



ARCHIDIOCESE

TRANI - BARLETTA - BISCEGLIE

RULES

*Diocesan Service for the Reception
of Separated Faithful*



Translation by Mario Ferrante

TRANI - 2023

It will therefore be necessary to put
available to separated people or couples in crisis,
an information, advice and mediation service,
linked to family pastoral work, which can also welcome people
in view of the pre-trial investigation

Amoris laetitia, 244

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Acronyms

AL	Amoris Laetitia
CEC	Congregation for Catholic Education
MIDI	Mitis Iudex Dominus Iesus
m.p.	motu proprio
RP	Rules of Procedure

Foreword

The family, founded on marriage between a man and a woman, has always been one of the Church's main concerns and considered the 'primary cell of society' (St John Paul II). As the 'fundamental cell of society', it is also defined by the European Social Charter (cf. Part I, No. 16, revised 1996). Marriage and the family were also dealt with by the Second Vatican Council (cf. nos. 47-52 *Gaudium et Spes*) and, because of this, the Popes have always invited the Church and the whole world not to turn their attention away from this important institution and other texts have followed with synods on the family, e.g. Ex. ap. *Familiaris Consortio* (1981) and the Letter on the occasion of the International Year of the Family (1994) by John Paul II

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Pope Francis followed in the wake of his Predecessors on these issues by convening two Synods on the family (2014 and 2015)¹, reforming the canonical marriage process (2015) and publishing the post-synodal Apostolic Exhortation *Amoris laetitia* (2016). With the Apostolic Letter *motu proprio* dated 15 August 2015 *Mitis Iudex Dominus Iesus* (entered into force on 8 December 2015), Pope Francis made significant innovations to the process of marriage nullity, while maintaining the proper nature of this procedure, as the Pontiff himself points out from the Proem of the m.p. himself, thus placing himself in explicit continuity with his Predecessors and with the tradition of the Church. To the amendment of the canons on purely procedural matters, the *Rules of Procedure* have been attached, in the first four articles of which the Bishop's duty to "follow with apostolic zeal separated or divorced spouses, who may have abandoned religious practice because of their state of life" is highlighted, sharing "with the parish priests the pastoral solicitude towards these faithful in difficulty" (Art.1 RP). And then Article 2 RP mentions a new ecclesial counselling service called "prejudicial or

¹Already Saint John Paul II dedicated the Fifth Ordinary General Assembly of the Synod of Bishops in October 1980 to 'The Christian Family', which was followed by the Post-Synodal Apostolic Exhortation '*Familiaris consortio*' (1981). The *Charter of the Rights of the Family* was then published in 1983. Of particular interest are also Pope Benedict XVI's magisterial interventions on the family, especially at the World Meetings of Families.

pastoral enquiry"² which as an information, counselling and mediation service is intended to accompany, discern and integrate those faithful who, experiencing crises, difficulties or doubting the validity of their marriage, wish to assess the possibility of overcoming such situations either by means of a possible conjugal reconciliation or by ascertaining the validity or otherwise of their marriage.

In this way, the Holy Father made a further contribution to overcoming the erroneous presumed opposition between law and pastoral care by exhorting the entire Church to reflect well on the peculiarity of the judicial ministry exercised in it and to initiate in a particular way a judicial pastoral care capable of being close to families in imperfect situations, starting from the appreciation of the positive elements and then helping them to integrate into the Christian community, which in turn is exhorted to perfect itself in the art of accompaniment and pastoral discernment³.

us une attitude d'accompagnement, de discernement et de proximité envers chaque personne et chaque famille, en particulier vers des situations difficiles ou irrégulières.

In our Diocese on 11 March 2016, with an archiepiscopal decree of the same date, preceded by a pastoral note of presentation, Archbishop Giovan Battista Pichierri ordered the establishment of the Diocesan Service for the Reception of Separated Faithful, as a stable structure within the Diocesan Ecclesiastical Tribunal, which cooperates with the diocesan Family Pastoral Service in order to provide and guarantee, free of charge, an information, counselling and mediation service in all the cities that make up the Archdiocese to those faithful who are experiencing a marriage crisis or whose marriage has broken down.

² For a more in-depth study on this issue worthy of note E. TUPPUTI, *L'indagine pregiudiziale o pastorale alla luce del m.p. Mitis Iudex Dominus Iesus. Applicazioni nelle diocesi della Puglia*, Urbaniana University Press, Vatican City 2021.

³ On this aspect, which has always been the Church's concern, the reflections in a document of the then Congregation for the Doctrine of the Faith appear noteworthy and topical: J. RATZINGER, *Introduction*, in CONGREGATION FOR THE DOCTRINE OF THE FAITH, *On the pastoral care of remarried divorcees and the sacraments. Documents, commentaries, studies*, Libreria Editrice Vaticana, Vatican City 1998, 7-29.

Subsequently, on 15 March 2018, in a letter addressed to the diocesan community, I advocated the continuation of this important ecclesial service for the good of the faithful by increasingly fostering an attitude of accompaniment, discernment and proximity towards every person and every family, especially towards difficult or irregular situations.

Therefore, the willingness and closeness of us pastors and the diocesan community has enabled the diocesan Service for the Reception of the Separated Faithful, in these first years of activity and application of the reform, to favour a path of accompaniment, discernment and integration, which has produced on the one hand the activation of a concrete judicial pastoral care, capable of giving more and more trust and hope to those faithful and couples experiencing situations of matrimonial difficulties or marital bankruptcy.

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On the other hand, a process has been initiated that leads to a pastoral care of proximity that is not only physical or territorial, but also psychological, spiritual, juridical and pastoral, which does not consider pastoral discernment at the expense of judicial discernment, but strives to place the *via charitatis* and *via veritatis* in synergy and complementarity, taking care that 'every person and every community has the right to an encounter with Christ, and all the norms and juridical acts tend to favour the authenticity and fruitfulness of this encounter'. Therefore, this way of working is doing so much good both to the faithful, who find in this service a welcoming and competent place to shed light on their situation of marital fragility, and to the priests of the diocese, who find in it support and help to grow better in the art of accompaniment, discernment and integration. The diocesan service, therefore, has set itself and continues to set itself as a bridge-service between the pastoral care of accompanying difficult marital situations and the work of the ecclesiastical courts, always having at heart the good of the faithful and of those who have experienced the failure of their relationship.

