

**PROPOSAL FOR AN APOSTOLIC CONSTITUTION ON THE ENTIRELY IMPEDED  
ROMAN SEE**

**INTRODUCTION**

1. Canons 335 of the CIC and 47 of the CCEO refer to special legislation on the entirely impeded Roman See, which thus far has not been promulgated. There is legislation on the impeded diocesan and eparchial see, which can serve as an aid in specifying the circumstances. Furthermore, canon 412 of the CIC (c. 233 § 1 CCEO) establishes as a criterion of the impeded see the fact that there is an officeholder, but he cannot communicate with the faithful, not even by writing, and it also foresees the possibility that the bishop may be impeded by reason of incapacity (*inabilitas*). In fact, unlike the vacant see, in which an officeholder does not exist, the impeded episcopal, eparchial or papal see is characterized by the presence of an impediment that does not allow its holder to exercise the functions of the office. This impediment can be partial or total, depending on whether or not it entirely prevents these functions. Moreover, the total impediment can be temporary or absolute.

2. However, because of the particularities of the Roman See, the norms that are provided for ordinary diocesan and eparchial sees do not suffice. This is one of the various reasons motivating the filling of this *lacuna legis* with the present legislative act, so that the Church can count on clear rules for the *temporarily* impeded Roman See, on the one hand, and for the special case of the Roman See being impeded by reason of a *permanent* incapacity of the Roman Pontiff, on the other hand.

3. There are important reasons that suggest the promulgation of the special legislation to which CIC and CCEO refer for the regulation of the entirely impeded Roman See. Canonists and theologians have historically admitted that death and resignation are not the only means of ceasing from the office of Roman Pontiff. Furthermore, in many parts of the world life expectancy has lengthened and medical science has progressed to the point that people who are permanently incapacitated can continue living for a long time. The Church defends life from its beginning to its end and affirms the full value of human life in case of illness. At the same time, though, the exercise of the Petrine office requires sufficient health conditions in the person of the Roman Pontiff.

4. The possibility of a Roman Pontiff becoming infirm, like any other person, is a real one. He must be ready for the possibility of a complete incapacity in exercising his office, as a consequence of a serious accident or an illness that could prevent him from even manifesting his will to resign the office. Some norms are needed to prevent such a situation and to provide solutions especially for the case in which the corresponding medical examination certifies a definite, permanent and incurable incapacity in the person of the Roman Pontiff.

5. The prolonging, perhaps for years, of a situation in which the Roman See is entirely impeded by reason of incapacity of the Roman Pontiff would cause serious challenges in the life of the Church, which could not be solved merely by applying the rule of *nihil innovetur* (CIC c. 335; CCEO c. 47), which greatly limits any activity. Moreover, there are acts of magisterium and governance that belong

to the Roman Pontiff personally, for which he cannot be substituted by collaborators.

6. For all these reasons, it seems necessary to establish a procedure that facilitates an orderly and prudent transition from the declaration of the entirely impeded see by reason of permanent incapacity to the situation of a vacant see. With this procedure, the peace in the Church is facilitated in difficult and sensitive times, and there is an avoidance of the risk of divisions that could seriously harm ecclesial communion because of an uncertain situation. After thorough reflection, and in application of a principle found in traditional canonical doctrine,<sup>1</sup> it has been deemed prudent in the current circumstances that, in the case of the entirely impeded Roman See by reason of permanent incapacity in the person of the Roman Pontiff, the law shall bring about the same effects as those of the vacant see. Thus, once the necessary medical examination has certified the incapacity due to definite, permanent and incurable infirmity, the College of Cardinals may declare the Roman See to be entirely and permanently impeded and elect a new Roman Pontiff.

It is necessary to insist that this is in no way a removal or a deposition of the Roman Pontiff, but rather a declarative procedure for the benefit of the Church, in full respect for the value and dignity of human life, even in sickness. In this way, the cessation of the Petrine office operates *ipso iure*, on the basis of a law that is promulgated by the supreme authority of the Church, which attaches juridical effects to a *de facto* situation: these are produced at the moment in which the College of Cardinals confirms such a situation through a certification of a declarative nature, which gives rise to the application of the special legislation on the vacancy of the Apostolic See and the election of the Roman Pontiff. Furthermore, the canonical declaration made by the College of Cardinals brings together, in specific circumstances, the principle of *Prima Sedes a nemine iudicatur*, to which canon 1404 of the CIC refers (*Romanus Pontifex a nemine*

