



PONTIFICIUM CONSILIUM  
DE LEGUM TEXTIBUS

Prot. N. 16132/2017

Vatican City, February 1, 2018

Dear Monsignor (            ),

We write in response to your letter of 13 November last, by which you posed to this Pontifical Council three questions concerning canons 1685-1686 CIC introduced by the m.p. *Mitis iudex Dominus Iesus* (MIDI). Having carefully considered the matters you raised, we are pleased to provide you with the following indications.

First, canon 1685 CIC/MIDI establishes that the Judicial Vicar appoint the Instructor and the Assessor in the same decree with which the formula of the doubt is determined; moreover, it prescribes that they be cited for the session referred to in canon 1686 CIC/MIDI, to be held within thirty days, *omnes qui in ea interesse debent*; as a consequence, the parties are required to participate. A necessary requirement to start the *processus brevior* is the agreement of both spouses, which must be positively manifested, and not simply be presumed, since this process cannot be followed if one of the parties remains silent or does not want to sign the request, thus indicating his or her dissent.

Secondly, canon 1686 undoubtedly provides, by the expression *quatenus fieri possit*, the possibility that the session may not be just one. Thus, when there is any factor that limits the effective availability of the parties to present themselves, the Instructor may collect the proofs in one or, if not possible, more sessions. In this regard, the Holy Father recalled «that the *processus brevior* must normally be closed in one session» (cf. Pope Francis, *Allocution to participants in the course promoted by the Tribunal of the Roman Rota*, November 25, 2017), implicitly admitting that sometimes there needs to be more than one session.

Thirdly, it is considered inappropriate to have the parties fill out a questionnaire instead of attending the session referred to in canons 1685-1686 CIC/MIDI. According to canon 1677 51 CIC/MIDI, the defender of the bond and, if intervening in the trial, also the promoter of justice, has the right to be present at the examination of the parties, the witnesses and the experts, except for the provision of canon 1559 CIC. This would not be possible with the sending and remote compilation of a questionnaire, which would also violate the provisions of canon 1565 CIC that forbids the communication of the questions

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beforehand to the witnesses. Moreover, canon 1558 CIC establishes that the witnesses must be examined at the tribunal itself, unless the judge deems otherwise.

The Instructor, however, may approach the parties to collect the deposition, since the Bishop, as a good shepherd, must attend to his poor faithful who need particular pastoral care. Furthermore, as the III Extraordinary General Assembly of the Synod of Bishops in October of 2014 has looked into the difficulty that the faithful has in approaching church tribunals, it is now established that through the cooperation among tribunals, care is to be taken that everyone, parties or witnesses, can participate in the process at a minimum of cost (cf. m.p. MIDI, Art. 7 e).

Hoping that the above information will be helpful to your inquiries, we take the opportunity to send you our best prayerful wishes and personal blessing for your ministry in the Church.

Sincerely yours in Christ,

A handwritten signature in black ink, starting with a cross symbol and followed by a cursive name.

✠ Francesco Card. Coccopalmerio  
President

A handwritten signature in black ink, starting with a cross symbol and followed by a cursive name.

✠ Juan Ignacio Arrieta

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Secretary