



教宗方济各「自动谕」宗座牧函

《主耶稣，宽仁的审判者》

论天主教法典宣布婚姻无效诉讼法定程序的革新

天主教台湾地区主教团



LITTERAE APOSTOLICAE MOTU
PROPRIO DATAE

MITIS IUDEX DOMINUS
IESUS

QUIBUS CANONES CODICIS IURIS CANONICI
DE CAUSIS AD MATRIMONII NULLITATEM
DECLARANDAM REFORMANTUR

FRANCISCUS



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Mitis Iudex Dominus Iesus, Pastor animarum nostrarum, Petro Apostolo eiusque Successoribus potestatem clavium concedidit 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 adeptam Christi verborum conscientiam, doctrinam sacri connubii vinculi indissolubilitatis profundius intellexit exposuitque, nullitatum matrimonialis consensus systema concinnavit atque processum iudiciale 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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主耶稣，宽仁的审判者、人灵的牧者，曾把在教会内执行真理与正义之「钥匙」的权柄授予伯多禄宗徒及其继承人；这在现世和全球束缚及解除的最高权力，肯定、加强及维护了地方教会牧者的权力，借此权力，牧者们在主面前享有裁决其属下的神圣权利和当尽的义务¹。

世世代代以来，教会在婚姻事务上，对基督圣言理解既日渐加深，也对婚姻神圣不可拆散性的教义，更深入地理解和加以阐释。为此，教会曾制定了婚姻合意无效的制度，并更充份地厘定了婚姻的司法程序，使教会的纪律常与它所宣示的信仰真理日益相符。

1 参：梵二《教会宪章》，27节。

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, pastoralis 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.

教会所做的一切都是以人灵的得救这一最高法律为指引²；诚如教宗真福保禄六世睿智地教导，教会既然是源于天主圣三的神圣计划，其种种制度，尽管常可更臻于完善，但都应按各自所领受的恩宠和使命，通传圣宠，并不断地致力于信友的福祉，作为教会的基本目标³。

有鉴于此，我决定着手革新婚姻无效的诉讼程序，并为此召集了一个由罗马圣轮法院院长领导，并由精通法学，具有牧灵智慧与司法经验的人士所组成的小组，在维护婚姻不可拆散的原则下，着手草拟一份革新计划。这小组迅速行事之后，提供了一份革新方案，经慎重审阅及在其他专家协助后，将它纳入此自动谕。

对人灵得救的关注，今如往昔，是教会所有体制、规范及法律的最崇高目标。该种关注，促使罗马主教向主教们提供这份革新文

2 参：《天主教法典》，1752条。

3 参：保禄六世，在关于教会法的第二次国际研讨会上向与会者的讲话，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 facilia 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，因为他们与他共同分担教会在维护信仰统一及婚姻纪律上的职务，而婚姻是基督徒家庭的关键和根源所在。宣判婚姻无效程序的改革，也是由众多的信友所引发。他们尽管渴望按照良心行事，却常受制于他们与教会司法架构身心上的分隔而无从求助；因此，爱德和慈悲要求教会有如慈母，走近这些自以为是远离教会的子女。

在最近召开的世界主教代表会议非常务会议上，我的主教弟兄们大部分朝着这方向投了票：要求有可行而简捷的诉讼程序⁴。我与他们的意愿完全一致。借此自动谕，我决定厘定一些守则。这些守则并非为助长宣判婚姻无效，而旨在既加速而亦合理地简化婚姻无效诉讼程序，以免信友们在自己的身份有待澄清期间，因司法判决的迟延而致内心长期被疑惑的阴影所压抑。

4 参：主教代表会议结束报告，48条。

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 executiva.* – 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 pastoralis 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

当然，我所制定的，是追随我的前任教宗们。他们的意旨，是以司法程序而非行政程序来处理婚姻无效的案件。这并不是因为事情的性质有此要求，而是为在最大程度上维护神圣婚约不可拆散的真理。这一点恰恰借司法程序而得以确保。

以下是一些指引这项革新的基本准则：

1. 宣判婚姻无效之执行仅需一审：首先，为宣判婚姻无效，使男女双方能合法再婚，看来合适不必再要求双重一致的判决，而只需一审审判员依法达到常情确实性。
2. 主教负责下单独一位审判员审理案件：在一审中，独立审判员应是一位由主教任命的圣职人员，而主教在履行其牧职上之司法权时，应确保不陷于任何宽松主义。
3. 主教本人即是审判员：为了最终落实梵二大公会议在如此重要之领域之教导，须确切地突显，主教本人在其教会中既被立为牧者

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 iudicium 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.

