

**CONGREGATION FOR THE DOCTRINE OF THE FAITH**

# **Norms**

**To Complete the Process  
for the Dissolution of the Matrimonial Bond  
in Favor of the Faith**

*(Unofficial Translation by the United States Conference of Catholic Bishops)*

Vatican City  
2001

## Preface

The power of the Church to dissolve marriage in favor of the faith, besides the pauline privilege, has been regulated until now according to the practice in the *Instruction for the Dissolution of Marriage and the Procedural Norms* approved by Paul VI and issued by the Congregation for the Doctrine of the Faith in the year 1973. These documents indicate the conditions for a case to dissolve a marriage in favor of the faith to be able to be introduced, and include the procedural norms to be observed in dioceses before the acts are sent to this congregation. With the promulgation of the *Code of Canon Law* for the Latin Church and the *Code of Canons of the Eastern Churches* for the Eastern Churches, it is necessary, after having reviewed these earlier documents, to apply some prescripts to the new legislation.

It is certainly known that the marriage between non-Catholics, of whom at least one is not baptized, can be dissolved by the Roman Pontiff in favor the faith and for the salvation of souls, when certain conditions are fulfilled. The exercise of this power, however, is subject to the final judgment of the Roman Pontiff himself, mindful both of the pastoral needs of times and places and of all those circumstances attached to the case.

The use of the so-called “pauline privilege,” that is, the case of dissolution of marriage which is mentioned in Saint Paul’s First Letter to the Corinthians (7, 12-17), is regulated in the *Code of Canon Law* (cc. 1143-1147) and in the *Code of Canons of the Eastern Churches* (cc. 854-858). The Church interprets the words of the Apostle in the sense of a true freedom granted to a believing party to enter a new marriage “if the unbelieving party departs” (v. 15). Moreover, with the passing of time, the Church has increasingly strengthened the use of the pauline privilege by means of positive norms, among which emerged the definition of the word “departs,” the prescription that the “departure” is evidenced through “interpellations” in the forum of the Church, and norms according to which a marriage is dissolved only at the moment when the believing party contracts another marriage. As a result, the completely concise theological-canonical practice of the pauline privilege had been established already from the beginning of the thirteenth century, and has remained essentially unchanged in the following centuries and even has been received in a refined form in the recently promulgated law. This clearly shows the Church was indeed aware that it was able by its power to define the limits of the privilege itself and to interpret it in a broader sense, as it did for example concerning the meaning of the word “to depart,” which is a pivotal issue in the pauline privilege.

Moreover, when in the sixteenth century new pastoral circumstances arose as a result of missionary expansion, Roman Pontiffs did not hesitate to reach out to polygamists who converted to the faith with new and very broad “privileges,” which far surpass the limits of the “pauline privilege” as it is described in the citation from Saint Paul, which concerns the dissolution of the bond contracted between non-baptized persons. Having to do with this are particularly the Apostolic Constitutions *Altitudo* of Paul III on June 1, 1537; *Romani Pontifices* of Saint Pius V on August 2, 1571; and *Populis* of Gregory XIII on January 28, 1585, which were operative in the territories for which they were issued until the promulgation of the 1917 Code. That Code extended them to the entire Church (canon 1125); thus, they were formally operative until the promulgation of the 1983 Code. This Code provides in canons 1148-1149 for the cases of dissolution of marriage which were provided for in these three constitutions, with obsolete things appropriately removed. The *Code of Canons of the Eastern Churches* decrees the same in canons 859-860.

It must be noted, however, that the marriages to which are applied the pauline privilege and the privileges of canons 1148-1149 of the *CIC* and canons 859-860 of the *CCEO* are dis-

solved by the law itself when the conditions prescribed by the current legislation are fulfilled, without any need to make recourse to a higher authority. On the other hand, with respect to other marriages entered by parties of whom at least one is not baptized, if these are to be dissolved, they are to be submitted in individual cases to the Roman Pontiff who, following an examination conducted in the Congregation for the Doctrine of the Faith, judges according to his own pastoral prudence whether or not the dissolution of the bond is to be granted.