In this sense, it truly constitutes a specialized listening place that performs a pastoral, moral and canonical orientation, becoming a concrete instrument of the diocesan judicial and family pastoral work

for a healthy personal journey that may include a possible declaration of matrimonial nullity or a path of pastoral and personal accompaniment, which is subsequently carried out together with the Christian community, involving pastoral workers and under the guidance of the Church's legitimate pastors.

In the light of this positive experience in our Archdiocese, it was decided to draw up a set of Rules to better organize and enhance this important canonical institute, much desired by Pope Francis, whose spirit must continue to be that of an ecclesial, synodal and co-responsible service capable of reaching out to families in situations of lost love, starting from the enhancement of the positive elements and then helping them to integrate into the Christian community.

Trani, 29 April 2023 - Feast of St Catherine of Siena

Leonardo D'Ascenzo
✠ **Archibishop**

¹ FRANCIS, *Address to participants in the training course promoted by the Roman Rota*, 18 February 2023.

ART. 1

ESTABLISHMENT AND SEAT

§ 1 In the Archdiocese of Trani-Barletta-Bisceglie, following the promulgation of Pope Francis' m.p. MIDI which came into force on 8 December 2015, a new ecclesial office was established by archiepiscopal decree of 11 March 2016 (Prot. no. 2602/16), pursuant to Art. 3 RP, a new ecclesial office called 'Diocesan Service for the Reception of the Separated Faithful' (henceforth: Diocesan Service), which as a stable structure within the diocesan Ecclesiastical Tribunal operates in close collaboration with the diocesan Family Pastoral Care, as an expression of the diocesan Bishop's care towards the faithful who wish to verify the truth about the validity of their marriage bond, who find themselves experiencing a marriage crisis or whose marriage appears to have failed, irretrievably or otherwise.

§ 2 The Diocesan Service has its headquarters at the Diocesan Curia, Via Beltrani, 9, where it keeps its archives, which, for reasons of confidentiality, will be kept under lock and key and access to which is permitted only to the person in charge of the Diocesan Service and to those to whom, from time to time, the Diocesan Bishop will give justified written authorization.

ART.2

NATURE OF THE SERVICE

§ 1. The present statutes refer to the Code of Canon Law with regard to the application of the Preliminary or Pastoral Enquiry, in accordance with Article 6 of the MIDI RP.

§ 2. The Preliminary or pastoral enquiry in the Archdiocese of Trani-Barletta-Bisceglie, known as the Diocesan Service for the Reception of Separated Faithful, is a juridical-pastoral ecclesiastical office created within the diocesan ecclesiastical court that collaborates with the diocesan family pastoral service, with the aim of providing an information, advice and mediation service to those separated or divorced faithful who doubt the validity of their marriage.

§ 3. The diocesan service acts as a bridge between the pastoral care of difficult marital situations and the work of the ecclesiastical courts. In this sense, it constitutes a specialized listening post for the purpose of providing pastoral, moral and canonical guidance and being a concrete bridge between diocesan pastoral care and judicial pastoral care.

§ 4. The diocesan service as a canonical institute, in accordance with articles 1-5 RP of the MIDI, is an expression of the pastoral care of the Archbishop, who by virtue of can. 383 § 1 is obliged to follow with apostolic zeal, together with the parish priests (cf. can. 529 § 1) the separated or divorced spouses, who due to their state of life may have abandoned religious practice.

ART. 3

AIMS AND RECIPIENTS OF THE DIOCESAN SERVICE

§ 1. The diocesan service, a direct expression of the Archbishop's care for the faithful, has as its purpose to

1. to provide pastoral guidance for those experiencing marital crisis, but also canonical guidance for those Catholic faithful who are separated, de facto or legally, or who have reached divorce;
2. help the faithful to understand which situations are those in which marital separation with the persistence of the bond is to be understood in line with the teaching of the Church (cf. Cann. 1151-1155), suggesting appropriate indications for dealing with the condition in a Christian manner. Moreover, when it is appropriate, the faithful may be invited to ask for formal canonical recognition of their condition of separation, through a canonical decree of the Ordinary;
3. accompanying the faithful in the application for dissolution of the bond by unconsummation or in favor of the faith, in close cooperation with the diocesan ecclesiastical court;
4. assist couples in difficulty in reviewing their marital history in the light of Christian teaching. In this sense, he tries to bring about a possible reconciliation, and where this is not possible, he gathers the useful elements (acquisition of documents, availability of witnesses, acquisition of documents that may have emerged during the hearing) for the possible introduction of the judicial process (ordinary, patent or documentary) by the spouses with the possible help of an expert (Patron of trust or permanent Patron) at the competent court (cf. RP art. 4 MIDI and Can. 1673).

§ 2. In the event that the diocesan service does not see the conditions to start a judicial process, it will assist the faithful pastorally by directing them towards a path of discernment and integration in the Christian life, according to truth and in a style of mercy and mutual forgiveness.

ART. 4

COMPOSITION AND PROFILE OF DIOCESAN SERVICE MEMBERS

§ 1. The Diocesan Service is composed of persons/consultants competent in juridical-canonical matters and in family pastoral care, coordinated by a Head and operating in all the cities of the Archdiocese. The Consultants of the Diocesan Service, who may be clerics, religious or lay people, are appointed directly by the Archbishop, in accordance with Art. 3 RP of the MIDI, and hold office for five years, renewable.

