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Regional Prelature Safeguarding Policy for North West Europe

This Safeguarding Policy for the investigation of allegations of abuse of minors or vulnerable adults in the activities of the Prelature of Opus Dei applies to the countries in the Region of North West Europe.

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ABBREVIATIONS

PSG – Prelature Safeguarding Guidelines

RSP – Regional Safeguarding Policy

LSP – Local Safeguarding Policy for each civil jurisdiction of the Region, combining the PSG and RSP with local civil and ecclesiastical safeguarding legislation and guidance

Prelature – Prelature of the Holy Cross and Opus Dei

Statuta – Statutes of the Prelature

Faithful (of the Prelature) – The clergy incardinated in it and the lay people incorporated in it. (cf. *Statuta*, No. 1 §1, §2; No. 6; No. 125 §3)

Region – Region of North-West Europe of the Prelature

Vicar – Regional Vicar for North-West Europe

Coordinator – Regional Safeguarding Coordinator for the protection of minors and vulnerable persons or an Assistant Coordinator acting as his or her deputy in a particular case

Investigator – Person appointed by the Vicar to conduct a preliminary investigation

VELM – Motu Proprio *Vos estis lux mundi*

CIC – *Codex Iuris Canonici* [Code of Canon Law], 1983, as amended by the

Apostolic Constitution *Pascite gregem Dei,* May 23, 2021

SST – Motu Proprio *Sacramentorum sanctitatis tutela*, April 30, 2001, amended May 21, 2010, and further revised on 7 December 2021 with the *Norms on the Delicts Reserved to the Congregation (now, Dicastery) for the Doctrine of the Faith*

Notitia [de delicto] – Can. 1717 §1 CIC – "*information, which has at least the semblance of truth, about an offence*" received by the Ordinary

DDF – Dicastery [formerly, Congregation] for the Doctrine of the Faith

Vademecum – DDF, *Vademecum on certain points of procedure in treating cases of sexual abuse of minors committed by clerics*, ver. 2.0, 5th June 2022

PREAMBLE

Article 1

(1) The Catholic Church, and the Prelature of the Holy Cross and Opus Dei as a jurisdictional entity within the Church, consider every form of abuse against minors to be a grave offence to God, because it defiles his image in those who are most vulnerable, his beloved ones, and wounds them with consequences which are very difficult to heal, thus lamentably contradicting central aspects of the faith and of Christian life. Crimes of this kind are particularly reprehensible when perpetrated by those who have committed themselves to helping others to follow Jesus Christ and his teachings, who should therefore faithfully witness to God's loving care for his little ones.

For these reasons, the Church strives to safeguard against any such behaviour and if, in spite of everything, it should occur, to respond to it rigorously, both with penal sanctions and with other pastoral measures. In fact, “the effective protection of minors and a commitment to ensure their human and spiritual development, in keeping with the dignity of the human person, are integral parts of the Gospel message that the Church and all members of the faithful are called to spread throughout the world” (*Chirograph for the institution of the Pontifical Commission for the Protection of Minors*, of 22 March 2014).

(2) The North-West Europe region of the Prelature of Opus Dei (hereinafter, “the Region”), under the jurisdiction of a Regional Vicar, was established by Decree of the Prelate on 10th April 2022. The constituent

parts of the new region had previously adopted Safeguarding Policies, following the guidelines of the Dicastery for the Doctrine of the Faith given in the Circular Letter of 3 May 2011, which established that Bishops and other Ordinaries must have clear and coordinated procedures for dealing with complaints and other reports of sexual abuse of minors attributed to clerics.

A. In accordance with the Motu Proprio "*Vos estis lux mundi*" (hereinafter, "VELM"), the Prelate of Opus Dei issued revised directives on 22 February 2020 (hereinafter, "Prelature Safeguarding Guidelines" or "PSG") against every form of abuse of minors and vulnerable persons, applying to the whole of the Prelature the general principles of safeguarding laid down by Pope Francis for the Vatican City in the Guidelines of 26 March 2019.

B. In fulfilment of the mandate given to him in the Prelature Safeguarding Guidelines, the Regional Vicar for North-West Europe issued the present “Regional Safeguarding Policy” (or “RSP”) on 12th September 2022, which applies and elaborates the general policy, especially in regard to procedural matters, in accordance with the circumstances of the Region.

C. This RSP is supplemented for each of the several constituent areas of the Region by a “Local Safeguarding Policy” (or “LSP”), to address wider aspects of safeguarding practice in accordance with the local requirements of civil legislation, public policy and the guidance issued from time to time on behalf of the various Episcopal Conferences in each part of the Region.

TITLE I – NATURE AND SCOPE OF THE REGIONAL POLICY

Article 2

The scope of this Regional Policy encompasses any complaint or other report (hereinafter, "*notitia*" or "*notitia de delicto*" – cf. Can. 1717 §1 CIC) about the possible abuse or mistreatment of minors or vulnerable persons (cf. PSG Art. 3), the investigation of which is within the competence of the Regional Vicar, inasmuch as the abuse or mistreatment is attributed to persons, whether clergy or laity, who – at the time a *notitia* is received – are under his jurisdiction as faithful of the Region.

In this Policy, unless the context excludes it, vulnerable persons are to be taken as equivalent to minors, even if they are not expressly mentioned

(1) Without prejudice to RSP Art. 6, the scope of this Policy as regards lay faithful of the Region is limited to circumstances in which a *notitia* concerns actions taken by a lay person engaged in an apostolic activity of the Region – in which they give Christian formation or spiritual direction – under the authority of the Regional Vicar.

(2) In the case of a possible offence committed by a priest or deacon of the Region while engaged in a task entrusted to him by a diocesan authority, the Regional Vicar shall act in close coordination with that authority.

Article 3

If a *notitia* is received which concerns the actions – while engaged in an apostolic activity or in Christian formation entrusted to, or promoted by, the Region –

(1) of sacred ministers not incardinated in the Prelature or of members of institutes of consecrated life, the Regional Vicar shall act in accordance with RSP Art. 31 and Art. 33.

(2) of lay persons who are not under his jurisdiction as faithful of the Region, the Regional Vicar or the Safeguarding Coordinator shall act in accordance with RSP Art. 31.

Article 4

The terms "abuse" or "abuse or mistreatment" used in this Policy refer not just to sexual abuse but include all the forms of misconduct covered by the Prelature Safeguarding Guidelines (hereinafter, “PSG”).

(1) Sexual abuse in this Policy means any of the offences against the sixth commandment of the Decalogue

described inCan. 1398 CIC (cf. Pope Francis, Apost. Const. *Pascite gregem Dei*, 23rd May 2021).

(2) “Minor” means any person under the age of eighteen years. A person with a habitually imperfect use of reason is considered equivalent to a minor (cf. SST, Article 6, 1°).

(3) For the purposes of this Policy, “vulnerable person” means any adult in a state of illness, of physical or psychological deficiency or deprivation of personal liberty, which in fact limits his or her ability, albeit occasionally, to understand, or to will, or in any case to resist, an offence (cf. VELM Art. 1 §2, a-b).

Article 5

Upon receipt of a *notitia* concerning abuses possibly committed by lay persons – whether or not they are faithful of the Region – who are

employees or volunteers with institutions or projects whose Christian orientation is the responsibility of the Region, but who do not work in positions or exercise functions assigned to them by the authorities of the Region in accordance with agreements between the latter and the institution or project concerned, the Vicar shall act in accordance with Art. 31 RSP and shall promptly communicate the information to the relevant entity, to be acted upon in accordance with its own safeguarding Policy.

Article 6

If a lay person of the Region is subject to an allegation of abuse, whether in the foregoing circumstances (cf. Art. 5RSP), or in the course of other professional or personal activities, the facts will be investigated to the extent necessary to allow any appropriate disciplinary

or other decisions to be taken with regard to the person in question.

Article 7

On receipt of a *notitia* of a particularly serious transgression of divine or ecclesiastical law, which is not classified as a specific delict in canon law, but when there is a grave need to prevent or repair harm, the Regional Vicar may issue a precept in accordance with Can. 1319 CIC requiring any faithful of the Region to cease the offending conduct and imposing a determined penalty which they will incur – even *latae sententiae* when necessary – if they do not obey. If he considers that a preventive measure of this nature would be ineffective or belated, he can undertake a preliminary investigation in accordance with this Policy (cf. RSP TITLE V), and, as may be appropriate in the case, a subsequent penal process or

procedure leading to the punishment of a verified transgression with a just penalty in accordance with Can. 1399 CIC.

TITLE II – CHURCH AUTHORITY AND AUXILIARY BODIES

Chapter 1 — Competent Church Authority

Article 8

The Church authority responsible for the canonical investigations provided for in this Policy is the Regional Vicar (hereinafter, “the Vicar”) in his capacity as Ordinary of this Region of the Prelature (cf. *Statuta,* No. 151 §1).

Article 9

Although other persons may assist in the canonical investigation, in

accordance with this Policy, and give their opinion, they cannot substitute the canonical evaluation by the Vicar (*votum*) of the results of the preliminary investigation.

Article 10

In accordance with VELM Art. 2 §3, the Ordinary of the Region who receives a *notitia* of the possible commission by a cleric of the Prelature of a crime encompassed by this Policy, shall transmit the *notitia* without delay to the Ordinary of the place where the events are said to have occurred and will agree with him on how to proceed in the case.

Article 11

Crimes of sexual abuse committed by clerics are reserved to the Dicastery for the Doctrine of the Faith (cf. SST, Article 6). Therefore, once a preliminary investigation has been

carried out, the proceedings must be referred to the DDF even if it has been decided to suspend or dismiss the complaint.

Chapter 2 — Advisory Committee

Article 12

An Advisory Committee shall be appointed, as a consultative body to the Vicar, in whatever concerns the preliminary investigation of *notitiae de delicto* in which faithful of the Region are implicated. The competences of this Committee shall be:

(1) To review and propose updates to this Policy.

(2) Subject to the requirements of civil law, to advise the Vicar on the evaluation of *notitiae de delicto* when there are doubts about their

plausibility, and on the appropriateness in each case of applying some of the provisional measures foreseen in RSP Art. 35 §4.

(3) To offer an opinion in specific cases, if the Vicar – while safeguarding privacy and maintaining a due reserve about identities and non-essential details – so requests, on possible forms of assistance, on pastoral and professional guidance of the persons concerned (including the victim and the person accused or under investigation), on ways of providing such persons with medical and social assistance, on making them aware of their rights and how to exercise them, on facilitating their recourse to the appropriate authorities, and on protecting their reputation and privacy, etc., always taking into account the opinion and needs of the persons concerned. The members of the Advisory Committee are strictly

bound to observe confidentiality of office and to safeguard any information they receive about the case, without prejudice to RSP Art. 31, to ensure its security, integrity and privacy in accordance with the prescriptions of Can. 471, 2° CIC and with the relevant civil legislation.

(4) To advise the Vicar, or the person carrying out the preliminary investigation (hereinafter the "Investigator") – when he or she considers it necessary – on questions within their competence that might arise during the proceedings. In such cases, consultations will be made without revealing identities or disclosing personal details which are not strictly necessary.

(5) To immediately inform the Regional Safeguarding Coordinator or his deputy (cf. RSP Art. 14) about any *notitiae de delicto* which the Advisory Committee might receive

concerning possible abuses in which the faithful of the Region may be implicated.

Article 13

The Advisory Committee shall be composed of at least five members. They must be people of exemplary conduct and sound judgement. The majority will be lay faithful, men and women. The chairperson of the Committee will be a priest of the Prelature with several years of pastoral experience and sound judgement. At least one member should have experience in dealing with the abuse or mistreatment of minors.

(1) As far as possible, among the Committee members there should be professionals of the following disciplines: canon law (cf. RSP Art. 50 and Can. 1718 §3 CIC), criminal or

civil law, psychology, moral theology, or ethics.

(2) The Vicar shall appoint the members of the Committee for a term of five years, which may be renewed. There is no objection to his asking a member of his Regional Councils to attend the meetings of the Advisory Committee.

(3) The Committee shall meet as often as necessary to fulfil its functions in accordance with a programme established by the chairperson, and in any case whenever the Vicar convenes it.

Chapter 3 — Regional Safeguarding Coordinator

Article 14

In accordance with PSG Art. 8 – which implements VELM Art. 2 §1 – the Vicar shall appoint a Regional

Safeguarding Coordinator for the protection of minors (hereinafter, “Coordinator”) who will have responsibility for receiving *notitiae de delicto* and for the tasks outlined in PSG Art. 8 (cf. RSP Art. 17).

The Coordinator may be a member of the Advisory Committee, but this is not essential. In any case, the person appointed must have been in the Prelature for at least for 10 years and be outstanding in the qualities of upright Christian living, prudence, empathy, doctrine, and the other characteristics mentioned in the PSG (cf. PSG Art. 9). It is also advisable that the Coordinator have a knowledge of psychology.

The Vicar shall also appoint an Assistant Coordinator or Coordinators, endowed with similar qualities, who will assist or deputise the Regional Safeguarding Coordinator in the foregoing tasks,

whether in particular areas of the Region or generally, and "Coordinator" will be understood to include an Assistant Coordinator acting as a deputy in a particular case.

Article 15

The Coordinator should receive any *notitia de delicto* with respect, understanding and compassion; should be a skilled listener, receptive to the needs of those who present them, and should act with tact and sensitivity.

Article 16

To make recourse to the Coordinator or a local Assistant Coordinator easily accessible, telephone numbers and e-mail addresses where they may be contacted quickly should be clearly visible on the website of the Region. This same information

should be available in each Centre of the Region. The Regional website will also facilitate anyone who wishes to submit a report online or to update it whenever necessary.

Article 17

In accordance with PSG Art. 8, the Coordinator shall have the following specific functions and duties:

(1) To receive every kind of *notitia* – whether directly from persons affected or from third parties – related to conduct to which the RSP applies. Receipt of every such report will be acknowledged to the complainant and – if different from the complainant – also to the offended person.

(2) To provide initial assistance to victims, with attentive personal support.

(3) To inform the complainant and, where appropriate, the offended person about the procedural steps, whether in canon or in civil law.

(4) In particular, to explain to them in advance, where such is the case, that the civil law or the norms of the Church oblige the Coordinator to inform the civil authorities about the accusation which they wish to share with him (cf. RSP Art. 31).

(5) Without interfering with investigations being carried out in any civil proceedings (cf. RSP Art. 31 §2 A), to gather whatever data may be necessary for the purpose of identifying the person accused and the possible victims, as well as any subsequent data relating to the facts asserted and the persons affected.

