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The Status and Duties of Ecclesiastical Judges in Cases Concerning the Nullity of Marriage

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Abstract: The author discusses the status and duties of an ecclesiastical judge in processes concerning the declaration of nullity of marriage under canon law. The author addresses the requirements for candidates for the office of judge and highlights the changes introduced by the Motu Proprio Mitis Iudex Dominus Iesus in 2015. Next, the duties of the ecclesiastical judge in a matrimonial process are covered. First, the author points to the general duties and focuses on the most relevant ones. Second, the judge's more specific duties are addressed. A major research problem investigated is who can be an ecclesiastical judge and what requirements the candidates must meet, both in the light of ecclesiastical and natural law. The author does not omit to discuss the origin of the power to judge and its consequences. The article cites papal speeches to the members of the Tribunal of the Roman Rota. They are a valuable source of guidance on exercising the power to judge. Special attention is paid to the ministry of the bishop as the first judge, as well as in light of the changes introduced by Pope Francis.

Keywords: ecclesiastical judge; power to judge; judge's duties; appointment of an ecclesiastical judge; requirements for candidates for ecclesiastical judges

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1. Introduction

In accordance with Canon 135 § 1, the power of governance is divided into legislative, executive, and judicial. In the Roman Catholic Church, the Pontiff and the College of Bishops exercise authority over the entire universal Church, while the diocesan bishop has power over those people of God who are entrusted to him.[1]

The ecclesiastical legislator asserts that the diocesan bishop is the judge of the first instance in his diocese and for all cases. He may also exercise his judicial power either personally or through others, including by judicial vicar and ecclesiastical judges.[2] The instruction *Dignitas connubii* even recommends that the diocesan bishop should not exercise his judiciary power in person without important causes.[3] As T. Pawluk points out, such a solution was primarily intended to prevent the authority of the diocesan bishop from being challenged and undermined in the event of an unjustified allegation of the losing party concerning the judge's bias or partiality, where the judge would be the diocesan bishop himself (Pawluk 2009, p. 183). However, when reforming the procedure concerning the nullity of marriage in 2015, Pope Francis decided that the bishop should personally deliver judgments in *processus brevior coram Episcopo*.[4] It was an important change in matrimonial procedures: one sentence is enough to declare nullity, and there is a briefer process *coram Epsicopo*.

In practice, the bishop exercises his judicial power through an established tribunal, which consists of a judicial vicar ("officialis"), associate judicial vicars ("vice-officiales"), and judges. The tribunal also employs other individuals, such as notaries, defenders of the bond, and promoters of justice. Candidates for judges must be of good repute as well as be properly trained. The judge's role is to resolve an emerging dispute and deliver

judgment. Based on the provisions of canon law, the author will outline the detailed responsibilities of an ecclesiastical judge in the process concerning the declaration of nullity of marriage, including in a briefer process (*processus brevior*). This approach rests on the fact that ecclesiastical tribunals predominantly address this type of case.

2. The Concept and Attributes of an Ecclesiastical Judge

The 1983 Code of Canon Law fails to define who an ecclesiastical judge is. Likewise, the previous code of 1917 did not define the concept. However, attempts have been made to define it in the canonical doctrine. A. Dzięga notes that "an ecclesiastical judge is a clerical person, or a lay person in exceptional cases, always of a fine repute and professionally qualified; appointed by the decision of the diocesan bishop to receive, investigate, and settle disputes among the faithful in a manner consistent with the provisions of procedural law" (Dzięga 1994, p. 19). According to T. Pieronek, "this is an official person entrusted with ecclesiastical jurisdiction to examine and hear disputes in accordance with the law" (Pieronek 1970, p. 89). On the other hand, T. Pawluk highlights that the office of a judge is of a pastoral nature because "he is a spokesperson for ecclesiastical law understood in a theological and not only formal sense" (Pawluk 1973b, pp. 41–42).

