

THE CIRCUMSTANCES OF THINGS AND PERSONS THAT CAN ALLOW A CASE FOR NULLITY OF MARRIAGE

(*Mitis Iudex* - "The way of proceeding...", Art. 14)

Leszek Adamowicz*

The author is discussing issues concerning the new provisions regarding the new process for declaring the nullity of a marriage i.e., shortened process. The Bishop's (shortened) process presumes certain prerequisites: compatible arguments of the parties, "strong" evidence for nullity provided in the initial stage, and a description of the circumstances that led to the decision to end the marriage. The author critically analyses art. 14 §1 of "The way of proceeding in cases regarding the declaration of the nullity of a marriage." The cited criteria relate to suspected defects of consent, such as simulation, fraud, lack of use of reason, grave lack of due discretion concerning the essential rights and obligations of marriage, and a psychological incapacity to assume these obligations.

1. Introduction and Indication of Legal Basis

Justifying the need to reform the marriage nullity process, Pope Francis wrote: "we have decided to publish these provisions that favour not the nullity of marriages, but the speed of processes as well as the simplicity due them, lest the clouds of doubt overshadow the

*Rev. Leszek Adamowicz, born in 1960, was ordained, in 1984, a presbyter of the Archdiocese of Lublin. Since 1990 he teaches canon law in John Paul II Catholic University of Lublin; since 2004 head of the Chair of the Eastern Catholic Churches Law; visiting professor in PIO, Rome; Editor of the Polish edition of the CCEO; Member of the Group of Polish Bishops Conference and Ukrainian Greek-Catholic Church and consulter of Legal Council of Polish Bishops' Conference; and Member of national and international scientific associations. He is the judicial vicar of the Metropolitan Archbishop of Lublin (since 1995) and president of the Association of the Polish Judicial Vicars (since 2009).

hearts of the faithful awaiting a decision regarding their state because of a delayed sentence.” But, “we have done this following in the footsteps of our predecessors who wished cases of nullity to be handled in a judicial rather than an administrative way, not because the nature of the matter demands it, but rather due to the unparalleled need to safeguard the truth of the sacred bond: something ensured by the judicial order.”¹

What led to the Pope’s aforementioned objective was, among others, introducing procedural rules to govern the new, shortened process for adjudicating cases of matrimonial nullity.

The fourth of the eight principles of Pope Francis’ reform concerns precisely this new type of process. Alongside the ordinary and documentary processes, the abbreviated process henceforth will be one of three dealing with cases of marriage nullity. In accordance with the Pope’s plan, this process will apply “in those cases where the alleged nullity of marriage is supported by particularly clear arguments.” Seeing the danger that “the principle of the indissolubility of marriage might be endangered by the briefer process,” Francis established that “for this very reason we desire that the [diocesan] bishop himself be established as the judge in this process, who, due to his duty as pastor, has the greatest care for catholic unity with Peter in faith and discipline.”

For this reason, art. 5 of the amended part (specify the emendations) of the Code of Canon Law and the relevant portion of the Code of Canons of the Eastern Churches was titled: “The Briefer Matrimonial Process before the Bishop.” Therefore, the more precise term “Bishop’s process” may be preferable to “briefer process.” The regulations concerning this process are contained in *CIC* cc. 1683-1687 (*CCEO* cc. 1369-1373); *CIC* c. 1673/*CCEO* c. 1359 §1; and *CIC* c. 1676/*CCEO* c. 1362 §§1-2 and 4-5. In addition to the Bishop’s process,

¹Franciscus, *Litterae apostolicae motu proprio datae Mitis Iudex Dominus Iesus* quibus canones *Codicis Iuris Canonici* de causis ad matrimonii nullitatem declarandam reformantur. *Litterae apostolicae motu proprio datae Mitis et Misericors Iesus* quibus canones *Codicis Canonum Ecclesiarum Orientalium* de causis ad matrimonii nullitatem declarandam reformantur, 15.08.2015. In both documents, the number and content of articles entitled “The way of proceeding in cases regarding the declaration of the nullity of a marriage” are identical, with the content canons, maintaining their numbering thereof, reported in this paper in parentheses or after the slash

art. 4 and 14-20 of “The way of proceeding in cases regarding the declaration of the nullity of a marriage,” attached to the apostolic letter must be applied. The issues formulated in the topic of this paper concern *CIC* c. 1683/*CCEO* c. 1369 and *CIC* c. 1684/*CCEO* c. 1370, as well as art. 4, 14 and 15 of the new document mentioned above.

