



## Diocese of Salt Lake City

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### **Reform on Marriage Annulment Process through the *Motu Proprio Mitis Iudex Dominicus Iesus***

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On September 8, 2015, the Holy See released two *Motu Proprio* (Apostolic Letters) written by Pope Francis announcing reforms to the canonical process of marriage annulment. The *Motu Proprio*, indeed, shortens the process of declaration of invalidity of marriage for a great number of cases while maintaining the doctrine of Indissolubility of Marriage

The *Motu Proprio* (Latin for "on one's own initiative") are entitled "*Mitis Iudex Dominus Iesus*" (The Lord Jesus, Meek Judge) and "*Mitis et misericors Iesus*" (Meek and Merciful Jesus). The former details reforms on the canonical procedure for the annulment of marriage in the Code of Canon Law of the Latin Church (CIC) while the latter explains the reforms in the Code of Canons of the Oriental Churches (CCEO).

From the beginning the Apostolic Letter *Mitis Iudex Dominus Iesus* states that in the history of the Church, the canonical process has been guided by the "**supreme law of the salvation of souls.**" (Canon 1752 of the CIC). It is this concern for the salvation of souls, Pope Francis stated, that moved him to present to local Bishops the new reforms "**because they share with him the task of the Church, that is, to protect the unity in faith and discipline regarding marriage, foundation and origin of the Christian family.**" It is also noted that Pope Francis' desire is to place more trust in the diocesan bishops, "**calling on them to be servants along with him.**"

The reforms on the canonical process of annulment, while leaving the sacramental theology on marriage intact, streamline the process for seeking an annulment and gives more authority to local bishops to decide cases rather than having to wait for lengthy appeals. The Pope also recommended making the annulment process free of charge requesting that every Episcopal Conference review the guidelines on this matter. Prior to the reforms, the declaration of nullity had to come from two different tribunals and required an automatic appeal. The Holy Father removed the automatic appeal but maintained the right of one of the two parties to appeal a decision on the nullity of marriage.

The seven major criteria that guided the reform process are outlined as follows:

- That there be only one sentence in favor of executive nullity, that is to say, the mandatory appeal is eliminated. This particular change will eliminate the long periods of waiting experiencing through the second instance Tribunal, the Court of appeals of Oakland, California.
- A single judge under the responsibility of the Bishop, which currently follows the canonical practice in the United States where regularly a case in a first instance tribunal is decided by a single judge.
- The Bishop is judge as it is the practice with the current Code of Canon Law assisted by the Judicial Vicar and the associate Judges in every Diocesan Tribunal.
- Increased brevity in the legal process by eliminating the mandatory appeal and presenting the possibility to resolve cases through a short process given the facts that, both parties are in favor of the declaration of invalidity and that the facts in the case are clear, evident and strong.

- Appeal to the Metropolitan See only in the cases where one of the parties is opposed to the declaration of invalidity. The Metropolitan See for the Diocese of Salt Lake City is the Metropolitan Tribunal of the Archdiocese of San Francisco, California.
- The proper role of the Bishops' Conferences to establish norms for the functioning of the Tribunals.
- Appeal to the Apostolic See (Roman Rota) as requested by one of the parties in the process of appeal.

Below is a Vatican Radio translation of the criteria for reforms cited by Pope Francis in his *Motu Proprio*, "Mitis Iudex Dominus Iesus" which outlined further explanations to the changes enumerated above:

1. *That there be only one sentence in favor of executive nullity* – It appeared opportune, in the first place, that there no longer be required a twofold decision in favor of marital nullity, in order that the parties be admitted to new canonically valid marriages: the moral certainty reached by the first judge according to law should be sufficient.
2. *A single judge under the responsibility of the Bishop* – The constitution of a single judge in the first instance, who shall always be a cleric, is placed under the responsibility of the Bishop, who, in the pastoral exercise of his own proper judicial power shall guarantee that no laxity be indulged in this matter.
3. *The Bishop is judge* – In order that the teaching of the II Vatican Council be finally translated into practice in an area of great importance, the decision was made to make evident the fact that the Bishop is, in his Church – of which he is constituted pastor and head – is by that same constitution judge among the faithful entrusted to him. It is desired that, in Dioceses both great and small, the Bishop himself should offer a sign of the *conversion* of ecclesiastical structures, and not leave the judicial function completely delegated to the offices of the diocesan curia, as far as matters pertaining to marriage are concerned.
4. *Increased brevity in the legal process* – In fact, beyond making the marriage annulment process more agile, a briefer form of trying nullity cases has been designed – in addition to the documentary process already approved and in use – which is to be applied in cases in which the accusation of marital nullity is supported by particularly evident arguments. In any case, the extent to which an abbreviated process of judgment might put the principle of the indissolubility of marriage at risk, did not escape me [writes Pope Francis – ed.]: thus, I have desired that, in such cases the Bishop himself shall be constituted judge, who, by force of his pastoral office is with Peter the greatest guarantor of Catholic unity in faith and in discipline.
5. *Appeal to the Metropolitan See* – It is fitting that the appeal to the Metropolitan See be re-introduced, since that office of headship of an Ecclesiastical province, stably in place through the centuries, is a distinctive sign of the synodality of the Church.
6. *The proper role of the Bishops' Conferences* – The Bishops' Conferences, which must be driven above all by the anxious apostolic desire to reach the far-off faithful, should formally recognize the duty to share the aforesaid *conversion*, and respect absolutely the right of the Bishops to organize judicial power each within his own particular Church.
7. *Appeal to the Apostolic See* – It is fitting that the appeal to the ordinary Tribunal of the Apostolic See, i.e. the Roman Rota, be maintained: this, in respect of a most ancient juridical principle, so that the bond between the See of Peter and the particular Churches be reinforced – having care, in any case, in the discipline of the use of said appeal, to contain any and all abuse of right, in order that the salvation of souls be given no cause for harm.

The new norms will be enforced on December 8, 2015, with the initiation of the Year of Mercy. Parties and their canonical advocates are encouraged to continue submitting their cases to the Diocesan Tribunal following the regular procedure and using the appropriate forms. The Tribunal will quickly implement the new norms with the current cases in process and with the new cases coming in the future. Lack of forms, Pauline Privileges and Ligamen cases will continue being processed as administrative procedures in the regular and expedite manner. The United States Catholic Conference of Bishops will inform to all Ordinaries the dispositions regarding costs and fees of annulments. As it has been the practice of this Diocesan Tribunal, we will continue granting full *pro-bono* cases or reducing fees to those that require due to hardship or financial difficulties.