



CONGREGATION FOR THE DOCTRINE OF THE FAITH

**Letter to the bishops of the Catholic Church and to the Ordinaries  
and Hierarchs, regarding the modifications introduced in the  
*Normae de gravioribus delictis***

Nine years after the promulgation of the Apostolic Letter *Motu proprio data*, «*Sacramentorum sanctitatis tutela*», regarding the norms *de gravioribus delictis* reserved to the Congregation for the Doctrine of the Faith, this Dicastery held it necessary to proceed with a reform of the above mentioned text, emending it not in its entirety, but only in certain areas, in order to render the text more useful.

After a thorough and attentive study of the proposed modifications to the norms, the Fathers of the Congregation for the Doctrine of the Faith presented the Roman Pontiff with a draft. The Holy Father approved and ordered the promulgation of these revised norms on 21 May 2010.

Attached with this letter is a brief description of the changes and amendments of the normative text, «*Sacramentorum sanctitatis tutela*». In this way, the modifications are rendered more immediately accessible.

Rome, from the Congregation for the Doctrine of the Faith, 21 May 2010.

William Cardinal LEVADA  
*Prefect*

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## CONGREGATION FOR THE DOCTRINE OF THE FAITH

### A brief introduction to the modifications made in the *Normae de gravioribus delictis*, reserved to the Congregation for the Doctrine of the Faith

The new text of the *Normae de gravioribus delictis*, as revised by Pope Benedict XVI on 21 May 2010, contains modifications to both the substantial and the procedural norms found in the original text of *Sacramentorum sanctitatis tutela*.

The following are the changes introduced into the text:

A) The following faculties, originally granted by Pope John Paul II to the Congregation for the Doctrine of the Faith and later confirmed by his successor, Pope Benedict XVI, on 6 May 2005, have been introduced into the text:

1. The right, as mandated by the Roman Pontiff, to judge Cardinals, Patriarchs, Legates of the Apostolic See, Bishops and other physical persons found in CIC can. 1405 §3 and CCEO can. 1061 (**art. 1 § 2**);
2. The extension of the term of prescription of a criminal action to twenty years, maintaining the right of the Congregation for the Doctrine of the Faith to derogate from prescription on a case by case basis (**art. 7**);
3. The faculty to dispense from the requirement of priesthood and the requirement of a doctorate in canon law for the personnel of the Tribunal, advocates and procurators (**art. 15**);
4. The faculty to sanate acts in cases where only procedural laws have been violated by an inferior Tribunal, guaranteeing, always, the right to a proper defense (**art. 18**);
5. The faculty to dispense from a judicial trial and, therefore, to proceed *per decretum extra iudicium*. In these cases the Congregation for the Doctrine of the Faith, after a careful examination of the facts, decides on a case by case basis when to authorize an extra-judicial (administrative) process, at the request of the Ordinary or local Hierarch or *ex officio* (in any of these cases, the imposition of a perpetual, expiatory penalty requires the mandate of the Congregation for the Doctrine of the Faith) (**art. 21 § 2 n. 1**);

6. The faculty to present cases directly to the Holy Father for *dimissio e statu clericali* or *depositio, una cum dispensatione a lege caelibatus*; to proceed in this manner, in addition to the extreme gravity of the particular case, the commission of the delict in question must be manifest and the right to a proper defense of the accused must be guaranteed (**art. 21 § 2 n. 2**);
7. The faculty to make recourse to the Ordinary Session of the Congregation for the Doctrine of the Faith against administrative acts issued or approved by the same Congregation in a lower grade of judgment, in cases of reserved delicts (**art. 27**).

B) The following modifications have also been introduced into the text:

8. The *delicta contra fidem* (heresy, apostasy and schism) have been included; for these delicts, the norms indicate a particular competence for the local Ordinary to proceed *ad normam iuris*, either in a judicial manner or *extra iudicium* in the first instance, maintaining the right of appeal or recourse to the Congregation for the Doctrine of the Faith (**art. 1 § 1** and **art. 2**);
9. Regarding the Eucharist, the two delicts of  *attentatio liturgicae eucharistici Sacrificii actionis* (CIC can. 1378 § 2 n.1) and the simulation of the same (CIC can. 1379; CCEO can. 1443) are now considered under separate numbers (**art 3 § 1 nn. 2** and **3**);
10. Also concerning delicts against the Eucharist, with respect to the previous version of the text, the phrase “*alterius materiae sine altera*” has been replaced with the expression “*unius materiae vel utriusque*” and the phrase “*aut etiam utriusque extra eucharisticam celebrationem*” has been replaced with “*aut extra eam*” (**art. 3 § 2**);
11. Regarding the Sacrament of Penance, the crimes specified in CIC can. 1378 § 2 (attempting to impart sacramental absolution or hearing a sacramental confession, when one cannot do so validly) and CIC 1379 and CCEO can. 1443 (simulation of sacramental absolution) have been included in the text (**art. 4 § 1 nn. 2** and **3**);
12. Also included among the delicts are the indirect violation of the seal (**art. 4 § 1 n. 5**), the recording and divulgation of a sacramental confession done with malice (decree of the Congregation for the Doctrine of the Faith, 23 September 1988) (**art. 4 § 2**);
13. The attempted ordination of a woman has also been introduced as a delict in the new text, as established by the decree of the Congregation for the Doctrine of the Faith on 19 December 2007 (**art. 5**);
14. Among the *delicta contra mores*: a person over 18 years of age who is developmentally disabled is equated to a minor exclusively in regards to **art. 6 § 1 n. 1**;
15. Also added as delicts are the acquisition, possession or distribution of pornographic images of minors under the age of 14, *a clerico turpe patrata*, in any way and by any means (**art. 6 § 1 n. 2**);

16. It is clarified that the *munera processui praeliminaria* may be, but need not necessarily be, undertaken directly by the Congregation for the Doctrine of the Faith (**art. 17**);
17. The possibility of taking the cautionary measures foreseen in CIC can. 1722 and CCEO can. 1473 during the preliminary investigation is allowed (**art. 19**).