2. Compatible Petitions of the Parties

In accordance with paragraph 1 of *CIC* c. 1683/*CCEO* c. 1369, the fundamental and necessary condition to implement the Bishop’s process is the submission of petitions “by both spouses or by one of them, with the consent of the other.” Such a consistent petition should serve the pastoral inquiry provided for in art. 4 of “The way of proceeding,” which “will collect useful elements for the introduction of the case before the competent tribunal.” The legislator recommends that this inquiry “discover whether the parties are in agreement about petitioning nullity.”

In addition, in art. 2 of “The way of proceeding,” the legislator states: “The pre-judicial or pastoral inquiry, which in the context of diocesan and parish structures receives those separated or divorced faithful who have doubts regarding the validity of their marriage or are convinced of its nullity, is, in the end, directed toward understanding their situation and to gathering the material useful for the eventual judicial process, be it the ordinary or the briefer one. This inquiry will be developed within the unified diocesan pastoral care of marriage.” It is worth noting that this is part of regular pastoral work, and not an additional, supplementary or extraordinary action.

The Pontifical Council for the Interpretation of Legislative Texts, in its response to a question “on the consent of both parties as requirement for the *processus brevior* (new can. 1683 *Mitis Iudex*),” clarified that a joint petition is a *sine qua non* and that requires explicitly expressed consent.² Therefore, it is not possible to

²See, Response by the Pontifical Council for the Interpretation of Legislative Texts, dated 1.10.2015, on the consent of both parties as requirement for the *processus brevior* (new canon 1683, *Mitis Iudex*). Prot. N. 15138/2015 and 15139/2015, found via Internet at: www.delegumtextibus.va/content/testilegislativi/it/risposte-particolari/p-rocedure-per-la-dichiarazione-della-nullita-matrimoniale.html [accessed: 6.11.2015].

implement the Bishop's process when the whereabouts of the respondent are unknown, which also indicates the inability to use, in this case, the *citatio per edictum* (cfr. *CIC* 1917, c. 1720; *CIC* c. 1509 §1/*CCEO* c. 1192 §1: "*alio modo qui tutissimus sit*").

The question arises, what is the joint petition to concern? The legislator, in principle, clearly only speaks about the consistent petition for a declaration of nullity of marriage, the choice of the tribunal to be petitioned and the proposal of the Bishop's process (shortened), which consequently means refraining from applying *CIC* c. 1448/*CCEO* c. 1106 regarding the exclusion of the Bishop as a judge because his name is publicly known, and the petition only in practice would mean the resignation by the party or parties from the Bishop's process. Therefore, at the initial stage of the process, in the case of the proposal of the Bishop's process, the Judicial Vicar does not need to ask the parties about their position in relation to the acceptance of a diocesan Bishop as the judge in a particular case.

It seems, however, that given the *mens legislatoris* and *ratio legis* among the parties, during the joint declaration of the evidence, the commitment to participate in the proceedings and to determine the suggested ground of nullity can be expected. Hence, it would be recommended that the parties at the stage of preparing the formal petition, taking advantage of qualified legal assistance, put forth only the most obvious hypothetical ground of nullity. This selectiveness in turn will help the Bishop decide whether he must declare that nullity has been established or refer the case to an ordinary process.

It should also be noted that the Bishop's process cannot be used when the Promoter of Justice challenges the marriage (*CIC* c. 1674/*CCEO* c. 1360 §1) or when one or both spouses have died (*CIC* c. 1674/*CCEO* c. 1360 §2).