和首领，因此他本人就是付托给他的信友们的审判员。故极祈愿，无论是在大教区还是在小教区，主教本人能够成为教会结构「皈依」的标记⁵，而不会把婚姻诉讼的司法权完全委托给主教公署辖下办公室。这特别适用于为处理那些较明显地是无效的婚姻而制定的简式诉讼。

4. 简式诉讼：事实上，除了使婚姻诉讼更为便捷，还拟定了一种补充现行文书诉讼，且较为简短的诉讼，适用于有特别明显的论证来支持的婚姻无效诉讼。

然而，我也留意到：简短的审理如何会危及婚姻不可拆散性的原则；正是为此，我的意愿是：在这类诉讼中，由主教本人担任审判员，使他借牧者职权，与伯多禄一起做天主教信仰和纪律上团结合一的最大担保人。

5 参：教宗方济各，《福音的喜乐》宗座劝谕，27节，宗座公报 105(2013)1031。

V. – *Appellatio ad Sedem Metropolitanam.* – Appellatio ad Sedem Metropolitanam 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 servant Episcoporum ius potestatem iudicalem 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. 向都会总教区上诉：宜恢复向都会总教区上诉的做法，因为数世纪以来所确立的教省首席职权，是教会共议精神的一个特色。

6. 主教团的本有职务：主教团，尤其应在宗徒热忱的推动下，照顾散居各地的信友。主教团应强烈地意识到分担上述「皈依」的义务，同时绝对尊重主教们在各自的地方教会中安排司法权的权利。

实际上，个别主教若无法从主教团获得执行婚姻诉讼革新的动力和援助，便无法恢复审判员与信友身处就近地点，彼此易于接触之原则。

在确保审判员与当事人易于就近接触之原则的同时，主教团在给予法庭职员合理和符合身份的酬劳的前提下，还应尽量确保免费的诉讼程序。如此，教会在这件与人灵之得救有如此密切关系的事上，向信友们显示其慈母般的慷慨心怀时，能彰显我们众人赖以得救的基督白白施予的爱。

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. 向宗座上诉：向宗座普通法院——即罗马圣轮法院——上诉的惯例，必须保留，以尊重这项最古老的司法权利，使伯多禄宗座与地方教会之间的联系得以加强。惟务须在该上诉纪律上避免任何权利的滥用，以免损及人灵之得救。

罗马圣轮法院的本有法则，将尽快依这次革新诉讼的守则，按需要加以调整。

8. 东方教会法的革新：最后，鉴于东方教会制度和纪律之特殊性，我决定同日另行颁布东方教会法典中婚姻诉讼法之革新守则。

在慎重考虑一切相关事项后，我决定并敕令：《天主教法典》第七卷、第三编，第一题，第一章关于「声明婚姻无效之诉讼」（《法典》1671-1691条），自2015年12月8日起，完全由以下条款取代：

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 iudicalem potestatem exercere potest per se ipse vel per alios, ad normam iuris.

第一节 主管法庭和法院

1671条 - 1项：处理已领洗者之婚姻案件，是天主教会审判员的本有权利。

2项：婚姻案件之纯属国法效力者，由国家法院处理，除非特别法规定，此等案件遇有中间或附带提出，得由教会审判员审理及裁定之。

1672条：对于未被宗座保留之婚姻无效案件，由下列法庭管辖之：

1°婚姻缔结地之法庭；

2°一方或双方住所或类住所之所在地之法庭；

3°实际上应在该处搜集多数证据之地点之法庭。

1673条 - 1项：在每个教区，教区主教在一审有权审理一切未被法律明言保留之婚姻无效案件，并得依照法律的规定，亲自或委托他人来行使此司法权。

§ 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 praesesse 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项：主教须为自己的教区设立一个审理婚姻无效案件的法庭，然主教诉诸其它较邻近之教区法庭或教区联合法庭之权利保持不变。