(6) In the case of an oral complaint or report to draw up a record of everything that has been affirmed and to read it to those making the

report so that, if they agree, they can either sign it or indicate what corrections might be necessary before doing so (cf. RSP Art. 27). If they agree with the written statement but do not wish to sign it, the Coordinator should make a note of this and of the steps taken, for which purpose – at the stage when a file has to be assembled for a preliminary investigation (cf. RSP Art. 32) – the presence of a canonical notary will be required.

(7) To send to the Regional Vicar, promptly and with discretion, an authenticated statement of the complaint and of the steps taken, making a written note of having sent it and of the date of same, and notifying the complainant to this effect.

(8) To safeguard and communicate information concerning the case in such a way as to ensure its security,

integrity and confidentiality in accordance with the prescriptions of Can. 471, 2° CIC, in order to safeguard the reputation, esteem and privacy of everyone involved so far as possible, without prejudice to the obligations laid down by civil law (including any reporting obligations and complying with legitimate requests of civil authorities).

(9) To inform the Regional Vicar periodically of the work carried out.

Article 18

The Coordinator will also have the responsibility to facilitate meetings of affected persons with the Vicar – or in the context of a preliminary investigation, with the Investigator – in any case in which this seems appropriate, to discuss whatever pastoral or medical care the person concerned might need.

Article 19

When he sends an account of a *notitia* to the Vicar, the Coordinator shall include a brief report in which, in addition to his views on any aspects of the matter on which he may consider it appropriate to comment, he shall propose possible measures of accompaniment or pastoral and psychological help to the informants or complainants and other persons affected.

Article 20

The Coordinator shall not retain the documents of a *notitia,* once his civil reporting and other responsibilities have been discharged and his function of gathering and forwarding them to the Vicar has been fulfilled. Without prejudice to his duty to follow the appropriate procedures, the Vicar is to archive and safeguard such documents as stipulated by the

canonical norms (cf. Can. 489 to Can. 490 CIC).

Article 21

The Coordinator and his Assistants shall work with the Vicar on the management, coordination and auditing of compliance with the safeguarding standards and procedures established in the Local Safeguarding Policies. They shall also foster the provision of training and awareness programmes in the various parts of the Region on the safeguarding of minors and vulnerable persons in accordance with these policies.

TITLE III – VALUES TO BE SAFEGUARDED

Article 22

In receiving and investigating complaints, the rights and values

affected must be safeguarded by carefully applying the relevant civil and canonical regulations and guidance.

(1) As regards those who may have suffered harm:

A. They should be protected and helped so far as possible to find support and healing.

B. They should be offered spiritual and psychological assistance.

C. Any person who makes a complaint or reports a concern must be heard and treated with full respect (see RSP Art. 15). In cases of possible sexual abuse involving a crime against the dignity of the sacrament of Reconciliation (cf. SST, Article 4), complainants must be informed that their names will not be communicated to the accused or his advocate unless they have

expressly given their consent (cf. SST, Article 4 §2).

(2) As regards a person accused or under investigation:

A. Any unnecessary action or procedure that might subsequently prejudice a respondent's fundamental right to defend themselves shall be avoided (cf. RSP Art. 37).

B. Throughout the investigative and any subsequent juridical process, an accused cleric should always be assured of a just and fitting means of sustenance.

C. A cleric shall not be readmitted to the public exercise of his ministry if this would endanger minors or where there is a risk of scandal to the community (cf. RSP Art. 52).

TITLE IV – PROCEDURE FOR RAISING & RECEIVING CONCERNS

Chapter 1 — Procedure for raising and receiving concerns or complaints

Article 23

Any faithful of the Region who has knowledge of a ‘delict’ (cf. RSP Art. 4 and VELM Art. 1) committed by another faithful of the Region, or who has reasonable cause to suspect the existence of such conduct, must promptly inform the Coordinator – or one of the Ordinaries indicated in VELM Art. 3 §1 – with as many particulars as possible. This obligation is without prejudice to the seal of the sacrament of Reconciliation, the applicable civil reporting obligations (cf. VELM Art.

19), or the matters covered by Can. 1548 §2 CIC (cf. VELM Art. 3 §1).

Article 24

The Coordinator shall promptly interview persons who wish to make a complaint or report – if possible, within twenty-four hours of hearing from them – and shall assure them that he or she will transmit the content of the interview to the Vicar as soon as possible.

Article 25

The Coordinator will also interview the parents or representatives of the person offended, if they are not the ones who have made the complaint or report in question (cf. RSP Art. 24).

Article 26

If the complainant (cf. RSP Art. 24) is not the alleged victim, the

Coordinator may also interview the victim. He or she should first discern the appropriateness of such an interview and obtain the consent of the minor's parents or guardians. They or persons mandated by them shall be present in the interview. These precautions are not needed when, because of the time elapsed since the alleged abuse, the victim is no longer a minor.

Article 27

The Coordinator will ask people who make complaints or raise concerns to send a written report. He or she will make the same request to the parents or guardians of the alleged victim – unless the latter is no longer a minor – and will provide them with a copy of the template in RSP APPENDIX IV as an aid to writing the report. If, having regard to the age or level of education of the person making the allegation, he or she foresees that it

would not be easy for that person to do so, the Coordinator may undertake to write it. He or she will then read it to the person concerned to see that it accurately records what they have said and ask them to sign it. The Coordinator will also sign it.

Article 28

The Coordinator shall carefully maintain a register or log of all conversations with alleged victims, their parents or guardians and any other persons making reports or providing information, as well as of the written records of those conversations.

In doing so, and in general when dealing with the data of persons involved in any kind of *notitia*, the Coordinator shall maintain the appropriate reserve and comply with the data protection legislation in force (cf. Can. 471, 2° CIC; VELM Art.

2 §2). Once his function has been fulfilled in the case, the Coordinator will deal with this documentation in accordance with the provisions of RSP Art. 20.

Article 29

If anonymous complaints or reports are received, the Coordinator shall inform the Vicar, so that the latter, by means of a reasoned decree, may decide whether or not to take them into consideration.

Article 30

Upon receiving complaints or other plausible *notitiae* (cf. RSP Art. 4) of recent abuse or misconduct by faithful of the Region, the Coordinator, in agreement with the Vicar, shall promptly initiate contact with the parents or guardians of the person who may have been harmed and will coordinate the immediate

pastoral care of the victim and his or her family. In agreement with the Vicar, the Coordinator will also advise them about the possibility of receiving psychological assistance.

Chapter 2 — Reporting to Civil Authorities

Article 31

(1) In conformity with the applicable civil and canon law (cf. RSP Art. 23), every plausible allegation or other report of the possible sexual abuse of a minor should be reported to the civil authorities as soon as possible, unless it be considered manifestly unfounded in accordance with RSP Art. 34.

A. Consequently, upon receiving a *notitia* of conduct that is considered a possible offence under civil law:

i) Where the laws of the State or the indications of the episcopal conference so require, the Coordinator shall always ensure that the civil authorities are informed about the allegation or information received and will cooperate with them to safeguard the victim and any other persons who may be affected.

ii) The Coordinator should inform the alleged victim or his or her representatives of the legal context and encourage them to report the facts to the civil authorities.

iii) If the *notitia* is not a formal complaint, but a concern or suspicion raised by a third party, he or she will also be advised to bring it to the attention of the civil authorities. However, efforts should be made to interview the alleged victim or his or her representatives as soon as possible and to suggest

that they act in accordance with sub-paragraph 2° above.

iv) If the facts occurred some years in the past and the alleged victim has attained the age of majority when the facts are known, the decision to report the matter to the civil authorities should preferably be made by or on behalf of the victim.

v) If the victim, his or her representatives and any other qualified informants all refuse to bring a complaint or otherwise to inform the civil authorities, then taking into account the plausibility of the report, the rights of the parties affected and all the circumstances of the case – and even in cases in which there is no explicit legal obligation to do so– the Coordinator should make a report to the competent civil authorities if he or she considers it necessary to protect the victim or other minors or vulnerable persons

from the danger of further criminal acts (cf. Vademecum, Article 17).

B. The civil authorities shall always be given whatever cooperation by the Region they might reasonably require, and which may legitimately be offered to them, in the interest of safeguarding the victim and other minors.

(2) Independently of the outcome of any police investigation or, where applicable, the judgement in any civil judicial process, the Region – as a jurisdiction within the Church – has the responsibility in an appropriate case to open a preliminary investigation in accordance with Can. 1717 CIC.

A. If, on receiving a *notitia* (cf. RSP Art. 23), the Vicar becomes aware that the competent civil authorities are conducting an investigation or prosecution on the same or related facts, he should postpone the

opening of the preliminary investigation (cf. RSP TITLE V) where the relevant civil norms so require (cf. Vademecum, Article 26).

B. The canonical process must be conducted autonomously and reach its own conclusions in accordance with the applicable canon law, regardless of what may be decided in any civil proceedings.

C. Care must be taken to act always with justice, compassion and charity, and an effort should be made to prevent or remedy scandal and to avoid endangering unnecessarily anyone's good name (cf. Can. 1717 §2 CIC).

TITLE V – THE PRELIMINARY INVESTIGATION

Chapter 1 — Opening a Preliminary Investigation

Article 32

When the Coordinator receives a report or information covered by this Policy, he or she will immediately inform the Vicar and provide him with the written report or reports of any interviews he or she has had with the complainant or informant and the alleged victim or the alleged victim's parents or guardians. The Coordinator may make such recommendations as he or she deems appropriate on the basis of the impressions gained from these preliminary conversations (see RSP Art. 19).

Article 33

If the complaint or information refers to persons mentioned in RSP Art. 3 §1, the Vicar shall inform the Ordinary of the place where the events are said to have occurred, as well as the Ordinary or the Superior of the subject to whom the complaint or information refers (cf. VELM Art. 3 §1).

Article 34

If the Vicar has doubts about the plausibility of the *notitia* received, from the point of view of a canonical process, he will pass the information to the Advisory Committee and request their opinion as to whether a preliminary investigation should be opened. Having heard the opinion of the Advisory Committee, the Vicar will make a decision.

(1) In doing so, the Vicar is to take into account that a preliminary investigation is to be opened whenever – through whatever channel, even if it is not strictly speaking a complaint – he receives a *notitia* that is not implausible and when a preliminary investigation is not superfluous, as might be the case if the accused confirms that the *notitia* is substantially correct and admits his responsibility (cf. Can. 1717 CIC). Even in this latter case, however, it may be appropriate to order an investigation to clarify the scope and circumstances of the facts.

A. A determination that the *notitia* lacks the semblance of truth will be made only in the case of a manifest impossibility of the commission of a delict according to the norms of canon law (cf. Vademecum, no. 18) – for example, if at the time of the delict of which he is accused, the person was not yet a cleric, or if the

presumed victim was not a minor, or if it is clear that the person accused could not have been present at the place of the delict when the alleged actions took place.

B. A decision not to proceed with a canonical investigation does not preclude communicating the *notitia* to the civil authorities, because different criteria may be relevant in a civil context.

(2) If the Vicar decides not to open a preliminary investigation because he believes there are clear reasons that make the *notitia* canonically implausible, he must formalise that decision in a reasoned decree (cf. Can. 51 CIC) which specifies the grounds for the implausibility. This decree will be kept in the secret archives. If the *notitia* was reported by known persons, the decision must be communicated to them – before filing the decree – in the manner

provided for in Can. 55CIC, while indicating that a recourse may be lodged with the Prelate against the decree in accordance with Can. 1732 to Can. 1739 CIC incl.

(3) When the *notitia* comprises a formal complaint, it should always be investigated – even if there are doubts as to its plausibility or its veracity – so that the facts can be adequately clarified in the manner provided for by law. A decision not to investigate in such cases can only be taken if it is manifest that the complaint is false. The Vicar will also bear in mind the provisions of Can. 1390 CIC, if it is relevant to the case.

(4) Where the accused is a cleric, the Dicastery for the Doctrine of the Faith should be informed – even when it has been decided that the *notitia* lack plausibility (cf. Vademecum, 19) – for which purpose the Vicar shall send a copy of the

corresponding decree to the Curia of the Prelature as soon as possible.

Article 35

If the Regional Vicar decides to open an investigation, he will issue a reasoned decree to that effect in accordance with Can. 1717 CIC, in which the following points are specified:

(1) He shall entrust the preliminary investigation with due diligence to the Promoter of Justice of his region, or to a delegate, to carry it out under his authority and to keep him constantly informed of the progress of that commission. If this is not possible, he will carry out the investigation personally (cf. PSG Art. 20).

(2) The authority of the Investigator and, in general, whoever advises the Vicar in each case, is limited to the

auxiliary and consultative functions conferred on them by law (cf. Can. 1717 §1 and Can. 1717 §3; Can. 1428; Can. 1718 §3CIC). The decisions which the law requires to be taken in the course of and at the end of the investigation are not collegial but are the exclusive responsibility of the Vicar.

(3) In the decree to open an investigation, a notary is to be appointed.

(4) This decree shall also specify the provisional measures which the Vicar considers prudent to take while the investigation is being carried out, especially – but not only – if there is a risk of recurrence or of scandal. Such measures are within the scope of the ordinary powers of the office of the Vicar, even though they require a just or serious cause: for example, the removal of the accused from assignments involving dealings with

minors, a temporary substitution, or other measures applicable to the person under investigation, which do not in themselves imply a prejudice to, or put in danger, his or her reputation (cf. Can. 1717 §2 CIC).

(5) The Vicar may ask the Advisory Committee for its opinion about the advisability of adopting such measures to limit *ad cautelam* the exercise of the ministry of a priest who is to be investigated. The Committee may also make such recommendations to the Regional Vicar on its own initiative.

(6) In cases reserved to the Dicastery for the Doctrine of the Faith, the Vicar is to inform the Ordinary of the place where the events occurred (cf. VELM Art. 3 §1; Art. 10 RSP) that a preliminary investigation has been opened.

(7) The preliminary investigation should be carried out with respect

for the civil laws of each state (cf. VELM Art. 19; Vademecum, Article 27).

Article 36

Taking into account the characteristics of the case (the number and circumstances of the persons to be interviewed, the nature of the facts alleged, etc.), the Vicar may deem it fitting in the decree opening the investigation to appoint two researchers, in addition to the Investigator (cf. RSP Art. 35 B). They may be chosen from among professionals with the necessary skills for a task of this nature; for instance, a lawyer and a psychologist or social worker.

Article 37

Once the decree has been issued, except in the case mentioned in §1 below, the Vicar shall normally

inform the respondent within 48 hours of the opening of the investigation and shall give him or her a copy of the decree.