It should be noted, however, that on top of the requirements for candidates for a specific office, the canonical legislator points to general requirements for candidates for any ecclesiastical office. According to Canon 149 § 1, in order to be promoted to an ecclesiastical office, a candidate must be suitable and in communion with the Church. A judge, therefore, must remain in full communion with the Church, within the meaning of Canon 205.[5]

At the diocesan level, the bishop is obliged to appoint a judicial vicar (or an officialis) along with assistants (vice-officiales). The officialis and the vice-officiales should be priests of good repute, with a doctorate or at least a licentiate in canon law. The same canon also imposes an age limit: they must be at least thirty.[6] Additionally, the bishop should appoint diocesan judges. In principle, they should be members of the clergy, yet the Bishops Conference can permit lay persons to be appointed judges as well. Lay judges, however, are not to fill the entire college of judges. The pre-conditions for the appointment of a lay person as a judge are: the college of judges cannot be filled by clerics only; the Bishops Conference must give their permission; and the lay candidate must demonstrate qualification and education. As in the case of officiales and vice-officiales, the ecclesiastical legislator requires candidates for judges to be of good repute and have a doctorate or at least a licentiate in canon law[7] (Pawluk 1973a, p. 290). In contrast, there is no imposed age limit. At this point, however, the changes introduced with Pope Francis's reform should be highlighted. In his 2015 motu proprio *Mitis Iudex Dominus Iesus* cited above, Pope Francis made some "technical" adjustments to the procedure of the appointment of judges. The first change is the option of relaxing the requirement of a college of judges to handle matrimonial cases and appointing only a sole judge for such cases but only a cleric. This exception does not apply to the second instance, where a judgment must be delivered by a college of judges. In addition, a college of judges must be presided over by a cleric, while the other judges may be lay persons.[8] This wording of the amended canon may cause controversies as to whether the consent of the Bishops Conference to appoint lay judges is still in force, as provided in Canon 1421 § 2, or whether no reference to consent in this canon renders it possible to waive this requirement. P. Malecha argues that the requirement of consent by the Bishops Conference is no longer applicable, as it is in Canon 1421 § 2 (Malecha 2016, pp. 5–33). This interpretation is supported by the fact that Pope Francis' reform concerning the provisions of procedural matrimonial law is *lex specialis*, and in accordance with the rule *lex specialis derogat legi generali*, i.e., by a special provision, Pope Francis changed the general requirements contained in the part devoted to the process and regarding the composition of the college and the requirement to allow the Bishops Conference to appoint lay persons to deliver judgments in cases concerning the declaration of nullity of marriage. However, Canon 1673 § 3 provides that the College of Judges should be chaired by a clerical judge, and the other judges may also be lay persons. No explicit derogation from Canon 1421 § 2,

concerning the Episcopal Conference's permission to appoint lay judges, suggests that the said provision of the MIDI does not cover the appointment of a judge as such. However, it defines the composition of the college by allowing two lay judges in cases concerning the nullity of marriage and not just one, as provided for in Canon 1421 § 2. In order to resolve this controversy, the following clause (as an example) could be added to Canon 1673 § 3: "When judges are appointed solely for processes concerning the declaration of nullity of marriage, the consent of the Conference of Bishops, referred to in Canon 1421 § 2, is not to be sought".

As regards the requirement of good repute, this is apparently a moral requirement, and whether it is met or not is to be ultimately decided by the diocesan bishop. In the case of lay candidates for the office of a judge, as it is the case with candidates for advocates, they might also be required, for example, to have a settled marital status.[9]

As for the requirement of proper education, the canon law norms are further elaborated in the Directory for the Pastoral Ministry of Bishops *Apostolorum Successores*. It openly reads that "the administration of canonical justice is a duty of grave responsibility that demands, first and foremost, a profound sense of justice, but also sufficient canonical expertise and experience".[10]

The judicial vicar, the associate judicial vicars, and other judges are appointed for a specified period. During this period, they cannot be removed from office except for a lawful and grave reason. Additionally, they cannot be removed if the local see becomes vacant, and, importantly, they cannot be dismissed by a diocesan administrator who temporarily governs the diocese during the vacancy.[11]

It should be noted that in the case of a judicial vicar and his assistants (vice-officiales) the ecclesiastical legislator requires them at least to be ordained (candidates are to be clerics); in the case of judges, they are required to be members of the clergy; in other words, deacons also qualify.

Interestingly, when the bishop appoints a judge who is not of good repute or is not properly educated, this fact does not render such a decision invalid. The same is true for the requirement of ordination: it is not required for assuming the office (Gricewicz 1998, pp. 168–70).

