

## 教廷信理部

# 为准备以信仰优先解除婚姻的程序之

## 规则

### 前言

教会为信仰优先解散婚姻之权力，除受到「保禄特权」规范外，至今仍要遵守《信理部》于 1973 年公布，经教宗保禄六世批准的《解除婚姻的训令》及《程序规则》。上述文件列出申请解除婚姻的条件，以及教区向圣座呈递文件之前必须遵守的程序规则。自从为拉丁天主教会颁布新法典和为东方教会颁布新法典后，有多处还需要适应新教律的规定。

众所周知，罗马教宗在某些情况下，可以为信仰优先及为灵魂的得救而解除两位非天主教徒，或至少其中一方为未领洗者的婚姻。可是，罗马教宗也视乎当时和当地的牧灵需要，以及个别案件的一切情况，来判断是否使用此权力。

所谓「保禄特权」，即圣保禄致格林多人前书（格前 7：12-17）中所提及的解散婚姻情形，应受到《天主教法典》第 1143-1147 条和《东方教会法典》第 854-858 条所规范。按教会的解释，当圣保禄说：「如不信主的一方要离去」（格前 7：15）时，是要给予已领洗一方另结新婚的自由。另一方面，教会多年来不断为「保禄特权」立法，并尤其注重“离去”的定义，教会法庭以教会内的「询问」规定“离去”的必需，和立定领洗一方要进入新婚的一刻才能解除前婚。为此，自八世纪初，「保禄特权」已被制定为神学和法律的设立，在往后的世纪中本质仍保持不变，直到近年才颁布成为精细的法律条文。这表示教会清楚意识到她享有界定此特权之权限的能力，且能采用更广泛的诠释，例如界定“离去”的含意，这对「保禄特权」是最关键的。

此外，到了十六世纪，在传教事业蓬勃发展的时期，出现了新的牧民需要。那个时期的教宗为那些对皈依信主的多夫多妻者，制定了新而甚广泛的“特权”，超越了圣保禄所提及的「保禄特权」的权限，解除两位未领洗者的婚姻。尤其透

过下面的宗座训令，在指定区域有效地执行，直到 1917 年新法典的颁布：教宗保禄三世于 1537 年 6 月 1 日颁布的“Altitudo”；圣庇护五世于 1571 年 8 月 2 日颁布的“Romani Pontifices”；额我略十三世于 1585 年 1 月 25 日颁布的“Populis”。可是，1917 年颁布的法典把上述规定伸延及至整个教会（《天主教法典》第 1125 条），直到 1983 年新法典公布为止。新法典把过时的部分删除后，并制定了第 1148-1149 条，来处理上述三份宗座训令所指的申请解除婚姻案。《东方教会法典》则把这些规则纳入第 859-860 条。

尤需注意，那些基于「保禄特权」而解除的婚姻，以及基于《天主教法典》第 1148-1149 条及《东方教会法典》第 859-860 条所解除的婚姻，只须符合现存法律规定的条件，便能解除，而不必请示更高的教会权威。关于其它婚姻如至少一方没有领洗的婚姻欲申请解除，就必须经由《信理部》事先审查案情后请示罗马教宗，教宗凭他的牧灵经验和能力，去判断是否解除之。

自 1917 年《天主教法典》公布后，才开始有经由罗马教宗解除个别婚姻的做法。在此之前，只需要符合「保禄特权」及上述训令列出的条件，便足以解除婚姻，因为这些需要修补的婚姻案件往往极少出现在传教区范围外。在传统基督宗教的社会环境里，领洗者与未领洗者缔结有效结婚的情况甚少，尤其是因为传统婚姻与家庭是稳固的，而获宽免「信仰不同」婚姻限制的个案极少。可是，到了二十世纪，申请解除婚姻以补救婚姻的个案不断增加，其原因包括：在过去的世纪里，不同教派之间存有距离，这些距离到了二十世纪差不多完全消失，使混合婚姻的数字剧增，包括天主教徒与未领洗者在获得豁免「信仰不同」婚姻限制后缔结的婚姻；此外，在 1917 年《天主教法典》又废除了已领洗非天主教徒的婚姻限制，导致申请婚姻修补的个案增加了；为此，非天主教徒与未领洗者的婚姻无须宽免也被视为有效。此外，由于家庭维系日渐脆弱和不稳定，离婚的情况愈见普遍（参《论教会在现代世界牧职宪章》n.47），婚姻破裂的个案与日俱增。