(1) Since he is not yet formally accused of a crime and where there are proportionally serious reasons for doing so, a reasoned decision not to inform the respondent may legitimately be made. Any such decision must be recorded in the decree. The Vicar may prudently decide on this basis to what extent the respondent is to be informed about the ongoing preliminary investigation, its details and its progress.

(2) Upon being so informed, the respondent shall be advised that, if he or she so wishes, a trusted lawyer or adviser may be present at any part of the proceedings in which the respondent is involved.

Article 38

The Regional Vicar will remind the respondent of the principle that a person is innocent until his or her guilt has been proven and will also explain to him or her the nature of the preliminary investigation prior to any possible criminal prosecution or procedure. He will instruct the respondent not to have any communication at all with the complainant, with the alleged victim or with his or her family.

Article 39

The purpose of the preliminary investigation is to establish the facts and the relevant circumstances of the case: details of the conduct complained of, and as precise personal, chronological, locational etc. data as can be obtained, as also the imputability of the conduct to the

respondent (cf. Can. 1717 CIC; RSP APPENDIX I).

Chapter 2 — Carrying Out a Preliminary Investigation

Article 40

With due regard to the norms of canon and civil law, the Investigator may use whatever means he considers useful for gathering relevant information about the subject matter of the case (cf. Can. 1717 §3 CIC). In conducting interviews, he will instruct those interviewed to keep the existence of the investigation private, as also whatever they may come to know because of their participation in it. No obligation of secrecy can be imposed on them with regard to any personal knowledge they may have had prior to the interview (cf. VELM Art. 4 §3). The handling of such information is governed by the

general criteria of Christian morality and civil law.

Article 41

Those who are to be interviewed by the Investigator will be informed of their right to be accompanied by another person of their choice. This person may be a civil or canon lawyer. If a minor or vulnerable person is to be interviewed, provision shall be made for the presence of at least one of the persons – family members or professionals – who normally take care of him or her and other appropriate measures shall be taken to facilitate the proper course of the conversation.

Article 42

The Investigator shall provide the respective civil or canon lawyers – or other persons chosen by the

respondent or the complainant as advisers – with the information that is appropriate in each case regarding the progress of the investigation (cf. RSP Art. 22 §2, and RSP Art. 37 §1). If either party however prefers not to avail of the assistance of another person, the information on the progress of the investigation will be given to him or her directly.

Article 43

The Investigator shall interview the person who was the source of the *notitia*, the apparent victim (if he or she was not the source), the respondent and any other person who can help clarify the facts to which the information or complaint relates.

Article 44

If the victim is still a minor, the Investigator shall judge whether or

not it is appropriate to interview him or her. If he decides to do so, the express consent of the victim's parents or guardians should first be sought and the interview should take place in their presence.

Article 45

Before interviewing the respondent, he or she should be informed about the *notitia* (cf. RSP Art. 22 §2, and RSP Art. 37§1), and be given the opportunity to respond. If the respondent so wishes, this reply may be made in writing, either personally or by his civil or canon lawyer, or if he prefers, he can respond verbally in the interview with the Investigator.

Article 46

When interviewing the person under investigation, it is to be borne in mind that he is not obliged – either in

that interview, or in any canonical process or procedure which may be opened following the preliminary investigation – to confess to the offence, nor can he be asked to take an oath (cf. Can. 1728 §2 CIC).

Article 47

The Investigator and those interviewed by him or her are to sign a written record of each interview, after establishing that it reflects adequately what was dealt with in the interview. The interviews may be recorded for this purpose. Whoever makes the transcription of the recordings must undertake a commitment to keep the secret of office. The written report is to be signed also by the notary.

Article 48

Mindful that the preliminary investigation is a difficult and trying

time for the complainant and the respondent, the Vicar and the members of the Advisory Committee will be vigilant to ensure that it is completed in the shortest possible time and that there are no delays in the interviews and other steps of the investigation, or in the drafting and presentation of its conclusions. The investigation should not ordinarily last more than ninety days (cf. Can. 201 §1 CIC and VELM Art. 14 §1), but the Vicar may extend it for a short specified time, if he prudently considers that some ongoing inquiry can be concluded during this extension which will provide relevant information.

Chapter 3 — Conclusion of the Preliminary Investigation

Article 49

The Investigator shall present a report to the Vicar with his

conclusions regarding the object of the investigation (cf. Can. 1717 §1 CIC and RSP Art. 39). In the report, he may add whatever suggestions and recommendations he deems appropriate. This report is to be accompanied by the records of the interviews conducted (cf. RSP Art. 47) as well as any other relevant documents (letters, etc.) that may have been submitted during the preliminary investigation.

Article 50

The Vicar shall pass the report to the Advisory Committee, which shall meet without delay to consider it and assess whether the investigation was complete and free from irregularities. If the Committee deems it necessary, it may request the Vicar to arrange for the information submitted to be supplemented. When satisfied, the Advisory Committee will then submit

all the documents of the preliminary investigation to the Vicar and add a written statement indicating whether it agrees with the conclusions of the investigation and making any recommendations it deems appropriate to the Vicar. This opinion satisfies the recommendation of Can. 1718 §3 CIC.

Article 51

The Vicar will carefully examine the reports and conclusions sent to him.

(1) If it seems necessary to him, he can refer the case back to the Advisory Committee and to the Investigator for clarification or further inquiry.

(2) Before closing the investigation, he must consider whether it is appropriate for him or the Investigator to settle the question of compensation for harm in

accordance with Can. 1718 §4 CIC, always with the consent of the parties (cf. RSP Art. 54 to Art. 57).

(3) If he is satisfied with the results presented to him, he will close the preliminary investigation by a decree of conclusion of the investigation (cf. Can. 48 et seq., Can. 1718 §1 CIC).

Article 52

In the decree of conclusion of the investigation (cf. RSP Art. 51 §3), the Vicar shall have regard to the following considerations:

A. If the preliminary investigation of a possible crime reserved to the Dicastery for the Doctrine of the Faith does not disclose any evidence which would corroborate the possibility that it has been committed, the Vicar is to send the file to the Prelate so that, in addition

to informing the Dicastery for the Doctrine of the Faith of the investigation and its result (cf. PSG Art. 25), he can order the file to be kept in the secret archives (cf. Can. 1719, Can. 489 to Can. 490 CIC), unless the Dicastery has decided otherwise. Likewise, the Vicar will send a copy of the decree to the respondent, to the alleged victim in the *notitia*, or to his or her representatives, and to the Advisory Committee.

B. If the Vicar considers it possible that one of the delicts reserved to the Dicastery for the Doctrine of the Faith has been committed:

i) The file of the investigation will be sent without delay to the Prelate with the personal *votum* of the Regional Vicar, so that he can present it to the Dicastery (cf. SST, Arts. 16 and 22),

ii) The accused cleric will be prohibited from staying in a centre of

the Prelature where activities with minors take place, participating in any activity of the Prelature in which minors take part, or carrying out any other pastoral activity; he may exercise his priesthood only within the centre of the Prelature in which he resides,

iii) The Vicar shall ensure that any notification already made to the relevant civil authorities in accordance with RSP Art. 31 is supplemented as appropriate, that the decision on the preliminary investigation is notified in writing to the accused cleric (indicating the prohibitions referred to in sub-paragraph 2° above), to the victim or his or her representatives, to the Advisory Committee, the Bishop of the Diocese in which the alleged offence occurred and the Bishop of the Diocese in which the respondent resides.

C. If the preliminary investigation discloses a possible offence not reserved to the Dicastery for the Doctrine of the Faith, the Vicar shall proceed by adopting measures entrusted to him by the legislator (cf. Can. 1718 §1 CIC; RSP APPENDIX II, and RSP APPENDIX III, nn. 1-3).

i) The person accused will be prohibited from participating in any activity of the Prelature in which minors take part, as well as from carrying out any other pastoral activity, and may only exercise a ministry within the centre of the Prelature in which he resides.

ii) If the Vicar chooses to follow the judicial course, he will order the file on the investigation to be sent to the Promoter of Justice of the Tribunal of the Prelature, for the purposes of Can. 1721 CIC, and he will notify the decree to the person accused in accordance with Can. 55 CIC.

iii) Likewise, the Vicar will see to it that any notification already made to the relevant civil authorities in accordance with RSP Art. 31 about the conduct under investigation, which may be a crime under State law, is supplemented as appropriate and that the same decree is communicated to the victim, to the Advisory Committee, to the Bishop of the Diocese in which the reported conduct took place and to the Bishop of the Diocese in which the accused resides, indicating that the person accused is prohibited from participating in any activity of the Prelature in which minors are involved.

D. If the preliminary investigation does not disclose any evidence of an offence but finds it plausible that some form of abuse or other misconduct has taken place, which detracts from the exemplary character proper to a priest or a lay

person who wishes to live his or her Christian vocation to the full, the Vicar shall issue a decree closing the investigation in accordance with Can. 1718 §1, 1° CIC, to which he will add a decision applying whatever penal remedies or penances which he considers appropriate in the case (cf. RSP TITLE VII).

Article 53

Except in the case of alleged delicts reserved to the Dicastery for the Doctrine of the Faith (cf. RSP Art. 52 A-B), if the preliminary investigation finds the complaint or *notitia* to be unfounded, the Vicar shall issue the decree of conclusion of the investigation (cf. Can. 1718 §1, 1° CIC), in which he will order the file to be kept in the secret archive (cf. Can. 1719, Can. 489 and Can. 490 CIC). He will also send a copy of the decree to the respondent, to the putative victim or to his or her

representatives, and to the Advisory Committee.

Chapter 4 — The question of compensation for harm

Article 54

Abuse or harassment, independently of its penal consequences, may also give rise to an obligation to make reparation or to compensate for the harm caused by the conduct of the offender (cf. Can. 128 CIC). An adversarial process to claim compensation for such damages within the penal process must follow the provisions of Can. 1729 to Can. 1731CIC incl.

Article 55

Prior to issuing a decree closing a preliminary investigation in which it appears that an offence may have been committed (cf. RSP Art. 52 B-C),

consideration should be given – in accordance with Can. 1718 §4 CIC – as to whether it is expedient to seek the consent of the parties, which should be given in writing, to a possible out-of-court alternative to the adversarial process to resolve the question of compensation for harm equitably while avoiding unnecessary trials.

Article 56

The proposal for an equitable solution (cf. RSP Art. 55) must be set out in a document to be signed by the Vicar or his delegate and the parties or their legal representatives. In this document, in addition to accepting the proposed solution, the parties must undertake (cf. Can. 1713 to Can. 1716 CIC incl.) not to pursue the adversarial process mentioned in RSP Art. 54. Care must be taken to ensure that this document is formalised in a manner recognised

by civil law and that it excludes any confidentiality clause.

Article 57

The Vicar must take care that the parties clearly understand that neither his request for consent to act, nor his equitable solution to the question of compensation for harm, involves or implies in any way an out-of-court settlement to avoid a penal process or procedure in the case, which will continue to run its course in any event, in accordance with the law.

TITLE VI – PASTORAL RESPONSE AFTER AN INVESTIGATION IS CLOSED

Chapter 1 — Pastoral Response as regards the Victim

Article 58

The Vicar, or someone designated by him, will meet the victim (or the parents or guardians if the victim is still a minor) to inform him or her of the outcome of the preliminary investigation. They will each be accompanied at the meeting by another person.

Article 59

If the accusation has not been shown to be well-founded and the Dicastery for the Doctrine of the Faith, where applicable, has confirmed this

conclusion, the alleged victim will be informed of this outcome. He or she will be treated with compassion and given whatever help and support are considered necessary and reasonable.

Article 60

When informing the victim about the decree concluding the preliminary investigation (cf. RSP Art. 52), pastoral support shall be offered to him or her – and, where deemed necessary, to his or her family – in the manner best suited to the circumstances.

Chapter 2 — Pastoral Response as regards the Accused

Article 61

If the preliminary investigation disclosed that the *notitia* was not

plausible – and in consequence, no canonical prosecution was instituted – and if, furthermore, the complaint was not prosecuted by the civil authorities, or was prosecuted and the accused was acquitted, the Vicar shall take whatever steps may be necessary to restore the good name of the person accused. These steps may include:

(1) a public statement that the accused has no case to answer (or has been found innocent) and, if he is a cleric, is returning to full ministry,

(2) a visit by the Vicar to the apostolic undertakings where the accused had worked to give the same information to the people who work there, or who take part in their activities,

(3) an offer of spiritual and psychological help to the person wrongly accused to enable him or her deal with the inevitable trauma.

Article 62

In the case of outcomes described in sub-articles RSP Art. 52 B-D, in addition to making the appropriate notifications, the Vicar may urge the accused to voluntarily undergo a medical and psychological assessment with experts deemed suitable both to the Vicar and to the accused. The Vicar will also take care that pastoral support is offered to the accused in keeping with his or her circumstances.

Chapter 3 — Pastoral Response in respect of Others Affected

Article 63

The Vicar should have regard to the possibility that the victim may have to cope with rejection in his or her social surroundings and that the

parents may blame themselves for not having taken better care of their children. He will seek ways and means, with the help of the Advisory Committee if he deems it appropriate, to assist them to recover from the possible psychological and spiritual trauma of the events investigated.

Article 64

It may happen that the offender is a very popular person in the place where the abuse has taken place. The reaction of those who know him or her may include anger, disappointment, disgust, betrayal, disbelief, grief and compassion for the victim, etc. The Vicar, with the help of the Advisory Committee if he deems it appropriate, will give serious consideration to ways of dealing with these conflicting emotions by means of suitable pastoral and psychological remedies.

TITLE VII – PENAL REMEDIES AND PENANCES AT THE CLOSURE OF THE PRELIMINARY INVESTIGATION

Article 65

At the conclusion of the preliminary investigation, if it was found that there had been imprudent, inappropriate or otherwise reprehensible conduct (cf. RSP Art. 52 D) – but which is not to be criminally prosecuted (cfr. Can. 1718 §1CIC) because, for example, the facts do not constitute a canonical crime – the Vicar will assess with the Advisory Committee whether to proceed according to Can. 1339 CIC, or else Can. 1319 CIC and *Statuta,* No. 30.

Article 66

(1) In the cases mentioned in RSP Art. 65, if the Vicar considers that he must admonish or formally reprimand the accused member of the faithful of the Region in accordance with Can. 1339 CIC, or even formally warn the respondent that he or she will be dismissed from the Prelature in accordance with *Statuta,* No. 32 unless there is a change of attitude, he will so state in the closing decree of the preliminary investigation and will leave a record of the warning or reprimand, substantially reflecting its content, in an act to be signed by the Vicar, or whoever acts on his behalf, a notary, and the person concerned, after reading it in his presence.