3. Judge's General Duties

An ecclesiastical judge holds a public office. His responsibility is to examine cases and dispense justice that has been violated (Sztychmiler 2000, p. 58). He also participates in exercising the ecclesiastical judicial power. It means that he can hear cases in accordance with ecclesiastical law, and his work must serve the common good of the Church (Dzięga 2005, p. 24). While in his office, a judge enjoys discretionary power, i.e., he is independent and impartial in his decisions. However, this does not mean full arbitrariness. The judge must comply with the law and relevant procedures and pass judgments having obtained moral certainty.

For this reason, it is relevant for a judicial candidate to display specific qualities and have proper qualifications. He must also show diligence and, though not extreme, meticulousness, as well as humbleness, and life experience, which, however, he should be able to approach critically so as not to create situations in which he will act too hastily and will conduct a case in such a way as to prove the argument endorsed right from the beginning of the process (Mierzejewski 2013, pp. 147–48).

According to Canon 1608, to give any judgment, a judge must have in his mind moral certainty about the matter to be decided. The judge must derive this certainty from the acts of the case and from the proofs. The judge must weigh the evidence in accordance with his own conscience and with due regard for the provisions of law about the efficacy of certain evidence. Where no such moral certainty can be achieved, the judge should pronounce that relevant arguments of the case have not been established except in a case that enjoys the favor of the law, when the judge is to pronounce in its favor (Llobel 1998, pp. 758–802; Bianchi 2017, pp. 83–104).

As regards moral certainty, particular attention should be paid to the cases concerning the declaration of nullity of marriage. Marriage and family, as its inseparable component, are under the special protection of the Church and law. Marriage enjoys the favor of the law. Consequently, if in doubt, the validity of a marriage must be upheld until the contrary is proven.[12] The dignity of marriage requires that the judge be morally certain as to whether the marriage was contracted invalidly. The canonical concept of moral certainty was introduced by Pius XII in his solemn speech to the Tribunal of the Roman Rota delivered on 1 October 1942. He noted that between absolute certainty and quasi-certainty or probability, there was, as between two extremes, that moral certainty which was usually reflected in questions put forward in a forum. In the positive sense, it excludes any well-justified or justified and therefore recognized doubt. It differs fundamentally from the quasi-certainty. In the negative sense, it allows for the existence of the absolute possibility of the opposite, thus differing from absolute certainty.[13]

In his speech to the members of the Tribunal of the Roman Rota on 28 January 1994, the Holy Father John Paul II stressed that the truth was not easy and that one should be on guard against the temptation to exploit proofs and procedural norms in order to achieve a "practical" goal, which might even be considered "pastoral," but was to the detriment of truth and justice. The pope also warned that it was easy to forget that justice and law in the strict sense, and consequently general norms, proceedings, sanctions, and other typical juridical expressions, were required in the Church for the good of souls and were, therefore, intrinsically pastoral. He emphasized that resolving a practical case was not always easy in accordance with justice, but charity or mercy must not put aside the demands of truth. A valid marriage, even if seriously troubled, could not be considered invalid without violating the truth and thereby undermining the only solid foundation which can support personal, conjugal, and social life.[14]

Moral certainty is linked to ascertaining the objective truth. The question of objective truth was raised by John Paul II in his speech to the members of the Tribunal of the Roman Rota given on 4 February 1980. He stressed that in all ecclesiastical processes, truth must always be, from the beginning to the judgment, the foundation, mother, and law of justice. The immediate purpose of the processes concerning the nullity of marriage is to ascertain whether or not the facts exist that by natural, divine, or ecclesiastical law invalidate a marriage in order to be able to issue a true and just sentence concerning the alleged non-existence of the matrimonial bond. The judge must establish, therefore, whether the contracted marriage was a true one. He is bound by the truth, which he investigates with diligence, humility, and love. The pope underlined that the judge's duties toward the law were serious and many, the first and most important one being faithfulness as it implied all the others, faithfulness to the divine, natural, and positive law, and substantial and procedural law.[15]

John Paul II, named by Benedict XVI as "the Pope of the Family", devoted many statements to the subject of marriage, among which the most important are the apostolic exhortation "Familiaris consortio" (1981)[16] and the Letter to Families "Gratissimam sane" (1994),[17] in which he emphasized the value and beauty of conjugal love which should be cultivated by the spouses themselves, but also appreciated and protected in the community of the Church.