§ 2. The Archbishop appoints (cf. Art. 3 RP), from among the Consultants of the diocesan Service, the diocesan Manager who acts as a reference point for the team in the diocesan family pastoral care of which he is a member. The diocesan Manager may choose a secretary from among the team who will help him/her in assisting the activities of the diocesan Service.

§ 3. The Consultants appointed by the Archbishop must have adequate competence in the field of marriage and the family from the point of view of one or more specific disciplines: theological, juridical, moral, psychological, combined with a lively pastoral sensitivity. The Consultants are required to take an oath to faithfully fulfil their task and to maintain secrecy

§ 4. By virtue of what is stated in § 3 of this article, it is desirable and advisable that, for the effective effectiveness of the diocesan Service, the Archbishop ensures that the team is composed of suitable persons who not only have "adequate academic training, in relation to the different tasks to be carried out" (CEC, Instruction on Canon Law Studies in the light of the reform of the matrimonial process, 03 May 2018, no. 2), but are morally upright persons, of integrity, experts in canonical science, pastorally sensitive in the area of family and mediation.

§ 5. The Consultants of the Diocesan Service may propose amendments or additions to these Rules, by a two-thirds majority of the Consultants in office, to be submitted to the Archbishop for approval.

§ 6. The Consultants shall meet at least quarterly, and whenever necessary, to take stock of the work carried out. The convocation is the responsibility of the Head of the Diocesan Service and is to be made, in writing, at least 15 days in advance.

ART. 5

DUTIES OF THE BISHOP TOWARDS DIOCESAN SERVICE

§ 1. The Bishop, in compliance with the norm of Art. 1 and 3 RP, according to which he is obliged to follow separated or divorced spouses with an apostolic spirit, establishes the diocesan service, in order to offer, through structures at parish and/or diocesan level, a juridical-pastoral service of information, counselling and mediation towards the "separated or divorced faithful who doubt the validity of their marriage or are convinced of its nullity" (Art. 2 RP).

§ 2. The Bishop's task is to:

1. identifying and appointing suitable persons for the diocesan service and the person in charge, and supervising the fulfilment of their personal requirements and the proper functioning of the diocesan service;
2. guaranteeing not only physical but also pastoral proximity to those situations of matrimonial fragility, in order to provide an adequate and renewed pastoral care of merciful proximity and an accurate judicial pastoral care;
3. ensure, by virtue of the responsibility proper to his office, the adequate, permanent and/or academic training of those who provide pastoral and juridical service to those faithful who find themselves in difficult matrimonial situations or require verification of the validity of their marriage;
4. Ensure, with the assistance of the person in charge, that the diocesan service is a qualified place of ecclesial, pastoral and juridical service and that it guarantees advice at various levels carried out with competence and prudence and always taking care to avoid hasty conclusions that could generate harmful illusions or damage the purpose for a possible matrimonial

nullity trial or even more prevent a valuable clarification for the peace of conscience of the faithful.

ART. 6 TASKS OF THE DIOCESAN SERVICE MANAGER

§ 1. The Head of the Diocesan Service is a member chosen and appointed directly by the Archbishop from among the members of the Diocesan Service.

§ 2. The Head has the following tasks:

1. act in synergy with the Archbishop's instructions;
2. choose, from among the members of the diocesan service team (if necessary), a secretary who will help coordinate the various activities of the service;
3. convene and chair meetings of the diocesan service team to define the activities of the service;
4. coordinating the various counselling and training activities with the help of the diocesan team;
5. represent the diocesan Service within the diocesan family pastoral team of which he is a member. If he is prevented from attending meetings of the family pastoral care team, he may be represented in all his functions by the secretary or a member of the diocesan service;
6. draw up, at the end of the year, a report for the Archbishop containing data on the progress of the service, the work done and any suggestions for improving ordinary and judicial pastoral care towards the family;
7. to take care of the collaborative relations between the diocesan ecclesiastical court and the interdiocesan ecclesiastical court for a fruitful ecclesiastical counselling service that favours, in a synodal and co-responsible style, a correct knowledge and

application of the doctrine and discipline of the Church in the matrimonial and procedural sphere.

ART. 7

TASKS OF THE DIOCESAN SERVICE

§ 1. The diocesan service, coordinated by the person in charge, has as one of its tasks to:

1. foster cooperation between the ecclesiastical court and the diocesan family pastoral service with the aim of offering useful tools for a pastoral care of the bond;
2. organize, in synergy with the diocesan Family Pastoral Service and/or external experts, days of study, training and in-depth interdisciplinary study on marriage and family issues, for clergy and pastoral workers and members of the diocesan service to acquire adequate skills on how to carry out counselling and/or how to nurture a correct pastoral care of the bond, so as to prevent void marriages;
3. take care of the distribution at diocesan level of any indications, vademecum and legal-pastoral aids on family issues and a pastoral care of the bond, in order to foster a style of welcome and accompaniment, together with pastoral proposals to educate ecclesial communities and offer paths of discernment capable of enlightening consciences in the light of the value and responsibility of spousal love that shines in Christ, so as to make concrete the sacramental and ecclesial integrations that are possible in the path of individuals and couples;
4. provide a free legal-pastoral counselling service for priests, parishes, church bodies working for the family, participation bodies, curia pastoral offices, as well as for the faithful wounded by a lost love;
5. carry out the further directives of the Magisterium and the Archbishop aimed at fostering a pastoral care of listening, welcoming, discernment and integration.

§ 2. The diocesan service has the task of looking after its own Internet space, which is provided on the official website of the Archdiocese, where one can find useful information and in-depth material (articles, aids, vademecum, etc.).