Given at the Congregation for the Doctrine of the Faith \_\_\_\_\_

William Cardinal LEVADA  
*Prefect*

✠ Luis F. LADARIA, S.I.  
Titular Archbishop of Thibica  
*Secretary*

## PART ONE

### SUBSTANTIVE NORMS

#### Art. 1

§ 1. The Congregation for the Doctrine of the Faith, according to art. 52 of the Apostolic Constitution *Pastor Bonus*<sup>1</sup>, judges delicts against the faith, as well as the more grave delicts committed against morals and in the celebration of the sacraments and, whenever necessary, proceeds to declare or impose canonical sanctions according to the norm of both common and proper law, with due regard for the competence of the Apostolic Penitentiary<sup>2</sup> and in keeping with *Agendi ratio in doctrinarum examine*.<sup>3</sup>

§ 2. With regard to the delicts mentioned above in § 1, the Congregation for the Doctrine of the Faith, by mandate of the Roman Pontiff, may judge Cardinals, Patriarchs, Legates of the Apostolic See, Bishops as well as other physical persons mentioned in can. 1405 § 3 of the Code of Canon Law<sup>4</sup>, and in can. 1061 of the Code of Canons of the Eastern Churches.<sup>5</sup>

§ 3. The Congregation for the Doctrine of the Faith judges the reserved delicts mentioned in § 1 according to the following norms.

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<sup>1</sup> IOANNES PAULUS PP. II, Constitutio apostolica *Pastor bonus*, De Romana Curia, 28 iunii 1988, art. 52, in AAS 80 (1988) 874: «Delicta contra fidem necnon graviora delicta, tum contra mores tum in sacramentorum celebratione commissa, quae ipsi delata fuerint, cognoscit atque, ubi opus fuerit, ad canonicas sanctiones declarandas aut irrogandas ad normam iuris, sive communis sive proprii, procedit».

<sup>2</sup> IOANNES PAULUS PP. II, Constitutio apostolica *Pastor bonus*, De Romana Curia, 28 iunii 1988, art. 118, in AAS 80 (1988) 890: «Pro foro interno, tum sacramentali tum non sacramentali, absolutiones, dispensationes, commutationes, sanationes, condonationes aliasque gratias eadem largitur».

<sup>3</sup> CONGREGATIO PRO DOCTRINA FIDEI, *Agendi ratio in doctrinarum examine*, 29 iunii 1997, in AAS 89 (1997) 830-835.

<sup>4</sup> *Codex Iuris Canonici*, can. 1405 - § 3. Rotae Romanae reservatur iudicare:

1° Episcopos in contentiosis, firmo praescripto can. 1419 § 2;

2° Abbatem primate, vel Abbatem superiorem congregationis monasticae, et supremum Moderatorem institutorum religiosorum iuris pontificii;

3° dioeceses aliasve personas ecclesiasticas, sive physicas sive iuridicas, quae Superiorem infra Romanum Pontificem non habent.

<sup>5</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1061 – Coram tribunalibus Sedis Apostolicae conveniri debent personae, quae auctoritatem superiorem infra Romanum pontificem non habent, sive sunt personae physicae in ordine episcopatus non constitutae sive sunt personae iuridicae salvo can. 1063 § 4 nn. 3 et 4.

## Art. 2

§ 1. The delicts against the faith referred to in art. 1 are heresy, apostasy and schism according to the norm of can. 751<sup>6</sup> and 1364<sup>7</sup> of the Code of Canon Law, and can. 1436<sup>8</sup> and 1437<sup>9</sup> of the Code of Canons of the Eastern Churches.

§ 2. In the abovementioned cases referred to in § 1, it pertains to the Ordinary or Hierarch to remit, by norm of law, if it be the case, the *latae sententiae* excommunication and likewise to undertake a judicial trial in the first instance or issue an extrajudicial decree, with due regard for the right of appeal or of recourse to the Congregation for the Doctrine of the Faith.

## Art. 3

§ 1. The more grave delicts against the sanctity of the most Holy Sacrifice and Sacrament of the Eucharist reserved to the Congregation for the Doctrine of the Faith for judgment are:

1° the taking or retaining for a sacrilegious purpose or the throwing away of the consecrated species<sup>10</sup>, as mentioned in can. 1367 of the Code of Canon Law<sup>11</sup>, and in can. 1442 of the Code of Canons of the Eastern Churches<sup>12</sup>;

2° attempting the liturgical action of the Eucharistic Sacrifice spoken of in can. 1378 § 2, n. 1, of the Code of Canon Law<sup>13</sup>;

<sup>6</sup> *Codex Iuris Canonici*, can. 751 - Dicitur haeresis, pertinax, post receptum baptismum, alicuius veritatis fide divina et catholica credendae denegatio, aut de eadem pertinax dubitatio; apostasia, fidei christianae ex toto repudiatio; schisma, subiectionis Summo Pontifici aut communionis cum Ecclesiae membris eidem subditis detrectatio.

<sup>7</sup> *Codex Iuris Canonici*, can. 1364 - § 1. Apostata a fide, haereticus vel schismaticus in excommunicationem latae sententiae incurrit, firmo praescripto can. 194, § 1, n. 2; clericus praeterea potest poenis, de quibus in can. 1336, § 1, nn. 1, 2 et 3, puniri. - § 2. Si diuturna contumacia vel scandali gravitas postulet, aliae poenae addi possunt, non excepta dimissione e statu clericali.

