



PONTIFICIUM CONSILIUM
DE LEGUM TEXTIBUS

Prot. N. 15138/2015

1st October 2015

Dear Msgr.

responding to your letter of 8th September with which you asked for two clarifications regarding the Motu Proprio *Mitis Iudex*, we observe the following:

The question about the conversion of a formal canonical process regarding the declaration of nullity of a marriage to the *processus brevior* introduced by the aforementioned Motu Proprio: If a process has begun in a formal way, there is – in a similar way as the passage from a formal process to the request of a dispensation *super rato* (cf. new canon 1678 §4) – the possibility to suspend the formal process and ask the parties for their consent to continue the instruction under the rules of the brief process.

The new canon 1683 and Art. 15 of the procedural norms make clear that the consent of the petitioner and the respondent (whether given by a joint signature of the parties or by other means) is a preliminary condition to initiate the brief process. The consent of both parties required to initiate this procedure is a condition *sine qua non*. This explicit consent is foremost necessary because the brief process is an exception to the general norm.

If the whereabouts of a respondent are unknown, the case cannot be accepted for the *processus brevior*. While the legislator formulated a presumption regarding the disposition of the respondent in art. 11 §2 of the procedural norms, this presumption applies only to the ordinary process and not to the brief process. Though the consent of the respondent can be given by several means, those means must however guarantee publicly and unequivocally his or her will, also for the protection of the judge and the parties. Otherwise, the brief process cannot be introduced.

Hoping that this answer, which can be made known among other canonists will be helpful for your important work in the tribunal, I am

Yours sincerely *in Domino*,

Francesco Card. Coccopalmerio
President

+ Juan Ignacio Arrieta
Secretary