ART. 8

OPERATIONAL INDICATIONS CONCERNING COUNSELLING AT THE DIOCESAN SERVICE

§ 1. Diocesan Service Advisors, appointed by the Archbishop, are available to provide personalised counselling under the following conditions:

1. counselling is by phone appointment (0883.494230 every Tuesday and Thursday) or email address (tribunalecclesiastico@arcidiocesitrani.it - please specify your personal data). The request is addressed to the diocesan manager;
2. the Manager contacts the Consultant and arranges an appointment at the location closest to the Applicant, who is notified by telephone call or email;
3. the Consultant, contacted by the Manager, carries out the consultation and gives his opinion to the applicant, with the suggestions that seem most appropriate to him;
4. if the Adviser finds that the conditions are favorable for bringing a case before the competent Ecclesiastical Court, he provides the Applicant with: 1. the indications as to the procedure to be followed, 2. the list of the Roll of Advocates of the Apulian Interdiocesan Ecclesiastical Court residing in the Region;
5. if the Advisor does not find any useful elements for a request for matrimonial nullity, he will refer the faithful to a discernment and integration process to be carried out either in a diocesan structure in charge of this type of pastoral accompaniment or to the parish priest where the faithful have their domicile or to a priest indicated by the local Ordinary;
6. each counselling ends with the signing of a report signed by the counsellor and the applicant, observing the CEI regulations

on privacy (Cf. General Decree of the Italian Episcopal Conference "Dispositions for the protection of the right to good reputation and confidentiality" of 24 May 2018; canonical regulations governing the matter; GDPR Regulation (EU) 2016/679).

§ 2. Diocesan Service Advisors provide their service free of charge and perform a specialized listening and welcoming service to any person experiencing a difficult and irregular situation.

ART. 9

SERVICE RELATIONS

WITH THE DIOCESAN COMMUNITY

§ 1. The diocesan service is aware that the whole Church has the task of accompanying its more fragile brothers and sisters in their matrimonial bond, which is why it encourages a pastoral care of the bond. Moreover, it constantly engages in dialogue and availability with the diocesan community by means of pastoral activities (reflection days, popular articles and other means of communication) concerning situations of marital fragility. In addition, it seeks to foster a pastoral outreach among pastors and pastoral workers, as well as to train workers who can then make themselves available for first-level pastoral counselling within parish contexts (cf. Art. 2 RP).

§ 2. The diocesan service, in agreement with the Archbishop, may take care, in collaboration with the family pastoral ministry, of the basic and/or ongoing training of clergy and pastoral workers at a zonal or diocesan level in order to encourage an effective synergy between family pastoral ministry and pastoral ministry, taking care to avoid a false 'pastoralism' (cf. JOHN PAUL II, Address to the Rota Romana, 18 January 1990, in AAS 82 (1990), 872-877) for the good of the faithful and 'love of the truth' (Cf. BENEDICT XVI, Address to the Rota Romana, 28 January 2006, in AAS 98 (2006), 135-138). For this reason, the objective of training will be to acquire adequate skills to:

1. guide and advise those who have experienced marital breakdown towards a proper verification of their marriage;
2. nurture pre-marital and matrimonial pastoral care as pastoral care of the bond (cf. AL 211), capable of preventing matrimonial nullity, but also as pastoral care of proximity and listening to those difficult or 'irregular' matrimonial situations;

3. to grow in the art of accompaniment, discernment and integration for the good of all the faithful entrusted to us and in particular for those faithful who are "more fragile, marked by wounded and lost love, restoring trust and hope" (AL 291);
4. promote a pastoral conversion of ecclesiastical structures, repeatedly called for by Pope Francis, 'to offer the opus iustitiae to those who turn to the Church to shed light on their marital situation' (FRANCIS, Address to the Rota Romana, 23 January 2015, in AAS 107 (2015), 184).
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§ 3. The diocesan service, as an expression of the Bishop's pastoral care, operates and carries out an integrated (or second-level) counselling service in all the cities of the Archdiocese, in order to guarantee and allow greater proximity between the Bishop and the faithful, who, wounded by a failed marriage, present a request for help in order to have their marital situation clarified.

ART. 10

AREAS OF DIOCESAN SERVICE CONSULTATION

§ 1. In the Archdiocese of Trani-Barletta-Bisceglie, listening to the faithful marked by a marriage in crisis and/or failure takes place in three areas or levels: pastoral, legal-pastoral, technical-juridical. These levels of counselling may be consecutive or alternate, depending on the discernment process in each case, but they are always in continuous relation with each other, so much so as to be imagined as concentric circles of increasingly in-depth necessary counselling.

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§ 2. The development of the different levels of counselling will start from the first hearing of the spouses in difficulty and proceed to the final result. If the conjugal situation is complex and permanent, or if there has been separation, nullity of the marriage, dissolution of the marriage in favor of the faith, or dispensation of the ruptured and unconsummated marriage, the faithful must be accompanied to help them to assume their moral obligations, including their civil obligations with regard to the other party and their possible offspring, as far as their sustenance, education and transmission of the faith are concerned. This accompaniment will also be done in veto removal proceedings following a marriage nullity.

§ 3. The first level of pastoral counselling concerns the pastoral sphere, which is what takes place in parishes and can be carried out by parish priests or family pastoral workers (first level counsellors, although not endowed with juridical-canonical competence: cf. Art. 3 RP), who have the opportunity to be in front of situations of couples in difficulty and who need an initial listening and help to clarify their matrimonial situation. In this first level of pastoral counselling, the accompaniment of the spouses and/or faithful is carried out from a pastoral and spiritual point of view, whereby the counsellor must seek to understand the matrimonial situation by carrying out an initial re-reading of the conjugal vicissitude, evaluating suitable pastoral solutions consistent with the Church's doctrine and Magisterium.

In this first phase of listening, it seems more important than ever that parish priests, priests and all those who collaborate in the area of family pastoral work should know how to listen to and accompany with empathy, wisdom and prudence the faithful or couples who are suffering from the failure of their married life, helping them to remember what founded their marriage and to rediscover God's plan, seeking, where possible, to revitalize the desire for family..