<sup>8</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1436 - § 1. Qui aliquam veritatem fide divina et catholica credendam denegat vel eam in dubium ponit aut fidem christianam ex toto repudiat et legitime monitus non respicit, ut haereticus aut apostata excommunicatione maiore puniatur, clericus praeterea aliis poenis puniri potest non exclusa depositione.

<sup>9</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1437 - Qui subiectionem supremae Ecclesiae auctoritati aut communionem cum christifidelibus eidem subiectis detrectat et legitime monitus oboedientiam non praestat, ut schismaticus excommunicatione maiore puniatur.

<sup>10</sup> PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS INTERPRETANDIS, Responsio ad propositum dubium, 4 iunii 1999 in AAS 91 (1999) 918.

D. Utrum in can. 1367 CIC et 1442 CCEO verbum «abicere» intellegatur tantum ut actus proiciendi necne.

R. *Negative et ad mentem.*

Mens est quamlibet actionem Sacras Species voluntarie et graviter despicientem censendam esse inclusam in verbo «abicere».

<sup>11</sup> *Codex Iuris Canonici*, can. 1367 - Qui species consecratas abicit aut in sacrilegum finem abducit vel retinet, in excommunicationem latae sententiae Sedi Apostolicae reservatam incurrit; clericus praeterea alia poena, non exclusa dimissione e statu clericali, puniri potest.

<sup>12</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1442 - Qui Divinam Eucharistiam abicit aut in sacrilegum finem abduxit vel retinuit, excommunicatione maiore puniatur et, si clericus est, etiam aliis poenis non exclusa depositione.

<sup>13</sup> *Codex Iuris Canonici*, can. 1378 - § 2. In poenam latae sententiae interdicti vel, si sit clericus, suspensionis incurrit:

1° qui ad ordinem sacerdotalem non promotus liturgicam eucharistici Sacrificii actionem attentat ...

3° the simulation of the same, spoken of in can. 1379 of the Code of Canon Law<sup>14</sup> and in can. 1443 of the Code of Canons of the Eastern Churches<sup>15</sup>;

4° the concelebration of the Eucharistic Sacrifice prohibited in can. 908 of the Code of Canon Law<sup>16</sup>, and in can. 702 of the Code of Canons of the Eastern Churches<sup>17</sup>, spoken of in can. 1365 of the Code of Canon Law<sup>18</sup>, and in can. 1440 of the Code of Canons of the Eastern Churches<sup>19</sup>, with ministers of ecclesial communities which do not have apostolic succession and do not acknowledge the sacramental dignity of priestly ordination.

§ 2. Also reserved to the Congregation for the Doctrine of the Faith is the delict which consists in the consecration for a sacrilegious purpose of one matter without the other or even of both, either within or outside of the eucharistic celebration<sup>20</sup>. One who has perpetrated this delict is to be punished according to the gravity of the crime, not excluding dismissal or deposition.

#### Art. 4

§ 1. The more grave delicts against the sanctity of the Sacrament of Penance reserved to the Congregation for the Doctrine of the Faith are:

1° the absolution of an accomplice in a sin against the sixth commandment of the Decalogue, mentioned in can. 1378 § 1 of the Code of Canon Law<sup>21</sup>, and in can. 1457 of the Code of Canons of the Eastern Churches<sup>22</sup>;

2° attempted sacramental absolution or the prohibited hearing of confession, mentioned in can. 1378 § 2, 2° of the Code of Canon Law<sup>23</sup>;

3° simulated sacramental absolution, mentioned in can. 1379 of the Code of Canon Law<sup>24</sup>, and in can. 1443 of the Code of Canons of the Eastern Churches<sup>25</sup>;

<sup>14</sup> *Codex Iuris Canonici*, can. 1379 - Qui, praeter casus de quibus in can. 1378, sacramentum se administrare simulat, iusta poena puniatur.

<sup>15</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1443 - Qui Divinae Liturgiae vel aliorum sacramentorum celebrationem simulavit, congrua poena puniatur non exclusa excommunicatione maiore.

<sup>16</sup> *Codex Iuris Canonici*, can. 908 - Sacerdotibus catholicis vetitum est una cum sacerdotibus vel ministris Ecclesiarum communitatumve ecclesialium plenam communionem cum Ecclesia catholica non habentium, Eucharistiam concelebrare.

<sup>17</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 702 - Sacerdotes catholici vetiti sunt una cum sacerdotibus vel ministris acatholicis Divinam Liturgiam concelebrare.

<sup>18</sup> *Codex Iuris Canonici*, can. 1365 - Reus vetitae communicationis in sacris iusta poena puniatur.

<sup>19</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1440 - Qui normas iuris de communicatione in sacris violat, congrua poena puniri potest.

<sup>20</sup> *Codex Iuris Canonici*, can. 927 - Nefas est, urgente etiam extrema necessitate, alteram materiam sine altera, aut etiam utramque extra eucharisticam celebrationem, consecrare.

<sup>21</sup> *Codex Iuris Canonici*, can. 1378 - § 1. Sacerdos qui contra praescriptum can. 977 agit, in excommunicationem latae sententiae Sedi Apostolicae reservatam incurrit.

<sup>22</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1457 - Sacerdos, qui complicem in peccato contra castitatem absolvit, excommunicatione maiore puniatur firmo can. 728 § 1, n. 2.

<sup>23</sup> *Codex Iuris Canonici*, can. 1378 - § 2. In poenam latae sententiae interdicti vel, si sit clericus, suspensionis incurrit: ... 2° qui, praeter casum de quo in § 1, cum sacramentalem absolutionem dare valide nequeat, eam impertire attentat, vel sacramentalem confessionem audit.

