



DICASTERIUM  
DE LEGUM TEXTIBUS

Prot. N. 16601/2019

Vatican City State, 18 March 2019

Your Excellency,

I refer to your letter of 28 February 2019 in which Your Excellency has requested this Pontifical Council to provide clarification on the question of whether the power to dispense from the requirement of canonical form regarding a marriage between two Catholics is still reserved to the Apostolic See [in the process of *Sanatio in Radice*] and whether the sanation in this case can also be granted by the Diocesan Bishop according to can. 1165 §2.

After careful examination of the matter, I am pleased to inform you of the following observations. From the study concerning the sources and the process of codification of can. 1165 §2 CIC, it is agreed that, for pastoral reasons, the diocesan Bishop has the faculty to grant in individual cases the *sanatio in radice* of invalid marriages because of a defect of canonical form.

In the current norm of the *CIC*, the diocesan Bishop has the faculty in individual cases to grant the *sanatio in radice* of invalid marriages, and even for cases with several causes of nullity (see can. 1165 §2). This means that the Diocesan Bishop can sanate the marriage of two Catholics contracted without observing canonical form and without dispensation from the required impediment(s) (see can. 1161 §1).

Therefore, the right to remedy marriages is limited to individual cases and to the impediments that the Bishop can dispense. This means that the Diocesan Bishop cannot sanate a marriage between two Catholics if there is an impediment reserved to the Apostolic See (see can. 1078) or an impediment of natural or divine positive law which has now ceased (see can. 1165 §2). However, he can sanate an invalid marriage because of the lack of form, since he also has the faculty to dispense from canonical form in individual cases (see can. 1127 §2).

Finally, in granting the *sanatio* the Bishop must also observe these additional requirements: the existence and perseverance of the consent of both parties (see cann. 1162 and 1163 §1) and the presence of a grave cause to grant it without the knowledge of one or both of the parties (see can. 1164).

Concerning the response of the Code Commission you cited [*Acta Apostolicae Sedis* (77) 1985) p. 771], the question refers to a dispensation of two Catholics from the requirements of canonical form (not in danger of death) before the celebration of marriage. As you noted, the response was negative. Which means the diocesan bishop does not have the authority to dispense from canonical

form the marriage of two Catholics beforehand, but as stated clearly in the *CIC*, he could concede it in the context of a *sanatio in radice*.

I hope that the above clarification is helpful to you. With sentiments of personal esteem and prayerful best wishes, I am,

Sincerely yours in Christ,

+ Filippo Iannone O.C.  
✠ FILIPPO IANNONE O.C.

*President*

+ Juan Ignacio Arrieta  
✠ Juan Ignacio Arrieta  
*Secretary*