§ 4. The second level of counselling is that of counsellors in a stable structure: clerics, religious or lay people (second-level counsellors: cf. Art. 3 RP) who work in the listening, mediation and counselling service set up at diocesan level whose members are chosen and appointed by the Archbishop. This level of integrated counselling and juridical-pastoral accompaniment is intended to examine certain possibilities: 1. a reconciliation, where possible; 2. a possible dissolution of the bond by unconsummation or in favor of the faith; 3. the assessment of whether or not there are sufficient grounds and evidence to introduce a matrimonial nullity case.

In this second level of counselling, moreover, the counsellor performs a more attentive, professional and rigorous listening, helping the faithful to : 1. put themselves at ease in order to bring out the truth of the facts of the marital affair, 2. understand the declarative meaning of a possible canonical judgment, 3 collaborate honestly in recounting their marital affair in order to shed light on their marital situation so as to offer useful advice on how to deal with it.

The second-level counsellor will then check whether the requesting party is on good terms with the other spouse, from whom he or she wishes to separate, and try to hear the other party's side of the matrimonial story, with a view to possible reconciliation or mediation where possible, or to undertake a judicial process in the ordinary or shorter form, in accordance with Canon 1683. If the outcome of this juridical-pastoral counselling is positive, the faithful or the couple will be referred to a third-level counsellor; otherwise, the faithful may ask for a further in-depth study by another expert in canonical matters, or they will be directed to pastoral realities qualified to accompany the separated faithful.

§ 5. The third level of consultancy is proper to those who are experts in canonical matters as it is of a technical-juridical nature and is entrusted to the lawyers (third level consultants: notary lawyers, attorneys in trust, ex officio or stable patrons, cf. art. 4 RP) who, following the positive outcome of the consultancy, will draw up the booklet indicating the possible grounds for nullity to be submitted for examination in the canonical process in the ordinary or shorter form, should the conditions provided for by the canonical norms in force be met.

The third-level counsellor, in addition to having an attentive and knowledgeable approach, will follow a methodology that examines every aspect experienced by the believer and/or the couple during the relationship: engagement, intentions before the wedding, external contexts and influences at the time of the marriage, consultations or suggestions from friends, relatives or priests, adequate preparation for the marriage, wedding celebration, post-marital period, possible birth of offspring, marital discomfort or discomfort, motives for the separation and divorce proceedings, current situation. In addition to this methodology, as soon as useful clues for the trial process are seen, further elements and evidence must be gathered, such as: witnesses and their willingness to cooperate; any legal or medical documentation; other useful material to search for the objective truth of the matrimonial affair, which will be examined by the competent ecclesiastical court.

ART.11 TRAINING OF CONSULTANTS

For the effectiveness of adequate counselling in its various levels, it will be necessary on the part of the Archbishop to promote suitable interdisciplinary permanent basic and/or academic training for the various individuals who will provide the legal-pastoral counselling, as stipulated in the CEC's Instruction on Canon Law Studies of 29 April 2018.

ART.12 GENERAL RULES

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§ 1. The interpretation of the present Rules is reserved to the Archbishop, who alone can give the authentic meaning of the norms contained in them. The norms of the present Rules may be amended by the Archbishop on his own initiative or at the request of at least two thirds of the consultants of the Diocesan Service who are in office.

§ 2. Amendments to the Rules, after careful discernment, enter into force upon ratification by the Archbishop. For anything not contemplated in these Rules, reference is made to canonical norms.

Trani, 13 May 2023

Sac. Francesco Mastrulli
THE CHANCELLOR

✠ Leonardo D'Ascenzo
THE ARCHBISHOP

APPENDIX

by don Emanuele Tupputi

1 – Glossary

For the purposes of these Rules, a glossary is provided with some definitions for a correct and congruous reception of this ecclesial service of Preliminary or Pastoral Investigation in the context of a renewed judicial pastoral. Therefore, it is specified that:

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1. **Preliminary or pastoral enquiry'** means a bridging service or ecclesial office⁴ which, operating in harmony with the unitary diocesan marriage ministry, intends to accompany, discern and integrate those believers who, experiencing crises, difficulties or doubting the validity of their marriage, wish to assess the possibility of overcoming such situations either through the possibility of conjugal reconciliation or by ascertaining the validity or otherwise of the marriage. The "Sussidio applicativo della Rota Romana" (Roman Rota Application Subsidy) states that this ecclesial service must be "the first step that the Bishops are called upon to take"⁵ to offer information, counselling and mediation through structures designed at parish or diocesan level to the "separated or divorced faithful who doubt the validity of their marriage or are convinced of its nullity" (Art. 2 RP). Thus, this new counselling service of a pastoral and juridical nature is intended to be an instrument of convergence between family pastoral work and court practitioners⁶

⁴ It can be understood in this way, since the preliminary investigation has a spiritual purpose, in accordance with Canon 145, as it is called to accompany the separated or divorced faithful with an apostolic spirit (cf. Art. 1 RP), and also a technical purpose proper to a stable ecclesiastical office, in accordance with Canons 146, 148 and 156, to help the wounded faithful to know their matrimonial conditions and to gather elements useful for a possible trial (cf. Art. 2 RP).

⁵ APOSTOLIC TRIBUNAL OF THE ROMAN ROTA, *Sussidio applicativo del Motu proprio Mitis Iudex Dominus Iesus*, Libreria Editrice Vaticana, Vatican City 2015, 13.

⁶ In this regard, it is worth noting the remarks that Pope Francis made, during a course organized by the Rota Romana, about the necessary interaction that must develop between family pastoral care and the juridical dimension of ecclesiastical courts, understood as pastoral bodies intimately linked to the life of the Church and the service of man. In this

in supporting the faithful in difficulty in clarifying their convictions and in making the proceedings concerning the nullity of their marriage more effective and rapid.