(2) If the person concerned refuses to sign, the notary shall record his refusal in the same act. The document will be kept in the secret

archive (cf. Can. 1339 §3, Can. 489 CIC).

Article 67

(1) If the warnings or reprimands have been ineffective, or can reasonably be expected to be so, the Vicar may issue a penal precept (cf. Can. 1319 §1 CIC), in which he commands exactly what the person concerned must do or avoid, while establishing a specific penalty (cf. Can. 1315 §2 CIC), which he will incur if he disobeys.

(2) The penalty established in the penal precept should be a censure or a non-perpetual expiatory penalty (cf. Can. 1312CIC), without excluding even dismissal from the Prelature (cf. *Statuta,* No. 30).

(3) In the event that the person disobeys this precept, the administrative procedure of Can.

1720 CIC is to be followed to impose the prescribed penalty (see RSP APPENDIX II).

APPENDIX I

This Appendix includes several legislative texts of particular importance in the preliminary investigation of allegations or sexual abuse information with some brief comments.

A. THE CRIME OF CHILD SEXUAL ABUSE IN CHURCH LAW

A.1 — Motu proprio *Sacramentorum sanctitatis tutela*

Issued April 30, 2001, with the revision of May 21, 2010, further revised by the Rescriptum ex Audientia of 11 October 2021 and published on 7 December 2021 as the "*Norms Regarding Delicts Reserved to the [Dicastery] for the Doctrine of the Faith*"

Article 6

1. The more grave delicts against morals which are reserved to the judgement of the [Dicastery] 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 or with a person who habitually has the imperfect use of reason; ignorance or error on the part of the cleric regarding the age of the minor does not constitute an extenuating or exonerating circumstance;

2) the acquisition, possession, exhibition, or distribution, for purposes of sexual gratification or profit, of pornographic images of minors under the age of eighteen years, in any manner and by any means whatsoever, by a cleric.

A.2 — The Procedure and Praxis of the Dicastery for the Doctrine of the Faith

Article on *Graviora delicta* by Msgr. Charles J. Scicluna

Section A - *Delicta contra mores*

Regarding the offence of sexual abuse of minors, some considerations of the Procedure and Praxis of the CDF are relevant:

A. The motu proprio speaks of a "*delictum cum minore*". This does not mean only physical contact or direct abuse but includes indirect abuse also (for example: showing pornography to minors; lewd indecent exposure in front of minors). Included also is the possession of, or downloading from

the internet of, paedophilic pornography. (…)

B. Can. 1395 §2 CIC speaks of a delict with a minor under 16: “cum minore infra aetatem sedecim annorum”. The motu proprio, on the other hand, speaks of a delict with a minor under 18: “delictum … cum minore infra aetatem duodeviginti annorum”. Therefore, the classification of the delict becomes more complex. Some experts, in fact, speak not only of paedophilia (the sexual attraction to prepubescent children) but also of ephebophilia (the sexual attraction to adolescents), of homosexuality (the sexual attraction to adults of the same sex) and of heterosexuality (the sexual attraction to adults of the other sex). Between sixteen and eighteen years of age, some “minors” may indeed be perceived as objects of homosexual or heterosexual attraction. Some civil jurisdictions consider a person of sixteen years as

capable of giving consent for sexual activity (whether hetero- or homosexual). The motu proprio, however, stigmatizes as a delict every violation of the Sixth Commandment with a minor under eighteen years of age whether based on paedophilia, ephebophilia, homosexuality or heterosexuality. This differentiation has, nevertheless, an importance from the psychological, pastoral and juridical points of view. It helps, no doubt, both the Ordinary and the judge in grasping the gravity of the delict and choosing the path necessary for the reform of the guilty cleric, the reparation of scandal and the restitution of justice (cfr. Can. 1341).

B. PLAUSIBLE NOTITIAE

Can. 1717 §1 CIC

Whenever the Ordinary receives information, which has at least the semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.

Although it is true in general, as indicated by Can. 1717 CIC that "it is a positive condition for initiating the investigation that such evidence as is inferred from the *notitia* received leads to the consideration that the commission of a crime is probable" (Josemaría Sanchís, Commentary to c. 1717 in Code of Canon *Law, Exegetic Commentary*, EUNSA), it should not be forgotten that

considering the delicacy of the matter (it must be borne in mind that the offences against the sixth commandment of the Decalogue are very rarely committed before witnesses) the current guidance is that the judgement of lack of plausibility (which could lead to the omission of the previous investigation) will be issued only in the event of the manifest impossibility of the crime (cfr. *Linee guida per la protezione dei minori e delle persone vulnerabili*, Vicariato della Citta del Vaticano, 26 March 2019, F-6).

The purpose of the preliminary investigation is to see whether the plausibility of the reported facts is confirmed. However, it will be in the judicial or extrajudicial process that may follow the preliminary investigation where one obtains the moral certainty necessary to impose a penalty. Therefore, at the end of the

preliminary investigation, the accused is not yet found guilty. If the accused has confessed, this is not a substitute for the established procedure.

C. IMPUTABILITY

Can. 1717 §1 CIC

Whenever the Ordinary receives information, which has at least the semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.

What is imputability? When are the reported facts considered attributable to the accused?

Imputability is the quality of an action or omission that makes it attributable to its author in that he or she has intentionally or negligently violated the law. In the terminology of criminal law – also in the penal canon law – the intentional violation of the law is called *wilful misconduct* and negligent violation of the law is called *culpable misconduct*. These are the two forms of imputability described in the Code of Canon Law.

Can. 1321 CIC

1) Any person is considered innocent until the contrary is proved.

2) No one can be punished unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability.

3) A person who deliberately violated a law or precept is bound by the

penalty prescribed in that law or precept. If, however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise.

4) Where there has been an external violation, imputability is presumed, unless it appears otherwise.

D. TIME LIMITS FOR PROSECUTION OF SEXUAL ABUSE

Josemaría Sanchís, *Comentario al c. 1717 in Código de Derecho Canónico*, Comentario Exegético, EUNSA

Any person has the liberty to report a crime, "complaint" being understood in a broad sense as the act by which notification of a crime is given to the authorities. The denunciation of crimes is to be considered not only a power but also an obligation, moral or juridical, depending on the case

(…) However, the presentation of the complaint does not presume the initiation of criminal action - which is the sole responsibility of the promoter of justice by order of the Ordinary (cfr. Can. 1430 and Can. 1721 §1 CIC), and never the injured party, nor does it carry with it the obligation to demonstrate the guilt of the accused.

The purpose of the criminal action is to open a process to declare or impose a penalty. The possibility of exercising it is extinguished by the passage of time. This is called prescription, which is regulated by law.

In the penal process opened as a consequence of the criminal action exercised by the Promoter of Justice, the injured party can also prosecute an adversarial or penal action to obtain compensation for the damage he has suffered as a consequence of

the crime (cfr. Can. 1596 CIC and Can. 1729 §1 CIC).

PRESCRIPTION IN CANON LAW

Motu proprio *Sacramentorum sanctitatis tutela* April 30, 2001, with the revision of May 21, 2010, further revised by the Rescriptum ex Audientia of 11 October 2021 and published on 7 December 2021 as the "*Norms Regarding Delicts Reserved to the [Dicastery] for the Doctrine of the Faith*"

Article 8

1) Criminal action concerning delicts reserved to the [Dicastery] for the Doctrine of the Faith is extinguished by prescription after twenty years.

2) Prescription runs according to the norm of Can. 1362 §2 CIC and CCEO, Can. 1152 §3. However, in the case of

the delict mentioned in Art. 6, 1°, prescription begins on the day the minor reaches the age of eighteen.

3) The [Dicastery] for the Doctrine of the Faith has the right to derogate from prescription for all individual cases of reserved delicts, even if they concern delicts committed prior to the coming into force of the present Norms.

APPENDIX II

THE EXTRA-JUDICIAL PENAL PROCEDURE OF THE CIC

1. After receiving the Prelate's approval to use the extra-judicial administrative procedure, the Vicar without delay will summon the defendant with his advocate

(cfr. Can. 1509 CIC) – warning him that it is expedient for him to appear with his advocate (cfr. Can. 1483 CIC) – to notify him, in accordance with Can. 55 CIC, of the decree of conclusion of the preliminary investigation (cfr. Article 52), of the consent of the Prelate to the extra-judicial procedure, of the formal accusation and of the evidence, in accordance with Can. 1720, 1° CIC.

2. The Vicar or his delegate, the defendant and the notary must be present at the arraignment. The notary is responsible for drawing up the minutes, which are signed by all those present at the end of the hearing.
3. The Vicar or the notary shall read to the accused the indictment and the list of the items of evidence on which it is based. The presentation shall be supplemented orally or in

writing as necessary to ensure that the accused is given the possibility to defend himself adequately against all aspects of the charge.

4. If the defendant, duly summoned, does not appear at the session, the procedure will be carried out following the indications of Can. 1592 to Can. 1593 CIC.
5. In the same session, the Vicar (cfr. Can. 1342 §3 CIC) may notify the accused of the possible precautionary measures which he has decreed, if he considers them necessary for one of the purposes foreseen in Can. 1722 CIC.
6. At the end of the session, before signing the minutes, the Vicar is to fix a date and time for the next session, giving the accused sufficient time to prepare his defence and to present the

proofs which he considers opportune, always bearing in mind Can. 1728 §2 CIC.

7. If the proposed evidence includes testimonial or expert statements, the Vicar shall summon by decree each proposed witness or expert, notifying them of the summons in accordance with Can. 1509 CIC.
8. The Vicar, the defendant with his advocate, and at least one notary or two witnesses must be present at the hearing for the presentation of the pleadings and proofs of the defence. The Vicar shall order the session in the manner which he judges prudent, following in what is useful the indications of Can. 1526 to Can. 1586 CIC incl.
9. The Vicar shall fix dates for any subsequent hearings that may be necessary to complete the presentation of evidence within

the shortest possible time, avoiding unnecessary delays but without restricting the rights of the defence.

10. Once the evidence has been completed, the conclusions will be briefly presented, taking into account the provisions of Can. 1725 CIC.
11. The notary, or in his absence one of the witnesses, is responsible for drawing up the minutes of all the hearings, which are signed by all those present at the bottom of the document.
12. Once the presentation of the evidence has been completed, the Vicar will meet as soon as possible with the Advisory Committee to accurately weigh all of the allegations made and proofs adduced in the hearings and investigations that have been carried out (cfr. Can. 1720, 2° CIC). The Can. 1526 to Can.

1586 CIC incl. can serve as a guideline for the evaluation of the evidence.

13. If, after this evaluation, which should not be unnecessarily prolonged, the Vicar reaches certainty (cf. Can. 1608, in virtue of Can. 1342 §3 CIC) about the abuse and its imputability (cf. Can. 1720, 3° CIC), after verifying that the criminal action has not been extinguished by prescription (cf. Can. 1362 CIC), he must issue the decree of condemnation.
14. If, on the other hand, it is not possible to reach this moral certainty or if the innocence of the accused is proven (cfr. Can. 1726 CIC), the Vicar must issue a reasoned decree of acquittal, having regard, where appropriate, to the possibility of using the penal remedies and

penances provided for by law (cfr. Can. 1339 to Can. 1340 CIC).

15. This latter provision (no. 14) also applies in the case referred to in no. 13 if the criminal action has been extinguished by prescription (cfr. Can. 1362 CIC).
16. In the penal decree of condemnation the Vicar must explain the reasons for the certainty reached, that is to say, what facts of the accusation he considers proven in the proceedings and what juridical classification they warrant; what relevant circumstances he considers also proven; for what reasons he does not consider the defences of the convicted person with regard to those facts and circumstances to be valid; and what prescriptions of law are applicable to the case in accordance with the classification indicated. The

canonical rules on judgement can serve as a guide to the formal structure of this decree, especially those contained in Can. 1608 and Can. 1611 to Can. 1612 CIC.

17. In addition, the penalty to be imposed on the convicted person must be expressed in a precise and well-defined manner. In deciding on this matter, the Vicar must follow the norms of Can. 1342 to Can. 1350 CIC incl.
18. The penal decree must be dated, signed and countersigned in the usual way (cf. Can. 474 CIC). It must be served on the convicted person within fifteen days, in accordance with Can. 55 to Can. 56 CIC.
19. The decree is to indicate that a hierarchical recourse against it, to the Prelate, is open to the defendant in accordance with Can. 1732 to Can. 1739 CIC incl.,

and that a recourse has a suspensive effect, pending its resolution (cf. Can. 1353 CIC).

APPENDIX III

CANONICAL RESPONSE TO CHILD SEXUAL ABUSE OFFENCES

1. If any act of sexual abuse of a minor by one of the faithful of the Region is either admitted by the perpetrator or confirmed in a canonical judicial or extra-judicial process or procedure carried out in accordance with the norms of law, the Vicar will determine the suitability of the perpetrator to continue in the Prelature.

2. In any case, any person admitting to or found guilty of committing an

offence of abuse against a minor or vulnerable person shall be removed from all pastoral or apostolic positions or duties. However, they shall be offered appropriate support for their psychological and spiritual rehabilitation and social reintegration.

3. With due regard to the pertinent norms of the Statutes of the Prelature (cf. *Statuta*, No. 28 to No. 35) the Vicar may propose to the perpetrator of the abuse that he ask the Prelate for a dispensation from membership in the Prelature (cf. ibid., No. 31) or the Vicar can suggest to the Prelate that the perpetrator be expelled from the Prelature. In all cases, the rights that the Statutes of Opus Dei and Canon Law in general recognize for the faithful who have been convicted of a crime in accordance with the law will be respected.

4. As for the canonical penalties applicable to priests or deacons who commit these offences, the provisions of SST, Articles 7 and 26 apply (cf. Dicastery for the Doctrine of the Faith, Circular Letter of 3 May 2011, II; SST 2021 edition).

A. A priest or deacon who has committed an act of sexual abuse against a minor may request a dispensation from the obligations of the clerical state at any time.

B. In very serious cases, the Prelate of Opus Dei may ask the Dicastery for the Doctrine of the Faith to submit directly to the decision of the Supreme Pontiff the dismissal of the offender from the clerical state together with a dispensation from the law of celibacy, provided that the commission of the offence is clearly established and after the offender has been given the opportunity to defend himself (cf. SST, art. 26).