罗马教宗深信教会拥有解除两位非天主教徒，而至少其中一方为未领洗者的婚姻，且往往为了应付新的牧民状况，在审查个别案情后，为信仰优先和人灵的得救而行使这权力。

《庇护 - 本笃》法令颁布十五年后，那些为信仰优先解除婚姻的申请大幅度增加，为此《信理部》于 1934 年 5 月 1 日公布了一项《训令》，名为《为准备引用罗马教宗最高权力以信仰优先而解除婚姻的程序之规则》。此规则确定了教宗有权解除两位非天主教徒，而至少其中一方为未领洗者的婚姻（第一条）；唯《信理部》具有独特的能力来处理这些案件（第二条）；圣部制定《训令》颁赐特恩的所需条件（第三条）；圣部为教区提供各项程序规则来准备个案，然后把整份文件呈递《信理部》（第 4-18 条）。各教区主教都收到这《训令》，却没有刊载于《圣座议事录》上，以避免传媒报导教会提倡离婚的危险。

《梵二大公会议》后，教宗保禄六世决定对整个问题进行详细研究，对 1934 年公布的《训令》作出修订，以求适应新形势。修订工作完毕，《信理部》于 1973 年 12 月 6 日公布新训令：《为信仰优先解除婚姻的训令》，连同《程序规则》一起公布。同样的，这训令也没有被刊载在《圣座议事录》上，只是谨慎地发送给各教区主教，如同 1934 年时的做法。可是，训令还是透过其它途径被刊登出来。

在修订《天主教法典》期间，也制定过一些法律条文，精简地表达出为信仰优先解除婚姻的法律原则和程序规则。可是，教会最高权威并没有把这些复杂的法律条文纳入新法典中，却认为制定一些特殊规则，经教宗批准后由《信理部》公布，更为合适。

自颁布新的《天主教法典》和《东方教会法典》后，有关解除婚姻的《规则》也经过重新修订，以适应新法典的规定。目前，这《规则》已分送到各教区主教及东方礼教区的主教办事处，务求在未把婚姻诉讼案寄往《信理部》之前，各教区能遵照这些原则受理和审查各案件。

为免教友受到精神上和世俗的伤害煎熬，教区主教必须细查本区内以信仰优先为由申请解除婚姻的案件，按下面的《规则》来研究是否受理这些个案。如主教决定受理这些诉讼案，也要确保完全地和小心地遵照这些《规则》来预备一切文件，把完整和顺序编成的卷宗寄去《信理部》。

新《规则》生效之后，以前颁布的规则和处理婚姻诉讼案件的一切训令，包括含相反意义的指引，都完全被废除了。

教宗若望保禄二世于 2001 年 2 月 16 日接见《信理部》时，批准了本圣部于一次常务会议中所决定的《规则》，并下令必须严格遵守。

二零零一年四月三十日，圣庇护五世纪念日，《信理部》于罗马发出

《信理部》部长  
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《信理部》秘书长  
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## 第一部份