Moreover, a careful reading of the legislation shows that in the Legislator's mind this church service, not to be seen as a duplicate of other long-established organizations such as family counselling centers⁷, constitutes the concrete expression not only of the

regard, the Holy Father stated: 'Beginning with the two *motu proprio Mitis Iudex and Mitis et misericors Iesus*, there has been a growing awareness of the interaction between family pastoral care and ecclesiastical courts, also seen in their specificity as pastoral bodies. On the one hand, an integral pastoral care of the family cannot ignore legal questions concerning marriage. Suffice it to think, for instance, of the task of preventing marriage nullities during the phase prior to the celebration, and also accompanying couples in crisis situations, including directing them to the Church courts when it is plausible that a nullity ground exists, or advising them to start the procedure for dispensation by unconsummation. On the other hand, those working in the courts can never forget that they are dealing with matters that have a strong pastoral relevance, so the demands of truth, accessibility and prudent celerity must always guide their work; and the duty to do everything possible for reconciliation between the parties or the validation of their union must not be overlooked either': FRANCIS, *Address to participants in the training course promoted by the Rota Romana*, 18 February 2023. Regarding, then, the importance of the preliminary phase, I would like to quote the considerations that the Pontiff himself offered on the occasion of the Inauguration of the 2022 judicial year of the Tribunal of the Roman Rota, when addressing the Prelate Hearing Officers, he used words of support for this ecclesial service, which entails significant juridical-pastoral implications for the faithful who find themselves in difficulty and seek pastoral help. In this regard, Pope Francis stated how: 'Already at the preliminary stage, when the faithful find themselves in difficulty and seek pastoral help, there can be no lack of effort to discover the truth about their union, an indispensable prerequisite for healing wounds. In this framework, one understands how important it is to strive for forgiveness and reconciliation between the spouses, and also to validate a void marriage when this is possible and prudent. Thus, it is also understood that the declaration of nullity should not be presented as if it were the only objective to be achieved in the face of a matrimonial crisis, or as if this were a right regardless of the facts. When presenting the possible nullity, it is necessary to make the faithful reflect on the motives that move them to request the declaration of the nullity of matrimonial consent, thus fostering an attitude of acceptance of the final judgement, even if it does not correspond to their own conviction. Only in this way can the nullity processes be an expression of an effective pastoral accompaniment of the faithful in their matrimonial crises, which means listening to the Holy Spirit who speaks in the concrete history of people': FRANCIS, *Address to the Prelate Auditors of the Tribunal of the Roman Rota on the occasion of the inauguration of the judicial year*, 27 January 2022. The full texts of the cited speeches are published on the official website of the Holy See (www.vatican.va).

⁷ In this connection it has been pointed out that "The Instruction on the reform of canon law studies states, with regard to the members of the "stable structure", that they must be clerics, religious or lay, who *work in family counselling centres*, but let it be pointed out that the translation from Latin, compared also with the translations offered in the other languages in which the text is available, does not appear to be correct or too reductive to the specific field of family counselling. In the Latin text it is written that they form the stable structure clerics, religious and lay, *qui operantur uti consultores familiares* - who work as family

pastoral solicitude of the 'outgoing' Church, but also of the pastoral solicitude of proximity and conversion of ecclesial structures which, at both the pastoral and juridical levels, are urged to show greater proximity to the faithful in difficulty and having as their guide the supreme law of the salvation of souls, which today as yesterday remains the ultimate goal of the same institutions, law and ecclesiastical laws. In this regard, it has been pointed out in doctrine that "to the pastoral discernment of imperfect situations also belongs judicial discernment, which the Synod first and the Pope consequently, did not propose as an alternative, but as a priority complementarity to that penitential and pastoral discernment that n. 86 of the *Relatio finalis* entrusts to parish priests according to the directives of the Bishops⁸. In the end, as the Church has always recalled, and as Pope Francis reminds us, what must be sought is always and only the truth, so that all commitment must be translated into a "pastoral care of the bond" (AL 211).

2. By '**pastoral counselling**' is meant that counselling which, within the framework of the preliminary investigation, refers to a calm, confidential and informal initial listening which is usually carried out by the parish priest, a priest, a counsellor or a family pastoral worker. Pastoral counselling, therefore, is that listening service performed by those pastoral agents who deal with the concrete experience of the faithful who are experiencing a marital crisis or are divorced or remarried.

3. By '**integrated counselling**' is meant that counselling which completes the preliminary phase and is aimed at seeking the objective truth on the past of the various marriage situations in crisis and, in a future perspective, to pursue the good of souls. Integrated counselling is a purely technical counselling service involving experts with juridical-canonical skills and more (second- and third-

counsellors - (in the English text: *who work in family counselling* or French: *qui œuvrent parmi les services destinés aux familles* or Spanish: *que trabajan como consejeros familiares*). There is therefore no direct link or confusion between the family counselling structures and the permanent structure. Not that the realities cannot collaborate, but the stable structure responds to specific aims and pursues specific objectives': P. PALUMBO, 'Il consulente matrimoniale e familiare "canonico". Professional profile between reform of structures and persons', in *Diritto e Religioni* 16 (2021/2), 76.

⁸ M.J. ARROBA CONDE - C. IZZI, *Pastorale giudiziaria e prassi procedurale nelle cause di nullità matrimoniale*, Ed. San Paolo, Cinisello Balsamo 2017, 14.

level counsellors), with the aim of understanding and verifying the elements that are useful to be able to introduce a possible application for a declaration of matrimonial nullity with the drafting of a booklet.

4. By '**judicial pastoral care**' is meant that proper union between the exercise of judicial power, which consists in *ius dicere*, that is, applying the law to the concrete case and defining the dispute, and ordinary family pastoral care. Judicial pastoral care, therefore, is a specialized pastoral care of proximity⁹ capable of initiating a path of pastoral and judicial discernment for a greater integration into the Christian community of the faithful experiencing difficult or irregular situations.

5. A '**lawyer of choice**' means a professional registered with an ecclesiastical court who, having the qualifications required by the Code of Canon Law, has been recognized as suitable to plead cases before an ecclesiastical court. He is freely chosen by the party and must, therefore, normally be remunerated by the latter according to the rates set by the Italian Episcopal Conference.