The practice of granting a dissolution of the bond by the Roman Pontiff in individual cases was introduced after the promulgation of the 1917 Code. In earlier times the pauline privilege and those constitutions mentioned above were sufficient, since outside mission lands cases requiring this remedy rarely occurred. For the social and religious circumstances in ancient Christian lands, especially the stability of marriage and family and the small number of dispensations from the impediment of disparity of cult, led to the result that very rarely did valid marriages occur between a baptized party and an unbaptized party. In the twentieth century, however, the number of marriages which require the pastoral remedy of the dissolution of the bond has grown ever greater for many reasons, among which the following can be listed: the segregation within religious groups closed in themselves which existed in previous centuries has practically disappeared in this century, such that mixed marriages are multiplied beyond measure, as also are marriages entered between a Catholic party and an unbaptized party after obtaining a dispensation from the impediment of disparity of cult; likewise, the 1917 Code abrogated the impediment of disparity of cult among baptized non-Catholics, and therefore marriages between these non-Catholics and unbaptized persons are valid without any dispensation, such that the number of marriages which are subject to the remedy of the dissolution of the bond has increased; in addition, there is also the daily increasing infirmity and instability of the bonds of family, such that divorce increases more and more (see *Gaudium et spes*, 47) and the number of marriages which are subject to complete destruction grows continually.

The Roman Pontiff, certain of the power which the Church enjoys to dissolve marriages between non-Catholics of whom at least one is unbaptized, did not hesitate to meet new pastoral needs by introducing the practice of exercising in individual cases this power of the Church if, after an examination of all the circumstances which converge in each case, this seems opportune to him in favor of the faith and for the good of souls.

Fifteen years after the promulgation of the Pio-Benedictine Code, the cases of dissolution in favor of the faith were already so frequent that the Congregation of the Holy Office issued an Instruction on May 1, 1934, entitled *Norms to Complete the Process in Cases of the Dissolution of the Matrimonial Bond in Favor of the Faith by the Supreme Authority of the Roman Pontiff*. In this Instruction, having affirmed the authority of the Supreme Pontiff to dissolve marriages entered between non-Catholics of whom at least one is unbaptized (art. 1) and the exclusive competence of the Congregation of the Holy Office to examine this matter (art. 2), the requirements were listed for the favor of the dissolution to be granted (art. 3) and procedural norms were given to complete the process in the diocese before all the acts were sent to the Congregation of the Holy Office (arts. 4-18). This *Instruction* was given to local ordinaries to whom it was of interest; it was not, however, published in the *Acta Apostolicae Sedis* due to the danger that the Church may appear in the media to be favoring divorce.

After Vatican Council II, the Supreme Pontiff Paul VI decided that this entire matter was to be thoroughly examined and the 1934 *Instruction* was to be revised and applied to new circumstances. When this was done, the Congregation for the Doctrine of the Faith issued on December 6, 1973 a new *Instruction for the Dissolution of Marriage in Favor of the Faith* with

*Procedural Norms* attached, as mentioned at the beginning. However, as was done in issuing the Instruction in 1934, neither was this published in the *Acta Apostolicae Sedis*, but was discretely communicated to local ordinaries. Afterwards, however, it was divulged in many journals.

When the *Code of Canon Law* was undergoing revision, a schema of canons was produced in which both the principles of substantive law and the procedural norms for the dissolution of the marriage bond in favor of the faith were proposed together. It seemed more opportune to Higher Authority, however, that this difficult material not be included in the Code but be entrusted to particular norms, specially approved by the Supreme Pontiff and issued by the Congregation for the Doctrine of the Faith.

Now that both the *Code of Canon Law* and the *Code of Canons of the Eastern Churches* have been promulgated, *Norms* for the dissolution of the bond, revised and applied to existing legislation, are being sent to diocesan and eparchial bishops, so that both what pertains according to essential principles to introduce cases, and what pertains to the instruction process before the acts are transmitted to this Congregation for the Doctrine of the Faith, will be put into practice in curias.

So that the faithful suffer no spiritual or temporal harm, however, bishops are to care diligently that cases for the dissolution of the bond in favor of the faith, if they occur in their jurisdiction, are to undergo a diligent examination before they are accepted in order to verify whether they can be admitted in fact according to the attached *Norms*. If it seems they are to be accepted, the bishop is also to take care that the process in the diocese is guided faithfully and diligently according to these same *Norms* so that the acts to be sent to this congregation are entirely complete and properly assembled.

Since these new norms have been established, the previous norms which had been issued to instruct these processes are completely abrogated, notwithstanding any things to the contrary, even whatever are worthy of mention.

