Titulus III - De causae introductione et instructione

Art. 10. Iudex petitionem oralem admittere potest, quoties pars libellum exhibere impediatur: ipse tamen notarium iubeat scriptis actum redigere qui parti legendus est et ab ea probandus, quique locum tenet libelli a parte scripti ad omnes iuris effectus.

區及聖座所齊心推動之常設或持續培育課程，盡早培育能熱誠地協助成立婚姻訴訟法庭的人員。

- 2項：主教可退出依 1423 條之規定所設立之聯合法庭。

第二節 婚姻訴訟權

9條：如一方配偶於訴訟期間、案件未了結之前死亡，訴訟應中止，直至另一方或其他相關者要求繼續進行訴訟，惟應確定其合法利益。

第三節 案件之起訴和預審

10條：當事人如因受阻而未能呈遞訴狀，審判員常可准許其以口述提出申請：然而審判員應命書記員筆錄其陳詞，且應向原告讀出並經其認可，方可成爲具全部法律效力之書面訴狀。

Art.11 § 1. Libellus tribunali dioecesano vel interdioecesano ad normam can. 1673, § 2 electo exhibeatur.

§ 2. Petitioni non refragari censetur pars conventa quae sese iustitiae tribunalis remittit vel, iterum rite citata, nullam praebet responsionem.

Titulus IV - De sententia, de eiusdem impugnationibus et exsecutione

Art.12. Ad certitudinem moralem iure necessariam, non sufficit praevalens probationum indiciorumque momentum, sed requiritur ut quodlibet quidem prudens dubium positivum errandi, in iure et in facto, excludatur, etsi mera contrarii possibilitas non tollatur.

Art.13. Si pars expresse declaraverit se quaslibet notitias circa causam recusare, censetur se facultati obtinendi exemplar sententiae renuntiasse. Quo in casu, eidem notificari potest dispositiva sententiae pars.

11條 - 1項：訴狀應呈遞至按法典 1673 條 2 項之規定所選擇之教區法庭或教區聯合法庭。

- 2項：若被告對訴狀不提出抗辯，或依法第二次傳喚後，仍不作答，即視爲對法庭裁決無異議。

第四節 判決、上訴及執行

12條：爲達至法律所要求之常情確實性，僅有佔優勢的重要證據及線索尚未足夠，仍須排除任何按審慎而言，對法律和事實上犯錯誤的實際懷疑，即使不排除與之相反的事實的純可能性。

13條：若當事人之一方聲明拒絕接受任何有關案件的消息，即視爲其已放棄獲得判決書副本之權利。在此種情況，可僅告知其判決主文。

Titulus V - De processu matrimoniali breviore coram Episcopo

Art.14 § 1. Inter rerum et personarum adiuncta quae sinunt causam nullitatis matrimonii ad tramitem processus brevioris iuxta cann. 1683-1687 pertractari, recensentur exempli gratia: is fidei defectus qui gignere potest simulationem consensus vel errorem voluntatem determinantem, brevitas convictus coniugalis, abortus procuratus ad vitandam procreationem, permanentia pervicax in relatione extraconiugali tempore nuptiarum vel immediate subsequenti, celatio dolosa sterilitatis vel gravis infirmitatis contagiosae vel filiorum ex relatione praecedenti vel detrusionis in carcerem, causa contrahendi vitae coniugali omnino extranea vel haud praevisa praegnantia mulieris, violentia physica ad extorquendum consensum illata, defectus usus rationis documentis medicis comprobatus, etc.

§ 2. Inter instrumenta quae petitionem suffulciunt habentur omnia documenta medica quae evidenter inutilem reddere possunt peritiam ex officio exquirendam.