### 第 1 条

如结婚当事人中至少一方为未领洗者，其婚姻可以由罗马教宗以信仰优先为由得以解除。只要双方在领洗后没有发生性行为。

### 第 2 条

教廷《信理部》赋有权力审查婚姻个案，如条件合适的话，可向教宗提出申请《信仰特恩》。

### 第 3 条

教区主教及那些在法律上有相等地位的人，或东方礼教区主教有权调查婚姻个案。

### 第 4 条

为能授予《信仰特恩》，以解除婚姻，必须符合以下条件：

1° 夫妻关系已无法复原；

2° 申请人并不是导致婚姻破裂的唯一或主要原因。申请人拟再结新婚的对象，也不是促成配偶双方离异的人。

## 第 5 条

§ 1. 如天主教徒一方，希望与未领洗者或已领洗的非天主教徒另结新婚，他/她必须正式宣认，他/她将准备除去背弃天主教信仰的危险，而非天主教一方也要宣认，他/她会准备让天主教徒配偶自由地实践其天主教信仰，以及让孩子们在天主教会内接受洗礼和培育。

§ 2. 除非双方以书面方式作出上述声明并签署，否则，此婚姻解除不获批准。

## 第 6 条

如当事人的前婚曾获《信仰特恩》而得以解除，将不能获准申请解除婚姻的审查，其案件也不会被呈交到《信理部》的。

## 第 7 条

§ 1. 如某宗婚姻曾获得信仰不同限制的宽免，天主教徒一方可向教宗申请《信仰特恩》，以解除他/她的非圣事性婚姻，好能与一位已领洗者另结新婚。

§ 2. 在同一情况下，如未领洗一方有意接受洗礼，并愿意与一位已领洗者另结新婚，他/她也可以向教宗申请《信仰特恩》。

§ 3. 如教区主教对于申请人或未来配偶皈依的诚意存有合理的怀疑，即使一方或双方已接受洗礼，这申请不能提交至《信理部》。

## 第 8 条

对于慕道者，婚礼必须推迟到洗礼后才举行。如因严重的理由而不能推迟，至少要肯定他/她会尽早接受洗礼。

## 第 9 条

如申请人对以前的配偶及所生的孩子在履行义务方面存在特别的困难，或者所申请的特恩有可能造成极大恶表的情况下，主教应咨询《信理部》。

## 第 10 条

主教在审查过程中或在《信理部》审讯期间，对该宗婚姻的有效性产生严重的怀疑，不论是哪种理由，都应该在提交申请时向教宗申明。

## 第二部份

### 第 11 条

§ 1. 主教本人或其代表（此代表可以在教会法庭的法官或主教授权处理案件的人士中挑选），并在书记官和公设辩护人的协助下，进行案件的审查。

§ 2. 审查工作小组的成员必须以文书方式委任，且在案件文书上记录下来。

### 第 12 条

§ 1. 任何事实必须根据法律规范，通过文件或可信赖证人的予以证明。

§ 2. 在审查过程中，配偶双方的证词都需要聆听。

§ 3. 然而，任何一方配偶的声明都不能视作为全面的证据，除非有其它辅助证明作支持，证实是可信的声明。

### 第 13 条

§ 1. 作证的文件，不论是正本或经过验证的副本，必须经书记官确认是真实的。

§ 2. 送往《信理部》的文件，必须是完整和经书记官证明属实，方可提交。

### 第 14 条

§ 1. 审查官应当面审讯双方当事人和证人，并传召公设辩护人，且有书记官从旁协助。

§ 2. 审查官要求双方当事人和证人宣誓说实话，以确认所提出的证供的真实性。如有人拒绝作此宣誓，审查官都要聆听其供词。

§ 3. 审查官按照事先由他或公设辩护人所制定的问卷，来询问双方当事人和证人。如有需要，审查官也可以添加其它问题。

§ 4. 所有证词必须由双方当事人、证人、审查官和书记官签署。

### 第 15 条

§ 1. 如另一方当事人或证人拒绝接受询问，或不能在审查官前作证供，可在书记官前或以其它合法方式作证供，但要确证其真实性。

§ 2. 如当事人不愿意出庭作证供，这就应该按法律记录在案中。

## 16 条

- § 1. 必须证明其中一方从未受洗礼，除去任何疑点。
- § 2. 必须聆听未领洗一方的父母、至亲，或那些熟悉他/她童年和一生经历的人所作的证词。
- § 3. 接受询问的证人不仅要证实当事人从未领洗，还要提供当时环境和其它因素，以证明当事人从未受过洗。
- § 4. 在当事人宣称从未领过洗的地方，即他/她成长的地方，尤其在他/她可能进过的教堂，或举行婚礼的地方，检查领洗登记簿。
- § 5. 如在结婚时曾获信仰不同的宽免，审查官需要搜集此宽免的文书证明，以及婚前调查的文檔。