The judge hearing the case of nullity of marriage should also assess whether the parties have conspired to obtain a favorable judgment, or have manipulated their residence(s) to have their case heard before a more sympathetic court.³

³Cf. Among others, Z. Grocholewski, "Struktura etapu dowodzenia," in *Plenitudo legis dilectio*, Book of Remembrance dedicated to Prof. Dr. Hab. Bronisław W. Zubert OFM commemorating his 65th birthday, ed. A. Dębiński, E. Szczot, Lublin 2000, s. 355-378; G. Leszczyński, "The Parties'

3. Petition of One Party, with the Consent of the Other

In *CIC* c. 1683/*CCEO* c. 1369 n. 1, the legislator allows the Bishop's process to be used when "the petition is proposed (...) by one of them [spouses], with the consent of the other."

Certainly such consent should be expressed clearly and explicitly. Also, ignorance of the respondent's whereabouts precludes the Bishop's process. The acceptance presumed after two failed citations, referred to in art. 11 §2 of "The way of proceeding," does not substitute for consent to the process.⁴

The question arises about how such consent should be expressed. It certainly can be done in any public manner that does not raise doubts about the external act of will.⁵ It can therefore be either written or oral. In the latter case, it seems appropriate to apply the principle behind art. 10 of "The way of the proceeding," which states that,

The judge can admit an oral petition whenever a party is prevented from presenting a *libellus*: however, the judge himself orders the notary to draw up the act in writing that must be read to the party and approved, which takes the place of the *libellus* written by the party for all effects of law.

The question remains, what is the scope of such consent? It seems that it is at least an agreement to introduce the formal petition for nullity of marriage or *de facto* to join in the petition. It also assents to the use of the Bishop's process and to the tribunal the petitioner has chosen as venue for the trial in accordance with *CIC* c. 1672/*CCEO* c. 1358. Although it seems unnecessary at this stage, it is desirable to familiarize the respondent with the entire petition and the attached evidence. In other matters, (e.g., when respondent gave only a general consent for process, but did not submit the petition), the respondent will be able to comment once the Judicial Vicar, in accordance with *CIC* c. 1676/*CCEO* c. 1362 §1, accepts the petition. He will then recommend delivery of the petition to the respondent, who has fifteen days to respond.

Statement as Evidence in the Process of Annulment of Marriage," *Prawo Kanoniczne* 43, n. 1-2 (2000) p. 107-121.

⁴Response, Prot. N. 15138/2015.

⁵*Ibid.*

4. Construction of the Petition of Nullity

In accordance with *CIC* c. 1684/*CCEO* c. 1370, the petition for nullity should meet the requirements contained in *CIC* c. 1504/*CCEO* c. 1187. Therefore, it should indicate the judge to whom the petition is made, what the petitioner seeks, and from whom (n. 1). The petition should also indicate the petitioner's legal standing to challenge the marriage and the general facts and evidence that support this challenge (n. 2). The petitioner or his representative is to sign and date the petition, indicate his residence or the place designated by him to receive the file (n. 3) and indicate the domicile or quasi-domicile of the respondent (n. 4).

In the instructions quoted in *CIC* c. 1504/*CCEO* c. 1187 are modified by the legislator, detailing n. 2 of this canon by the requirement to present in a brief, comprehensive and clear manner the facts on which the petition is based (n. 1), the requirement to indicate the evidence, which could be immediately collected by the judge (n. 2) and by the requirement to attach documents on which the petition is based. This is a consequence of the provision contained in *CIC* c. 1683, n. 2/*CCEO* c. 1369, n. 2 which requires the description, in the petition, of the circumstances of the facts or persons supported by "substantiating testimonies and records, which do not demand a more accurate inquiry or investigation, and which render the nullity manifest." The description in the declaration itself of the motives to recognize the marriage invalid should therefore be justified in the appendices to the declaration.