As indicated by the Magisterium of the Church, the judge must gain moral certainty *ex actis et probatis*.[18] The judge must assess the collected evidence. In other words, all sources of moral certainty of the judge must come from the files of the case, i.e., from what has been exposed and done in the case (Grocholewski 1998, pp. 9–43). This principle upholds the fundamental procedural rule derived from Roman law, *quod non est in actis, non est in mundo.* However, if the judge had relevant knowledge from outside the process, he may always admit ex officio evidence with a view to proving certain facts.

Nevertheless, even before evaluating evidence, the judge's duty and power are to admit the evidence in the case. The petitioner making allegations should provide evidence to support them. This obligation stems from Canon 1504 2° and Canon 1505 § 2.[19] Parties'

declarations, documents, witnesses' statements, expert opinions, inspection reports, and presumptions can have a probative value. This list is not closed. The legislator says that any evidence that is useful and fair may be produced before the judge.[20] In other words, usefulness and fairness are among the criteria that should govern the judge's decision on admitting evidence. While the former criterion does not raise any major doubts, the question of fairness does. Certainly, the judge should verify which of the provided evidence is useful and will help reach the objective truth, and which evidence only serves to make the procedure longer or does not concern the examined matter, or else which evidence will certainly not make it easier to establish the circumstances of the case for which it has been produced (Witkowski 2014, pp. 87–107).

In the doctrine of law, however, the question of the unfairness of evidence and its admissibility in a process is still disputed. R. Sobański notes that the fairness or unfairness of evidence is not linked to its nature to the manner of collecting it. Unfair evidence is one obtained in an unfair manner, e.g., stolen or extorted. He further highlights that there was a commonly held in the doctrine, even before the procedural norm discussed above was introduced, that the evidence produced by a party cannot be obtained by deception, contain confidential information, or be disclosed if entrusted to someone in secret (Sobański 2003, p. 136). However, it should be emphasized that any unfair evidence is still true. Some examples of unfair evidence are anonymous letters, stolen letters or notes, or illegally obtained medical records. Although most canon lawyers agree that unfair proofs cannot be admitted in a process concerning the nullity of marriage, R. Sobański advocated their admissibility, arguing that the overarching principle was to arrive at the objective truth in any case (ibidem). Therefore, if a piece of unfair evidence is necessary to establish the objective truth about the marriage examined in a trial, the judge should accept such evidence.

Generally, the judge's duties are to accept the case and examine and settle the dispute by delivering a judgment. These duties are aligned with the process stages.

4. Detailed Duties of the Judge in Processes Concerning the Nullity of Marriage

In addition to the general duties of the judge discussed earlier, there are a number of responsibilities that he must take on when overseeing cases concerning the declaration of nullity of marriage. The judge's more detailed duties will be outlined from their sequence of occurrence in the process, specifically in a briefer one, as follows.

His first duty is to accept a plea. The judge cannot investigate any case unless a plea is submitted by an authorized entity.[21] The judicial vicar accepts a petition for the declaration of nullity of marriage (*libellus*). He also assesses whether the plea is justified. Next, he requests a copy of the petition be communicated to the defender of the bond unless it was signed by both parties.[22] In principle, at the outset of the dispute (but also at any stage of the procedure), the judge should try to persuade the spouses that, if it is possible, they should reach a settlement and agree on how to close the dispute amicably.[23] However, in matrimonial cases which concern the public goods of the Church, it is not possible to submit the subject of the dispute to the parties' agreement (securing a settlement). The parties are not empowered to determine whether the marriage was contracted validly or not. However, this does not mean that the judge should not seek ways to encourage the spouses to repair the marriage. Only after the judge has made sure that the marriage cannot be restored he should continue with the process.[24] In matrimonial processes, the amicable way to resolve a dispute between spouses is to resume their conjugal life or at least make attempts to do so.