<sup>1</sup> The enunciation and doctrine of the *amentia aequivalet morti* principle can be found in not a few authors. Some even go so far as to speak of a common doctrine. Francisco Suárez, Reiffenstuel and a good group of commentators on the 1917 CIC can be mentioned: cfr. A. CODELUPPI, *Sede impedita. Studio in particolare riferimento alla sede romana*, Angelicum University Press, Roma 2016, 183-186; J.H. PROVOST, «*De sede apostolica impedita*» due to incapacity, in A. Melloni et al., *Cristianesimo nella storia. Saggi in onore di Giuseppe Alberigo*, Bologna 1996, 121; B. RIES, *Amt und Vollmacht des Papstes. Eine theologisch-rechtliche Untersuchung zur Gestalt des Petrusamtes in der Kanonistik des 19. und 20. Jahrhunderts*, Lit Verlag, Münster 2003, 355-358; G. MÜLLER, «*Sede romana impedita*». *Kanonistische Annäherungen zu einem nicht ausgeführten päpstlichen Spezialgesetz*, Eos Verlag, Sankt Ottilien 2013, 81 ff.; A. VIANA, *Possible regulación de la sede Apostólica impedita*, in *Ius canonicum*, 53 (2013), 566-569; IDEM, *La sede apostolica impedita per la malattia del Papa*, in E. Güthoff, St. Haering (Hrsg.), *Ius quia iustum. Festschrift für Helmuth Pree zum 65. Geburtstag*, Berlin 2015, 376-378; G. BONI, *Sopra una rinuncia. La decisione di Papa Benedetto XVI e il diritto*, Bononia University Press, Bologna 2015, 142-146; EADEM, *Una proposta di legge sulla Sede apostolica impedita e la rinuncia del Papa frutto della collaborazione della scienza canonistica, Stato, Chiese e pluralismo confessionale*, telematic Journal (<https://www.statoechiese.it>), n. 14/2021, sub § 6. One of the most important defenders of this thesis was Franz Xaver Wernz. According to this great modern canonist, the foundation of the application of the principle *amentia aequivalet morti* consists in the fact that the exercise of papal jurisdiction is, in turn, based on the habitual use of reason, which is what is completely lost in the case of certain and perpetual dementia; this is the reason why the election of an infant to papal dignity is void *ipso iure*. For this reason, in the event that the Pope sees himself reduced to the condition of an infant due to infirmity, his jurisdiction would cease: cfr. F.X. WERNZ, *Ius decretalium*, II, Romae 1899, 694-695; F.X. WERNZ-P. VIDAL, *Ius canonicum*, II, *De personis*, Romae 1943<sup>3</sup>, 516.

*iudicatur*: CCEO c. 1058) with the need, equally rooted in divine law, to guarantee the continuity of the governance of the universal Church for the common good and for the salvation of souls. The Church, when establishing norms and procedures for these possible situations, does not cease to turn to the divine mercy for protection in facing external powers and for the Supreme Pontiff's good health.

7. This apostolic constitution, while providing norms on the situation of the entirely impeded Roman See in a temporary way and for the entirely impeded Roman See by reason of the Roman Pontiff's permanent incapacity, also establishes three additional dispositions. In the first place, due to the very delicate particularities of the procedure for the declaration of the entirely impeded Roman See, the text of this apostolic constitution has provided for the establishment of a special medical committee, which will have the task of making a pronouncement about the possible incapacity of the Roman Pontiff. Secondly, since this apostolic constitution regards a matter that directly affects the configuration of the Roman See, it seems necessary to include a provision in the texts of the CIC and the CCEO. For this reason, the text of canons 332 of the CIC and 44 of the CCEO are reformed by adding a reference to the entirely impeded Roman See by reason of permanent incapacity of the Roman Pontiff. In this manner, that circumstance will be distinct also in common law from that of the entirely impeded see in a temporary way, which can be considered already included in reference to special legislation contained in canons 335 of the CIC and 47 of the CCEO. Thirdly, the reform of the CIC and the CCEO recommends that it be mentioned in the text of the apostolic constitution *Universi Dominici Gregis*, which regulates the election of the Roman Pontiff.<sup>2</sup>

## CHAPTER I. THE ENTIRELY AND TEMPORARILY IMPEDED ROMAN SEE

Art. 1. The Roman See is understood to be entirely but temporarily impeded when the Roman Pontiff is not able to exercise his office by reason of the impossibility to communicate his will, not even by writing, as a consequence of external circumstances, such as captivity, banishment, exile, or personal incapacity (*inabilitas*).<sup>3</sup>

Art. 2. After at least ten days have passed from reception of reliable information about the external circumstances or the possible incapacity of the Roman Pontiff according to art. 1, the Cardinal Camerlengo or the one taking his place, in agreement with the Dean of the College of Cardinals or the one taking his place, is to confirm whether there is a document written by the Roman Pontiff in which dispositions have been validly given for the case of the entirely impeded Roman See. If no such document is found, the following norms are to be applied.

Art. 3 § 1. The Dean of the College of Cardinals carries out the necessary verifications about the impediment due to external circumstances.

§ 2. Furthermore, in a case in which the impediment is due to the Roman Pontiff's personal incapacity, the Cardinal Camerlengo, in agreement with the Dean of the College of Cardinals and after having received the diagnosis of the physician who ordinarily takes care of the Roman Pontiff, must request a medical

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<sup>2</sup> Cfr. JOHN PAUL II, const. ap. *Universi Dominici Gregis*, 22.II.1996, AAS, 88 (1996), 305-343.