Art.15. Si libellus ad processum ordinarium introducendum exhibitus sit, at Vicarius iudicialis censuerit causam processu breviore pertractari posse, in no-

第五節 向主教提出婚姻簡式訴訟

14條 - 1項：准許按法典 1683-1687 條之規定以簡式訴訟處理婚姻無效案件的情況，可舉例如下：因缺乏信仰，而導致僞裝合意或某項決定性地影響個人意願的錯誤觀點；短暫的夫妻生活；爲阻止生育而促成墮胎；婚禮期間或婚禮後固執而堅持地維持婚外情；爲欺騙而隱瞞不育、嚴重的傳染病、自己曾與另一人生育子女，或自己曾坐牢；結婚的理由完全與婚姻生活不符，或因女方意外懷孕而結婚；爲獲得合意而施以暴力；經醫學證實缺乏運用理智的能力等。

- 2項：支持訴狀之文件可能已具備所有相關的醫學文件而無需專家之鑒定。

15條：若呈遞之訴狀是爲引進普通訴訟，但司法代理認爲案件可依簡式訴訟審理，則司法代理可依法典 1676 條 1 項之規定，以書面傳喚未簽署訴狀之一方向法庭陳明是否同意所呈

tificando libello ad normam can. 1676 § 1, idem partem conventam quae eum non subscripserit invitet, ut tribunali notum faciat num ad petitionem exhibitam accedere et processui interesse intendat. Idem, quoties oporteat, partem vel partes quae libellum subscripserint invitet ad libellum quam primum complendum ad normam can. 1684.

Art. 16. Vicarius iudicialis semetipsum tamquam instructorem designare potest; quatenus autem fieri potest, nominet instructorem ex dioecesi originis causae.

Art. 17. In citatione ad mentem can. 1685 expedienda, partes certiores fiant se posse, tribus saltem ante sessionem instructoriam diebus, articulos argumentorum, nisi libello adnexi sint, exhibere, super quibus interrogatio partium vel testium petitur.

Art. 18. § 1. Partes earumque advocati assistere possunt excussioni ceterarum partium et testium, nisi instructor, propter rerum et personarum adiuncta, censuerit aliter esse procedendum.

§ 2. Responsiones partium et testium redigendae sunt scripto a notario, sed summatim et in iis tantummodo quae pertinent ad matrimonii controversi substantiam.

之訴狀及是否會參與訴訟。司法代理應按需要傳喚簽署訴狀之一方或雙方，依法典 1684 條之規定，盡早補充訴狀之內容。

16條：司法代理可自行擔任豫審員，惟應盡可能從案件所屬教區任命一位豫審員。

17條：在依法典 1685 條之規定進行傳喚時，應通知雙方當事人，若在訴狀中未曾附上當事人或證人之辯論條款，可於預審前至少三天將之呈遞。

18條 - 1項：雙方當事人及其律師均可出席對另一方及證人之盤問，惟豫審員考慮事件及人之情況後，認爲應分開盤問者除外。

- 2項：雙方及證人之答辯應由書記員記錄成文，然僅需簡要記述該有爭議的婚姻的主要事實即可。

Art.19. Si causa instruitur penes tribunal interdioecesanum, Episcopus qui sententiam pronuntiare debet est ille loci, iuxta quem competentia ad mentem can. 1672 stabilitur. Si vero plures sint, servetur pro posse principium proximitatis inter partes et iudicem.

Art.20 § 1. Episcopus dioecesanus pro sua prudentia statuat modum pronuntiationis sententiae.

§ 2. Sententia, ab Episcopo utique una cum notario subscripta, breviter et concinne motiva decisionis exponat et ordinarie intra terminum unius mensis a die decisionis partibus notificetur.

Titulus VI - De processu documentali

Art.21. Episcopus dioecesanus et Vicarius iudicialis competentes determinantur ad normam can. 1672.

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19條：若案件是由教區聯合法庭審理，其判決書應按法典 1672 條之規定，由此法庭所在地之主教宣佈。若有多位主教，則應盡可能遵守當事人與審判員於就近地點之原則。

20條 - 1項：教區主教可按其智慧自行決定宣佈判決的方式。

- 2項：由主教及書記員共同簽署之判決書，應簡明有序地陳述裁決之理由，並通常應自裁決之日起，一個月內通知當事人。

第六節 文書訴訟

21條：主管教區主教及司法代理，得依法典 1672 條之規定而指定。

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（臺灣地區主教團及香港教區合譯）

APOSTOLIC LETTER MOTU PROPRIO
OF THE SUPREME PONTIFF
FRANCIS

MITIS IUDEX DOMINUS IESUS

BY WHICH THE CANONS OF THE CODE
OF CANON LAW PERTAINING TO CASES
REGARDING THE NULLITY OF MARRIAGE

ARE REFORMED

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BY WHICH THE CANONS OF THE CODE OF CANON LAW PERTAINING TO CASES REGARDING THE NULLITY OF MARRIAGE ARE REFORMED