## 第 17 条

- § 1. 如在申请解除婚姻的过程中，未领洗一方接受了洗礼，应调查在洗礼后，双方当事人有否同居的可能性，并询问证人。
- § 2. 要询问双方当事人在分居后有否任何关系，尤其是有否发生夫妇行为。

## 第 18 条

- § 1. 审查官要询问另一当事人的生活情况，特别是他/她在离婚后是否有另结新婚。
- § 2. 审查官要询问双方当事人和各位证人，以求了解他们分居和最终离婚的真正原因，以确定谁要对这宗破裂婚姻负责任。

## 第 19 条

- § 1. 必须提交双方当事人被宣判民法离婚或无效婚姻的文件副本。
- § 2. 可能的话，必须提交任何一方未来配偶被宣判民法离婚、或民法无效婚姻，或被教会宣判婚姻无效、或任何结婚证明文件之副本。

## 第 20 条

- § 1. 审查官必须报告申请人有否任何子女，申请人如何或打算如何按照教律和自己的能力，给予子女宗教培育。
- § 2. 审查官也要了解申请人对以前的配偶和子女，是否带有任何道德或法律义务。

## 第 21 条

§ 1. 如申请人或他/她的未来配偶已皈依，接受洗礼，必须询问他/她领洗的时间和意向。

§ 2. 本堂神父也应该被查询有关他们洗礼的动机，尤其是各方当事人的诚信表现。

## 第 22 条

§ 1. 卷宗内应明确指出申请人和他/她的未来配偶的宗教信仰生活。

§ 2. 卷宗内应包含领洗或信仰宣认的证明文件。

## 第 23 条

审讯程序完结后，不需传阅卷宗，审查官把全部文件，连同一份报告，提交公设辩护人，其任务是提出反对解除婚姻特恩的理由。

## 第 24 条

§ 1. 收到全部卷宗后，主教要对此申请提出个人意见，准确指出授予特恩的各项条件是否已达到，尤其是第 5 条所提及的承诺。

§ 2. 除表达对解除婚姻的赞同理由外，还应该指出申请人是否已再婚，或与别人同居。

## 第 25 条

§ 1. 主教必须把一式三份的打字卷宗，连同他本人的意见、公设辩护人的观察报告、卷宗目录和案件撮要，一起提交《信理部》。

§ 2. 把卷宗原文翻译成罗马教廷所认识的语言，并附上宣誓将如实翻译和抄录的证明。



CONGREGATION FOR THE DOCTRINE OF THE FAITH

**NORMS**  
**ON THE PREPARATION OF THE PROCESS**  
**FOR THE DISSOLUTION OF THE MARRIAGE BOND**  
**IN FAVOUR OF THE FAITH**

**Preface**

寫信即信是解教  
的也三訓全

The power of the Church to dissolve marriage in favour of the faith has been regulated until now, apart from the pauline privilege, by the *Instruction on the Dissolution of Marriage* and the *Procedural Norms* approved by Paul VI and published in 1973 by the Congregation for the Doctrine of the Faith. These documents presented the conditions in which a case may be introduced for the dissolution of a marriage and the procedural norms to be observed in the dioceses before the acts may be sent to this Congregation. After 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 to adapt a number of their provisions to the new legislation.

It is certainly well known that a marriage between non-catholics, at least one of whom is not baptised, in certain conditions can be dissolved by the Roman Pontiff in favour of the faith and the salvation of souls. The exercise of this power is however subject to the judgment of the Supreme Pontiff in view of the pastoral necessities of the time and the place and all the circumstances in each case.