On the basis of these documents, the provisions included in *CIC* cc. 1539-1546 (*CCEO* cc. 1220-1227) should be adopted. These include those especially listed in art. 14 §2 of "The way of proceeding," the medical documents which clearly preclude the need to consult an expert in the office. In contrast, a requirement to attach the testimonies relates rather to identify opportunities for their easy obtainment only in the course of evidence under the guidance of the instructor (*CIC* c. 1686/*CCEO* c. 1372).

5. Evidence Indicated and Included in the Petition

The legislator in *CIC* c. 1683/*CCEO* c. 1369, 2° prescribes that "whenever testimonies and records/documents produced are such that they do not demand a more accurate inquiry or investigation" the bishop can adjudicate marriage nullity cases

using a shorter process.” Therefore, they must be unequivocal in their content and unquestionably authentic. On the other hand, testimonies, which are designed to provide additional evidence, must be easy to obtain within the time limit fixed for the gathering of evidence. Therefore, in accordance with *CIC* c. 1685/*CCEO* c. 1371, they must be obtainable within 30 days from the date on which the Judicial Vicar decided to implement the Bishop’s process. Hence, the parties in the process and the witnesses proposed by the parties should be available to the tribunal within the aforementioned deadline. It is not possible to request a hearing of witnesses that will have difficulties coming to the tribunal within the prescribed period, such as the elderly, the infirm, and those living abroad. Similarly, it is expected that the parties will be available to the tribunal during the same period of time. It seems that when submitting a petition, the tribunal may even require a declaration of availability from the parties.

Another criterion necessary to implement the Bishop’s process is evidence “clearly indicating nullity.” The assessment of the evidence preliminarily and provisionally belongs to the Judicial Vicar. Recognizing the evidence as “obvious” suggests that it is undisputable, clear, certain, and definite. To a person of average intelligence, knowledge and experience, this evidence neither causes doubt nor needs further explanation. The assessment of “obviousness” of evidence should be established by the Judicial Vicar at the stage of eligibility based on his knowledge and experience, but without precluding the ability to easily strengthen this type of evidence by meeting with the parties, their witnesses, or an expert who offered to confirm the evidence in light of his or her expertise. The decision of the Judicial Vicar in this regard is not subject to appeal, similar to the decision itself on the choice of the type of process because they are not decisions terminating the instance (*CIC* c. 1629/*CCEO* c. 1310, n. 4).

6. Circumstances Permitting the Bishop’s Process

According to art. 14 §1 of “The way of proceeding,”

Among the circumstances of things and persons that can allow a case for nullity of marriage to be handled by means of the briefer process according to *CIC* cc. 1683-1687, are included, for example: the defect of faith which can generate simulation of consent or error that determines the will; a brief conjugal

cohabitation; an abortion procured to avoid procreation; an obstinate persistence in an extra-conjugal relationship at the time of the wedding or immediately following it; the deceitful concealment of sterility, or grave contagious illness, or children from a previous relationship, or incarcerations; a cause of marriage completely extraneous to married life, or consisting of the unexpected pregnancy of the woman, physical violence inflicted to extort consent, the defect of the use of reason which is proved by medical documents, etc.

The above-quoted provision is unique in canon law. Basically, the legislators do not construct a provision by starting it with the condition of “for example,” nor end a provision by not closing it clearly and leaving it open for the use of the phrase “and so forth.” It seems that the reasons for the unusual wording used in the Apostolic Letter is the will to leave the jurisprudence and doctrine to further supplement the directory created here. Surely, it must be noted that the list contained in art. 14 is not complete.

The aforementioned circumstances do not account for the titles of nullity of marriage, but suggest that they are somehow the “environment” that is conducive to the occurrence of certain defects of the consensus of marriage. The question arises, what grounds of invalidity can be introduced into the process, in relation to the circumstances referred to in art. 14 §1 of “The way of proceeding.”

a) In the first circumstance, the legislator offers “the defect of faith which can generate simulation of consent or error that determines the will.” Here, it can be easily determined that it is a suspicion of invalidity for the reasons specified in *CIC* c. 1101/*CCEO* c. 824 §2 (simulation) and *CIC* c. 1099/*CCEO* c. 822 (error as to the sacramental dignity of marriage determining the will).