The Gentle Judge, our Lord Jesus, the Shepherd of our Souls, entrusted to the Apostle Peter and to his successors the power of the keys to carry out the work of truth and justice in the Church; this supreme and universal power of binding and loosing here on earth asserts, strengthens and protects the power of Pastors of particular Churches, by virtue of which they have the sacred right and duty before the Lord to enact judgment toward those entrusted to their care.[1]

1 Cf. Second Vatican Council, the Dogmatic Constitution *Lumen Gentium*, n. 27.

Through the centuries, the Church, having attained a clearer awareness of the words of Christ, came to and set forth a deeper understanding of the doctrine of the indissolubility of the sacred bond of marriage, developed a system of nullities of matrimonial consent, and put together a judicial process more fitting to the matter so that ecclesiastical discipline might conform more and more to the truth of the faith she was professing.

All these things were done following the supreme law of the salvation of souls[2] insofar as the Church, as Blessed Paul VI wisely taught, is the divine plan of the Trinity, and therefore all her institutions, constantly subject to improvement, work, each according to its respective duty and mission, toward the goal of transmitting divine grace and constantly promoting the good of the Christian faithful as the Church's essential end.[3]

It is with this awareness that we decided to undertake a reform of the processes regarding the nullity of marriage, and we accordingly assembled a

2 Cf. Code of Canon Law, can. 1752.

3 Cf. Paulus VI, *Allocutio iis qui II Conventui Internationali Iuris Canonici interfuerunt*, September 17th, 1973.

Committee for this purpose comprised of men renowned for their knowledge of the law, their pastoral prudence, and their practical experience. This Committee, under the guidance of the Dean of the Roman Rota, drew up a plan for reform with due regard for the need to protect the principle of the indissolubility of the marital bound. Working quickly, this Committee devised within a short period of time a framework for the new procedural law that, after careful examination with the help of other experts, is now presented in this *motu proprio*.

Therefore, the zeal for the salvation of souls that, today like yesterday, always remains the supreme end of the Church's institutions, rules, and law, compels the Bishop of Rome to promulgate this reform to all bishops who share in his ecclesial duty of safeguarding the unity of the faith and teaching regarding marriage, the source and center of the Christian family. The desire for this reform is fed by the great number of Christian faithful who, as they seek to assuage their consciences, are often kept back from the juridical structures of the Church because of physical or moral distance. Thus charity and mercy demand that the Church, like a good mother, be near her children who feel themselves estranged from her.

All of this also reflects the wishes of the majority of our brother bishops gathered at the recent extraordinary synod who were asking for a more streamlined and readily accessible judicial process.[4] Agreeing wholeheartedly with their wishes, we have decided to publish these provisions that favor not the nullity of marriages, but the speed of processes as well as the simplicity due them, lest the clouds of doubt overshadow the hearts of the faithful awaiting a decision regarding their state because of a delayed sentence.

We have done this following in the footsteps of our predecessors who wished cases of nullity to be handled in a judicial rather than an administrative way, not because the nature of the matter demands it, but rather due to the unparalleled need to safeguard the truth of the sacred bond: something ensured by the judicial order.

A few fundamental criteria stand out that have guided the work of reform.

I. – A single executive sentence in favor of nullity is effective. – First of all, it seemed that a double conforming decision in favor of the nullity of a marriage

4 Cf. *Relatio Synodi*, n. 48.

was no longer necessary to enable the parties to enter into a new canonical marriage. Rather, moral certainty on the part of the first judge in accord with the norm of law is sufficient.

II. – A sole judge under the responsibility of the bishop. – In the first instance, the responsibility of appointing a sole judge, who must be a cleric, is entrusted to the bishop, who in the pastoral exercise of his judicial power must guard against all laxism.

III. – The bishop himself as judge. – In order that a teaching of the Second Vatican Council regarding a certain area of great importance finally be put into practice, it has been decided to declare openly that the bishop himself, in the church over which he has been appointed shepherd and head, is by that very fact the judge of those faithful entrusted to his care. It is thus hoped that the bishop himself, be it of a large or small diocese, stand as a sign of the conversion of ecclesiastical structures,[5] and that he does not delegate completely the duty of deciding marriage cases to the offices of his curia. This is especially true in the streamlined process for handling cases of clear nullity being established in the present document.