*The Supreme Pontiff Pope John Paul II, in an audience granted on February 16, 2001, approved these Norms, which had been considered in an ordinary assembly of this Congregation, and ordered them to be observed faithfully.*

At Rome, from the halls of the Congregation for the Doctrine of the Faith, April 30, 2001, the Memorial of Saint Pius V.

+Joseph Cardinal Ratzinger  
*Prefect*

+Tharsicius Bertone, S.D.B.  
*Archbishop Emeritus of Vercelli*  
*Secretary*

## **Part I**

### Article 1

A marriage entered by parties, of whom at least one is not baptized, can be dissolved by the Roman Pontiff in favor of the faith, as long as the marriage itself had not been consummated after both spouses received baptism.

### Article 2

It belongs to the Congregation of the Doctrine of the Faith to examine individual cases and, if it is expedient, to submit the petition seeking the favor to the Supreme Pontiff.

### Article 3

The diocesan bishop and those equivalent to him in law, or the eparchial bishop, are competent to instruct the process.

### Article 4

To grant the favor of the dissolution of the bond, it is required that, at the moment of the concession:

- 1°. no possibility exists to restore the partnership of conjugal life;
- 2°. the petitioner was not the culpable, exclusive, or prevalent cause of the destruction of conjugal living, and the party with whom the new marriage is to be contracted or convalidated did not provoke the separation of the spouses by his/her own fault.

### Article 5

§ 1. If the Catholic party intends to contract or convalidate a new marriage with an unbaptized person or a baptized non-Catholic, the Catholic is to declare that he/she is prepared to remove dangers of defecting from the faith, and the non-Catholic party is to declare that he/she is prepared to allow the Catholic party the freedom to practice his/her religion and to baptize and educate the children as Catholics.

§ 2. The favor of a dissolution is not granted unless this declaration was done in writing and signed by both parties.

### Article 6

The process is unable to be instructed for the dissolution of the bond of a marriage which was contracted or convalidated after obtaining the dissolution of a previous marriage in favor of the faith, and is not to be presented to be examined by the Congregation for the Doctrine of the Faith.

#### Article 7

§ 1. A petition for the dissolution of the bond of a non-sacramental marriage entered with a dispensation from the impediment of disparity of cult can be presented to the Supreme Pontiff if the Catholic party intends to enter a new marriage with a baptized person.

§ 2. In the same case, the petition can be presented to the Supreme Pontiff if the nonbaptized party intends to receive baptism and to enter a new marriage with a baptized party.

§ 3. The bishop is not to direct the petition to the Congregation for the Doctrine of the Faith if a prudent doubt exists about the sincerity of the conversion of the petitioner or the intended spouse, even though one or both have received baptism.

#### Article 8

When it concerns a marriage to be entered by a catechumen, the marriage is to be deferred until after baptism; but if this cannot be done for grave reasons, there is to be moral certitude that the baptism will be received soon.

#### Article 9

Whenever there are special difficulties about the manner in which the petitioner intends to fulfill his/her obligations toward the former spouse and any children who may have been born, or there is a fear of scandal from granting the favor, the bishop is to consult the congregation.

#### Article 10

If a positive doubt arises on the basis of any ground about the validity of that marriage whose dissolution is sought, either in the process before the bishop or in the examination before the Congregation of the Doctrine of the Faith, the petition is to be directed to the Roman Pontiff with mention made of this doubt.

### **Part II**

#### Article 11

§ 1. The bishop is either to carry out the instruction of the process personally or is to commit it to an instructor selected from the judges of the tribunal or from persons approved by him for this function, with the assistance of the notary and the intervention of the defender of the bond.

§ 2. This commission is to be done in writing and must be evidenced in the acts.

#### Article 12

§ 1. Assertions must be proven according to the norm of the law, either by documents or by depositions of witnesses worthy of belief.

§ 2. Both spouses are to be heard in the instruction.

§ 3. The force of full proof cannot be attributed to the declarations of the parties, unless other elements are present which corroborate them and from which moral certitude can be formed.

#### Article 13

§ 1. Documents, both originals and authentic copies, must be reviewed by the notary.

§ 2. Documents to be transmitted to the Congregation for the Doctrine of the Faith are to be complete, and copies are to be transmitted after being reviewed by the notary of the bishop.