3项：婚姻无效案件保留给三人审判员之合议庭审理。其主席审判员应由圣职人员担任，其余审判员亦可由平信徒担任。

4项：若不可能在教区或依 2 项规定所选之临近教区法庭设立合议庭，仲裁主教可委任唯一圣职人员为审判员；此审判员在可能范围内，联合两位品行正直、精通法学或人文知识，并由主教核准胜任此职务者，担任陪审员；除明显地另有指示外，唯一审判员担任法律赋予合议庭、审判长或记述员之职务。

5项：依以上 3 项之规定，第二审法庭常该是合议庭，否则判决无效。

6项：自第一审法庭得上诉至都会总教区第二审法庭，惟法典 1438-1439 和 1444 条规定者除外。

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.

第二节 抗婚权

1674条 - 1项：下列人士有抗婚之能力：

1°配偶；

2°检察员，但仅以婚姻无效已公开，而其不能补救或不合适补救者为限。

2项：对于双方配偶生前未起诉之婚姻，于一方或双方配偶死亡后，不得起诉，除非婚姻是否有效的问题，将会影响教会法庭或国家法庭裁决另一诉讼。

3项：如一方配偶于诉讼期间死亡，应从1518条之规定。

第三节 案件之起诉和预审

1675条：审判员，于受理案件之前，应确定婚姻已无法补救，不可能恢复夫妻生活。

Can. 1676 § 1. Recepto libello, Vicarius iudicialis si aestimet eum aliquo fundamento niti, eum admittat et, decreto ad calcem ipsius libelli appposito, 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 brevior 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条 - 1项：司法代理接到诉状后，若认为其有若干根据，则受理之，并在诉状末尾签署受理法令，且应责令将一副件送达婚约辩护人；若诉状未获双方签署，副件亦应送达被告。被告应于十五日内表达其对诉状之立场。

2项：期限届满，并如有需要，经再次告诫被告表达立场之后，司法代理应在征询婚约辩护人之后，以法令裁定诉讼标的，并明示案件应以普通诉讼审理或应根据 1683-1687 条之规定以简式诉讼审理。此裁定应立即通传给双方当事人及婚约辩护人。

3项：若案件应以普通诉讼审理，司法代理应借同一法令着手合议庭之设立，或依 1673 条 4 项之规定，设立唯一审判员及两名陪审员。

4项：若决定使用简式诉讼，司法代理则应依1685 条之规定进行。

5项：拟定诉讼标的时，应确立以哪一项或哪几项依据来起诉婚姻之有效性。

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条 - 1项：婚约辩护人、当事人之律师及参加诉讼之检察员，有下列权利：

1°参加当事人、证人及专家之审查，但1559条之规定，不在此限；

2°阅览诉讼案卷，包括尚未公开者在内，及查验当事人所提供之书证。

2项：一项1款之审查，当事人不得参与。

1678条 - 1项：在婚姻无效案件中，当事人之供认和声明，甚或可能有证据支当事人之可信性者，经审判员在斟酌一切线索和佐证细节后，若无其它可反驳之因素，可视之为完全充份之证据。

2项：在相同案件中，一个证人的证据已足够，如果此证据是由一位可靠合格的专家按其职务提出，或人和事实情况显示如此。

3项：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况下，审判员应请一位或数位专家协助，但按情况显然无此需要者，不在此限；在其他案件中，应从1574条之规定。

§ 4. Quoties in instructione causae dubium valde probabile emerit 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 executione

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

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项：在预审案件时，每当对婚姻之已遂很可能存疑时，法庭在聆听双方当事人意见后，可中止对无效之案件，为完成对既成未遂婚姻之豁免之调查；之后，可将卷宗及一方或双方配偶之请求豁免书，以及法庭和主教之意见书，一并呈送宗座。

第四节 判决、上诉及执行

1679条：首次声明婚姻无效之判决，于1630-1633条规定之期限届满后，即可执行。

1680条 - 1项：自认受损之一方，以及检察员和婚约辩护人，均仍有权依1619-1640条之规定，对判决之有效性提出抗辩，或反对判决而提出上诉。

2项：法定上诉及受理期限届满，上诉法庭于收到案卷后，应设立合议庭、任命婚约辩护人，并告诫双方当事人于指定之期限内呈递各自之意见；此期限届满，若上诉明显地只为拖

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 executiva 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 executiva, 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 executiva, 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，合议庭可立即以其法令裁定维持一审之判决。