5 Cf. Pope Francis, Apostolic Exhortation *Evangelii Gaudium,* n. 27, in the *Acta Apostolicae Sedis* 105 (2013), p. 1031.

IV. – Briefer process. – For indeed, in simplifying the ordinary process for handling marriage cases, a sort of briefer process was devised – besides the current documentary procedure – to be applied in those cases

where the alleged nullity of marriage is supported by particularly clear arguments.

Nevertheless, we are not unaware of the extent to which the principle of the indissolubility of marriage might be endangered by the briefer process; for this very reason we desire that the bishop himself be established as the judge in this process, who, due to his duty as pastor, has the greatest care for catholic unity with Peter in faith and discipline.

V. – Appeal to the metropolitan see. – It is necessary that the appeal process be restored to the metropolitan see, especially since that duty, insofar as the metropolitan see is the head of the ecclesiastical province, stands out through time as a stable and distinctive sign of synodality in the Church.

VI. The duty proper to episcopal conferences. – Conferences of bishops, which above all should be driven by apostolic zeal to reach out to the dispersed faithful, should especially feel the duty of participating

in the aforementioned "conversion" and they should respect the restored and defended right of organizing judicial power in their own particular churches.

The restoration of the proximity between the judge and the faithful will never reach its desired result unless episcopal conferences offer encouragement and assistance to individual bishops so that they may carry out the reform of the matrimonial process.

Episcopal conferences, in close collaboration with judges, should ensure, to the best of their ability and with due regard for the just compensation of tribunal employees, that processes remain free of charge, and that the Church, showing herself a generous mother to the faithful, manifest, in a matter so intimately tied to the salvation of souls, the gratuitous love of Christ by which we have all been saved.

VII. – Appeal to the Apostolic See. – In accord with a revered and ancient right, it is still necessary to retain the appeal to the ordinary tribunal of the Holy See, namely the Roman Rota, so as to strengthen the bond between the See of Peter and the particular churches, with due care, however, to keep in check any abuse of the practice of this appeal, lest the salvation of

souls should be jeopardized.

Nevertheless, insofar as necessary, the respective law of the Roman Rota will be adapted as soon as possible to the rules of the reformed process.

VIII. – Provisions for Eastern Churches. – Finally, given the particular ecclesial and disciplinary arrangement of Eastern Churches, we have decided to publish, separately and on this very day, revised norms for updating the handling of matrimonial processes as presented in the Code of Canons of Eastern Churches.

Therefore, having taken all of this into consideration, we have determined and established the following changes to the Code of Canon Law, Book VII, Part III, Title I, Chapter I, "Cases to Declare the Nullity of Marriage" (cann. 1671-1691), which will take effect beginning December 8th, 2015:

Art. 1 – The Competent Forum and Tribunals

The Competent Forum

Can.1671 § 1. Marriage cases of the baptized belong to the ecclesiastical judge by proper right.

§ 2. Cases regarding merely the civil effects of marriage belong to a civil magistrate, unless the particular law establishes that such cases, if carried out in an incidental or accessory manner, can be recognized by and determined by an ecclesiastical judge.

Can.1672. In cases regarding the nullity of marriage not reserved to the Apostolic See, the competencies are: 1° the tribunal of the place in which the marriage was celebrated; 2° the tribunal of the place in which either or both parties have a domicile or a quasi-domicile; 3° the tribunal of the place in which in fact most of the proofs must be collected.

Can.1673 § 1. In each diocese, the judge in first instance for cases of nullity or marriage for which the law does not expressly make an exception is the diocesan bishop, who can exercise judicial power personally or through others, according to the norm of law.

§ 2. The bishop is to establish a diocesan tribunal for his diocese to handle cases of nullity of marriage without prejudice to the faculty of the same bishop to approach another nearby diocesan or interdiocesan tribunal.

§ 3. Cases of nullity of marriage are reserved to a college of three judges. A judge who is a cleric must preside over the college, but the other judges may be laypersons.