However, if the judge finds that the plea does not meet the formal requirements or has been submitted to the wrong tribunal, he should reject it.[25] Along with the acceptance of the case by the judicial vicar, he also decides the composition of the college of judges (Canon 1673 § 3) or appoints a sole judge together with assessors. However, in the case covered by Canon 1673 § 4, the judicial vicar may accept the case and decide that it may be conducted as a briefer process.[26]

Already at the initial stage of the process, the question of participation of other persons may need to be addressed, such as advocates or procurators. The party may appoint them

independently; in special cases, the judge may appoint a legal representative for a party who lacks one ex officio, but not in matrimonial cases.[27] The judge may also remove an advocate or procurator if there is a grave reason for that.[28] Moreover, the judge, in seeking ways to protect his or her rights in the process, may establish a curator for either party if he finds that they lack the use of reason.[29]

Having closed the preliminary stage of the proceedings, the judge moves on to the joinder of the case, i.e., he determines under what terms (based on the parties' pleas and replies) the case will be conducted.[30] After the joinder, the proofs are collected. The judge decides whether or not to admit certain evidence and then proceeds to the taking of evidence. In exceptional circumstances where proofs must be secured, the judge may begin to collect them before the joinder of the issue.[31] The need to secure proofs may arise, e.g., when an important witness is of very old age, suffers from a life-threatening illness, is about to travel over a longer period, or in any other situation where failure to take evidence earlier may render it impossible to do so at a later, more appropriate time.

In order to collect proofs, in particular, to hear the parties and witnesses, as well as obtain an expert opinion, the judge summons these persons to appear for examination while specifying the date and place of appearance.[32] During the examination, the judge confirms the identity of the witness and reminds them of their obligation to tell the truth, and administers an oath to the witness. Next, he proceeds to ask questions.[33] The judge then appoints an expert whose duty is to prepare an opinion whenever the case requires that the true nature of some matter must be ascertained. Apart from cases provided for by the law, when seeking an expert's opinion is obligatory, the judge decides whether it is necessary to appoint one.[34]

A very important duty of the judge is to order the parties and their advocates to publish the files of the case. Failure to do so may cause the judgment to be null (where the nullity cannot be remedied) as the party was denied the right to defense.[35] The purpose of the publication of the case files is to enable either party to become acquainted with the entire collected material. They are also given an opportunity to reply to it or to request that supplementary or new evidence be collected. If either party fails to submit new evidence, if the time allotted by the judge expires, or if the judge considers the case to be sufficiently instructed, the taking of evidence is closed by a judge's decree.[36] New evidence may be taken or admitted after the conclusion of the case only in the situations specified in Canon 1600.[37] After the conclusion of the case, the judge allows a time limit for the presentation of pleadings.[38] Next, the process moves on to the stage of pronouncements of the judge. The last but also the most important duty of the judge is to deliver a judgment. As pointed out elsewhere, the judge may pass a judgment only having achieved moral certainty. In order to achieve this certainty or to conclude that it cannot be achieved, the judge must carefully examine the files of the case. He must carry on with special case and diligence. When issuing a judicial decision, not only does the ecclesiastical judge act on behalf of the bishop, but he also administers justice in the name of God. In his pronouncement, the judge authoritatively tells the parties what legal norms bind them and how they should go on. In other words, whether they are still bound by a marriage bond or whether they are unmarried. The judge's decision must be reflected in the grounds, which must be understandable and transparent. The grounds must indicate the judge's motives, must be verifiable for the parties, and must reflect the logic of the pronouncing authority. In addition, it must contain legal and factual reasons. However, the judge cannot rely exclusively on referencing legal provisions and facts. He should provide a legal interpretation for the examined case, expose the facts, and demonstrate their importance in the context of the referred legal norms. The judge's reasoning must form a logical whole (Sobański 1998, pp. 48–49).

In summary, the judge's duty is to accept the case, take proofs, and deliver a judgment.

Of course, in the course of the process, there are more duties to be discharged. The judge issues various instructions, ensures the proper course of hearings, disciplines the parties and other participating persons, sets time limits for procedural activities, etc. These

are technicalities that are intended to make the process smooth and brought to a conclusion within the time limits set by the code.[39] The deadlines referred to in Canon 1453, one year for first-instance cases and six months in the second instance, are only indicative.

5. The Bishop Himself as Judge

In the case of a briefer process, the power to judge is exercised directly by the bishop. Importantly, the bishop cannot delegate this power in a briefer process to other persons. In this case, he remains the sole judge.