3项：上诉一旦受理，应按一审所使用之同样程序进行，并作恰当的适应。

4项：若在上诉时引用某项新的婚姻无效之依据，法庭可予以受理并审理之，犹如一审。

1681条：若判决已被宣布执行，于任何时候，均可依 1644 条之规定，按新的案情向第三审法庭提起上诉，并于提出上诉后三十日之有效期限内，呈递新而重大之证据或理由。

1682条 - 1项：声明婚姻无效之判决执行后，其婚姻被声明无效之当事人可缔结新婚，但判决书附有禁令，或教区教长明令禁止结新婚者不在此列。

2项：判决一经执行，司法代理应立即将判决通知婚姻举行地之教区教长；此教长务须尽早将婚姻无效判决及可能附加之禁令，记录于婚姻及圣洗册簿内。

Art. 5 - De processu matrimoniali breviore coram Episcopo

Can.1683. Ipsi Episcopo dioecetano competit iudicare causas de matrimonii nullitate processu breviori 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.

第五节 向主教提出之婚姻简式诉讼

1683条：在下列情况，教区主教常有权以简式诉讼审理婚姻无效案件：

1° 诉讼申请由配偶双方提出，或由一方在对方的同意下提出；

2° 有证据或文书支撑之人或事物佐证，重复地显示婚姻为无效，而仔细调查及预审已无必要。

1684条：欲采用简式诉讼之诉状，除陈明1504条所列举之事项外，还应：

1° 简短、完整而清晰地陈明诉状所依据之事实；

2° 指明审判员可立即搜集之证据；

3° 在附件出示诉状所依据之文书。

1685条：司法代理，于指定诉讼标的之同一法令中，应委任预审员和一位陪审员，并按1686条文规定，在三十日之内进行庭审，并传唤所有应参与庭审之人士。

Can.1686. Instructor una sessione, quatenus fieri possit, probationes colligat et terminum quindecim dierum statuatur ad animadversiones pro vinculo et defensionibus 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条：预审员应尽可能在一次庭审中搜集所有证据，并指定十五日期限为呈递支持婚约之意见书及可能有之当事人之辩词。

1687条 - 1项：收到案卷后，教区主教，在谘询预审员和陪审员，并斟酌婚约辩护人之意见及可能有的当事人之辩词后，若就婚姻之无效已达至常情确定性，即可宣布判决，否则应循普通诉讼审理案件。

2项：载有裁决理由之完整判决书应尽早送达当事人。

3项：如对主教之判决不满，可上诉至都会总教区法庭或罗马圣轮法院；如判决由都会总教区法庭宣布，可上诉至较资深的省区主教；对其他除罗马教宗以外无任何上级权威之主教的判决，可上诉至教宗固定指派之主教。

4项：若上诉明显地只为拖延，都会总主教或3项所言之主教，或圣轮法院院长，应自起初就以法令将之驳回；然上诉一旦受理，应展开第二审普通诉讼。

Art. 6 - De processu documentalī

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 existentia 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 documentalī.

§ 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

第六节 文书诉讼

1688条：如依据无可反驳或抗辩之文件，确知有某项使婚姻无效之阻碍，或欠缺法定仪式，同时确知未曾给予豁免，又或确定结婚代理人未获有效授权，则教区主教或司法代理或所指定之审判员，于接到依 1676 条之规定而提出之申请后，经传唤双方当事人，并在婚约辩护人之参与下，可省略普通诉讼程序，宣判婚姻无效。

1689条 - 1项：如婚约辩护人经审断，认为对 1688 条所言之阻碍或对豁免是否欠缺，并不确定，应对此判决声明向第二审之审判员提出上诉，并应将全部案卷呈交上诉法庭，同时以书面提醒该法庭，原案为文书诉讼程序。

2项：自认受到伤害之当事人，仍有上诉权。

1690条：第二审之审判员，经婚约辩护人介入及聆听双方当事人之意见后，得依 1688 条之程序，裁定是否确认该判决，抑或应依普通

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.

