

An experience of proximity for fragile marital situations. The Regulations of the Diocese of Trani-Barletta-Bisceglie

Un'esperienza di prossimità per le situazioni matrimoniali di fragilità. Il Regolamento della Diocesi di Trani-Barletta- Bisceglie

1 - The 13rd of May 2023, the Archdiocese of Trani-Barletta-Bisceglie established a regulation for the "Reception of Separated Faithful" (SDAFS), promulgated by archiepiscopal decree, aiming to regulate an ecclesiastical service for the benefit of spouses experiencing marital crises. It is crucial to observe preliminarily that this regulation respond to a specific intention of the Church, which, as Pope Francis has often emphasized, expresses its maternal nature towards children in difficulty. This dynamic ecclesial mission is aptly highlighted both in the archiepiscopal decree (where the Archbishop states that the diocesan service acts as a "living testimony of the Church's proximity") and at the beginning of the regulation themselves, where paragraph 244 of *Amoris Laetitia* is referenced, underscoring the need to "provide separated individuals or couples in crisis with a service of information, advice, and mediation related to family pastoral care". Another significant aspect emerges from the consideration of the date on which the regulation were produced: it was promulgated after the launch of the diocesan SDAFS service (an acronym for Servizio Diocesano Accoglienza Fedeli Separati) and its positive trial period, through which, as the Archbishop notes in the Decree, "valuable assistance has been offered in the implementation of the reform of the canonical process for matrimonial nullity cases".

The regulation of the service following its initial phase highlights another indispensable characteristic, namely the inseparable link between "judicial" activities and pastoral action. The reform of the matrimonial process, instituted by Pope Francis on December 8, 2015, with the motu proprio *Mitis Iudex Dominus Iesus* (MIDI), has technically streamlined the matrimonial process (which in itself can become a model of legal efficiency from a general perspective in the world of law), but more importantly, it has emphasized the pastoral nature of law, an instrument of the Church's mission, which is a mission of salvation for people and the realization of divine mercy. In this perspective, the judicial ministry cannot be reduced to a cold application of the law, detached from people's lives, but must instead become an interpreter of a (so to speak) judicial pastoral care and a procedural action that becomes closer to people, especially those in difficulty and thus

vulnerable subjects. For this reason, the MIDI reform created a new canonical institution, the «Prejudicial or Pastoral Investigation», aimed at «separated or divorced faithful who doubt the validity of their marriage or are convinced of its nullity», with the objective of «understanding their condition» and their conviction from an ecclesial perspective. Moreover, the investigation serves a functional purpose, namely to «gather useful elements for the eventual celebration of the judicial process» (art. 2, part three). The investigation, therefore, manifests a particular attention to the needs of the faithful who, due to their conjunctural marital situation, require greater support. It is prescribed that this investigation should take place within «parish or diocesan structures», emphasizing the welcoming nature of the process. The ecclesial nature and mission of the judgment, which is aimed at safeguarding the truth—that is, every segment of truth that permeates the lives of the faithful and people, participating in the "Truth," the "Way," and the "Life," which is Christ Himself, i.e., the Church. Within this ecclesial perspective, the «guarantees of the judicial order» are understood to safeguard the sacramental nature of marriage and to ensure the rights of the spouses themselves.

To apply the content of the legal provisions from a pastoral perspective, the Archdiocese of Trani-Barletta-Bisceglie has, since 2016, activated the Diocesan Service for the Reception of Separated Faithful, a true diakonia (of information, advice, support, and mediation) available to those experiencing the existential crisis of their marriage. In line with this experience, the Archbishop, in promulgating the regulation, intended to sustain "this important ecclesial service for the good of the faithful," fostering "an attitude of accompaniment, discernment, and proximity towards every person and family, particularly those in difficult or irregular situations," as stated in the preamble to the Regulation.

2 - Therefore, it can be argued that the Regulations essentially serve as a written *modus procedendi* to realize a "pastoral of proximity," as the Archbishop himself indicates in the preamble. In this sense, the content of art. 2 is noteworthy, renaming the prejudicial or pastoral investigation (as referred to in MIDI) as the "Diocesan Service for the Reception of Separated Faithful," thereby accentuating the pastoral function of this new office with the intent to better support the faithful in crisis. This denomination of the prejudicial investigation demonstrates a truly innovative character and effectively transforms an activity (the investigation) into a diakonia (the service), to which the regulations attribute a proper ecclesial dimension. In fact, paragraph 3 of art. 2 acknowledges that the Service is a "bridge" between the pastoral accompaniment and "the work of

the ecclesiastical tribunals", while also affirming that it is «a specialized listening center aimed at providing pastoral, moral, and canonical guidance». Exercising his legislative power, the Archbishop has aimed to give the investigative activity a pastoral function more consistent with the substantial content of MIDI and likely more aligned with the Church's mission. Without altering the legislative text of the *motu proprio*, he has interpreted it to make the pastoral dimension, repeatedly emphasized by the Pope, more explicit. To ensure this consistency, the regulation grant the Archbishop the power to «interpret» the Regulation, including «providing the authentic meaning of the norms contained therein» (art. 12 of the Regulation).

Therefore, the Regulation, still one of the few examples of coherent and simultaneously innovative application of a pontifical norm, through an interpretive method, have created diocesan regulations consistent with the spirit of canon law and attentive to the human person, which, according to Antonio Rosmini, "is the subsistent right." The idea of a right coinciding with the human person necessitates rethinking the episcopal *munus* as "pastoral care," which underlies the Diocesan Service, as explicitly described in paragraph 4 of art. 2 of the Regulation.