The use of the so-called «pauline privilege», that is, the case of the dissolution of marriage mentioned in the Letter of St Paul to the Corinthians (7:12-17), is regulated in the *Code of Canon Law* (cann. 1143-1147) and in the *Code of Canons of the Eastern Churches* (cann. 854-858). The words of the Apostle are interpreted by the Church as the concession of a true freedom to the baptised party to enter a new marriage, «if the unbaptised party departs» (*ibid.*, v.15). On the other hand, the Church over the years repeatedly furnished the pauline privilege with positive norms, particularly regarding the definition of the term «depart», the requirement that «departure» be established in the ecclesiastical forum by means of the «interpellations», and the norm that a marriage is not dissolved until the moment another marriage is contracted by the baptised party. Consequently, the pauline privilege was already established as a fully defined theological-canonical institute by the beginning of the XIII century and remained essentially unchanged in the ensuing centuries until it was received in a refined form in the recently promulgated law. This demonstrates clearly that the Church has always been entirely aware of the power it enjoys to define the limits of this privilege as well as to interpret it in a broader sense, as it did for example with regard to the meaning of the term «to depart», which is fundamental to the pauline privilege.

Moreover, when new pastoral circumstances arose with the missionary growth of the XVI century, the Roman Pontiffs did not hesitate to address the needs the polygamists who were being converted to the faith with new and very broad «privileges» which went far beyond the

limits of the «pauline privilege», described in the citation from St Paul, with regard to the dissolution of a bond contracted between two unbaptised persons. This was effected primarily through the following Apostolic Constitutions which remained in force in the territories for which they were given until the promulgation of the Code of 1917: Paul III, *Altitudo*, 1 June 1537; St Pius V, *Romani Pontifices*, 2 August 1571; and Gregory XIII, *Populis*, 25 January 1585. The 1917 Code, however, extended them to the entire Church (can. 1125); consequently they were formally in force until the promulgation of the Code of 1983. With the obsolete elements duly removed, this Code makes provision in cann. 1148-1149 for the cases of dissolution of marriage which were treated in these three Constitutions. The *Code of Canons of the Eastern Churches* makes the same provisions in cann. 859-860.

It should be noted that marriages dissolved in virtue of the pauline privilege, and those mentioned in cann. 1148-1149 CIC and 859-860 CCEO, are dissolved by the law itself when the conditions prescribed in the current legislation are fulfilled, without any need to have recourse to higher authority. Regarding other marriages entered into by parties of whom at least one is not baptised, if they are to be dissolved, they are in each case to be submitted to the Roman Pontiff who, after they have been examined by the Congregation for the Doctrine of the Faith, judges in accord with his own pastoral prudence whether or not the dissolution of the bond is to be granted.

The practice of the Roman Pontiff granting a dissolution of the bond in individual cases was introduced after the promulgation of the Code of 1917. In earlier times, the provisions of the pauline privilege and the Constitutions mentioned above were sufficient since cases requiring this remedy seldom occurred outside the missionary territories. In the traditionally Christian realms, valid marriages between a baptised and an unbaptised person were extremely rare because of the social and religious environment and above all because of the stability of marriage and the family and the small number of dispensations from the impediment of disparity of cult. In the XX century, however, the number of marriages calling for the pastoral remedy of the dissolution of the bond has been constantly on the rise for a number of reasons, including the following: the former separation between religious denominations, for centuries enclosed in themselves, generally disappeared in this period with the result that mixed marriages multiplied drastically, including marriages between catholics and unbaptised parties celebrated with a dispensation from the impediment of disparity of cult; the number of marriages open to the remedy of dissolution of the bond also increased with the abrogation of the impediment of disparity of cult in the 1917 Code with respect to baptised non-catholics; marriages between these non-catholics and the unbaptised were therefore valid without any dispensation. In addition, with the ever-increasing weakness and instability of family ties, divorce is proliferating (cf. *Gaudium et Spes*, 47) and the number of marriages ending in breakdown grows daily.