6. A '**permanent patron**' is a lawyer who is a member of the staff of an ecclesiastical court, who is paid directly by the court, so that nothing is owed to him by the client. He also provides his advisory services free of charge, i.e. checking the possibility of initiating a nullity case and possible patronage in the proceedings.

7. An '**ex officio lawyer**' means a professional registered with an ecclesiastical court who is assigned, after verification, to persons who are in an economically disadvantaged situation and who, for that reason, request free or semi-free legal aid to undertake the matrimonial nullity proceedings.

8. A '**rotal lawyer**' is a professional who deals with matrimonial nullity cases and has obtained the specific diploma of a rotal lawyer

⁹ It is a proximity that is not only physical or territorial, but also psychological and pastoral, a proximity that does not consider pastoral discernment to be at the expense of judicial discernment, but places in synergy and complementarity the *via charitatis* and the *via veritatis*, canon law with the pastoral dimension, the instances of family pastoral care with those of the judicial sphere.

and is the only one who can plead at any ecclesiastical court of first and second instance in Italy and worldwide, at the Apostolic Tribunal of the Roman Rota and the Tribunal of the Apostolic Signatura.

9. A **'judgment of matrimonial nullity'** is the measure that concludes a judicial process aimed at ascertaining the validity or otherwise of a marriage. Such a measure therefore declares that a bond has not been validly formed and, consequently, the legal effects that arise therefrom act retroactively on the spouses from the day of the wedding. In the event of a negative outcome, it is still possible to apply to the court of appeal for a review.

10. **Dissolution of the unconsummated marriage'** means that measure which concludes a process of an essentially administrative nature. The purpose of such a measure is quite exceptional, since it intervenes to dissolve a validly arisen bond, which the Church considers to be indissoluble in itself; it takes the form of a special concession that is absolutely optional, provided that the requirements are met (i.e. proof of the unconsummation and a just cause for its granting). The legal effects resulting from the dissolution act on the spouses only from the moment it is granted. It should be pointed out that only the judgment of nullity can be given legal effect by the Italian State through the procedure of deliberation, which is not the case for the dispensatio super rato measure.

11. By **'prohibition to contract a new marriage'** is meant that prohibition to contract a new marriage, after consultation with the Ordinary of the place or the court, which an ecclesiastical court, through the judge, sometimes imposes on the party or parties whose marriage has been declared null and void by reason of simulation, impotence or some cause of a psychic nature. The removal of the prohibition, in accordance with Article 59 of the Decree on Canonical Marriage, is the responsibility of the Ordinary of the place in whose territory the matrimonial investigation is carried out, and it is up to him to verify that the cause for which the prohibition was imposed has ceased to exist, and in the second case, after the opinion of the Tribunal that pronounces the judgment and affixes the prohibition.

12. The '**processus brevior before the Bishop**' refers to the new modality of the process, alongside the ordinary one, introduced by Pope Francis with the M.P. MIDI, for those cases in which the nullity of the marriage is particularly evident. This procedure, of an extraordinary or exceptional nature, has as its sole judge the diocesan Bishop, assisted by an instructor, who is entrusted with conducting the investigation, and an assessor. This form of trial may be requested, in accordance with Canon 1683, if two inseparable conditions are met: "1. the request is made by both spouses or by one of them, with the consent of the other; 2. there are circumstances of facts and persons, supported by testimony or documents, that do not require a more thorough investigation or instruction, and make the nullity manifest"¹⁰. The request must be addressed to the diocesan bishop assisted by the judicial vicar who, in accordance with cann. 1672 §§ 2 and 4; 1685 and art. 15 RP, assesses whether there are grounds for a shorter trial and appoints the instructor and the assessor who will assist the bishop.

13. By "**persons considered suitable**" is meant those persons, who, in accordance with Article 3 RP, must be chosen by the Ordinary of the place to be part of the Preliminary or Pastoral Enquiry, having competence even if not exclusively juridical-canonical. It seems opportune to specify that, in the Bishop's choice of such suitable persons, although the norm in its formulation makes it clear that they may not have juridical-canonical competence, this

¹⁰ FRANCIS, *Motu Proprio Mitis Iudex Dominus Iesus and Mitis et Misericors Iesus*, Libreria Editrice Vaticana, Vatican City 2015, can. 1683, 21. In this regard, the Pontiff on 25 November 2017 clarifies that admission to the *brevior* process requires: "as an indispensable condition the absolute evidence of the facts proving the alleged nullity of the marriage": FRANCIS, *Address to the participants in the course promoted by the Tribunal of the Roman Rota*, Saturday 25 November 2017, n.5. The full text is published on the Holy See's official website (www.vatican.va). [Henceforth: *Speech*]. This absolute evidence calls for greater prudence and discernment, to avoid an abuse of this procedural form, which is extraordinary in nature. Moreover, in the same Discourse, two other important aspects are clarified: the first consists in the fact that "in the process *breviore* two inseparable conditions are required, *ad validitatem*: episcopacy and being the head of a diocesan community of the faithful (cf. can 381 § 2). If one of the two conditions is lacking, the patent process cannot take place. The petition must be judged by the ordinary process": FRANCIS, *Discourse*, n.3. The second aspect consists in the fact that the bishop who considers that he is not able to fulfil the procedural commitment personally can avail himself of the collaboration of a neighboring bishop or "if he does not consider himself ready at the present time to carry it out, he must refer the case to the ordinary process, which in any case must be conducted with due solicitude": FRANCIS, *Discourse*, n.7.

does not mean that they are not experts in canon law, since in the preliminary phase of the hearing, it is necessary to take into consideration not only the current situation of the faithful requesting counselling, in order to verify the presence of a possible flaw in the consent, but also useful elements that may lead to a request for matrimonial nullity in the forms required by law, including the briefest one, and, if appropriate (cf. Art. 4 RP), help the faithful in the drafting of the libel.¹¹

In the light of these brief and opportune clarifications, it is easy to understand how important the wise and careful choice that each Bishop must make in identifying suitable persons is, because they have skills based on wisdom, science and experience, good reputation, prudence, knowledge of doctrine, concern for justice and pastoral aptitude. This profile of counsellors appears necessary due to the fact that each counsellor is called upon to listen to and understand the declarations of the faithful requesting counselling and to assess whether or not there are elements useful for introducing a cause of nullity. In addition, this appears useful and necessary in order to make the legal-pastoral service to be set up effective, in which legal competence and pastoral sensitivity must be in such synergy as to allow an orientation in an ecclesial and unitary perspective, in which experts in law can also interact and collaborate with other experts in the human, medical and civil law sciences, while upholding the principles of Christian anthropology, the values that establish the will of the church and the good of souls.