4° the solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, as mentioned in can. 1387 of the Code of Canon Law<sup>26</sup>, and in can. 1458 of the Code of Canons of the Eastern Churches<sup>27</sup>, if it is directed to sinning with the confessor himself;

5° the direct and indirect violation of the sacramental seal, mentioned in can. 1388 § 1 of the Code of Canon Law<sup>28</sup>, and in can. 1456 § 1 of the Code of Canons of the Eastern Churches<sup>29</sup>;

§ 2. With due regard for § 1, n. 5, also reserved to the Congregation for the Doctrine of the Faith is the more grave delict which consists in the recording, by whatever technical means, or in the malicious diffusion through communications media, of what is said in sacramental confession, whether true or false, by the confessor or the penitent. Anyone who commits such a delict is to be punished according to the gravity of the crime, not excluding, if he be a cleric, dismissal or deposition<sup>30</sup>.

#### Art. 5

The more grave delict of the attempted sacred ordination of a woman is also reserved to the Congregation for the Doctrine of the Faith:

1° With due regard for can. 1378 of the Code of Canon Law, both the one who attempts to confer sacred ordination on a woman, and she who attempts to receive sacred ordination, incurs a *latae sententiae* excommunication reserved to the Apostolic See.

2° If the one attempting to confer sacred ordination, or the woman who attempts to receive sacred ordination, is a member of the Christian faithful subject to the Code of Canons of the Eastern Churches, with due regard for can. 1443 of that Code, he or she is to be punished by major excommunication reserved to the Apostolic See.

3° If the guilty party is a cleric he may be punished by dismissal or deposition<sup>31</sup>.

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<sup>24</sup> *Codex Iuris Canonici*, can. 1379 - Qui, praeter casus de quibus in can. 1378, sacramentum se administrare simulat, iusta poena puniatur.

<sup>25</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1443 - Qui Divinae Liturgiae vel aliorum sacramentorum celebrationem simulavit, congrua poena puniatur non exclusa excommunicatione maiore.

<sup>26</sup> *Codex Iuris Canonici*, can. 1387 - Sacerdos, qui in actu vel occasione vel praetextu confessionis paenitentem ad peccatum contra sextum Decalogi praeceptum sollicitat, pro delicti gravitate, suspensione, prohibitionibus, privationibus puniatur, et in casibus gravioribus dimittatur e statu clericali.

<sup>27</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1458 - Sacerdos, qui in actu vel occasione vel praetextu confessionis paenitentem ad peccatum contra castitatem sollicitavit, congrua poena puniatur non exclusa depositione.

<sup>28</sup> *Codex Iuris Canonici*, can. 1388 - § 1. Confessarius, qui sacramentale sigillum directe violat, in excommunicationem latae sententiae Sedi Apostolicae reservatam incurrit; qui vero indirecte tantum, pro delicti gravitate puniatur.

<sup>29</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1456 - § 1. Confessarius, qui sacramentale sigillum directe violavit, excommunicatione maiore puniatur firmo can. 728, § 1, n. 1; si vero alio modo hoc sigillum fregit, congrua poena puniatur.

<sup>30</sup> CONGREGATIO PRO DOCTRINA FIDEI, Decretum de sacramenti Paenitentiae dignitate tuenda, 23 septembris 1988, in AAS 80 (1988) 1367.

<sup>31</sup> CONGREGATIO PRO DOCTRINA FIDEI, Decretum generale de delicto attentatae sacrae ordinationis mulieris, 19 decembris 2007, in AAS 100 (2008) 403.



## Art. 6

§ 1. The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith are:

1° the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

2° the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology;

§ 2. A cleric who commits the delicts mentioned above in § 1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.

## Art. 7

§ 1. A criminal action for delicts reserved to the Congregation for the Doctrine of the Faith is extinguished by prescription after twenty years, with due regard to the right of the Congregation for the Doctrine of the Faith to derogate from prescription in individual cases.

§ 2. Prescription runs according to the norm of can. 1362 § 2 of the Code of Canon Law<sup>32</sup>, and can. 1152 § 3 of the Code of Canons of the Eastern Churches<sup>33</sup>. However, in the delict mentioned in art. 6 §1 n. 1, prescription begins to run from the day on which a minor completes his eighteenth year of age.

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<sup>32</sup> *Codex Iuris Canonici*, can. 1362 - § 2. Praescriptio decurrit ex die quo delictum patratum est, vel, si delictum sit permanens vel habituale, ex die quo cessavit.

<sup>33</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1152 - § 3. Praescriptio decurrit ex die, quo delictum patratum est, vel, si delictum est permanens vel habituale, ex die, quo cessavit.

## PART TWO

### PROCEDURAL NORMS

#### Title I

#### The Constitution and Competence of the Tribunal

##### Art. 8

§ 1. The Congregation for the Doctrine of the Faith is the Supreme Apostolic Tribunal for the Latin Church as well as the Eastern Catholic Churches, for the judgment of the delicts defined in the preceding articles.

§ 2. This Supreme Tribunal also judges other delicts of which a defendant is accused by the Promotor of Justice, by reason of connection of person and complicity.

§ 3. The sentences of this Supreme Tribunal, rendered within the limits of its proper competence, do not need to be submitted for the approval of the Supreme Pontiff.

##### Art. 9

§ 1. The Members of the Congregation for the Doctrine of the Faith are *ipso iure* the judges of this Supreme Tribunal.

§ 2. The Prefect of the Congregation presides as first among equals over the college of the Members, and if the office of Prefect is vacant or if the Prefect himself is impeded, the Secretary of the Congregation carries out his duties.

§ 3. It is the responsibility of the Prefect of the Congregation to nominate additional stable or deputed judges.

##### Art. 10

It is necessary that such appointed judges be priests, of mature age, possessing a doctorate in canon law, outstanding in good morals, prudence and expertise in the law. Such priests may at the same time exercise a judicial or consultative function before another Dicastery of the Roman Curia.