Convinced that the Church enjoys the power to dissolve marriages between non-catholics, of whom at least one is unbaptised, the Roman Pontiff did not hesitate to meet the new pastoral conditions by introducing the practice of exercising this power of the Church in individual instances if it appeared to him, after an examination of all the aspects of each case, that it was duly in favour of the faith and the good of souls.

Fifteen years after the promulgation of the Pio-Benedictine Code, cases of dissolution in favour of the faith had already become so frequent that the Congregation of the Holy Office published an *Instruction* of the first of May 1934, entitled *Norms for the preparation of a process in cases of the dissolution of the marriage bond in favour of the faith by the supreme authority of the Supreme Pontiff*. Confirming the authority of the Supreme Pontiff to dissolve marriages entered into by non-catholics, of whom at least one is not baptised (art. 1), and the exclusive competence of the Congregation of the Holy Office to deal with this matter (art. 2), the *Instruction* stipulated the requirements for the concession of the favour (art. 3), and provided procedural norms for the preparation of the process in the diocese before all the acts were sent to the Congregation of the Holy Office (artt. 4-18). The *Instruction* was given to the local Ordinaries concerned, but it was not published in the *Acta Apostolicae Sedis* in view of the danger that the Church might have been presented by the media to be favouring divorce.

Following the Second Vatican Council, the Supreme Pontiff Paul VI determined that this entire matter should be studied thoroughly and that the *Instruction* of 1934 was to be revised and duly adapted to new circumstances. Once this revision was completed, the new *Instruction on the dissolution of marriage in favour of the faith* together with the *Procedural Norms* was published by the Congregation for the Doctrine of the Faith, as mentioned above, on the sixth of December 1973. It was again, however, not published in the *Acta Apostolicae Sedis* but discreetly transmitted to local Ordinaries in the same way as the 1934 *Instruction* had been made known. Nevertheless, it appeared thereafter in numerous publications.

At the time the *Code of Canon Law* was being revised, canons were drafted which briefly set forth both the elements of the substantive law and procedural norms for the dissolution of the marriage bond in favour of the faith. Instead of including this complex material in the Code, however, it seemed to Superior Authority more opportune that it be assigned to particular norms, specially approved by the Supreme Pontiff and published by the Congregation for the Doctrine of the Faith.

Revised and adapted to the existing legislation promulgated in both the *Code of Canon Law* and the *Code of Canons of the Eastern Churches*, the *Norms* for the dissolution of the bond are now sent to diocesan Bishops and Eparchs in order to ensure that curial offices establish a practice regarding the substantive principles for accepting cases and for the instruction of the process, prior to transmitting them to the Congregation for the Doctrine of the Faith.

Lest the faithful suffer spiritual and temporal harm, however, Bishops are to ensure that any cases for the dissolution of the bond in favour of the faith which arise in their jurisdiction are to be carefully examined before being accepted, in order to establish whether they can in fact be admitted according to the following *Norms*. If it appears that they should be accepted, the Bishop is also to ensure that the process in the diocese is faithfully and carefully instructed according to these *Norms* so that the acts sent to the Congregation are entirely complete and properly assembled.

With the establishment of these new norms, the previous norms issued for the instruction of these processes are entirely abrogated, everything to the contrary notwithstanding, even those things worthy of mention.

*The Supreme Pontiff Pope John Paul II, in an Audience on the 16 February 2001, approved these Norms adopted at an Ordinary Session of this Congregation, and ordered that they be faithfully observed.*

Rome, from the office of the Congregation for the Doctrine of the Faith, 30 April 2001, the memorial of Saint Pius V.

