

English Translation of

Prot.N.15155/2015

Vatican City, 18 November 2015

(omisis)

With the letter dated 17 September 2015, that arrived here on the 12<sup>th</sup> of this month, you asked this Pontifical Council for clarification on the new formulation of can. 1687 §3, contained in the *motu proprio Mitis Iudex* on the reform of the process for the causes of declaration of nullity of the marriage. More precisely, you asked whether the appeal against the sentence of the Metropolitan Bishop - according to the previously mentioned canon - "datur ad antiquiorem suffraganeum" must be made to the oldest Bishop of the Metropolitan or to the Bishop who has been promoted the longest.

The CIC mentions the *suffraganeus antiquior* also in canons 421 §2, 425 §3 and 501 §3, referring to supplementary tasks that these have to perform in certain and rather rare cases, but always adding that it is the bishop *promotione antiquior*. This reference to the promotion, that is, to the appointment of the Bishop, is missing in the *motu proprio* of 8 September.

On the other hand, since the appeal against the sentence of the Metropolitan from can. 1687 §3 could occur with some regularity, the certainty of the right in the carrying out of the process requires that the recipient of the appeal be stable and not subject to continuous changes. The stability of the second instance judge is, in fact, a principle envisioned in the general rules of the process (see canon 1438 CIC, in particular §2). Therefore, it seems necessary to deduce that the suffragan Bishop to whom the appeal is addressed is not the oldest by age or by appointment, but rather the Bishop of the oldest seat of the metropolis.

(omisis)