##### Art. 11

To present and sustain an accusation a Promotor of Justice is to be appointed, who is to be a priest, possessing a doctorate in canon law, outstanding in good morals, prudence, and expertise in the law. He is to carry out his office in all grades of judgment.

## Art. 12

For the functions of Notary and Chancellor, priests are appointed, whether or not they are officials of this Congregation.

## Art. 13

The role of Advocate or Procurator is carried out by a priest possessing a doctorate in canon law. He is to be approved by the presiding judge of the college.

## Art. 14

Indeed, in the other tribunals dealing with cases under these norms, only priests can validly carry out the functions of Judge, Promotor of Justice, Notary, and Patron [Procurator and Advocate].

## Art 15

With regard to the provisions of can. 1421 of the Code of Canon Law<sup>34</sup>, and can. 1087 of the Code of Canons of the Eastern Churches<sup>35</sup>, the Congregation for the Doctrine of the Faith may dispense from the requirements of the priesthood and of a doctorate in Canon Law.

## Art. 16

Whenever the Ordinary or Hierarch receives a report of a more grave delict, which has at least the semblance of truth, once the preliminary investigation has been completed, he is to communicate the matter to the Congregation for the Doctrine of the Faith which, unless it calls the case to itself due to particular circumstances, will direct the Ordinary or Hierarch how to proceed further, with due regard, however, for the right to appeal, if the case warrents, against a sentence of the first instance only to the Supreme Tribunal of this same Congregation.

## Art. 17

If a case is referred directly to the Congregation without a preliminary investigation having been undertaken, the steps preliminary to the process, which fall by common law to the Ordinary or Hierarch, may be carried out by the Congregation itself.

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<sup>34</sup> *Codex Iuris Canonici*, can. 1421 - § 1. In dioecesi constituentur ab Episcopo iudices dioecesani, qui sint clerici.  
 § 2. Episcoporum conferentia permittere potest ut etiam laici iudices constituentur, e quibus, suadente necessitate, unus assumi potest ad collegium efformandum.

§ 3. Iudices sint integrae famae et in iure canonico doctores vel saltem licentiati.

<sup>35</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1087 - § 1. In eparchia nominentur ab Episcopo eparchiali iudices eparchiales, qui sint clerici.

§ 2. Patriarcha consulta Synodo permanenti vel Metropolitana, qui Ecclesiae metropolitanae sui iuris praeest, consultis duobus Episcopis eparchialibus ordinatione episcopali senioribus permittere potest, ut etiam alii christifideles iudices nominentur, ex quibus suadente necessitate unus assumi potest ad collegium efformandum; in ceteris casibus hac in re adeatur Sedes Apostolica.

§ 3. Iudices sint integrae famae, in iure canonico doctores vel saltem licentiati, prudentia et iustitiae zelo probati.

## Art. 18

With full respect for the right of defense, the Congregation for the Doctrine of the Faith may sanate acts in cases lawfully presented to it if merely procedural laws have been violated by lower Tribunals acting by mandate of the same Congregation or according to art. 16.

## Art. 19

With due regard for the right of the Ordinary to impose from the outset of the preliminary investigation those measures which are established in can. 1722 of the Code of Canon Law<sup>36</sup>, or in can. 1473 of the Code of Canons of the Eastern Churches<sup>37</sup>, the respective presiding judge may, at the request of the Promotor of Justice, exercise the same power under the same conditions determined in the canons themselves.

## Art. 20

The Supreme Tribunal of the Congregation for the Doctrine of the Faith judges in second instance:

1° cases adjudicated in first instance by lower tribunals;

2° cases decided by this same Supreme Apostolic Tribunal in first instance.

## Title II

### The Procedure to be followed in the Judicial Trial

## Art. 21

§ 1. The more grave delicts reserved to the Congregation for the Doctrine of the Faith are to be tried in a judicial process.

§ 2. However, the Congregation for the Doctrine of the Faith may:

1° decide, in individual cases, *ex officio* or when requested by the Ordinary or Hierarch, to proceed by extrajudicial decree, as provided in can. 1720 of the Code of Canon Law<sup>38</sup> and can. 1486 of the Code

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<sup>36</sup> *Codex Iuris Canonici*, can. 1722 - Ad scandala praevenienda, ad testium libertatem protegendam et ad iustitiae cursum tutandum, potest Ordinarius, audito promotore iustitiae et citato ipso accusato, in quolibet processus stadio accusatum a sacro ministerio vel ab aliquo officio et munere ecclesiastico arcere, ei imponere vel interdicere commorationem in aliquo loco vel territorio, vel etiam publicam sanctissimae Eucharistiae participationem prohibere; quae omnia, causa cessante, sunt revocanda, eaque ipso iure finem habent, cessante processu poenali.

<sup>37</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1473 - Ad scandala praevenienda, ad testium libertatem protegendam et ad iustitiae cursum tuendum potest Hierarcha audito promotore iustitiae et citato ipso accusato in quolibet statu et grado iudicii poenalis accusatum ab exercitio ordinis sacri, officii, ministerii vel alterius muneris arcere, ei imponere vel prohibere commorationem in aliquo loco vel territorio, vel etiam publicam Divinae Eucharistiae susceptione prohibere; quae omnia causa cessante sunt revocanda et ipso iure finem habent cessante iudicio poenali.

<sup>38</sup> *Codex Iuris Canonici*, can. 1720 - Si Ordinarius censuerit per decretum extra iudicium esse procedendum:

of Canons of the Eastern Churches<sup>39</sup>. However, perpetual expiatory penalties may only be imposed by mandate of the Congregation for the Doctrine of the Faith.

2° present the most grave cases to the decision of the Roman Pontiff with regard to dismissal from the clerical state or deposition, together with dispensation from the law of celibacy, when it is manifestly evident that the delict was committed and after having given the guilty party the possibility of defending himself.