**Cardinal Joseph Ratzinger**  
*Prefect*

Tarcisio Bertone, S.D.B.  
*Archibishop Em. of Vercelli*  
*Secretary*

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## **Part I**

### **Art. 1**

A marriage entered into by parties, of whom at least one is not baptised, can be dissolved in favour of the faith by the Roman Pontiff, provided that it has not been consummated after both parties have received baptism.

### **Art. 2**

It is the competence of the Congregation for the Doctrine of the Faith to examine the individual cases and, if it is warranted, to submit the petition to the Supreme Pontiff requesting the favour.

### **Art. 3**

A diocesan Bishop and those equivalent to him in law, or an eparchial Bishop, are competent to instruct the process.

### **Art. 4**

For the concession of the favour of the dissolution of the bond, at the moment it is given, it is required that:

1° there is no possibility of resuming the partnership of conjugal life;

2° the petitioner was not exclusively or predominantly the culpable cause of the breakdown of the conjugal life, and that the party with whom the new marriage is to be contracted or convalidated was not at fault in provoking the separation of the spouses.

### **Art. 5**

§ 1. A Catholic party who intends to contract or to convalidate a new marriage with a person who is not baptised or with a baptised non-Catholic, is to declare that he or she is prepared to remove dangers of defecting from the faith and the non-Catholic party is to declare that he or she is prepared to allow the Catholic party the freedom to profess his or her own religion and to baptise and educate their children as Catholics.

§ 2. The favour of the dissolution is not conceded unless this declaration in writing has been signed by both parties.

#### Art. 6

A process may not be instructed for the dissolution of the bond of a marriage contracted or convalidated after obtaining the dissolution in favour of the faith of a prior marriage, nor may it be presented to the Congregation for the Doctrine of the Faith for examination.

#### Art. 7

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

§ 2. In the same circumstances, a petition may be presented to the Supreme Pontiff if the unbaptised party intends to receive baptism and enter a new marriage with a baptised party.

§ 3. The Bishop is not to direct the petition to the Congregation for the Doctrine of the Faith if a prudent doubt should exist regarding the sincerity of conversion of the petitioner or the intended spouse even though the baptism has already been received by one or both of them.

#### Art. 8

In the case of a catechumen entering marriage, the wedding is to be delayed until after the baptism; if for grave reasons this cannot be done, it is to be morally certain that the baptism will be received as soon as possible.

#### Art. 9

The Bishop is to consult the Congregation whenever special difficulties exist in the way in which the petitioner intends to fulfil his or her obligations toward the former spouse and any children they may have had, or if there is a fear of scandal from the concession of the favour.

#### Art. 10

If a positive doubt should arise on any ground about the validity of the marriage whose dissolution is being sought, either in the process under the Bishop's direction or in the examination of the case at the Congregation for the Doctrine of the Faith, the petition directed to the Roman Pontiff is to make mention of this doubt.

## Part II

### Art. 11

§ 1. With the assistance of a notary and the intervention of the defender of the bond, the Bishop is to conduct the instruction of the process himself or commit it to an instructor selected either from the judges of the tribunal or from persons whom he has approved for this work.

§ 2. This commission is to be made in writing and it must appear in the acts.

### Art. 12

§ 1. Assertions must be proven according to the norms of law, either with documents or the depositions of trustworthy witnesses.

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

§ 3. The force of full proof cannot be attributed to declarations by the parties unless there are other elements which wholly corroborate them and from which moral certitude can be acquired.

### Art. 13

§ 1. Documents submitted in original form or in authentic copy are to be verified by the notary.

§ 2. The documentation transmitted to the Congregation for the Doctrine of the Faith is to be complete and the copies are to be authenticated by the Bishop's notary.

### Art. 14

§ 1. The examination of the parties and witnesses is conducted by the instructor who must be attended by the notary. The defender of the bond is to be cited for the examination.

§ 2. The instructor is to administer an oath to the parties and witnesses that they will tell the truth, or that what they have said is the truth; if, however, one refuses to take an oath, he or she is to be heard unsworn.