The core of the 2015 reform of Pope Francis is to ensure the personal engagement of the diocesan bishop in the judiciary concerning matrimonial matters. He explicitly stated that "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, and that he does not delegate completely the duty of deciding marriage cases to the offices of his curia".[40] In other words, Pope Francis obliges the diocesan bishop to be personally involved in the judiciary rather than assuming only the institutional responsibility for the tribunal, i.e., to establish it and appoint appropriate persons to serve as judges. In his diocese, the bishop is always the *iudex natus*, and his authority is derived from God's law (Majer 2021, p. 173).

The pope directly says that the personal exercise of judicial power by the bishop is the pursuit of the Gospel truth.[41] Z. Grocholewski observes that the exercise of judicial power by the diocesan bishop is not only a "theological principle" but also a "truth of faith" (Grocholewski 1996, p. 767).

After launching the reform, some discussion followed in the doctrine on whether the power to judge in a briefer process rested solely with the diocesan bishop by virtue of his consecration or if it suffices for the office to be held by another authority equal at law to the diocesan bishop, even if not consecrated.[42] These doubts were clearly dispelled by Pope Francis. In his speech to the members of the Tribunal of the Roman Rota on 25 November 2017, he clarified that in order to deliver a judgment in a briefer process, the judge (bishop) is required not only to lead a diocese but also to be consecrated bishop. It is through consecration that the bishop acquires full powers, including the power to judge.[43] Therefore, if other structures equivalent to diocese[44] were governed by authority equal at law to the diocesan bishop,[45] but not consecrated bishop, the briefer process may not be held there. Another conclusion is that matters in the briefer process cannot be handled by a nominated or elected bishop, nor the administrator of the diocese, even if a bishop, because the latter manages the diocese only temporarily and not as a *pastor proprius*.

At this point, it should be noted that by introducing the briefer process and entrusting the power to judge to the diocesan bishop only, Pope Francis assumed that the bishop was properly qualified to resolve matrimonial matters. In practice, in ordinary matrimonial cases, the power to judge is exercised by judges appointed by the bishop. They should display appropriate qualification and level of education: a doctorate or at least a licentiate in canon law, from which dispensation is specially reserved to the Apostolic See.[46] In briefer processes, the power to judge is to be exercised by the bishop, who, however, is not required by the code to have an academic degree in canon law, but his episcopal ordination guarantees proper exercising the judicial power. When handling the most important matters in the diocese, the bishop often lacks a strictly legal background, which is why it is so crucial for cases to be prepared by judge instructors and assessors. In addition, judge instructors who advise the bishop on judgments should not only be properly educated but also possess life and professional experience. Only instructors so prepared will guarantee that their advisory role be genuinely productive. On the other hand, the bishop should be open to consulting the instructor and accepting their observations. Certainly, the ultimate decision on judgment rests with the diocesan bishop, but he should not make his decision without consulting it beforehand without a grave reason, especially if he lacks competence in ecclesiastical matrimonial law. Another debatable issue is the lack of qualification

requirements for judge instructors and assessors. Consequently, there may be cases where the only person with a degree in canon law will be the defender of the bond.

As noted elsewhere, the judicial vicar decides whether to pursue the ordinary or briefer process after he has become acquainted with the plea. In the latter case, the judge will be the diocesan bishop himself. In the briefer process, a judge instructor and an assessor are appointed.[47] The judge instructor enjoys specific powers in this process: he is responsible for taking and collecting evidence. Although he does not deliver a judgment himself, he may have an impact on the bishop's final decision as his advisor. If so instructed, he may decide what evidence should be taken; he may also decide not to admit certain proofs that are rendered irrelevant to the case. His responsibility is to transfer the collected evidence to the diocesan bishop, who will pass a judgment declaring the nullity of the marriage or will refer the case to the tribunal for the ordinary process to take its course[48] (Krajczyński 2019, pp. 123–25).

6. Conclusions

An ecclesiastical judge exercises the power to judge granted by the diocesan bishop. He is independent and impartial in his decisions, yet always bound by the provisions of the law. The power to judge, however, is not only derived from people's laws but, above all, from God's law. Therefore, the ecclesiastical judge should be aware that he delivers judgments not in the name of the diocesan bishop but in the name of God. This special power requires the judge, on the one hand, to adhere to the law but also show mercy. However, he must not disregard or bend the law, driven by misconceived pastoral care. The judge should display prudence and life experience and should be properly qualified and verified by the diocesan bishop in the act of nomination for the office of the judge.

