



DICASTERIUM
DE LEGUM TEXTIBUS

Prot. N. 16605/2019

Questione circa il ruolo e le funzioni del vicario giudiziale aggiunto in un processo di nullità matrimoniale

Vatican City State, 18 March 2019

Dear Reverend,

I write in reference to your letter of 05 March 2019 in which you requested this Pontifical Council to provide clarification on the question of whether an adjutant judicial vicar could act validly in place of the judicial vicar for marriage nullity process under *Mitis Iudex Dominus Iesus*.

After review of the matter, I am pleased to inform you of the following observations. As you are already aware, the diocesan Bishop appoints a Judicial Vicar to assist him with the administration of justice in his diocese (can. 1420 §2). Moreover, depending on the need or circumstance, the Bishop can also appoint adjutant judicial vicar(s) to assist the judicial vicar with his work (can. 1420 §3).

It is important to make the distinction between judicial power and executive power as envisioned in the code. Both the judicial vicar and the adjutant judicial vicar possess judicial power by virtue of their office and they act in the name of the Bishop. For example, Can. 135 §3, which you referenced in the letter, concerns judicial power in a judicial process which a judge or college of judges have already been assigned and to which they have judicial power which cannot be delegated except in “preparatory acts for a sentence or decree”.

Concerning executive power, which is the administration of the diocesan tribunal, the adjutant judicial vicar(s) are *sub ductu* to the direction of the judicial vicar. *Dignitas Conubii* Art. 41 §2 makes this point clear: “without prejudice to their freedom in judging, the Adjutant Judicial Vicars are bound to act under the direction of the Judicial Vicar”. This means that while there is a subordinate relationship between the judicial vicar who is in charge and the adjutant judicial vicars who exercise their power under his directive, the judicial vicar cannot violate the liberty of the adjutant judicial vicar(s) in judging.

Without prejudice to the judicial vicar therefore, the adjutant judicial vicar acts validly in place of the judicial vicar for marriage nullity processes under *Mitis Iudex Dominus Iesus*. For practical purposes however, it would be prudent for both the judicial vicar and the

adjutant judicial vicar(s) to set a clear understanding of their respective duties and expectations concerning these matters, which are necessary for the proper administration of justice and unity in the diocesan tribunal.

I hope that the above clarification is helpful to you. With my prayerful best wishes, I remain,

Sincerely yours in Christ,



✠ JUAN IGNACIO ARRIETA

Secretary