¹¹ To assess the suitability of practitioners, the indications in the CEC Instruction *on Canon Law Studies* are useful: CEC, *Instruction on Canon Law Studies in the light of the reform of the matrimonial process*, 03 May 2018, No. 2, 65-67. The full text is published on the Holy See's official website (www.vatican.va).

2 - Description and comment on the logo



DESCRIPTION:

"The dance projected forward with that young love, the dance with those astonished eyes full of hope must not stop" (Amoris laetitia, 219).

The logo of the Diocesan Service for the welcome of the separated faithful, taking its cue from no. 219 of Pope Francis' Apostolic Exhortation *Amoris laetitia* on love in the family, wants to express in a stylized way that "dream of God" realized by the couple created in his image and likeness (cf. Genesis 1:27), in the gesture of dancing and having as a background the cross, the fulcrum of the logo, which is grafted into a boat symbolizing the Church as a family of families, a place of encounter and growth. The upper part of the boat features three verbs: accompany, discern and integrate. The whole rests on the waves of the sea, which represent life and the difficulties that can be encountered in the life of a couple.

COMMENT:

The Cross surmounts the boat to signify that Christ is the great architect who founds and guides His Church (cf. Mt 16:18) and that He has reconciled all things in Himself, restoring marriage to its original form (cf. Mk 10:1-12) raising it to a sacramental sign of His love for the Church. "Hence from Christ through the Church, marriage and the family receive the grace needed to bear witness to God's love and to live the life of communion" (AL, 63). The golden yellow color of the Cross is intended to emphasize that Christ is "the light of the world" so as not to walk in darkness (cf. Jn 8:12).

The couple dancing around the Cross is meant to signify that Christian spouses are called to conform to Christ and not conform to the mentality of this world "in order to be able to discern the will of God, what is good and acceptable and perfect to him" (Rom 12:2).

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And it also helps to understand that the life of a couple when it is founded and rooted in Christ's gaze, which heals and cures every wound, fragility and crisis, which if well understood "conceals good news that one must know how to listen to by refining the hearing of the heart" (AL, 232), regains vitality.

The boat symbolizes the Church that lovingly welcomes every family, every couple in any situation, showing herself to be a mother "who, at the very moment when she clearly expresses her objective teaching, does not renounce the good that is possible, even though she runs the risk of getting dirty with the mud of the street. A Church capable of 'assuming the logic of compassion towards fragile persons and avoiding persecution or judgments that are too harsh and impatient' (AL, 308), and a teacher who lives the Gospel of the family with 'evangelical realism', moving from a pastoral care of structures to a pastoral care of persons, and knows how to carry out a serious and effective pastoral discernment charged with merciful love and capable of "helping to find possible ways of responding to God and growing through limitations" (AL, 305) and of walking the "via caritatis" (cf. AL, 306-307).

The three verbs "ACCOMPANY - DISCERNATE - INTEGRATE" that appear on the boat are used by Pope Francis to deal with fragile

or complex situations and are intended to summarize what is written in Chap. VIII of the Post-Synodal Apostolic Exhortation *Amoris Lætitia*; be a warning to implement a welcoming and merciful pastoral care in a serious and respectful manner to "support and resolve crisis situations and to discern and accompany, even for long periods of time, irregular situations" (Archdiocese of Trani-Barletta-Bisceglie, Synod Book Constitution No. 66) and also nurture the right attitudes to be undertaken and applied in the diocesan Service for the reception of the separated faithful in order to initiate a canonical-pastoral, correct and competent path, as provided for by Pope Francis' *Motu Proprio Mitis iudex Dominus Iesus* signed on 15 August 2015 and entered into force on 8 December 2015.

Finally, the **waves of the sea** are meant to symbolize the positive or negative vicissitudes that can occur in a couple's life. We know, in fact, that at times the sea could be calm and gently rock the boat, making it go straight ahead without too many jolts, just as the positive events in life would create harmony and balance for a couple. At other times, the waves of the sea could be stormy and the swell could strongly tilt the boat to the point of capsizing it, just as in life conflicting situations could create a dangerous gap and an irreparable fracture for the couple. And in the event of difficulty, the Cross rises up, sometimes visible for those who seek refuge in it and sometimes hidden for those who, obscured by grief, cannot see it. The secret lies in the fact that in the most bitter crisis, both spouses can look to the Cross as the strong mast of the boat/church to draw strength and endurance so as not to drown. And even if this should happen, the Mercy of the Lord through the Church in the tumultuous waves of a couple's life will not fail to support them on a path capable of accompanying, discerning and integrating all their situations of fragility.

For further informations



Visit the diocesan website (www.arcidiocesitrani.it)
under the heading Diocesan Service for the Reception of
Separated Faithful

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Contact information for the diocesan service

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Legal-pastoral advice is offered by appointment
telephone or by sending an email. The Free Counselling Service
is guaranteed in all the centers of the Archdiocese of Trani-
Barletta-Bisceglie.



It will therefore be necessary
to put available to separated people
or couples in crisis,
an information, advice and mediation service,
linked to family pastoral work,
which can also welcome people
in view of the pre-trial investigation

(Amoris laetitia, 200)

Franciscus