5. The Bishop of the diocese in which the abuse occurred shall be informed of the outcome of the case.

6. The possible readmission of a cleric to the public exercise of his ministry is to be excluded if it could be dangerous for minors or if there is a risk of scandal for the community (cf. Dicastery for the Doctrine of the Faith, Circular Letter of 3 May 2011, III, i).

7. No priest or deacon of the Prelature who has committed an act of sexual abuse against a minor may be entrusted with the duties of priestly or diaconal ministry in another ecclesiastical circumscription or transferred to another ecclesiastical circumscription to carry out a ministerial assignment there, unless the Vicar first informs the Ordinary of that circumscription in detail of the offence of sexual abuse

committed and of any other information indicating that the priest or deacon has been or may be a danger to children or young people.

APPENDIX IV

REPORT OF POSSIBLE SEXUAL ABUSE OR MISCONDUCT

(It is not necessary to have all the information requested before submitting the report)

This Report is submitted by:

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email _____

Suspected perpetrator of abuse or misconduct:

First and last name: _____

Address _____

Postcode _____

Phone _____ Email _____

Male Female

Age Now _____ Age when alleged abuse took place _____

Victim:

First and last name: _____

Address

_____

Postcode _____

Phone _____ Email

_____

Male Female

Age Now _____ Age when alleged abuse took place _____

Parents or guardians:

(if the alleged victim is still a minor or equivalent)

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

Eyewitnesses of the alleged abuse:

(use another sheet, if necessary)

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

Others who received information about the alleged abuse:

(use another sheet, if necessary)

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

First and last name:

_____

Address

_____

Postcode _____

Phone _____ Email

_____

Alleged Abuse

Please provide on another sheet a description of the alleged abuse that includes the following information:

- Nature of the alleged act or acts (e.g. type of sin against the 6th commandment)

- Date(s) and time(s) of alleged acts
- Place(s) / address(es) where it / they happened
- Any other information you consider important (e.g., if there was use of violence, threats, gifts or gifts, scandal, abuse of authority, etc.)

Author of Report

Signed

_____

Date _____

VELM ARTICLES CITED IN THIS POLICY

Art. 1

1. These norms apply to reports regarding clerics or members of

Institutes of Consecrated Life or Societies of Apostolic Life and concerning:

a. delicts against the sixth commandment of the Decalogue consisting of:

i) forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts;

ii) performing sexual acts with a minor or a vulnerable person;

iii) the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions;

b. conduct carried out by the subjects referred to in article 6, consisting of actions or omissions intended to

interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against a cleric or a religious regarding the delicts referred to in letter a) of this paragraph.

2. For the purposes of these norms,

a. “minor” means: any person under the age of eighteen, or who is considered by law to be the equivalent of a minor;

b. “vulnerable person” means: any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence;

c. “child pornography” means: any representation of a minor, regardless of the means used, involved in

explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

Art. 1 §2, a-b

For the purposes of these norms,

a. “minor” means: any person under the age of eighteen, or who is considered by law to be the equivalent of a minor;

b. “vulnerable person” means: any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence.

Art. 2 §1

Taking into account the provisions that may be adopted by the respective Episcopal Conferences, by the Synods of the Bishops of the Patriarchal Churches and the Major Archiepiscopal Churches, or by the Councils of Hierarchs of the Metropolitan Churches sui iuris , the Dioceses or the Eparchies, individually or together, must establish within a year from the entry into force of these norms, one or more public, stable and easily accessible systems for submission of reports, even through the institution of a specific ecclesiastical office. The Dioceses and the Eparchies shall inform the Pontifical Representative of the establishment of the systems referred to in this paragraph.

Art. 2 §2

The information referred to in this article is protected and treated in such a way as to guarantee its safety,

integrity and confidentiality pursuant to canons 471, 2° CIC and 244 §2, 2° CCEO.

Art. 2 §3

Except as provided for by article 3 §3, the Ordinary who received the report shall transmit it without delay to the Ordinary of the place where the events are said to have occurred, as well as to the Ordinary of the person reported, who proceed according to the law provided for the specific case.

Art. 3 §1 Art. 3 §1 Art. 3 §1 Art. 3 §1

Except as provided for by Can. 1548 §2 CIC and Can. 1229 §2 CCEO, whenever a cleric or a member of an Institute of Consecrated Life or of a Society of Apostolic Life has notice of, or well-founded motives to believe that, one of the facts referred to in article 1 has been committed, that person is obliged to report

promptly the fact to the local Ordinary where the events are said to have occurred or to another Ordinary among those referred to in Can. 134 CIC and Can. 984 CCEO, except for what is established by §3 of the present article.

Art. 4 §3

An obligation to keep silent may not be imposed on any person with regard to the contents of his or her report.

Art. 14 §1

The investigation is to be completed within the term of ninety days or within a term otherwise provided for by the instructions referred to in article 10 §2.

Art. 19 Art. 19

These norms apply without prejudice to the rights and obligations

established in each place by state laws, particularly those concerning any reporting obligations to the competent civil authorities.

NORMS OF THE *STATUTA* CITED IN THIS POLICY

Below is the official Latin text (with an unofficial English translation) of the norms of the *Statuta* – the Code of the Particular Law ("Statutes") approved by the Apostolic See for the Prelature of the Holy Cross and Opus Dei – which are cited in this Policy.

Official Latin text of the *Statuta*: https://opusdei.org/en-uk/arti… English text: https://opusdei.org/en/article/statutes-of-opus-dei-eng/

No. 1

§1 Opus Dei est Praelatura personalis clericos et laicos simul complectens, ad peculiarem operam pastoralem perficiendam sub regimine proprii Praelati (cfr. n. 125).

Opus Dei is a personal Prelature consisting of both clerics and lay persons in order to carry out a specific pastoral task under the governance of its own Prelate (cf. n. 125).

§2 Praelaturae presbyterium constituunt illi clerici qui ex eiusdem fidelibus laicis ad Ordines promoventur et eidem incardinantur; laicatus Praelaturae ab iis fidelibus efformatur qui, vocatione divina moti, vinculo iuridico incorporationis speciali ratione Praelaturae devinciuntur.

The presbyterate of the Prelature consists of those clerics who have been promoted to Orders from among the lay faithful of the Prelature and

are incardinated in it; the laity of the Prelature is formed of those faithful who, moved by a divine vocation, are bound in a special way to the Prelature by means of a juridical bond of incorporation.

No. 6

Cuncti christifideles qui Praelaturae incorporantur, vinculo iuridico de quo in n. 27, hoc faciunt eadem divina vocatione moti: omnes eundem finem apostolicum prosequuntur, eundem spiritum eandemque praxim asceticam colunt, congruam recipient doctrinalem institutionem et curam sacerdotalem atque, ad finem Praelaturae quod attinet, subsunt potestati Praelati eiusque Consiliorum, iuxta normas iuris universalis et horum Statutorum.

All the faithful who are incorporated into the Prelature by the juridical bond described in n. 27 are moved to

do so by the same divine vocation. All pursue the same apostolic mission and live out the same spirit and ascetical practices. They receive a suitable doctrinal instruction and priestly care. In all that pertains to the mission of the Prelature they are subject to the authority of the Prelate and his Councils, in accordance with the norms of universal law and these Statutes.

No. 28

§1 Antequam aliquis temporaliter Praelaturae incorporetur, potest quovis momento libere ipsam deserere.

Before someone is temporarily incorporated into the Prelature, they can freely leave it at any time.

§2 Pariter auctoritas competens, ob iustas et rationabiles causas, valet eum non admittere, aut ei discedendi consilium dare. Hae causae

praesertim sunt defectus spiritus proprii Operis Dei et aptitudinis ad apostolatum peculiarem fidelium Praelaturae.

Likewise, the competent authority, for just and reasonable causes, has the authority not to admit a person, or to advise them to leave. These reasons are especially the lack of the spirit proper to Opus Dei and the lack of an aptitude for the particular apostolate of the faithful of the Prelature.

No. 29

Perdurante incorporatione temporanea vel iam facta definitiva, ut quis possit Praelaturam voluntarie relinquere, indiget dispensatione, quam unus Praelatus concedere potest, audito proprio Consilio et Commissione Regionali.

For someone to leave the Prelature voluntarily during the temporary incorporation or after the definitive

incorporation, a dispensation is required which the Prelate alone can grant, after consulting his own Council and the Regional Commission.

No. 30

§1 Fideles temporarie vel definitive Praelaturae incorporati nequeunt dimitti nisi ob graves causas, quae, si agatur de incorporatione definitiva, semper ex culpa eiusdem fidelis procedere debent.

The faithful who are temporarily or definitively incorporated into the Prelature cannot be dismissed except for serious causes, which in the case of the definitive incorporation must always be due to the fault of the faithful in question.

§2 Infirma valetudo non est causa dimissionis, nisi certo constet eam, ante incorporationem temporaneam, fuisse dolose reticitam aut dissimulatam.

Ill health is not a reason for dismissal unless it is established with certainty that it was deceitfully concealed or misrepresented before the temporary incorporation.

No. 31

Dimissio, si opus sit, fiat maxima caritate: antea tamen suadendus est is cuius interest ut sponte discedat.

Dismissal, if necessary, should be carried out with the greatest charity. Before this, however, the person concerned should be persuaded to leave voluntarily.

No. 32

Dimissio a Praelato vel, in sua circumscriptione, a Vicario, semper cum voto deliberativo proprii Consilii, est decernenda, causis ei cuius interest manifestatis dataque eidem plena respondendi licentia, et post binas monitiones incassum

factas, salvo semper iure fidelium ad Praelatum vel ad Sanctam Sedem recurrendi. Si recursus interpositus fuerit intra decem dies, effectus iuridicus dimissionis suspenditur donec responsio a Praelato vel, in casu, a Sancta Sede prodierit.

Dismissal by the Prelate, or in his own territory, by the Vicar, must always be decided with the deliberative vote of his own Council, after the causes of the dismissal have been made known to the person concerned, and that person has been given full opportunity to respond. The dismissal must follow two unheeded warnings, and the right of the faithful to have recourse to the Prelate or the Holy See must always be preserved. If such a recourse is made within ten days, the legal effect of dismissal is suspended until a response is forthcoming from the Prelate, or from the Holy See if that is the case.

No. 33

Exitus legitimus ab Opere Dei secum fert cessationem vinculi, de quo in n. 27, necnon officiorum atque iurium, quae ex ipso profluunt.

Legitimate departure from Opus Dei brings with it the cessation of the bond described in n. 27 and of the duties and rights which flow from it.

No. 34

Qui qualibet ratione Praelaturae valedicat vel ab ea dimittatur, nihil ab ea exigere potest ob servitia eidem praestita, vel ob id quod, sive industria sive exercitio propriae professionis, sive quocumque alio titulo vel modo, eidem rependerit.

A person who for whatever reason leaves the Prelature or is dismissed from it can demand nothing from the Prelature for the services they might have rendered to it, nor for anything

they might have given to it, whether this was earned by their activity or through the exercise of their profession or under any other title or in any other manner.

No. 35

Clericus Praelaturae incardinatus, ad normam n. 36, nequit ipsam deserere donec Episcopum invenerit, qui eum in propria dioecesi recipiat. Quodsi non invento Episcopo exierit, nequit interim suos Ordines exercere, donec Sancta Sedes aliter providerit.

A cleric incardinated in the Prelature according to the provision of n. 36 may not leave the Prelature until he finds a Bishop who will receive him into his diocese. If he leaves without finding a Bishop, he is unable to exercise his orders during that time, unless the Holy See provides otherwise.

No. 121

§1 Praeter apostolatum personalem, quem Praelatura in suis fidelibus fovet cuique profecto locus praecipuus competit, Praelatura qua talis specificam assistentiam pastoralem praestat laboribus et inceptis indolis civilis ac professionalis, non confessionalis, persequentibus fines educativos, assistentiales, etc.

As well as the personal apostolate which the Prelature fosters in its faithful, and which truly holds the primary place, the Prelature as such lends specific pastoral assistance to works and initiatives of a civil and professional, non-confessional, nature whose aims relate to education, social welfare, etc.

§2 Praelaturae Ordinarius, necessitate ductus adimplendi suam specificam missionem utque peculiaris Praelaturae finis quam melius in praxim deducatur, maxima

cura eos seliget qui cappellanorum atque religionis magistrorum munere fungentur, tum in inceptis ab Opere Dei qua tali promotis, tum in iis quae a Praelaturae fidelibus una cum aliis suscitantur et pro quibus adiutorium spirituale ab Opere Dei postulant. In nominandis vero his cappellanis et religionis magistris, Praelaturae Ordinarius suum Consilium audire numquam omittat, atque nominationes ita factas loci Ordinario opportune communicet.

The Ordinary of the Prelature, moved by the need to accomplish his specific mission, and so as to ensure the best possible fulfilment of the aim of the Prelature, will select with the greatest care the chaplains and religion teachers for initiatives promoted by Opus Dei as such, as well as for those organised by the faithful of the Prelature along with others, which request spiritual help from the

Prelature. When appointing these chaplains and religion teachers the Ordinary of the Prelature should never fail to consult his Council, and once the appointments are made, he should communicate them opportunely to the local Ordinary.

No. 125

§1 Praelaturae regimen committitur Praelato, qui suis Vicariis et Consiliis adiuvatur iuxta normas iuris universalis et huius Codicis.

The governance of the Prelature is entrusted to the Prelate, who is assisted by his Vicars and Councils in accordance with universal law and with this Code.

§2 Potestas regiminis qua gaudet Praelatus est plena in foro tum externo tum interno in sacerdotes Praelaturae incardinatos; in laicos vero Praelaturae incorporatos haec potestas ea est tantum quae spectat

finem peculiarem eiusdem Praelaturae.

With respect to priests incardinated in the Prelature, the Prelate's power of governance is full in both the internal and the external forum; for lay persons incorporated in the Prelature, his power of governance extends only to what concerns the particular end of the Prelature.

§3 Praelati potestas, sive in clericos sive in laicos, ad normam iuris universalis et huius Codicis exercetur.

The power of the Prelate, with respect to both clerics and lay persons, is exercised in accordance with universal law and with this Code.

§4 Nomine Ordinarii Praelaturae iure intelleguntur et sunt Praelatus necnon qui in eadem generali gaudent potestate exsecutiva ordinaria, nempe Vicarii pro

regimine tum generali cum regionali Praelaturae constituti.

The Ordinaries of the Prelature are understood in law to be, and are, the Prelate and those who possess general, ordinary executive power in the Prelature, that is, the Vicars appointed for the Prelature's governance, both general and regional.