3 - Moving from an interpretive-innovative perspective, Article 3 of the Regulation is absolutely central as it aims to define the objectives of the service and identify its beneficiaries. This article should be evaluated in conjunction with the provisions of Article 7, which outlines the tasks of the Diocesan Service. Indeed, by jointly examining these two normative provisions, the expansive nature of the Regulation becomes apparent. Contrary to a restrictive reading of MIDI, the objectives are multiple and include "pastoral guidance" (art. 3, par. 1), helping the faithful in crisis "interpret" their experience within the logic of the sacrament and in line with the Church's teachings on marriage (art. 3, par. 2), accompanying the faithful in filing for dissolution of the bond in particular cases such as non-consummation (art. 3, par. 3), "assisting couples in difficulty in revisiting their marital history in light of Christian teaching," including attempting reconciliation and, if not possible, "gathering useful elements (acquisition of documents, availability of witnesses, acquisition of acts that may have emerged during listening sessions) for the possible initiation of the judicial process" (art. 3, par. 4).

As can be observed, if MIDI's precept is considered in a restrictive manner, only the latter objective would seem consistent with the purpose of the prejudicial investigation, which in the *motu proprio* is instrumental to achieving legal effects. However, such a restrictive interpretation would result in a rigid and cold application of a procedural norm, undermining the pastoral nature of the

prejudicial investigation itself. It is worth emphasizing that Article 2 of the third part of the *motu proprio* prescribes that the investigation should have a "prejudicial or pastoral" purpose. In concrete terms, by paying closer attention to the value of the word "or," it must be understood (also considering subsequent articles, especially articles 4 and 5 of MIDI) without a doubt that the value is explicative, essentially equivalent to "or rather," even though it does not refer to non-equivalent terms (judicial and pastoral).

Considering the subsequent articles and especially articles 4 and 5, there is no doubt that the value of the word "or" is explicative, essentially equivalent to "or rather," despite not referring to terms pointing to non-equivalent functions (such as judgment and pastoral activity). In fact, the overall and specific sense of the precepts contained in the third part of the *motu proprio* MIDI is precisely to combine pastoral care with judicial action, both envisaged as actions of the Church, ontologically distinct yet ecclesiastically connected. Therefore, the more articulated objectives identified in Article 3 of the diocesan service regulation (SDAFS) consider pastoral activities and judicial actions within a unified dimension, as actions of the Church, fully consistent with the spirit and letter of the *motu proprio* MIDI. In this perspective, the "tasks of the service" outlined in Article 7 must be considered, which are not exhaustively identified, as clearly indicated by the phrase in par. 1, «The Diocesan Service, coordinated by the Responsible, has among its tasks that of».

Moreover, it should be noted that the scope of the Service's duties indicates that the Diocesan Service is not solely dedicated to performing actions related to the "prejudicial or pastoral investigation," which are coordinated with the aims of the canonical matrimonial process before the ecclesiastical tribunal. The tasks have a broad pastoral scope, although always focused on marriage and the condition of married faithful in distress. This is also suggested by a kind of open-ended norm contained in Article 7, paragraph 1, point 5, which assigns the Service the general responsibility to «implement further directives from the Magisterium and the Archbishop aimed at promoting a pastoral approach of listening, welcoming, discernment, and integration».

4 - A last aspect to observe is the emphasis on the episcopal function and its relationship with the diocesan community. These are two central themes that allow the Regulation to serve as a recapitulation and redirection of all activities towards the Church's way of being under the bishop's guidance. The entire Article 5 is dedicated to the «Tasks of the Bishop towards the Diocesan Service». Besides the necessary tasks related to the optimal functioning of the Service and the coordination of actions, it is crucial to note the bishop's requirement to foster companionship and

closeness with people in fragile situations through the realization of a «merciful pastoral proximity and a thorough judicial pastoral care» (par. 2, point 2). The Regulation is grounded in the experience of being a Church, meaning a community that does not remain generally attentive to individuals but, as the Church, takes on the «task of accompanying its more fragile brothers in their marital bond, thereby stimulating a pastoral care of the bond» (art. 9, "Relations of the Service with the Diocesan Community"). This approach conceives marriage as a vocation to live the Gospel of love within the sacrament, where spouses are called to bear witness to the love that Jesus has for the Church and that God has for all humanity.

5 - Despite acknowledging the existence of some imperfections and the potential for improving individual provisions in relation to the orthopraxy to be realized in the Church of Trani-Barletta-Bisceglie (something already underway to some extent), the Regulation represent a valuable ecclesial experience aimed at supporting marriage. This is achieved through the life of an ecclesial community under the bishop's guidance, addressing moments of fragility that generally arise from the weakness with which the faithful approach the call to a sacrament. This sacrament is not merely about the experiences of two individuals but also involves the life of the Church and humanity, to which it offers the hope of a testimony of Love contained in earthen vessels.

The Regulation exemplify a diligence that combines competence with an ecclesial vision and, for this reason, could serve as a model for Italian diocesan churches, which have so far not shown significant attention to the appeal contained in the exhortation *Amoris Laetitia*. In fact, regarding the difficult journey of the faithful in marriage, it is noteworthy that in Italy, only 47 out of 226 dioceses have established a stable structure for the prejudicial or pastoral investigation. Additionally, it might be necessary to analyze the relationship between the decrease in the number of canonical marriages and the existential difficulties of marital cohabitation, which are not always easy in the absence (to varying degrees) of a pastoral proximity and a reevaluation of the way of being Church in the harmonious dialogue of all its components.

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