In accordance with established doctrine and jurisprudence, the essential elements of marriage include the sacramental dignity of marriage as a consequence of the fact that Christ has raised the marriage covenant between baptized persons to the dignity of a sacrament.⁶ The exclusion of sacramental dignity of marriage takes

⁶Cf. Council of Trent, Sessio XXIV, *De sacramento matrimonii*. Canon 1, in *Canones et Decreta Sacrosancti Oecumenici Concilii Tridentini sub Paulo III, Iulio III et Pio IV Pontificibus Maximis*, Romae MDCCCLXXIV, p. 170: Si quis dixerit, matrimonium non esse vere, et proprie unum ex septem legis

place when a person who claims to be a believer or is not practicing, wants to enter into a non-sacramental marriage. The exclusion of sacramental dignity of marriage (*exclusio dignitatis sacramentalis*) is distinguished from the exclusion of one of the Augustinian goods of marriage, which is *bonum sacramenti*, which in a Rotal case is identified with the exception of the indissolubility of marriage⁷. A problematic link between simulation of consent and lack of faith remains extremely difficult to resolve. This topic was taken up by St. Pope John Paul II in his 2003 address to the Roman Rota: "This truth should not be forgotten when determining the boundaries of the exclusion of sacramentality (cf. *CIC* c. 1101 §2) and 'the determining error about the sacramental dignity' (cf. *CIC* c. 1099) as possible grounds of nullity. In both instances it is crucial to keep in mind that an attitude on the part of those getting married that does not take into account the supernatural dimension of marriage can render it null and void only if it undermines its validity on the natural level on which the sacramental sign itself takes place."⁸ Benedict XVI, in a 2013 speech to employees of the Tribunal of the Roman Rota, pointed out that the sacramentality of marriage does not require the personal faith of the spouses but, as a minimum, the intention to do what is required by the Church. He also referred to the 1977 document of the International Theological Commission concerning sacramental marriage, and quoted what Pope John Paul II said ten years ago to the Tribunal of the Roman Rota. Benedict XVI said: "The indissoluble pact between a man and a woman does not, for the purposes of the sacrament, require of those engaged to be married, their personal faith; what it does require, as a necessary minimal condition, is the intention to do what the Church does. However, if it is important not to confuse the problem of the intention with that of the personal faith of those contracting marriage, it is nonetheless impossible to separate them completely. As the International Theological Commission

evangelicae sacramentis a Christo domino institutum, sed ab hominibus in Ecclesia inventum, neque gratiam conferre; anathema sit. Zob. *Ibid.*: Sententia definitiva diei 10 novembris 1999 c. Defilippi, w: Rotae Romanae Tribunal, Decisiones seu sententiae selectae inter eas quae anno 1999 prodierunt cura eiusdem Apostolici Tribunalis editae, Libreria Editrice Vaticana 2005, p. 646nn.

⁷See, W. Wąsik, "Simulation of Marital Consent as A Cause of Nullity of Marriage in the Latin Church," in *Kielce Theological Studies* 12 (2013) 247-248.

⁸T. Rozkrut, John Paul II to the Tribunal of the Roman Rota, Tarnów 2003, p. 223.

observed in a Document of 1977: “Where there is no trace of faith (in the sense of the term ‘belief’ – being disposed to believe), and no desire for grace or salvation is found, then a real doubt arises as to whether there is the above-mentioned and truly sacramental intention and whether in fact the contracted marriage is validly contracted or not.⁹ However, Blessed John Paul II, addressing this Tribunal 10 years ago, pointed out that “an attitude on the part of those getting married that does not take into account the supernatural dimension of marriage can render it null and void only if it undermines its validity on the natural level on which the sacramental sign itself takes place.”¹⁰