No. 151

§1 Regimini uniuscuiusque Regionis praeponitur Vicarius, qui Consiliarius Regionalis nuncupatur, quemque nominat Praelatus cum voto deliberativo sui Consilii; Consiliario assistit Consilium, quod vocatur Commissio Regionalis, constans membris usque ad duodecim, designatis inter Praelaturae fideles de quibus in n. 13 pariterque nominatis a Praelato audito suo Consilio, cuius consensus

requiritur in casibus de quibus in nn. 157 §1 et 159.

The governance of each Region is entrusted to a Vicar, called the Regional Counsellor, whom the Prelate appoints with the deliberative vote of his Council. A Council called the Regional Commission assists the Counsellor; it consists of up to twelve members whom the Prelate also appoints from among the faithful of the Prelature mentioned in n. 13, after having consulted his Council. For the members mentioned in n. 157 § 1 and n. 159, the agreement of his Council is required.

CIC CANONS CITED IN THIS POLICY

Can. 48

A singular decree is an administrative act issued by a competent executive authority, whereby in accordance with the norms of law a decision is given or a provision made for a particular case; of its nature this decision or provision does not presuppose that a petition has been made by anyone.

Can. 51

A decree is to be issued in writing. When it is a decision, it should express, at least in summary form, the reasons for the decision.

Can. 55 Can. 55 Can. 55 Can. 55

Without prejudice to cann. 37 and 51, whenever a very grave reason prevents the handing over of the written text of a decree, the decree is deemed to have been made known if it is read to the person to whom it is directed, in the presence of a notary or two witnesses a record of the

occasion is to be drawn up and signed by all present.

Can. 56

A decree is deemed to have been made known if the person to whom it is directed has been duly summoned to receive or to hear the decree, and without a just reason has not appeared or has refused to sign.

Can. 128

Whoever unlawfully causes harm to another by a juridical act, or indeed by any other act which is deceitful or culpable, is obliged to repair the damage done.

Can. 134

§1 In law the term Ordinary means, apart from the Roman Pontiff, diocesan Bishops and all who, even for a time only, are set over a particular Church or a community

equivalent to it in accordance with can. 368, and those who in these have general ordinary executive power, that is, Vicars general and episcopal Vicars; likewise, for their own members, it means the major Superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right, who have at least ordinary executive power.

§2 The term local Ordinary means all those enumerated in §1, except Superiors of religious institutes and of societies of apostolic life.

§3 Whatever in the canons, in the context of executive power, is attributed to the diocesan Bishop, is understood to belong only to the diocesan Bishop and to those others in can. 381 §2 who are equivalent to him, to the exclusion of the Vicar general and the episcopal Vicar except by special mandate.

Can. 201 §1

Continuous time means unbroken time.

Can. 471, 2° Can. 471, 2° Can. 471, 2°

All who are admitted to an office in the curia must … observe secrecy within the limits and according to the manner determined by law or by the Bishop.

Can. 474

Acts of the curia which of their nature are designed to have a juridical effect must, as a requirement for validity, be signed by the Ordinary from whom they emanate. They must also be signed by the chancellor of the curia or a notary. The chancellor is bound to notify the Moderator of the curia about these acts.

Can. 489 Can. 489 Can. 489 Can. 489

It is not permitted to remove documents from the archive, except for a short time and with the permission of the Bishop or of both the Moderator of the curia and the chancellor.

Can. 490 Can. 490 Can. 490

§1 Only the Bishop is to have the key of the secret archive.

§2 When the see is vacant, the secret archive or safe is not to be opened except in a case of real necessity, and then by the diocesan Administrator personally.

§3 Documents are not to be removed from the secret archive or safe.

Can. 1312

§1. The penal sanctions in the Church are:

1° medicinal penalties or censures, which are listed in cann. 1331-1333;

2° expiatory penalties, mentioned in can. 1336.

§2. The law may determine other expiatory penalties which deprive a member of Christ's faithful of some spiritual or temporal good, and are consistent with the Church's supernatural purpose.

§3. Use is also made of penal remedies and penances, referred to in cann. 1339 and 1340: the former primarily to prevent offences, the latter rather to substitute for or to augment a penalty.

Can. 1315 §2

A lower legislator, taking into account can. 1317, can also:

1° reinforce with a fitting penalty a law issued by a higher authority, observing the limits of his competence in respect of territory or persons;

2° add other penalties to those laid down for a certain offence in a universal law;

3° determine or make obligatory a penalty which a universal law establishes as indeterminate or discretionary.

Can. 1319 Can. 1319

§1. To the extent to which one can impose precepts by virtue of the power of governance in the external forum in accordance with the provisions of cann. 48-58, to that extent can one also by precept threaten determined penalties, with the exception of perpetual expiatory penalties.

§2. If, after the matter has been very carefully considered, a penal precept is to be imposed, what is established in cann. 1317 and 1318 is to be observed.

Can. 1319 §1

To the extent to which one can impose precepts by virtue of the power of governance in the external forum in accordance with the provisions of cann. 48-58, to that extent can one also by precept threaten determined penalties, with the exception of perpetual expiatory penalties.

Can. 1339 Can. 1339 Can. 1339

§1. When someone is in a proximate occasion of committing an offence or when, after an investigation, there is a serious suspicion that an offence has been committed, the Ordinary either personally or through another can give that person warning.

§2. In the case of behaviour which gives rise to scandal or serious disturbance of public order, the Ordinary can also correct the person, in a way appropriate to the

particular conditions of the person and of what has been done.

§3. The fact that there has been a warning or a correction must always be proven, at least from some document to be kept in the secret archive of the curia

§4. If on one or more occasions warnings or corrections have been made to someone to no effect, or if it is not possible to expect them to have any effect, the Ordinary is to issue a penal precept in which he sets out exactly what is to be done or avoided.

§5. If the gravity of the case so requires, and especially in a case where someone is in danger of relapsing into an offence, the Ordinary is also to subject the offender, over and above the penalties imposed according to the provision of the law or declared by sentence or decree, to a measure of

vigilance determined by means of a singular decree.

Can. 1339 §3

The fact that there has been a warning or a correction must always be proven, at least from some document to be kept in the secret archive of the curia

Can. 1340

§1. A penance, which can be imposed in the external forum, is the performance of some work of religion or piety or charity.

§2. A public penance is never to be imposed for an occult transgression.

§3. According to his prudent judgement, the Ordinary may add penances to the penal remedy of warning or correction.

Can. 1342 to Can. 1350

§1. Whenever there are just reasons against the use of a judicial procedure, a penalty can be imposed or declared by means of an extra-judicial decree, observing canon 1720, especially in what concerns the right of defence and the moral certainty in the mind of the one issuing the decree, in accordance with the provision of can. 1608. Penal remedies and penances may in any case whatever be applied by a decree.

§2. Perpetual penalties cannot be imposed or declared by means of a decree; nor can penalties which the law or precept establishing them forbids to be applied by decree.

§3. What the law or decree says of a judge in regard to the imposition or declaration of a penalty in a trial is to be applied also to a Superior who imposes or declares a penalty by an extra-judicial decree, unless it is

otherwise clear, or unless there is question of provisions which concern only procedural matters.

Can. 1343

If a law or precept grants the judge the faculty to apply or not to apply a penalty, he is, without prejudice to the provision of can. 1326 §3, to determine the matter according to his own conscience and prudence, and in accordance with what the restoration of justice, the reform of the offender and the repair of scandal require; in such cases the judge may also, if appropriate, modify the penalty or in its place impose a penance.

Can. 1344

Even though the law may use obligatory words, the judge may, according to his own conscience and prudence:

1° defer the imposition of the penalty to a more opportune time, if it is foreseen that greater evils may arise from a too hasty punishment of the offender, unless there is an urgent need to repair scandal;

2° abstain from imposing the penalty or substitute a milder penalty or a penance, if the offender has repented, as well as having repaired any scandal and harm caused, or if the offender has been or foreseeably will be sufficiently punished by the civil authority;

3° may suspend the obligation of observing an expiatory penalty, if the person is a first-offender after a hitherto blameless life, and there is no urgent need to repair scandal; this is, however, to be done in such a way that if the person again commits an offence within a time laid down by the judge, then that person must pay the penalty for both offences, unless

in the meanwhile the time for prescription of a penal action in respect of the former offence has expired.

Can. 1345

Whenever the offender had only an imperfect use of reason, or committed the offence out of necessity or grave fear or in the heat of passion or, without prejudice to the provision of can. 1326 §1 n. 4, with a mind disturbed by drunkenness or a similar cause, the judge can refrain from inflicting any punishment if he considers that the person's reform may be better accomplished in some other way; the offender, however, must be punished if there is no other way to provide for the restoration of justice and the repair of any scandal that may have been caused.

Can. 1346

§1. Ordinarily there are as many penalties as there are offences.

§2. Nevertheless, whenever the offender has committed a number of offences and the sum of penalties which should be imposed seems excessive, it is left to the prudent decision of the judge to moderate the penalties in an equitable fashion, and to place the offender under vigilance.

Can. 1347

§1. A censure cannot validly be imposed unless the offender has beforehand received at least one warning to purge the contempt, and has been allowed suitable time to do so.

§2. The offender is said to have purged the contempt if he or she has truly repented of the offence and has made suitable reparation for the

scandal and harm, or at least seriously promised to make it.

Can. 1348

When the person has been found not guilty of an accusation, or where no penalty has been imposed, the Ordinary may provide for the person's welfare and for the common good by opportune warnings or other solicitous means, and even, if the case calls for it, by the use of penal remedies.

Can. 1349

If a penalty is indeterminate, and if the law does not provide otherwise, the judge in determining the penalties is to choose those which are proportionate to the scandal caused and the gravity of the harm; he is not however to impose graver penalties, unless the seriousness of the case really demands it. He may

not impose penalties which are perpetual.

Can. 1350

§1. In imposing penalties on a cleric, except in the case of dismissal from the clerical state, care must always be taken that he does not lack what is necessary for his worthy support.

§2. If a person is truly in need because he has been dismissed from the clerical state, the Ordinary is to provide in the best way possible, but not by the conferral of an office, ministry or function.

Can. 1342 §3 Can. 1342 §3

What the law or decree says of a judge in regard to the imposition or declaration of a penalty in a trial is to be applied also to a Superior who imposes or declares a penalty by an extra-judicial decree, unless it is otherwise clear, or unless there is

question of provisions which concern only procedural matters.

Can. 1353

An appeal or a recourse against judgements of a court or against decrees which impose or declare any penalty has a suspensive effect.

Can. 1362 Can. 1362

§1. A criminal action is extinguished by prescription after three years, except for:

1° offences reserved to the Congregation for the Doctrine of the Faith, which are subject to special norms;

2° without prejudice to no. 1, an action arising from any of the offences mentioned in cann. 1376, 1377, 1378, 1393 §1, 1394, 1395, 1397, or 1398 §2, which is extinguished after seven years, or one arising

from the offences mentioned in can. 1398 §1, which is extinguished after twenty years;

3° offences not punished by the universal law, where a particular law has prescribed a different period of prescription.

§2. Prescription, unless provided otherwise in a law, runs from the day the offence was committed or, if the offence was enduring or habitual, from the day it ceased.

§3. When the offender has been summoned in accordance with can. 1723, or informed in the manner provided in can. 1507 §3 of the presentation of the petition of accusation according to can. 1721 §1, prescription of the criminal action is suspended for three years; once this period has expired or the suspension has been interrupted through the cessation of the penal process, time runs once again and is added to the

period of prescription which has already elapsed. The same suspension equally applies if, observing can. 1720 n. 1, the procedure is followed for imposing or declaring a penalty by way of an extra-judicial decree.

Can. 1362 §2

§2. Prescription, unless provided otherwise in a law, runs from the day the offence was committed or, if the offence was enduring or habitual, from the day it ceased.

Can. 1390

§1. A person who falsely denounces a confessor of the offence mentioned in can. 1385 to an ecclesiastical Superior incurs a latae sententiae interdict and, if a cleric, he incurs also a suspension.

§2. A person who calumniously denounces some other offence to an

ecclesiastical Superior, or otherwise unlawfully injures the good name of another, is to be punished according to the provision of can. 1336 §§2-4, to which moreover a censure may be added.

§3. The calumniator must also be compelled to make appropriate amends.

Can. 1395 §2

A cleric who has offended in other ways against the sixth commandment of the Decalogue, if the offence was committed in public, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

Can. 1398

§1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where

the case calls for it, dismissal from the clerical state, if he:

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognises equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognises equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in can. 1395 §3 is to be punished according to the provision of can. 1336 §§2-4, with the addition of other penalties according to the gravity of the offence.

Can. 1399

Besides the cases prescribed in this or in other laws, the external violation of divine or canon law can be punished, and with a just penalty, only when the special gravity of the violation requires it and necessity demands that scandals be prevented or repaired.

Can. 1428

§1 The judge or, in the case of a collegiate tribunal, the presiding

judge, can designate an auditor to instruct the case. The auditor may be chosen from the tribunal judges, or from persons approved by the Bishop for this office.

§2 The Bishop can approve clerics or lay persons for the role of auditor. They are to be persons conspicuous for their good conduct, prudence and learning.

§3 The task of the auditor is solely to gather the evidence in accordance with the judge's commission and, when gathered, to submit it to the judge. Unless the judge determines otherwise, however, an auditor can in the meantime decide what evidence is to be collected and the manner of its collection, should any question arise about these matters while the auditor is carrying out his role.

Can. 1430

A promotor of justice is to be appointed in the diocese for penal cases, and for contentious cases in which the public good may be at stake. The promotor is bound by office to safeguard the public good.

Can. 1483

The procurator and advocate must have attained their majority and be of good repute. The advocate is also to be a catholic unless the diocesan Bishop permits otherwise, a doctor in canon law or otherwise well qualified, and approved by the same Bishop.

Can. 1509 Can. 1509

§1 With due regard to the norms laid down by particular law, the notification of summonses, decrees, judgements and other judicial acts is to be done by means of the public postal service, or by some other particularly secure means.

§2 The fact and the manner of notification must be shown in the acts.

Can. 1526 Can. 1526 to Can. 1586 Can. 1586

§1 The onus of proof rests upon the person who makes an allegation.

§2 The following matters do not require proof:

1° matters which are presumed by the law itself;

2° facts alleged by one of the litigants and admitted by the other, unless their proof is nevertheless required either by law or by the judge.

Can. 1527

§1 Any type of proof which seems useful for the investigation of the case and is lawful, may be admitted.

§2 If a party submits that proof, which has been rejected by the judge, should be admitted, the judge is to determine the matter with maximum expedition.