The judge should perform his duties conscientiously. He should ensure that the parties' rights are not violated. After gathering evidence and having achieved moral certainty, he should pass a fair judgment. However, the judge's role is not only to deliver a judgment but, above all, to reach the objective truth and restore violated justice. As the *iudex natus*, the diocesan bishop should attend not only to the proper and efficient operation of ecclesiastical tribunals but he should also assume personal responsibility for the judiciary in his diocese. When reforming the ecclesiastical judiciary, Pope Francis laid particular emphasis on the personal engagement of the diocesan bishop in resolving matrimonial cases. To expedite this effort, a briefer process was introduced whereby the diocesan bishop may be the sole judge.

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Notes

1 Ioannes Paulus II. 1983. Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus (25 January 1983), *AAS* 75 (1983), pars II: 1–317 as amended (valid as at 18 May 2022).

2 Can. 1419 § 1; can. 1421 § 1.

3 Pontificio Consiglio per i Testi Legislativi. 2005. *Istruzione da osservarsi nei tribunali diocesani e interdiocesani nella causa di nullità del matrimonio Dignitas connubii, 25 January 2005*. Città del Vaticano. Article 22 § 1.

4 Franciscus. 2015. Litterae apostolicae motu proprio datae Mitis Iudex Dominus Iesus quibus canones Codicis Iuris Canonici de causis ad matrimonii nullitatem declarandam reformantur, 15 August 2015. *AAS* 107: 958–970 (hereinafter: "MIDI").

5 Can. 205.

6 Can. 1420.

7 Can. 1421.

8 MIDI, Preamble, No. II., can. 1673.

9 Segnatura Apostolica. 1993. Risposta Prot. N. 24339/93 VT, 12 July 1993, Periodica de re canonica 82: 699–700.

10 Congregazione per i Vescovi. 2004. Direttorio Per il ministero pastorale dei vescovi Apostolorum successores (22 February 2004). Libreria Editrice Vaticana.

11 Can. 1422 in conj. with can. 1420 § 5; can. 421 § 1.

12 Can. 1060.

[13] Pius XII. 1942. Allocutio ad Prealatos Auditores Sacrae Romanae Rotae, 1 October 1942. *AAS* 34: 338–343, see also: Pius XII, Allocutio ad Praelatos Auditores ceterosque Officiales et Administros Tribunalis S. Romanae Rotae necnon eiusdem Tribunalis Advocatos et Procuratores. 2 October 1944. *AAS* 36: 281–290.

[14] Joannes Paulus II. 1994. Allocutio ad Rotae Romanae Auditores, 28 January 1994. *AAS* 86: 947–52.

[15] Joannes Paulus II. 1980. Allocutio ad Tribunalis Sacrae Romanae Rotae Decanum, Praelatos Auditores, Officiales et Advocatos, 4 February 1980. *AAS* 72: 172–78.

[16] Joannes Paulus II. 1981. Apostolic Exhortation *Familiaris Consortio* to the Episcopate, to the Clergy and to the Faithful of the Whole Catholic Church on the Role of the Christian Family in the Modern World, 22 November 1981, *AAS* 74: 81–191.

[17] Joannes Paulus II. 1994. Litterae *Gratissimam Sane* familiis datae a Summo Pontifice Ioanne Paulo pp. II ipso volvente sacro familiae anno MCMXCIV. 2 February 1994, *AAS* 87: 868–925.

[18] Can. 1608 § 2.

[19] Can. 1504 2°; can. 1505 § 2.

[20] Can. 1527 § 1.

[21] Can. 1501.

[22] Can. 1676 § 1.

[23] Can. 1446 § 2.

[24] Can. 1675.

[25] Can. 1505.

[26] Can. 1676 § 3,4; can. 1673 § 3,4

[27] Can. 1481 § 2-3.

[28] Can. 1487.

[29] Can. 1478.

[30] Can. 1513.

[31] Can. 1529.

[32] Can. 1508 § 1; can. 1556-1558.

[33] Can. 1561–1563.

[34] Can. 1574.

[35] Can. 1598 in conj. with can. 1620 7°.

[36] Can. 1599.

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[38] Can. 1601.

[39] Can. 1453.

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[43] Franciscus. 2017. Ad Participes Cursus a Tribunali Rotae Romanae provecti, 25 November 2017. *AAS* 109: 1313–1316.

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