#### Art. 22

The Prefect is to constitute a turnus of three or five judges to try the case.

#### Art. 23

If in the appellate stage the Promotor of Justice brings forward a specifically different accusation, this Supreme Tribunal can admit it and judge it as if at first instance.

#### Art. 24

§ 1. In cases concerning the delicts mentioned of in art. 4 §1, the Tribunal cannot indicate the name of the accuser to either the accused or his patron unless the accuser has expressly consented.

§ 2. This same Tribunal must consider the particular importance of the question concerning the credibility of the accuser.

§ 3. Nevertheless, it must always be observed that any danger of violating the sacramental seal be altogether avoided.

#### Art 25

If an incidental question arises, the college is to decide the matter by decree most expeditiously [*expeditissime*, cf. cann. 1629, n.5° CIC; 1310, n. 5° CCEO].

1° reo accusationem atque probationes, data facultate sese defendendi, significet, nisi reus, rite vocatus, comparere neglexerit;

2° probationes et argumenta omnia cum duobus assessoribus accurate perpendat;

3° si de delicto certo constet neque actio criminalis sit extincta, decretum ferat ad normam cann. 1342-1350, expositis, breviter saltem, rationibus in iure et in facto.

<sup>39</sup> *Codex Canonum Ecclesiarum Orientalium*, can. 1486 - § 1. Ad validitatem decreti, quo poena irrogatur, requiritur, ut: 1° accusatus de accusatione atque probationibus certior fiat data sibi opportunitate ius ad sui defensionem plene exercendi, nisi ad normam iuris citatus comparere neglexit;

2° discussio oralis inter Hierarcham vel eius delegatum et accusatum habeatur praesentibus promotore iustitiae et notario;

3° in ipso decreto exponatur, quibus rationibus in facto et in iure punitio innitatur.

§ 2. Poenae autem, de quibus in can. 1426, § 1, sine hac procedura imponi possunt, dummodo de earum acceptatione ex parte rei scripto constet.

## Art. 26

§ 1. With due regard for the right to appeal to this Supreme Tribunal, once an instance has been finished in any manner before another tribunal, all of the acts of the case are to be transmitted *ex officio* to the Congregation for the Doctrine of the Faith as soon as possible.

§ 2 The right of the Promotor of Justice of the Congregation to challenge a sentence runs from the day on which the sentence of first instance is made known to this same Promotor.

## Art. 27

Recourse may be had against singular administrative acts which have been decreed or approved by the Congregation for the Doctrine of the Faith in cases of reserved delicts. Such recourse must be presented within the preemptory period of sixty canonical days to the Ordinary Session of the Congregation (the *Feria IV*) which will judge on the merits of the case and the lawfulness of the Decree. Any further recourse as mentioned in art. 123 of the Apostolic Constitution *Pastor bonus* is excluded<sup>40</sup>.

## Art. 28

*A res iudicata* occurs:

- 1° if a sentence has been rendered in second instance;
- 2° if an appeal against a sentence has not been proposed within a month;
- 3° if, in the appellate grade, the instance is abated or is renounced;
- 4° if the sentence has been rendered in accord with the norm of art.20.

## Art. 29

§ 1. Judicial expenses are to be paid as the sentence has determined.

§ 2. If the defendant is not able to pay the expenses, they are to be paid by the Ordinary or Hierarchy of the case.

## Art. 30

§ 1. Cases of this nature are subject to the pontifical secret.<sup>41</sup>

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<sup>40</sup> IOANNES PAULUS PP. II, Constitutio apostolica *Pastor bonus*, De Romana Curia, 28 iunii 1988, art. 52, in AAS 80 (1988) 891: «§ 1. Praeterea [*Supremum Tribunal Signaturae Apostolicae*] cognoscit de recursibus, intra terminum peremptorium triginta dierum utilium interpositis, adversus actus administrativos singulares sive a Dicasteriis Curiae Romanae latos sive ab ipsis probatos, quoties contendatur num actus impugnatus legem aliquam in decernendo vel in procedendo violaverit. § 2. In his casibus, praeter iudicium de illegitimitate, cognoscere etiam potest, si recurrens id postulet, de reparatione damnorum actu illegitimo illatorum. § 3. Cognoscit etiam de aliis controversiis administrativis, quae a Romano Pontifice vel a Romanae Curiae Dicasteriis ipsi deferantur necnon de conflictibus competentiae inter eadem Dicasteria».

<sup>41</sup> SECRETARIA STATUS, Rescriptum ex Audientia SS.mi *Il 4 febbraio*, quo Ordinatio generalis Romanae Curiae foras datur, 30 aprilis 1999, *Regolamento generale della Curia Romana*, 30 aprile 1999, art. 36 § 2, in AAS 91 (1999) 646: «Con particolare cura sarà osservato il segreto pontificio, a norma dell'Istruzione *Secreta continere* del 4 febbraio 1974».

§ 2. Whoever has violated the secret, whether deliberately (*ex dolo*) or through grave negligence, and has caused some harm to the accused or to the witnesses, is to be punished with an appropriate penalty by the higher turnus at the insistence of the injured party or even *ex officio*.

Art. 31

In these cases, together with the prescripts of these norms, by which all Tribunals of the Latin Church and Eastern Catholic Churches are bound, the canons concerning delicts and penalties as well as the canons concerning the penal process of each Code also must be applied.

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SECRETARIA STATUS SEU PAPALIS, Rescriptum ex Audientia, instructio *Secreta continere*, De secreto pontificio, 4 februarii 1974, in *AAS* 66 (1974) 89-92:

«Art. 1.- Secreto pontificio comprehenduntur: ...»