Can. 1528

If a party or a witness refuses to testify before the judge, that person may lawfully be heard by another, even a lay person, appointed by the judge, or asked to make a declaration either before a public notary or in any other lawful manner.

Can. 1529

Unless there is a grave reason, the judge is not to proceed to collect the proofs before the joinder of the issue.

Can. 1530

The judge may always question the parties the more closely to elicit the truth. He must do so if requested by

one of the parties, or in order to prove a fact which the public interest requires to be placed beyond doubt.

Can. 1531

§1 A party who is lawfully questioned is obliged to respond and to tell the whole truth.

§2 If a party has refused to reply, it is for the judge to evaluate what, as far as the proof of the facts is concerned, can be deduced therefrom.

Can. 1532

Unless a grave reason suggests otherwise, in cases in which the public good is at stake the judge is to administer to the parties an oath that they will tell the truth, or at least that what they have said is the truth. In other cases, it is left to the prudent discretion of the judge to determine whether an oath is to be administered.

Can. 1533

The parties, the promotor of justice and the defender of the bond may submit to the judge propositions upon which a party is to be questioned.

Can. 1534

The provisions of cann. 15482, n. 1, 1552 and 15581565 concerning witnesses are to be observed, with the appropriate qualifications, in the questioning of the parties.

Can. 1535

A judicial confession is an assertion of fact against oneself, concerning a matter relevant to the trial, which is made by a party before a judge who is legally competent; this is so whether the assertion is made in writing or orally, whether spontaneously or in response to the judge's questioning.

Can. 1536

§1 In a private matter and where the public good is not at stake, a judicial confession of one party relieves the other parties of the onus of proof.

§2 In cases which concern the public good, however, a judicial confession, and declarations by the parties which are not confessions, can have a probative value that is to be weighed by the judge in association with the other circumstances of the case, but the force of full proof cannot be attributed to them unless there are other elements which wholly corroborate them.

Can. 1537

It is for the judge, having considered all the circumstances, to evaluate the weight to be given to an extrajudicial confession which is introduced into the trial.

Can. 1538

A confession, or any other declaration of a party, is devoid of all force if clearly shown to be based on an error of fact or to have been extracted by force or grave fear.

Can. 1539

In every type of trial documentary proof is admitted, whether the documents be public or private.

Can. 1540

§1 Public ecclesiastical documents are those which an official person draws up in the exercise of his or her function in the Church and in which the formalities required by law have been observed.

§2 Public civil documents are those which are legally regarded as such in accordance with the laws of each place.

§3 All other documents are private.

Can. 1541

Unless it is otherwise established by contrary and clear arguments, public documents constitute acceptable evidence of those matters which are directly and principally affirmed in them.

Can. 1542

A private document, whether acknowledged by a party or admitted by a judge, has the same probative force as an extrajudicial confession, against its author or the person who has signed it and against persons whose case rests on that of the author or signatory. Against others it has the same force as have declarations by the parties which are not confessions, in accordance with can. 1536 §2.

Can. 1543

If documents are shown to have been erased, amended, falsified or otherwise tampered with, it is for the judge to evaluate to what extent, if any, they are to be given credence.

Can. 1544

Documents do not have probative force at a trial unless they are submitted in original form or in authentic copy and are lodged in the office of the tribunal, so that they may be inspected by the judge and by the opposing party.

Can. 1545

The judge can direct that a document common to each of the parties is to be submitted in the process.

Can. 1546

§1 No one is obliged to exhibit documents, even if they are common, which cannot be communicated

without danger of the harm mentioned in can. 1548 §2, n. 2, or without the danger of violating a secret which is to be observed.

§2 If, however, at least an extract from a document can be transcribed and submitted in copy without the disadvantages mentioned, the judge can direct that it be produced in that form.

Can. 1547

Proof by means of witnesses is admitted in all cases, under the direction of the judge.

Can. 1548

§1 Witnesses must tell the truth to a judge who lawfully questions them.

§2 Without prejudice to the provisions of can. 1550 §2, n. 2 the following are exempted from the obligation of replying to questions:

1° clerics, in those matters revealed to them by reason of their sacred ministry; civil officials, doctors, midwives, advocates, notaries and others who are bound by the secret of their office, even on the ground of having offered advice, in respect of matters subject to this secret;

2° those who fear that, as a result of giving evidence, a loss of reputation, dangerous harassment or some other grave evil will arise for themselves, their spouses, or those related to them by consanguinity or affinity.

Can. 1549

Everyone can be a witness, unless expressly excluded, whether wholly or in part, by the law.

Can. 1550

§1 Minors under the age of fourteen years and those who are of feeble mind are not admitted to give

evidence. They can, however, be heard if the judge declares by a decree that it would be appropriate to do so.

§2 The following are deemed incapable of being witnesses:

1° the parties in the case or those who appear at the trial in the name of the parties; the judge and his assistant; the advocate and those others who in the same case assist or have assisted the parties;

2° priests, in respect of everything which has become known to them in sacramental confession, even if the penitent has asked that these things be made known. Moreover, anything that may in any way have been heard by anyone on the occasion of confession, cannot be accepted even as an indication of the truth.

Can. 1551

A party who has introduced a witness may forego the examination of that witness, but the opposing party may ask that the witness nevertheless be examined.

Can. 1552

§1 When proof by means of witnesses is sought, the names and addresses of the witnesses are to be communicated to the tribunal.

§2 The propositions on which the interrogation of the witnesses is requested, are to be submitted within the time limit determined by the judge; otherwise, the request is to be deemed abandoned.

Can. 1553

It is for the judge to curb an excessive number of witnesses.

Can. 1554

Before witnesses are examined, their names are to be communicated to the parties. If, in the prudent opinion of the judge, this cannot be done without great difficulty, it is to be done at least before the publication of the evidence.

Can. 1555

Without prejudice to the provisions of can. 1550, a party may request that a witness be excluded, provided a just reason for exclusion is established before the witness is examined.

Can. 1556

The summons of a witness is effected by a decree of the judge lawfully notified to the witness.

Can. 1557

A properly summoned witness is to appear, or to make known to the judge the reason for being absent.

Can. 1558

§1 Witnesses are to be examined at the office of the tribunal unless the judge deems otherwise.

§2 Cardinals, Patriarchs, Bishops, and those who in their own civil law enjoy a similar favour, are to be heard at the place selected by themselves.

§3 Without prejudice to the provisions of can. 1418 and 1469 §2, the judge is to decide where witnesses are to be heard for whom, by reason of distance, illness or other impediment, it is impossible or difficult to come to the office of the tribunal.

Can. 1559

The parties cannot be present at the examination of the witnesses unless, especially when there is question of a private interest, the judge has determined that they are to be admitted. Their advocates or procurators, however, may attend, unless by reason of the circumstances of matter and persons, the judge has determined that the proceedings are to be in secret.

Can. 1560

§1 The witnesses are to be examined individually and separately.

§2 If in a grave matter the witnesses disagree either among themselves or with one of the parties, the judge may arrange for those who differ to meet or to confront one another, but must, in so far as possible, eliminate discord and scandal.

Can. 1561

The examination of a witness is conducted by the judge, or by his delegate or an auditor, who is to be attended by a notary. Accordingly, unless particular law provides otherwise, if the parties or the promotor of justice or the defender of the bond or the advocates who are present at the hearing have additional questions to put to the witness, they are to propose these not to the witness, but to the judge, or to the one who is taking the judge's place, so that he or she may put them.

Can. 1562

§1 The judge is to remind the witness of the grave obligation to tell the whole truth and nothing but the truth.

§2 The judge is to administer an oath to the witness in accordance with can. 1532. If, however, a witness

refuses to take an oath, he or she is to be heard unsworn.

Can. 1563

The judge is first of all to establish the identity of the witness. The relationship which the witness has with the parties is to be probed, and when specific questions concerning the case are asked of the witness enquiry is to be made into the sources of his or her knowledge and the precise time the witness came to know the matters which are asserted.

Can. 1564

The questions are to be brief, and appropriate to the understanding of the person being examined. They are not to encompass a number of matters at the same time, nor be captious or deceptive. They are not to be leading questions, nor give any

form of offence. They are to be relevant to the case in question.

Can. 1565

§1 The questions are not to be made known in advance to the witnesses.

§2 If, however, the matters about which evidence is to be given are so remote in memory that they cannot be affirmed with certainty unless they are recalled beforehand, the judge may, if he thinks this can safely be done, advise the witness in advance about certain aspects of the matter.

Can. 1566

The witnesses are to give evidence orally. They are not to read from a script, except where there is a question of calculations or accounts; in this case, they may consult notes which they have brought with them.

Can. 1567

§1 The replies are to be written down at once by the notary. The record must show the very words of the evidence given, at least in what concerns those things which bear directly on the matter of the trial.

§2 The use of a tape recorder is allowed, provided the replies are subsequently committed to writing and, if possible, signed by the deponents.

Can. 1568

The notary is to mention in the acts whether the oath was taken or excused or refused; who were present, parties and others; the questions added ex officio; and in general, everything worthy of record which may have occurred while the witnesses were being examined.

Can. 1569

§1 At the conclusion of the examination, the record of the evidence, either as written down by the notary or as played back from the tape-recording, must be communicated to the witness, who is to be given the opportunity of adding to, omitting from, correcting or varying it.

§2 Finally, the witness, the judge and the notary must sign the record.

Can. 1570

Before the acts or the testimony are published, witnesses, even though already examined, may be called for re-examination, either at the request of a party or ex officio. This may be done if the judge considers it either necessary or useful, provided there is no danger whatever of collusion or of inducement.

Can. 1571

Witnesses must be refunded both the expenses they incurred and the losses they sustained by reason of their giving evidence, in accordance with the equitable assessment of the judge.

Can. 1572

In weighing evidence the judge may, if it is necessary, seek testimonial letters, and is to take into account:

1° the condition and uprightness of the witness

2° whether the knowledge was acquired at first hand, particularly ifit was something seen or heard personally, or whether it was opinion, rumour or hearsay;

3° whether the witness is constant and consistent, or varies, is uncertain or vacillating;

4° whether there is corroboration of the testimony, and whether it is confirmed or not by other items of evidence.

Can. 1573

The deposition of one witness cannot amount to full proof, unless the witness is a qualified one who gives evidence on matters carried out in an official capacity, or unless the circumstances of persons and things persuade otherwise.

Can. 1574

The services of experts are to be used whenever, by a provision of the law or of the judge, their study and opinion, based upon their art or science, are required to establish some fact or to ascertain the true nature of some matter.

Can. 1575

It is for the judge, after hearing the opinions or suggestions of the parties, to appoint the experts or, if such is the case, to accept reports already made by other experts.

Can. 1576

Experts can be excluded or objected to for the same reasons as witnesses.

Can. 1577

§1 The judge in his decree must define the specific terms of reference to be considered in the expert's task, taking into account whatever may have been gathered from the litigants.

§2 The expert is to be given the acts of the case, and any documents and other material needed for the proper and faithful discharge of his or her duty.

§3 The judge, after discussion with the expert, is to determine a time for the completion of the examination and the submission of the report.

Can. 1578

§1 Each expert is to complete a report distinct from that of the others, unless the judge orders that one report be drawn up and signed by all of them. In this case, differences of opinion, if there are such, are to be faithfully noted.

§2 Experts must clearly indicate the documents or other appropriate means by which they have verified the identity of persons, places or things. They are also to state the manner and method followed in fulfilling the task assigned to them, and the principal arguments upon which their conclusions are based.

§3 If necessary, the expert may be summoned by the judge to supply further explanations.

Can. 1579

§1 The judge is to weigh carefully not only the expert's conclusions, even when they agree, but also all the other circumstances of the case.

§2 When he is giving the reasons for his decision, the judge must state on what grounds he accepts or rejects the conclusions of the experts.

Can. 1580

Experts are to be paid their expenses and honorariums. These are to be determined by the judge in a proper and equitable manner, with due observance of particular law.

Can. 1581

§1 Parties can designate their own experts, to be approved by the judge.

§2 If the judge admits them, these experts can inspect the acts of the case, in so far as required for the discharge of their duty, and can be present when the appointed experts fulfil their role. They can always submit their reports.

Can. 1582

If, in order to decide the case, the judge considers it opportune to visit some place, or inspect some thing, he is to set this out in a decree. After he has heard the parties, the decree is to give a brief description of what is to be made available for this access.

Can. 1583

After the inspection has been carried out, a document concerning it is to be drawn up.

Can. 1584

A presumption is a probable conjecture about something which is uncertain. Presumptions of law are those stated in the law; human presumptions are those made by a judge.

Can. 1585

A person with a presumption of law in his or her favour is freed from the onus of proof, which then falls on the other party.

Can. 1586

The judge is not to make presumptions which are not stated in the law, other than on the basis of a certain and determinate fact directly connected to the matter in dispute.

Can. 1548 §2 Can. 1548 §2

§2 Without prejudice to the provisions of can. 1550 §2, n. 2 the

following are exempted from the obligation of replying to questions:

1° clerics, in those matters revealed to them by reason of their sacred ministry; civil officials, doctors, midwives, advocates, notaries and others who are bound by the secret of their office, even on the ground of having offered advice, in respect of matters subject to this secret;

2° those who fear that, as a result of giving evidence, a loss of reputation, dangerous harassment or some other grave evil will arise for themselves, their spouses, or those related to them by consanguinity or affinity.

Can. 1592

§1 If a respondent is summoned but does not appear, and either does not offer an adequate excuse for absence or has not replied in accordance with can. 1507 §1, the judge is to declare the person absent from the process,

and decree that the case is to proceed to the definitive judgement and to its execution, with due observance of the proper norms.

§2 Before issuing the decree mentioned in §1, the judge must make sure, if necessary by means of another summons, that a lawful summons did reach the respondent within the canonical time.

Can. 1593

§1 If the respondent thereafter appears before the judge, or replies before the trial is concluded, he or she can bring forward conclusions and proofs, without prejudice to the provisions of can. 1600; the judge is to take care, however, that the process is not deliberately prolonged by lengthy and unnecessary delays.

§2 Even if the respondent has neither appeared nor given a reply before the case is decided, he or she can

challenge the judgement; if the person can show that there was a just reason for being absent, and that there was no fault involved in not intimating this earlier, a plaint of nullity can be lodged.

Can. 1596

§1 Any person with a legitimate interest can be allowed to intervene in a case in any instance of the suit, either as a party defending his or her own right or, in an accessory role, to help one of the litigants.

§2 To be admitted, however, the person must, before the conclusion of the case, produce to the judge a petition which briefly establishes the right to intervene.