b) The second circumstance suggesting the possibility of implementing the Bishop’s process is a brief period of married life. This circumstance may indicate total or partial simulation, such as the exclusion of indissolubility and fidelity (*CIC* c. 1101/*CCEO* c. 824 §2); an inability to consent (*CIC* c. 1095/*CCEO* c. 818 n. 2-3); or even force and fear (*CIC* c. 1103/*CCEO* c. 825). The legislator does not define precisely what is meant by the term “short time.” The question can also be asked whether similarly a long marriage and the dissolution of marriage after many years is not a factor of “dissuasion” to initiate the process of nullity. Unfortunately, it can give rise to the risk of expectations on the part of the petitioners of a kind of automatic jurisdiction and nullity when the marriage broke up shortly after the wedding.

c) An abortion performed to avoid procreation, having a definite relationship to the exclusion of offspring (*CIC* c. 1101/*CCEO* c. 824 §2), is another factor suggesting the implementation of the shorter process. However, the wording is rather awkward because it suggests the valuation of abortion and its “usefulness” as an argument in the process of nullity. Yet abortion is sometimes also

⁹Commissio Teologica Internationalis, “La dottrina cattolica sul sacramento del matrimonio” [Propositions on the Doctrine of Christian Marriage] [1977], 2.3: Documenti 1969-2004, Vol. 13, Bologna 2006, p. 145.

¹⁰Benedictus XVI, *Allocutio ad Romanae Rotae Tribunal*, 26.01.2013, AAS 105 (2013) 168-172. See: T. Rozkrut, “The Importance of Faith for the Community of Marriage” (Benedict XVI to the Apostolic Tribunal of the Roman Rota 2013), in *Annales Canonici* 9 (2013) 207-213; W. Góralski, “Faith and Marriage,” from the speech of Benedict XVI to the Apostolic Tribunal of the Roman Rota on 26 January 2013, in *Kościół i Prawo* 2 (15) (2013), n. 1, pp. 11-21.

done for other motives, such as in the majesty of Polish law the killing of an unborn child conceived as a result of a crime, suspicion of impairment or danger to the life or health of the mother.¹¹ Every abortion (including the complicity in this crime) itself raises the suspicion of some defect of personality (ex. the question of the ability to parent), so the narrowing made in art. 14 of "The way of proceeding" is even inappropriate.

d) The fourth factor is to remain in an extramarital relationship at the time of marriage or shortly after the wedding. Clearly, such a circumstance might suggest exclusion of marriage itself; its indissolubility and/or faithfulness (*CIC* c. 1101/*CCEO* c. 824 §2); an inability to remain faithful (*CIC* c. 1095/*CCEO* c. 818 n. 3); a serious lack of discretion of judgment concerning the essential rights and obligations of marriage (especially the duty of fidelity) to be mutually given and accepted (*CIC* c. 1095/*CCEO* c. 818 n. 2); or deceitful misrepresentation regarding, for example, the ending of the previous relationship (*CIC* c. 1098/*CCEO* c. 821). Unfortunately, court records have provided examples of adultery committed even during the wedding reception. However, it should be carefully examined whether the infidelity was the result of an invalidating defect or, at most, gives the right to separation in accordance with *CIC* c. 1153/*CCEO* c. 863.

e) Deceitful concealment of infertility, severe contagious disease, offspring from a previous relationship or imprisonment are the other factors. This group of circumstances suggesting the possibility of carrying out the shortened process is associated with *deceptio dolosa* as a cause for nullity of marriage (*CIC* c. 1098/*CCEO* c. 821). Certainly, conscious action of one of the contracting parties aimed at swindling consensus from the other side involving misrepresentation of a significant quality of the person, which in its very nature can seriously disrupt the partnership of conjugal life, is relatively easy to prove in the process of nullity. The legislator identifies four broad qualities: the ability to procreate, health status, having children from another relationship and deprivation of liberty. Such a catalogue, although it is not closed, raises serious concerns. In the case of health, the doubt applies only to narrow categories of diseases that

¹¹"Law from 7 January 1993 r. on family planning, human fetus protection and conditions of permissibility of abortion," *Polish Journal of Laws* 1993, n. 17, item 78, art. 4a, stat. 1.

are infectious, and yet other diseases, including for example, psychological diseases, chronic illnesses (ex. Multiple Sclerosis) and cancer are all important for the possibility of creating a community of marriage. Carrying an important meaning are also, for example, a history of major surgeries and carriers of diseases. It would definitely be better to formulate a more general list relating to relevant health information.