§ 3. The instructor is to question the parties and witnesses in accordance with a questionnaire prepared in advance either by the instructor or by the defender of the bond; if need be, the instructor may add other questions.

§ 4. The answers are to be signed by the party or the witness, the instructor and the notary.

### Art. 15

§ 1. If the other party or a witness refuses or is unable to appear before the instructor and give testimony, their declarations may be obtained either before a notary or in any other lawful manner, provided it is established that they are genuine and authentic.

§ 2. The absence of the other party from the process is to be declared in accordance with the law and is to be recorded in the acts.

#### Art. 16

§ 1. The absence of the baptism of either spouse is to be demonstrated in such a way that every prudent doubt is removed.

§ 2. Witnesses are to be heard in view of their quality, such as the parents or relatives of the unbaptised party or those who knew the person as an infant and have knowledge about the entire course of the party's life.

§ 3. The witnesses are to be questioned not only about the absence of baptism but also about the circumstances and the other indications that would probably indicate that baptism had not been conferred.

§ 4. Care is to be taken that the baptismal registers are examined in those places where it is established that the party who claims to be unbaptised had lived as a infant, especially in those churches which the party may have frequented or in which the marriage was celebrated.

§ 5. If the marriage was celebrated with a dispensation from the impediment of disparity of cult, the instructor is to obtain copies of the dispensation and the prenuptial inquiry for the acts.

#### Art. 17

§ 1. If the unbaptised spouse is baptised at the time the favour of the dissolution is being sought, there must be an inquiry into the possibility of cohabitation after the baptism; witnesses are also to be questioned about this matter.

§ 2. The parties in the case are themselves to be asked whether they had any relationship after their separation and what kind, and especially whether they had engaged in a conjugal act.

#### Art. 18

§ 1. The instructor is to collect information on the state of life of the other party and to report whether that party has 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 clear who was at fault for the breakdown of the marriage or marriages.

#### Art. 19

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

§ 2. Copies are to be presented, where they exist, of any divorce decree or civil nullity sentence together with the dispositive part of the canonical nullity sentence for any marriages attempted by either of the intended spouses.

#### Art. 20

§ 1. The instructor is to report whether the petitioner has had any children and in what way the petitioner has provided or intends to provide for their religious education in accordance with the law and the petitioner's capabilities.

§ 2. The instructor must also inquire about the existence of any obligations either moral or civil toward the former spouse and any offspring which they may have had.

#### Art. 21

§ 1. If either the petitioner or the intended spouse has been converted and baptised, they are to be questioned regarding the time and intention of being baptised.

§ 2. The parish priest is also to be questioned about the reasons for the baptism, and especially about the integrity of the parties.

#### Art. 22

§ 1. Explicit reference is to be made in the acts to the religious practice of both the petitioner and the intended spouse.

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

#### Art. 23

When the instruction has been completed, the instructor is to give all the acts, without publishing them, together with a suitable report, to the defender of the bond whose responsibility it is to find reasons, if there are any, against the dissolution of the bond.

#### Art. 24

§ 1. Having received all the acts, the Bishop is to write his opinion concerning the petition which indicates accurately whether the conditions for the concession of the favour have been fulfilled, and especially whether the promises, mentioned in art. 5, have been made.

§ 2. The reasons are to be given which recommend the concession of the favour, always including whether the petitioner has attempted a new marriage in any way or may be living in concubinage.



Art. 25

§ 1. The Bishop is to send three typewritten sets of the acts to the Congregation for the Doctrine of the Faith, together with his opinion and the observations of the defender of the bond, an index and the summary of the case.

§ 2. Care is also to be taken that the acts of a case drawn up in the language and style of the place are translated into one of those recognized in the regulations of the Roman Curia and confirmed with a sworn declaration that they have been faithfully translated and transcribed.

*(Normae de conficiendo processu pro solutione vinculi matrimonialis in favorem fidei)*, 30 aprile 2001

**DOCUMENTA 95**

*Typis Vaticanis, 2001*

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