§3 A person who intervenes in a case is to be admitted at that stage which the case has reached. If the case has reached the evidence stage, a brief and peremptory time limit is to be

assigned within which to bring forward evidence.

Can. 1608 Can. 1608

§1 To give any judgement, the judge must have in his mind moral certainty about the matter to be decided in the judgement.

§2 The judge must derive this certainty from the acts of the case and from the proofs.

§3 The judge must conscientiously weigh the evidence, with due regard for the provisions of law about the efficacy of certain evidence.

§4 A judge who cannot arrive at such certainty is to pronounce that the right of the plaintiff is not established and is to find for the respondent except in a case which enjoys the favour of law, when he is to pronounce in its favour.

Can. 1611

The judgement must:

1° define the controversy raised before the tribunal, giving appropriate answers to the individual questions;

2° determine the obligations of the parties arising from the trial and the manner in which these are to be fulfilled

3° set out the reasons or motives, both in law and in fact, upon which the dispositive part of the judgement is based;

4° apportion the expenses of the suit.

Can. 1612

§1 The judgement, after the invocation of the divine Name must state in order the judge or tribunal, and the plaintiff, respondent and procurator, with names and

domiciles duly indicated. It is also to name the promotor of justice and the defender of the bond if they were engaged in the trial.

§2 It must then briefly set out the alleged facts, with the conclusions of the parties and the formulation of the doubt.

§3 Then follows the dispositive part of the judgement, prefaced by the reasons which support it.

§4 It ends with the date and the place in which it was given, and with the signature of the judge or, in the case of a collegiate tribunal, of all the judges, and of the notary.

Can. 1713

In order to avoid judicial disputes, agreement or reconciliation can profitably be adopted, or the controversy can be submitted to the judgement of one or more arbiters.

Can. 1714

The norms for agreements, for mutual promises to abide by an arbiter's award, and for arbitral judgements are to be selected by the parties. If the parties have not chosen any, they are to use the law established by the Episcopal Conference, if such exists, or the civil law in force in the place where the pact is made.

Can. 1715

§1 Agreements and mutual promises to abide by an arbiter's award cannot validly be employed in matters which pertain to the public good, and in other matters in which the parties are not free to make such arrangements.

§2 Whenever the matter concerned demands it, in questions concerning temporal ecclesiastical goods the formalities established by the law for

the alienation of ecclesiastical goods are to be observed.

Can. 1716

§1 If the civil law does not recognise the force of an arbitral judgement unless it is confirmed by a judge, an arbitral judgement in an ecclesiastical controversy has no force in the canonical forum unless it is confirmed by an ecclesiastical judge of the place in which it was given.

§2 If, however, the civil law admits of a challenge to an arbitral judgement before a civil judge, the same challenge may be brought in the canonical forum before an ecclesiastical judge who is competent to judge the controversy at first instance.

Can. 1717 Can. 1717 Can. 1717 Can. 1717 Can. 1717

§1 Whenever the Ordinary receives information, which has at least the semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.

§2 Care is to be taken that this investigation does not call into question anyone's good name.

§3 The one who performs this investigation has the same powers and obligations as an auditor in a process. If, later, a judicial process is initiated, this person may not take part in it as a judge.

Can. 1717 §1 Can. 1717 §1 Can. 1717 §1 Can. 1717 §1

Whenever the Ordinary receives information, which has at least the

semblance of truth, about an offence, he is to enquire carefully, either personally or through some suitable person, about the facts and circumstances, and about the imputability of the offence, unless this enquiry would appear to be entirely superfluous.

Can. 1717 §2 Can. 1717 §2

Care is to be taken that this investigation does not call into question anyone's good name.

Can. 1717 §3 Can. 1717 §3

The one who performs this investigation has the same powers and obligations as an auditor in a process. If, later, a judicial process is initiated, this person may not take part in it as a judge.

Can. 1718 §1 Can. 1718 §1 Can. 1718 §1

When the facts have been assembled, the Ordinary is to decide:

1° whether a process to impose or declare a penalty can be initiated;

2° whether this would be expedient, bearing in mind Can. 1341;

3° whether a judicial process is to be used or, unless the law forbids it, whether the matter is to proceed by means of an extrajudicial decree.

Can. 1718 §1, 1° Can. 1718 §1, 1°

When the facts have been assembled, the Ordinary is to decide … whether a process to impose or declare a penalty can be initiated.

Can. 1718 §3 Can. 1718 §3 Can. 1718 §3

In making the decrees referred to in §§1 and 2, the Ordinary, if he considers it prudent, is to consult two judges or other legal experts.

Can. 1718 §4 Can. 1718 §4

Before making a decision in accordance with §1, the Ordinary is to consider whether, to avoid useless trials, it would be expedient, with the parties' consent, for himself or the investigator to make a decision, according to what is good and equitable, about the question of harm.

Can. 1719 Can. 1719

The acts of the investigation, the decrees of the Ordinary by which the investigation was opened and closed, and all those matters which preceded the investigation, are to be kept in the secret curial archive, unless they are necessary for the penal process.

Can. 1720

If the Ordinary believes that the matter should proceed by way of an extrajudicial decree:

1° he is to notify the accused of the allegation and the evidence, and give an opportunity for defence, unless the accused, having been lawfully summoned, has failed to appear;

2° together with two assessors, he is accurately to weigh all the evidence and arguments;

3° if the offence is certainly proven and the time for criminal action has not elapsed, he is to issue a decree in accordance with cann. 1342 – 1350, outlining at least in summary form the reasons in law and in fact.

Can. 1720, 1°

If the Ordinary believes that the matter should proceed by way of an extrajudicial decree … he is to notify the accused of the allegation and the evidence, and give an opportunity for defence, unless the accused, having been lawfully summoned, has failed to appear.

Can. 1720, 2°

If the Ordinary believes that the matter should proceed by way of an extrajudicial decree … together with two assessors, he is accurately to weigh all the evidence and arguments.

Can. 1720, 3°

If the Ordinary believes that the matter should proceed by way of an extrajudicial decree … if the offence is certainly proven and the time for criminal action has not elapsed, he is to issue a decree in accordance with cann. 1342 – 1350, outlining at least in summary form the reasons in law and in fact.

Can. 1721

§1 If the Ordinary decrees that a judicial penal process is to be initiated, he is to pass the acts of the investigation to the promotor of

justice, who is to present to the judge a petition of accusation in accordance with cann. 1502 and 1504.

§2 Before a higher tribunal, the promotor of justice constituted for that tribunal adopts the role of plaintiff.

Can. 1721 §1

If the Ordinary decrees that a judicial penal process is to be initiated, he is to pass the acts of the investigation to the promotor of justice, who is to present to the judge a petition of accusation in accordance with cann. 1502 and 1504.

Can. 1722

At any stage of the process, in order to prevent scandal, protect the freedom of the witnesses and safeguard the course of justice, the Ordinary can, after consulting the

promotor of justice and summoning the accused person to appear, prohibit the accused from the exercise of the sacred ministry or of some ecclesiastical office and position, or impose or forbid residence in a certain place or territory, or even prohibit public participation in the blessed Eucharist. If, however, the reason ceases, all these restrictions are to be revoked; they cease by virtue of the law itself as soon as the penal process ceases.

Can. 1725

In the argumentation of the case, whether done in writing or orally, the accused person or the advocate or procurator of the accused, always has the right to write or speak last.

Can. 1726

If in any grade or at any stage of a penal trial, it becomes quite evident

that the offence has not been committed by the accused, the judge must declare this in a judgement and acquit the accused, even if it is at the same time clear that the period for criminal proceedings has elapsed.

Can. 1728 §2 Can. 1728 §2

The accused person is not bound to admit to an offence, nor may the oath be administered to the accused.

Can. 1729 §1

In accordance with Can. 1596, a party who has suffered harm from an offence can bring a contentious action for making good the harm in the actual penal case itself.

Can. 1729 to Can. 1731

§1 In accordance with Can. 1596, a party who has suffered harm from an offence can bring a contentious

action for making good the harm in the actual penal case itself.

§2 The intervention of the harmed party mentioned in §1 is no longer admitted if the intervention was not made in the first instance of the penal trial.

§3 An appeal in a case concerning harm is made in accordance with cann. 1628 – 1640, even if an appeal cannot be made in the penal case itself. If, however, there is an appeal on both headings, there is to be only one trial, even though the appeals are made by different persons, without prejudice to the provision of Can. 1734 [It would appear that this reference should read 'Can. 1730'].

Can. 1730

§1 To avoid excessive delays in a penal trial, the judge can postpone the trial concerning harm until he

has given a definitive judgement in the penal trial.

§2 When the judge does this he must, after giving judgement in the penal trial, hear the case concerning harm, even though the penal trial is still pending because of a proposed challenge to it, or even though the accused has been acquitted, when the reason for the acquittal does not take away the obligation to make good the harm.

Can. 1731

A judgement given in a penal trial, even though it has become an adjudged matter, in no way creates a right for a party who has suffered harm, unless this party has intervened in accordance with can. 1733 [It would appear that this reference should read ‘Can. 1729’]

Can. 1732 Can. 1732 to Can. 1739 Can. 1739

Whatever is laid down in the canons of this section concerning decrees, is also to be applied to all singular administrative acts given in the external forum outside a judicial trial, except for those given by the Roman Pontiff himself or by an Ecumenical Council.

Can. 1733

§1 When a person believes that he or she has been injured by a decree, it is greatly to be desired that contention between that person and the author of the decree be avoided, and that care be taken to reach an equitable solution by mutual consultation, possibly using the assistance of serious-minded persons to mediate and study the matter. In this way, the controversy may by some suitable method be avoided or brought to an end.

§2 The Episcopal Conference can prescribe that in each diocese there

be established a permanent office or council which would have the duty, in accordance with the norms laid down by the Conference, of seeking and suggesting equitable solutions. Even if the Conference has not demanded this, the Bishop may establish such an office or council.

§3 The office or council mentioned in §2 is to be diligent in its work principally when the revocation of a decree is sought in accordance with Can. 1734 and the time limit for recourse has not elapsed. If recourse is proposed against a decree, the Superior who would have to decide the recourse is to encourage both the person having recourse and the author of the decree to seek this type of solution, whenever the prospect of a satisfactory outcome is discerned.

Can. 1734

§1 Before having recourse, the person must seek in writing from its

author the revocation or amendment of the decree. Once this petition has been lodged, it is by that very fact understood that the suspension of the execution of the decree is also being sought.

§2 The petition must be made within the peremptory time limit of ten canonical days from the time the decree was lawfully notified.

§3 The norms in §§1 and 2 do not apply:

1° in having recourse to the Bishop against decrees given by authorities who are subject to him;

2° in having recourse against the decree by which a hierarchical recourse is decided, unless the decision was given by the Bishop himself ;

3° in having recourse in accordance with cann. 57 and 1735.

Can. 1735

If, within thirty days from the time the petition mentioned in Can. 1734 reaches the author of the decree, the latter communicates a new decree by which either the earlier decree is amended or it is determined that the petition is to be rejected, the period within which to have recourse begins from the notification of the new decree. If, however, the author of the decree makes no decision within thirty days, the time limit begins to run from the thirtieth day.

Can. 1736

§1 In those matters in which hierarchical recourse suspends the execution of a decree, even the petition mentioned in Can. 1734 has the same effect.

§2 In other cases, unless within ten days of receiving the petition mentioned in Can. 1734 the author of

the decree has decreed its suspension, an interim suspension can be sought from the author's hierarchical Superior. This Superior can decree the suspension only for serious reasons and must always take care that the salvation of souls suffers no harm.

§3 If the execution of the decree is suspended in accordance with §2 and recourse is subsequently proposed, the person who must decide the recourse is to determine, in accordance with Can. 1737 §3, whether the suspension is to be confirmed or revoked.

§4 If no recourse is proposed against the decree within the time limit established, an interim suspension of execution in accordance with §§1 and 2 automatically lapses.

Can. 1737

§1 A person who contends that he or she has been injured by a decree, can for any just motive have recourse to the hierarchical Superior of the one who issued the decree. The recourse can be proposed before the author of the decree, who must immediately forward it to the competent hierarchical Superior.

§2 The recourse is to be proposed within the peremptory time limit of fifteen canonical days. In the cases mentioned in Can. 1734 §3, the time limit begins to run from the day the decree was notified; in other cases, it runs in accordance with Can. 1735.

§3 Even in those cases in which recourse does not by law suspend the execution of the decree, or in which the suspension is decreed in accordance with Can. 1736 §2, the Superior can for a serious reason order that the execution be suspended, but is to take care that

the salvation of souls suffers no harm.

Can. 1738

The person having recourse always has the right to the services of an advocate or procurator, but is to avoid futile delays. Indeed, an advocate is to be appointed ex officio if the person does not have one and the Superior considers it necessary. The Superior, however, can always order that the one having recourse appear in person to answer questions.

Can. 1739

In so far as the case demands, it is lawful for the Superior who must decide the recourse, not only to confirm the decree or declare that it is invalid, but also to rescind or revoke it or, if it seems to the Superior to be more expedient, to

amend it, to substitute for it, or to abrogate it.

CIC GLOSSARY

Advena — the term to describe a person when he or she is actually present in the place where he or she has a quasi-domicile.

ferendae sententiae — the term to describe one of the two forms of penalty, namely, that which is imposed by the judgement of a court or by the decree of a Superior, when a person has been found guilty of an offence. (cf *latae sententiae* below).

incola — the term to describe a person when he or she is actually present in the place where he or she has a domicile.

inter vivos — the term to describe a legal arrangement whereby, during lifetime, a person at once transfers proper to another person or

corporate body. (cf *mortis causa* below).

latae sententiae — the term to describe one of the two forms of penalty, namely, that which is automatically incurred on committing an offence, without the intervention of a judge or Superior. (cf *ferendae sententiae* above.)

magisterium — the term to describe the teaching authority of the Church.

mortis causa — the term to describe a legal arrangement made by a person during lifetime, whereby only after his or her death property is transferred to another person or corporate body. (cf *inter vivos* above.)

motu proprio — the term to describe a rescript (cf Can. 59 §1) which grants a favour not on the request of a petitioner, but on the sole initiative of the granting authority.

peregrinus — the term to describe a person when he or she is outside the place where he or she has a domicile or quasi-domicile, while still retaining that domicile or quasi-domicile. The plural is *peregrini*.

Presbyterium — the term to describe the body of priests who are dedicated to the service of a particular Church, under the authority of the Bishop or other Superior equivalent to a Bishop.

vagus — the term to describe a person who has neither a domicile nor a quasi-domicile anywhere. The plural is *vagi*.