4) Denuntiationes extra iudicium acceptae circa delicta contra fidem et contra mores, et circa delicta contra Paenitentiae sacramentum patrata, nec non processus et decisio, quae ad hasce denuntiationes pertinent, salvo semper iure eius, qui ad auctoritatem delatus est, cognoscendae denuntiationis, si id necessarium ad propriam defensionem fuerit. Denuntiantis autem nomen tunc tantum patefieri licebit, cum auctoritati opportunum videatur ut denuntiatus et is, qui eum denuntiaverit, simul compareant; ...» (p. 90).

THE NORMS OF THE *MOTU PROPRIO*,  
*SACRAMENTORUM SANCTITATIS TUTELA* (2001)  
HISTORICAL INTRODUCTION

(Prepared by the Congregation  
for the Doctrine of the Faith)

The *Code of Canon Law* promulgated by Pope Benedict XV in 1917 recognized the existence of a number of canonical crimes or “delicts” reserved to the exclusive competence of the Sacred Congregation of the Holy Office which, as a tribunal, was governed by its own proper law (cfr. can. 1555 CIC 1917).

A few years after the promulgation of the 1917 Code, the Holy Office issued an Instruction, “*Crimen Sollicitationis*” (1922), which gave detailed instruction to local dioceses and tribunals on the procedures to be adopted when dealing with the canonical delict of solicitation. This most grave crime concerned the abuse of the sanctity and dignity of the Sacrament of Penance by a Catholic priest who solicited the penitent to sin against the sixth commandment, either with the confessor himself, or with a third party. The norms issued in 1922 were an update, in light of the Code of Canon Law of 1917, of the Apostolic Constitution “*Sacramentorum Poenitentiae*” promulgated by Pope Benedict XIV in 1741.

A number of concerns had to be addressed, underlining the specificity of the legislation (with implications which are less relevant from the perspective of civil penal law): the respect of the dignity of the sacrament, the inviolable seal of the confessional, the dignity of the penitent and the fact that in most cases the accused priest could not be interrogated fully on what occurred without putting the seal of confession in danger.

This special procedure was based, therefore, on an indirect method of achieving the moral certitude necessary for a definitive decision in the case. This indirect method included investigating the credibility of the person accusing the priest and the life and behaviour of the accused priest. The accusation itself was considered the most serious accusation one could bring against a Roman Catholic priest. Therefore, the procedure took care to ensure that a priest who could be a victim of a false or calumnious accusation would be protected from infamy until proven guilty. This was achieved through a strict code of confidentiality which was meant to protect all persons concerned from undue publicity until the definitive decision of the ecclesiastic tribunal.

The 1922 Instruction included a short section dedicated to another canonical delict: the “*crimen pessimum*” which dealt with same-sex clerical misconduct. This further section determined that the special procedures for solicitation cases should



be used for "*crimen pessimum*" cases, with those adaptations rendered necessary by the nature of the case. The norms concerning the "*crimen pessimum*" also extended to the heinous crime of sexual abuse of prepubescent children and to bestiality.

The Instruction "*Crimen sollicitationis*" was, therefore, never intended to represent the entirety of the policy of the Catholic Church regarding sexual improprieties on the part of the clergy. Rather, its sole purpose was to establish a procedure that responded to the singularly delicate situation that is a sacramental confession, in which the duty of complete confidentiality on the part of the priest corresponds, according to divine law, to the complete openness of the intimate life of the soul on the part of the penitent. Over time and only analogously, these norms were extended to some cases of immoral conduct of priests. The idea that there should be comprehensive legislation that treats the sexual conduct of persons entrusted with the educational responsibility is very recent; therefore, attempting to judge the canonical norms of the past century from this perspective is gravely anachronistic.

The 1922 Instruction was given as needed to bishops who had to deal with particular cases concerning solicitation, clerical homosexuality, sexual abuse of children and bestiality. In 1962, Blessed Pope John XXIII authorised a reprint of the 1922 Instruction, with a small section added regarding the administrative procedures to be used in those cases in which religious clerics were involved. Copies of the 1962 re-print were meant to be given to the Bishops gathering for the Second Vatican Council (1962-1965). A few copies of this re-print were handed out to bishops who, in the meantime, needed to process cases reserved to the Holy Office but, most of the copies were never distributed.

The reforms proposed by the Second Vatican Council required a reform of the 1917 Code of Canon Law and of the Roman Curia. The period between 1965 and 1983 (the year when the new Latin Code of Canon Law appeared) was marked by differing trends in canonical scholarship as to the scope of canonical penal law and the need for a de-centralized approach to cases with emphasis on the authority and discretion of the local bishops. A "pastoral attitude" to misconduct was preferred and canonical processes were thought by some to be anachronistic. A "therapeutic model" often prevailed in dealing with clerical misconduct. The bishop was expected to "heal" rather than "punish". An over-optimistic idea of the benefits of psychological therapy guided many decisions concerning diocesan or religious personnel, sometimes without adequate regard for the possibility of recidivism.

Cases concerning the dignity of the Sacrament of Penance remained with the Congregation for the Doctrine of the Faith (formerly the Holy Office; its name changed in 1965) after the Council, and the Instruction "*Crimen Sollicitationis*" was still used for such cases until the new norms established by the *motu proprio* "*Sacramentorum sanctitatis tutela*" in 2001.

A small number of cases concerning sexual misconduct of clergy with minors was referred to the Congregation for the Doctrine of the Faith after the Second Vatican Council. Some of these cases were linked with the abuse of the sacrament of Penance, while a number may have been referred as requests for dispensations from the obligations of priesthood, including celibacy (sometimes referred to as "laicization") which were dealt with by the Congregation for the Doctrine of the

Faith until 1989 (From 1989 to 2005 the competence in these dispensation cases was transferred to the Congregation for Sacraments and Divine Worship; from 2005 to the present the same cases have been treated by the Congregation for the Clergy).