* * * * *

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

诉讼程序审理之；在后一情况下，应将案件发还第一审法庭。

第七节 诉讼总则

1691条 - 1项：在判决书内应提醒双方当事人，对彼此间和对子女所负的赡养和教育之道德责任，甚或依国法所承担的义务。

2项：宣告婚姻无效之案件，不得以1656-1670条所规定之言词诉讼程序审理。

3项：其它一切有关诉讼程序之事项，除非有违事情之性质，应采用诉讼总则及民事普通诉讼条款，惟应遵守有关个人身份及公益案件之特别规定。

1679 条之规定将适用于自本「自动谕」生效之日起宣布婚姻无效之判决。

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 executionem 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

* * * * *

谨附上与本「自动谕」相关的诉讼守则。我认为，该等守则为正确而认真地实施所革新之法律，是必需的，应用心遵守之，以保障信友之利益。

我责令此「自动谕」所规定之一切落实生效；任何与之抵触之规定，即使最值得提及者，均无任何效力。

我以信赖之心将此新的婚姻诉讼之勉力实施，交托给光荣及可赞颂的卒世童贞玛利亚、仁慈之母及圣伯多禄和圣保禄宗徒之代祷。

2015年8月15日，圣母蒙召升天节，就任教宗第三年，于圣伯多禄大殿颁布。

教宗 方济各

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 pastoralis 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 praeberere ut tribunalium opus respondere valeat fidelibus veritatem declarari postulantibus de existentia 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 pastoraalem comparticipatur erga hos christifideles in angustiis constitutos.

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

按《主耶稣，宽仁的审判者》「自动谕」之 宣告婚姻无效案件之诉讼准则

在2014年10月举行的世界主教代表第三届非常务会议，曾细心考虑信友向教会法庭求助上的困难。主教作为善牧，务须照顾那些有特别牧灵需要的信友。为此，既然伯多禄之继承人和主教们必会通力合作以推广对教律的认识，在处理婚姻诉讼的细则以外，似乎也合适提供一些相关的工具，好使法庭的工作能回应信友们的需求，即核实他们破裂的婚姻是否确实是婚姻。

1条：依照法典 383 条 1 项之规定，主教有义务本着宗徒精神，照顾那些基于分居或离婚的生活状况，可能放弃了实践信仰的夫妇。因此，主教与堂区主任（参法典 529 条 1 项）共同分担着这些处于困境中的信友的牧灵关顾。

2条：对分居或离异并怀疑其婚姻有效性或坚信其婚姻无效的信友，堂区或教区机构对他

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 iudiciale, ordinarium an brevior, forte celebrandum. Quae investigatio intra pastorale opus dioecesanum de matrimonio unitarium evolvetur.

Art.3. Eadem investigatio personis concedetur ab Ordinario loci idoneis habitis, competentibus 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 praebatur 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. Requiritur an partes consentiant ad nullitatem petendam.

们所展开的预审调查或牧灵调查，最终目标是在于了解他们的状况，并为可能展开之普通司法诉讼或简式诉讼搜集有用的材料。此种调查应在教区婚姻牧灵的整体范畴内进行。

3条：此种调查是委托给教区教长认为合适的人员。该等人员应具备所需才学，但不必局限于司法和教律上的才学。这些人员，首选者为夫妇本身的堂区主任司铎或曾担任夫妇双方婚前准备的人士。此种调查工作也可委托给教区教长所批准之其他圣职人员、度奉献生活者或平信徒。

根据目前的规划状况，一个教区或多个教区联合起来，可设立一个固定的组织来展开这项服务，又如合适，也可提供一本刊载基本要素、有助最妥善地进行调查的手册。

4条：牧灵调查为配偶双方或其律师向主管法庭可能提出之诉讼，搜集有用之材料。必须调查是否夫妇双方都同意申请宣判婚姻无效。

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条：搜集所有材料后，应以拟定诉状作总结，又如合适，将之呈送至主管法庭。

6条：既然按照 1691 条 3 项规定，天主教法典应实施于任何一方面，包括婚姻诉讼法，故此这些守则无意详细论及全部诉讼程序，而仅尤其说明主要的法律革新，又如合适，加以补充。

第一节 主管法庭和法院

7条 - 1项：法典 1672 条各项所言的法庭具有同等权限，惟应尽可能确保审判员与当事人可就近接触之原则。

- 2项：根据法典 1418 条之规定，通过法庭之间的合作，应确保任何人士—当事人或每位证人—都能以最低开支的方式参与诉讼。

8条 - 1项：在未成立法庭之教区，主教应设法尽快成立之，并通过由教区或联同多个教

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.