#### Article 14

§ 1. After the defender of the bond has been cited, the examination of the parties and witnesses is to be done by the instructor, to whom the notary must give assistance.

§ 2. The instructor is to administer to the parties and witnesses the oath to tell the truth or to confirm the truth of what they have said; if anyone refuses to take it, the person is to be heard without the oath.

§ 3. The instructor is to question the parties and witnesses according to a questionnaire prepared beforehand by the instructor or the defender of the bond; other questions can be added, if the case warrants it.

§ 4. Responses must be signed by the party, the instructor, and the notary.

#### Article 15

§ 1. If the other party or a witness refuses or is unable to appear before the instructor and give the deposition, their declarations can be obtained before a notary or by any other legitimate method, provided that their genuineness and authenticity are evident.

§ 2. The absence of the other party from the process, declared according to the norm of law, must be evidenced in the acts.

#### Article 16

§ 1. The absence of baptism in one or the other spouse must be so demonstrated that all prudent doubt is removed.

§ 2. Witnesses are to be examined with consideration of their quality, as it is had in parents and blood relatives of the unbaptized party, or those who were present to the person from the time of infancy and knew the entire course of the person's life.

§ 3. Witnesses are to be questioned not only about the absence of baptism but also about circumstances and indications from which it appears probable that baptism had not been conferred.

§ 4. Care is to be taken also to inspect the baptismal registers in places where it is evident that the party, said not to be baptized, lived from infancy, especially in the churches which the party may have attended and in which the party celebrated marriage.

§ 5. If the marriage had been celebrated with a dispensation from the impediment of disparity of cult, the instructor is to include in the acts a copy of the dispensation and the pre-nuptial proceedings.

#### Article 17

§ 1. If at the time when the favor of a dissolution is being sought the unbaptized spouse receives baptism, an investigation must be done concerning possible cohabitation after the baptism; witnesses are also to be questioned about this.

§ 2. The parties themselves in the case are to be questioned whether after their separation they again had some relation between themselves and of what kind, and especially whether they performed the conjugal act.

#### Article 18

§ 1. The instructor is to gather information concerning the state of life of the other party and is not to omit reference whether the party attempted a new marriage after the divorce.

§ 2. The instructor is to question the parties and witnesses about the cause of the separation or divorce, so that it is apparent whose was the fault for the breakup of the marriage or marriages.

#### Article 19

§ 1. A copy of the divorce decree or sentence of civil nullity of the parties is to be presented.

§ 2. Copies of the divorce decree or civil sentence of nullity and the dispositive part of the canonical sentence of marriage nullity of any marriages attempted by either intended spouse are to be presented, if they exist.

#### Article 20

§ 1. The instructor is to indicate whether the petitioner has had offspring and how the petitioner provides or intends to provide for their religious education, according to the laws and the petitioner's abilities.

§ 2. The instructor must also question about the moral or civil obligations toward the first spouse and any offspring who may have been begotten.

#### Article 21

§ 1. The petitioner or the intended spouse, if he/she will convert and be baptized, is to be questioned about the time of the baptism and about the intention in receiving baptism.

§ 2. The pastor is also to be questioned about the reasons which were the cause of the baptism, especially about the probity of the parties.

#### Article 22

§ 1. Reference is to be made in the acts with explicit words about the religiosity of both the petitioner and the intended spouse.

§ 2. Documents of baptism or the profession of faith, or of both, are to be included in the acts.

#### Article 23

When the instruction is finished, the instructor is to send all the acts, without however their publication, with an appropriate report to the defender of the bond who is to find reasons, if they exist, which oppose the dissolution of the bond.

#### Article 24

§ 1. When he has received all the acts, the bishop is to produce a *votum* about the petition in which precise reference is to be made about the conditions to grant the favor being fulfilled, especially whether the *cautiones* mentioned in article 5 have been given.

§ 2. Reasons are to be expressed which recommend the granting of the favor, always adding whether the petitioner has attempted a new marriage in any fashion or lives in concubinage.

#### Article 25

§ 1. The bishop is to transmit to the Congregation for the Doctrine of the Faith three typewritten copies of all the acts together with his own *votum*, the animadversions of the defender of the bond, an index of the material, and an accompanying summary.

§ 2. Care is also to be taken that the acts of a case composed in a local language and style are translated into one of the languages recognized in the usage of the Roman Curia, with an affirmation added under oath about the faithful transcription and translation of the acts.