§ 4. The bishop moderator, if a collegial tribunal cannot be constituted in the diocese or in a nearby tribunal chosen according to the norm of § 2, is to entrust cases to a sole clerical judge who, where possible, is to employ two assessors of upright life, experts in juridical or human sciences, approved by the bishop for this task; unless it is otherwise evident, the same single judge has competency for those things attributed to the college, the *praeses*, or the *ponens*.

§ 5. The tribunal of second instance must always be collegiate for validity, according to the prescript of the preceding § 3.

§ 6. The tribunal of first instance appeals to the metropolitan tribunal of second instance without prejudice to the prescripts of cann. 1438-1439 and 1444.

Art. 2 – The Right to Challenge a Marriage

Can.1674 § 1. The following are qualified to

challenge a marriage: 1° the spouses; 2° the promoter of justice when nullity has already become public, if the convalidation of the marriage is not possible or expedient.

§ 2. A marriage which was not accused while both spouses were living cannot be accused after the death of either one or both of the spouses unless the question of validity is prejudicial to the resolution of another controversy either in the canonical forum or in the civil forum.

§ 3. If a spouse dies while the case is pending, however, can. 1518 is to be observed.

Art. 3 – The Introduction and Instruction of the Case

Can. 1675. The judge, before he accepts a case, must be informed that the marriage has irreparably failed, such that conjugal living cannot be restored.

Can.1676 § 1. After receiving the *libellus*, the judicial vicar, if he considers that it has some basis, admits it and, by a decree appended to the bottom of the

libellus itself, is to order that a copy be communicated to the defender of the bond and, unless the *libellus* was signed by both parties, to the respondent, giving them a period of fifteen days to express their views on the petition.

§ 2. After the above-mentioned deadline has passed, and after the other party has been admonished to express his or her views if and insofar as necessary, and after the defender of the bond has been heard, the judicial vicar is to determine by his decree the formula of the doubt and is to decide whether the case is to be treated with the ordinary process or with the briefer process according to cann. 1683-1687. This decree is to be communicated immediately to the parties and the defender of the bond.

§ 3. If the case is to be handled through the ordinary process, the judicial vicar, by the same decree, is to arrange the constitution of a college of judges or of a single judge with two assessors according to can. 1673, § 4.

§ 4. However, if the briefer process is decided upon, the judicial vicar proceeds according to the norm of can. 1685.

§ 5. The formula of doubt must determine by which ground or grounds the validity of the marriage is challenged.

Can.1677 § 1. The defender of the bond, the legal representatives of the parties, as well as the promoter of justice, if involved in the trial, have the following rights: 1° to be present at the examination of the parties, the witnesses, and the experts, without prejudice to the prescript of can. 1559; 2° to inspect the judicial acts, even those not yet published, and to review the documents presented by the parties.

§ 2. The parties cannot be present at the examination mentioned in §1, n. 1.

Can.1678 § 1. In cases of the nullity of marriage, a judicial confession and the declarations of the parties, possibly supported by witnesses to the credibility of the parties, can have the force of full proof, to be evaluated by the judge after he has considered all the indications and supporting factors, unless other elements are present which weaken them.

§ 2. In the same cases, the testimony of one witness can produce full proof if it concerns a qualified witness making a deposition concerning matters done

ex officio, or unless the circumstances of things and persons suggest it.

§ 3. In cases of impotence or defect of consent because of mental illness or an anomaly of a psychic nature, the judge is to use the services of one or more experts unless it is clear from the circumstances that it would be useless to do so; in other cases the prescript of can. 1574 is to be observed.

§ 4. Whenever, during the instruction of a case, a very probable doubt arises as to whether the marriage was ever consummated, the tribunal, having heard both parties, can suspend the case of nullity, complete the instruction for a dispensation *super rato*, and then transmit the acts to the Apostolic See together with a petition for a dispensation from either one or both of the spouses and the *votum* of the tribunal and the bishop.

Art. 4 - The Judgment, its Appeals and its Effects

Can.1679. The sentence that first declared the nullity of the marriage, once the terms as determined by cann. 1630-1633 have passed, becomes executive.

Can.1680 § 1. The party who considers himself or herself aggrieved, as well as the promoter of justice and the defender of the bond, have the right to introduce a complaint of nullity of the judgment or appeal against the sentence, according to cann. 1619-1640.