区及圣座所齐心推动之常设或持续培育课程，尽早培育能热诚地协助成立婚姻诉讼法庭的人员。

- 2项：主教可退出依 1423 条之规定所设立之联合法庭。

第二节 婚姻诉讼权

9条：如一方配偶于诉讼期间、案件未了结之前死亡，诉讼应中止，直至另一方或其他相关者要求继续进行诉讼，惟应确定其合法利益。

第三节 案件之起诉和预审

10条：当事人如因受阻而未能呈递诉状，审判员常可准许其以口述提出申请：然而审判员应命书记员笔录其陈词，且应向原告读出并经其认可，方可成为具全部法律效力之书面诉状。

Art.11 § 1. Libellus tribunali dioecetano vel interdioecetano 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条 - 1项：诉状应呈递至按法典 1673 条 2 项之规定所选择之教区法庭或教区联合法庭。

- 2项：若被告对诉状不提出抗辩，或依法第二次传唤后，仍不作答，即视为对法庭裁决无异议。

第四节 判决、上诉及执行

12条：为达至法律所要求之常情确实性，仅有占优势的重要证据及线索尚未足够，仍须排除任何按审慎而言，对法律和事实上犯错误的实际怀疑，即使不排除与之相反的事实的纯可能性。

13条：若当事人之一方声明拒绝接受任何有关案件的消息，即视为其已放弃获得判决书副本之权利。在此种情况，可仅告知其判决主文。

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, brevis 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 detrusione 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-

第五节 向主教提出婚姻简式诉讼

14条 - 1项：准许按法典 1683-1687 条之规定以简式诉讼处理婚姻无效案件的情况，可举例如下：因缺乏信仰，而导致伪装合意或某项决定性地影响个人意愿的错误观点；短暂的夫妻生活；为阻止生育而促成堕胎；婚礼期间或婚礼后固执而坚持地维持婚外情；为欺骗而隐瞒不育、严重的传染病、自己曾与另一人生育子女，或自己曾坐牢；结婚的理由完全与婚姻生活不符，或因女方意外怀孕而结婚；为获得合意而施以暴力；经医学证实缺乏运用理智的能力等。

- 2项：支持诉状之文件可能已具备所有相关的医学文件而无需专家之鉴定。

15条：若呈递之诉状是为引进普通诉讼，但司法代理认为案件可依简式诉讼审理，则司法代理可依法典 1676 条 1 项之规定，以书面传唤未签署诉状之一方向法庭陈明是否同意所呈

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.

之诉状及是否会参与诉讼。司法代理应按需要传唤签署诉状之一方或双方，依法典 1684 条之规定，尽早补充诉状之内容。

16条：司法代理可自行担任豫审员，惟应尽可能从案件所属教区任命一位豫审员。

17条：在依法典 1685 条之规定进行传唤时，应通知双方当事人，若在诉状中未曾附上当事人或证人之辩论条款，可于预审前至少三天将之呈递。

18条 - 1项：双方当事人及其律师均可出席对另一方及证人之盘问，惟豫审员考虑事件及人之情况后，认为应分开盘问者除外。

- 2项：双方及证人之答辩应由书记员记录成文，然仅需简要记述该有争议的婚姻的主要事实即可。

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 statuatur 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.

* * * * *

19条：若案件是由教区联合法庭审理，其判决书应按法典 1672 条之规定，由此法庭所在地之主教宣布。若有多位主教，则应尽可能遵守当事人与审判员于就近地点之原则。

20条 - 1项：教区主教可按其智慧自行决定宣布判决的方式。

- 2项：由主教及书记员共同签署之判决书，应简明有序地陈述裁决之理由，并通常应自裁决之日起，一个月内通知当事人。

第六节文书诉讼

21条：主管教区主教及司法代理，得依法典 1672 条之规定而指定。

（台湾地区主教团及香港教区合译）



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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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 souls² 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 bond. 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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