The Code of Canon Law promulgated by Pope John Paul II in 1983 updated the whole discipline n can, 1395, § 2: “A cleric who in another way has committed an offense against the sixth commandment of the Decalogue, if the delict was committed by force or threats or publicly or with a minor below the age of sixteen years, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants”. According to the 1983 Code of Canon Law canonical trials are held in the dioceses. Appeals from judicial sentences may be presented to the Roman Rota, whereas administrative recourses against penal decrees are presented to the Congregation for the Clergy.

In 1994 the Holy See granted an indult to the Bishops of the United States: the age for the canonical crime of sexual abuse of a minor was raised to 18. At the same time, prescription (*canonical term for Statute of Limitations*) was extended to a period of 10 years from the 18<sup>th</sup> birthday of the victim. Bishops were reminded to conduct canonical trials in their dioceses. Appeals were to be heard by the Roman Rota. Administrative Recourses were heard by the Congregation for the Clergy. During this period (1994 - 2001) no reference was made to the previous competence of the Holy Office over such cases.

The 1994 Indult for the US was extended to Ireland in 1996. In the meantime the question of special procedures for sexual abuse cases was under discussion in the Roman Curia. Finally Pope John Paul II decided to include the sexual abuse of a minor under 18 by a cleric, among the new list of canonical delicts reserved to the Congregation for the Doctrine of the Faith. Prescription for these cases was of ten (10) years from the 18<sup>th</sup> birthday of the victim. This new law was promulgated in the *motu proprio* “*Sacramentorum sanctitatis tutela*” on 30 April 2001. A letter signed by Cardinal Joseph Ratzinger and Archbishop Tarcisio Bertone, respectively Prefect and Secretary of the Congregation for the Doctrine of the Faith, was sent to all the Roman Catholic Bishops on 18 May 2001. This letter informed the bishops of the new law and the new procedures which replaced the Instruction “*Crimen Sollicitationis*”.

The acts that constitute the most grave delicts reserved to the Congregation were specified in this letter, both those against morality and those committed in the celebration of the Sacraments. Also given were special procedural norms to be followed in cases concerning these grave delicts, including those norms regarding the determination and imposition of canonical sanctions.

The *delicta graviora* reserved to the Congregation for the Doctrine of the Faith were as follows:

Delicts against the sanctity of the Most Holy Sacrament and Sacrifice of the Eucharist:

1. Throwing away, taking or retaining the consecrated species for a sacrilegious purpose, or profaning the consecrated species (CIC can. 1367; CCEO can. 1442).
2. Attempting the liturgical action of the Eucharistic sacrifice or the simulation thereof (CIC can. 1378 § 2 n. 1, can. 1379; CCEO can. 1443).

3. Concelebrating the Eucharistic Sacrifice together with ministers of ecclesial communities which do not have Apostolic succession nor recognize the Sacramental dignity of priestly ordination (CIC can. 908, 1365; CCEO can. 792, 1440).
4. Consecrating one matter without the other in a Eucharistic celebration or both outside of a Eucharistic celebration (cf. CIC can. 927).

Delicts against the sanctity of the Sacrament of Penance:

1. Absolution of an accomplice in the sin against the sixth commandment of the Decalogue (CIC can. 1378 § 1; CCEO can. 1457).
2. Solicitation to sin with the confessor against the sixth commandment of the Decalogue, in the act of, context of or pretext of the Sacrament of Penance (CIC can. 1387; CCEO can. 1458).
3. Direct violation of the Sacramental seal (CIC can. 1388 § 1; CCEO can. 1456).

Delicts against morality:

1. The violation of the sixth commandment of the Decalogue, committed by a cleric with a minor under the age of 18.

The procedural norms to be followed in these cases were as follows:

- Whenever an Ordinary or Hierarch had at least probable knowledge (*notitiam saltem verisimilem habeat*) of the commission of one of the reserved grave delicts, after having carried out the preliminary investigation, he was to inform the Congregation for the Doctrine of the Faith which, unless it called the case to itself because of special circumstances, would indicate to the Ordinary or Hierarch how to proceed. The right of appeal against a sentence of the first instance was to be exercised only before the Supreme Tribunal of the Congregation.
- Criminal action in the cases reserved to the Congregation for the Doctrine of the Faith was extinguished by a prescription of ten years. It was also foreseen that prescription would be computed according to the norms of CIC can. 1362 § 2 and CCEO can. 1152 § 3, with the singular exception of the delict *contra sextum cum minore*, in which case prescription would begin to run from the day when the minor had completed his eighteenth year of age.
- In tribunals established by Ordinaries of Hierarchs, for the cases of the more grave delicts reserved to the Congregation for the Doctrine of the Faith, the functions of judge, promoter of justice, notary and legal representative could be validly performed only by priests. Furthermore, upon completion of the trial in the tribunal in any manner, the acts of the case were to be transmitted *ex officio*, as soon as possible, to the Congregation.

It was also established that all of the tribunals of the Latin Church and of all Eastern Catholic Churches were to observe the canons on delicts, penalties and the

penal process of both Codes respectively. These were to be followed together with the special norms given by the Congregation for the Doctrine of the Faith.

Nine years after the promulgation of the *motu proprio Sacramentorum sanctitatis tutela*, the Congregation for the Doctrine of the Faith felt it necessary to propose certain changes to these norms, not modifying the text in its entirety, but rather only in a few areas, in an effort to improve the application of the law.

After a serious and attentive study of the proposed changes, the Cardinals and Bishops Members of the Congregation for the Doctrine of the Faith presented the results of their decisions to the Supreme Pontiff and, on 21 May 2010, Pope Benedict XVI gave his approval and ordered the promulgation of the revised text.

The text of the Norms on *delicta graviora* currently in force is the text approved by the Holy Father Benedict XVI on 21 May 2010.