§ 2. After the time limits established by law for the appeal and its prosecution have passed, and after the judicial acts have been received by the tribunal of higher instance, a college of judges is established, the defender of the bond is designated, and the parties are admonished to put forth their observations within the prescribed time limit; after this time period has passed, if the appeal clearly appears merely dilatory, the collegiate tribunal confirms the sentence of the prior instance by decree.

§ 3. If an appeal is admitted, the tribunal must proceed in the same manner as the first instance with the appropriate adjustments.

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

Can.1681. If a sentence has become effective, one can go at any time to a tribunal of the third level for

a new proposition of the case according to the norm of can. 1644, provided new and grave proofs or arguments are brought forward within the peremptory time limit of thirty days from the proposed challenge.

Can.1682 § 1. After the sentence declaring the nullity of the marriage has become effective, the parties whose marriage has been declared null can contract a new marriage unless a prohibition attached to the sentence itself or established by the local ordinary forbids this.

§ 2. As soon as the sentence becomes effective, the judicial vicar must notify the local ordinary of the place in which the marriage took place. The local ordinary must take care that the declaration of the nullity of the marriage and any possible prohibitions are noted as soon as possible in the marriage and baptismal registers.

Art. 5 - The Briefer Matrimonial Process before the Bishop

Can.1683. The diocesan bishop himself is competent to judge cases of the nullity of marriage with the briefer

process whenever:

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

2° circumstance of things and persons recur, with substantiating testimonies and records, which do not demand a more accurate inquiry or investigation, and which render the nullity manifest.

Can.1684. The *libellus* introducing the briefer process, in addition to those things enumerated in can. 1504, must:

1° set forth briefly, fully, and clearly the facts on which the petition is based;

2° indicate the proofs, which can be immediately collected by the judge;

3° exhibit the documents, in an attachment, upon which the petition is based.

Can.1685. The judicial vicar, by the same decree which determines the formula of the doubt, having named an instructor and an assessor, cites all who must take part to a session, which in turn must be held within

thirty days according to can. 1686.

Can.1686. The instructor, insofar as possible, collects the proofs in a single session and establishes a time limit of fifteen days to present the observations in favor of the bond and the defense briefs of the parties, if there are any.

Can.1687 § 1. After he has received the acts, the diocesan bishop, having consulted with the instructor and the assessor, and having considered the observations of the defender of the bond and, if there are any, the defense briefs of the parties, is to issue the sentence if moral certitude about the nullity of marriage is reached. Otherwise, he refers the case to the ordinary method.

§ 2. The full text of the sentence, with the reasons expressed, is to be communicated to the parties as swiftly as possible.

§ 3. An appeal against the sentence of the bishop is made to the metropolitan or to the Roman Rota; if, however, the sentence was rendered by the metropolitan, the appeal is made to the senior suffragan; if against the sentence of another bishop who does not have a superior authority below the Roman Pontiff, appeal is made to

the bishop selected by him in a stable manner.

§ 4. If the appeal clearly appears merely dilatory, the metropolitan or the bishop mentioned in § 3, or the dean of the Roman Rota, is to reject it by his decree at the outset; if the appeal is admitted, however, the case is remitted to the ordinary method at the second level.

Art. 6 - The Documentary Process

Can.1688. After receiving a petition proposed according to the norm of can. 1677, the diocesan bishop or the judicial vicar or a judge designated by him can declare the nullity of a marriage by sentence if a document subject to no contradiction or exception clearly establishes the existence of a diriment impediment or a defect of legitimate form, provided that it is equally certain that no dispensation was given, or establishes the lack of a valid mandate of a proxy. In these cases, the formalities of the ordinary process are omitted except for the citation of the parties and the intervention of the defender of the bond.

Can.1689 § 1. If the defender of the bond prudently thinks that either the flaws mentioned in can.

1688 or the lack of a dispensation are not certain, the defender of the bond must appeal against the declaration of nullity to the judge of second instance; the acts must be sent to the appellate judge who must be advised in writing that a documentary process is involved.

§ 2. The party who considers himself or herself aggrieved retains the right of appeal.