Another circumstance described in quite a restrictive manner concerns the concealment of imprisonment. Such wording “justifies” the concealment of any fact of criminality that did not result in deprivation of liberty, such as limited liberty, a fine or other criminal sanctions. Concealment of committing any crime, not only with the judgment of imprisonment, raises suspicions about the sincerity of the intention, as well as doubts as to the maturity of decisions, and the possibility of personality disorders (e.g., dissociable personality).

In both cases discussed above, there are no obstacles for the Judicial Vicar to broadly interpret the wording of the legislator.

f) A motive for marriage that is completely alien to married life raises the suspicion of total simulation. Examples include legalizing the status of an immigrant, obtaining work permits, evading compulsory military service, hiding homosexuality, preserving or acquiring financial assets, etc. Simulation may also occur in conjunction with other titles of nullity, such as an inability to create a community of marriage amid sexual identity disorders. Proving one of the above-mentioned circumstances can be almost the complete proof necessary for the nullity of marriage.

g) A special external circumstance inducing marriage may be an unexpected pregnancy. Most cases concern very young contracting parties who did not plan to marry at all, to marry in the near future, or even to marry each other. Due to social pressure, especially from the immediate family, a subsequent and often rash decision to marry can indicate invalidity due to simulation, coercion/fear, or inability from *CIC* c. 1095/*CCEO* c. 818 n.3, resulting from immaturity.

h) The use of physical violence to elicit consent seems a rare situation in Euro-Atlantic countries, but perhaps is more common in countries with a tribal structure and culture. In this case, the ground for implementing the Bishop’s process is the same as the ground of nullity articulated in *CIC* c. 1103: “A marriage is invalid if entered into because of force or grave fear from without, even

if unintentionally inflicted, so that a person is compelled to choose marriage in order to be free from it.”

i) The last circumstance referred to in art. 14 of “The way of proceeding,” is “lack of reason confirmed by medical records.” It correlates with the cause of nullity of marriage described in *CIC* c. 1095/*CCEO* c. 818 n. 1. It was decided to add here the phrase by which the defect is to be confirmed by medical records. According to §2, these records are to be medical documents that clearly preclude the need to consult an expert. While availability of medical documentation is restricted, the person affected by a disease or disability already has or can easily obtain a copy of the documentation concerning him/her. Since the petition of nullity based upon limitations of mental health is shared, it seems that obtaining documentation will not prove difficult. However, if the parties did not attach medical records, the process should be continued in the ordinary way. Moreover, the question arises whether to treat extensively the described circumstance and if it is deemed sufficient to consider the possibility of a shortened process, indicated by a serious personality disorder confirmed by documentation from experts, for example, psychologists or family support centers. Because the catalog of facts contained in art. 14 §1 is not closed, it seems that the above question should be answered in the affirmative.

7. Conclusion

The Bishop’s (shortened) process presumes certain prerequisites: compatible arguments of the parties, “strong” evidence for nullity provided in the initial stage, and a description of the circumstances that led to the decision to end the marriage. As can be inferred from art. 14 §1 of “ The way of proceeding in cases regarding the declaration of the nullity of a marriage,” the cited criteria relate to suspected defects of consent, such as simulation, fraud, lack of use of reason, grave lack of due discretion concerning the essential rights and obligations of marriage, and a psychological incapacity to assume these obligations. It can thus be concluded that almost every title of nullity can be dealt with by the Bishop’s process. Certainly, the doctrine and jurisprudence should deepen the understanding of the content of these rules and the possible addition of other circumstances, people and things permitting for the shortened process before the Bishop.