Can.1690. The judge of second instance, with the intervention of the defender of the bond and after having heard the parties, will decide in the same manner as that mentioned in can. 1688 whether the sentence must be confirmed or whether the case must rather proceed according to the ordinary method of law; in the latter event the judge remands the case to the tribunal of first instance.

Art. 7 – General Norms

Can.1691 § 1. In the sentence the parties are to be reminded of the moral and even civil obligations binding them toward one another and toward their children to furnish support and education.

§ 2. Cases for the declaration of the nullity of a marriage cannot be treated in the oral contentious process mentioned in cann. 1656-1670.

§ 3. In other procedural matters, the canons on trials in general and on the ordinary contentious trial must be applied unless the nature of the matter precludes it; the special norms for cases concerning the status of persons and cases pertaining to the public good are to be observed.

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The provision of can. 1679 will apply to sentences declaring the nullity of marriage published starting from the day this *motu proprio* comes into force.

Attached and made part hereof are the procedural rules that we considered necessary for the proper and accurate implementation of this new law, which must be observed diligently to foster the good of the faithful.

What we have established by means of this motu proprio, we deem valid and lasting, notwithstanding any

provision to the contrary, even those worthy of meriting most special mention.

We 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 this new matrimonial process.

Given in Rome, near the tomb of Saint Peter, on the 15th day of August, the Assumption of the Blessed Virgin Mary, in the year 2015, the third of our pontificate.

Francis

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The way of proceeding in cases regarding the declaration of the nullity of a marriage

The Third General Assembly of the Extraordinary Synod of Bishops, held in October of 2014, looked into the difficulty the faithful have in approaching church tribunals. Since the bishop, as a good shepherd, must attend to his poor faithful who need particular pastoral care, and given the sure collaboration of the successor of Peter with the bishops in spreading familiarity with the law, it has seemed opportune to offer, together with the detailed norms for the application to the matrimonial process, some tools for the work of the tribunals to respond to the needs of the faithful who seek that the truth about the existence or non-existence of the bond of their failed marriage be declared.

Art. 1. The bishop, under can. 383, §1 is obliged, with an apostolic spirit, to attend to separated or divorced spouses who perhaps, by the conditions of their lives, have abandoned religious practice. He thus shares, together with the *parochis* (cf. can. 529, §1), the pastoral

solicitude for these faithful in difficulties.

Art.2. The pre-judicial or pastoral inquiry, which in the context of diocesan and parish structures receives those separated or divorced faithful who have doubts regarding the validity of their marriage or are convinced of its nullity, is, in the end, directed toward understanding their situation and to gathering the material useful for the eventual judicial process, be it the ordinary or the briefer one. This inquiry will be developed within the unified diocesan pastoral care of marriage.

Art.3. This same inquiry is entrusted to persons deemed suitable by the local ordinary, with the appropriate expertise, though not exclusively juridical-canonical. Among them in the first place is the *parochus* or the one who prepared the spouses for the wedding celebration. This function of counseling can also be entrusted to other clerics, religious or lay people approved by the local ordinary.

One diocese, or several together, according to the present groupings, can form a stable structure through which to provide this service and, if appropriate, a handbook (*vademecum*) containing the elements

essential to the most appropriate way of conducting the inquiry.

Art.4. The pastoral inquiry will collect elements useful for the introduction of the case before the competent tribunal either by the spouses or perhaps by their advocates. It is necessary to discover whether the parties are in agreement about petitioning nullity.

Art.5. Once all the elements have been collected, the inquiry culminates in the *libellus*, which, if appropriate, is presented to the competent tribunal.

Art.6. Since the code of canon law must be applied in all matters, without prejudice to special norms, even the matrimonial processes in accord with can.1691, § 3, the present *ratio* does not intend to explain in detail a summary of the whole process, but more specifically to illustrate the main legislative changes and, where appropriate, to complete it.

Title I - The Competent Forums and the Tribunals

Art.7 § 1. The titles of competence in can.

1672 are the same, observing in as much as possible the principle of proximity between the judges and the parties.

§ 2. Through the cooperation between tribunals mentioned in can. 1418, care is to be taken that everyone, parties or witnesses, can participate in the process at a minimum of cost.

Art.8 § 1. In dioceses which lack their own tribunals, the bishop should take care that, as soon as possible, persons are formed who can zealously assist in setting up marriage tribunals, even by means of courses in well-established and continuous institutions sponsored by the diocese or in cooperation with groupings of dioceses and with the assistance of the Apostolic See.

§ 2. The bishop can withdraw from an interdiocesan tribunal constituted in accordance with can. 1423.

Title II - The Right to Challenge a Marriage

Art. 9. If a spouse dies during the process with the case not yet concluded, the instance is suspended

until the other spouse or another person, who is interested, insists upon its continuation; in this case, a legitimate interest must be proven.

Title III - The Introduction and Instruction of Cases

Art. 10. The judge can admit an oral petition whenever a party is prevented from presenting a *libellus*: however, the judge himself orders the notary to draw up the act in writing that must be read to the party and approved, which takes the place of the *libellus* written by the party for all effects of law.

Art.11 § 1. The *libellus* is presented to the diocesan or interdiocesan tribunal which has been chosen according to the norm of can. 1673 § 2.

§ 2. A respondent who remits himself or herself to the justice of the tribunal, or, when properly cited, once more, makes no response, is deemed not to object to the petition.

Title IV - The Sentence, Its Appeals and Effect

Art.12. To achieve the moral certainty required by law, a preponderance of proofs and indications is not sufficient, but it is required that any prudent doubt of making an error, in law or in fact, is excluded, even if the mere possibility of the contrary is not removed.

Art.13. If a party expressly declares that he or she objects to receiving any notices about the case, that party is held to have renounced of the faculty of receiving a copy of the sentence. In this case, that party may be notified of the dispositive part of the sentence.

Title V - The Briefer Matrimonial Process before the Bishop

Art.14 § 1. Among the circumstances of things and persons that can allow a case for nullity of marriage to be handled by means of the briefer process according to cann. 1683-1687, are included, for example: the defect of faith which can generate simulation of consent or error that determines the will; a brief conjugal cohabitation; an abortion procured to avoid procreation; an obstinate persistence in an extraconjugal relationship at the time of the wedding or immediately following it; the deceitful concealment of sterility, or

grave contagious illness, or children from a previous relationship, or incarcerations; a cause of marriage completely extraneous to married life, or consisting of the unexpected pregnancy of the woman, physical violence inflicted to extort consent, the defect of the use of reason which is proved by medical documents, etc.

§ 2. Among the documents supporting this petition are included all medical records that can clearly render useless the requirement of an *ex officio* expert.

Art.15. If the *libellus* was presented to introduce the ordinary process, but the judicial vicar believes the case may be treated with the briefer process, he is, in the notification of the *libellus* according to can. 1676, §1, to invite the respondent who has not signed the *libellus* to make known to the tribunal whether he or she intends to enter and take an interest in the process. As often as is necessary, he invites the party or parties who have signed the *libellus* to complete it as soon as possible according to the norm of can. 1684.

Art.16. The judicial vicar can designate himself as an instructor; but to the extent possible, he is to name an instructor from the diocese where the case originated.

Art.17. In issuing the citation in accordance with can. 1685, the parties are informed that, if possible, they are to make available, at least three days prior to the session for the instruction of the case, those specific points of the matter upon which the parties or the witnesses are to be questioned, unless they are attached to the *libellus*.

Art.18. § 1. The parties and their advocates can be present for the examination of other parties and witnesses unless the instructor, on account of circumstances of things and persons, decides to proceed otherwise.

§ 2. The responses of the parties and witnesses are to be rendered in writing by the notary, but in a summary way and only that which refers to the substance of the disputed marriage.

Art.19. If the case is instructed at an interdiocesan tribunal, the bishop who is to pronounce the sentence is the one of that place according to the competence established in accordance with can. 1672. If there are several, the principle of proximity between the parties and the judge is observed as far as possible.

Art.20. § 1. The diocesan bishop determines according to his own prudence the way in which to pronounce the sentence.

§ 2. The sentence which is signed by the bishop and certified by the notary, briefly and concisely explains the reasons for the decision and ordinarily the parties are notified within one month of the day of the decision.

Title VI - The Documentary Process

Art.21. The competent diocesan bishop and the judicial vicar are determined in accordance with can. 1672.

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