<sup>3</sup> Cfr. c. 412 CIC; cc. 132 §§ 1-2 (patriarchal sees), 233 § 1 CCEO.

examination that certifies the total impediment of the Roman Pontiff. The medical examination will be carried out by the group of specialists to which art. 18 of this law refers, and it must be communicated to the College of Cardinals.

§ 3. If the incapacity is considered total, permanent and incurable, the articles of this apostolic constitution on the impeded Roman See by reason of permanent incapacity of the Roman Pontiff, to which artt. 13 ff. refer, are to be applied; however, if there is doubt about the permanent nature of this incapacity or if it is expected to be temporary, the procedure foreseen for the declaration of the entirely but temporarily impeded Roman See is to be observed, according to the articles that follow.

Art. 4 § 1. The canonical declaration of the entirely but temporarily impeded Roman See, indicating the reasons that determine it, pertains to the College of Cardinals, which must be convoked as soon as possible by the Dean of the same College or by the one taking his place, so that it can convene within 15 days from when the existence of the external cause of the incapacity is certified or from when the medical examination that certifies the Roman Pontiff's personal incapacity is established.<sup>4</sup> All the Cardinals are required, in virtue of holy obedience, to obey the announcement of convocation and to proceed to the place designated for this purpose, unless they are hindered by sickness or by some other grave impediment, which must be recognized as such by the College of Cardinals. However, should any Cardinal arrive *re integra*, that is, before the entirely impeded Roman See is declared, they shall be allowed to take part in the work of the assembly at the stage which it has reached. Furthermore, if a Cardinal leaves the designated place for some grave reason, acknowledged as such by the majority of the Cardinals who are present, he can return, in order once again to take part in the gathering of the College.<sup>5</sup>

§ 2. The declaration must be made at least by an absolute majority of the Cardinals who are present. If there is a tie in the voting, the Dean or, if he is absent, the Vice Dean or the first Cardinal by order and seniority can break it with his vote.

§ 3. In case the see is declared entirely impeded in a temporary way by reason of the Roman Pontiff's personal incapacity, it is necessary to ask the group of specialists for an examination at least every six months, which will be followed by the convocation of the College of Cardinals according to the norms of this apostolic constitution.

§ 4. When the Roman Pontiff's total incapacity is certified and declared, be it temporary or permanent, the Dean of the College of Cardinals must appoint by decree a curator who protects the person and the rights of the Roman Pontiff.

§ 5. In the event that the Cardinals present do not declare the Roman See to be entirely impeded temporarily, the Cardinal Camerlengo, in agreement with the Cardinal Dean or the one taking his place, must resume the procedure when the condition to which art. 1 of this apostolic constitution refers are present.

Art. 5. In a situation in which the Roman See is entirely but temporarily impeded, the governance of the universal Church pertains to the College of

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<sup>4</sup> Cfr. by analogy, the time limit foreseen in *Universi Dominici Gregis*, n. 37.

<sup>5</sup> Cfr. *Universi Dominici Gregis*, nn. 38-40.

Cardinals, with observance of the principle that nothing is to be altered,<sup>6</sup> and according to what is provided by the articles that follow.

Art. 6. In the same session in which the Roman See is declared entirely impeded in a temporary way, the College of Cardinals is to elect a group of five Cardinals to whom the management of ordinary affairs is entrusted as long as that situation lasts. The group will have to inform the whole College about its work, which will be convoked at least every six months to resolve questions that may arise and to examine the report to which art. 4 § 3 refers. In any case, if in the meantime serious, urgent and extraordinary questions arise, the Dean of the College of Cardinals can convoke it as soon as possible, also at the request of the group of five Cardinals. The decisions of the College will have to be approved by an absolute majority of the Cardinals present for voting.

Art. 7 § 1. While the Roman See is entirely but temporarily impeded, those who preside over or are members of Dicasteries of the Roman Curia remain in office, and the ordinary faculties of the Dicasteries do not cease. Dicasteries cannot resolve those questions that require the consultation, permission, or approval from the Roman Pontiff.<sup>7</sup> However, they may make the decisions that cannot be postponed, such as dispensations *in articulo mortis*.

§ 2. After six months have passed from the declaration of the impeded see, Dicasteries may resolve the matters on what it is judged to be most fitting and appropriate for the preservation and defence of ecclesiastical rights and traditions, until the see is occupied again and the Roman Pontiff confirms such decisions.<sup>8</sup> Doubtful cases may be presented to the group of five Cardinals in charge of ordinary affairs, to which art. 6 refers; while extraordinary or most serious cases must be submitted to the College of Cardinals.

Art. 8. It is up to the Dean of the College of Cardinals or, if he is absent or impeded, to the Vice Dean or the first Cardinal by order and seniority to preside over the College, taking care of transmitting the notice mentioned in art. 4 to the whole Church, to the diplomatic corps accredited to the Holy See and to those who are in charge of the different nations, as well as extensive information about the governance of the universal Church during the entirely impeded Roman See. For this purpose, he will be assisted by the Dicastery for Communication of the Holy See.<sup>9</sup> The Dean shall not omit to earnestly encourage the faithful to lift up prayers to God Almighty for the person and health of the Supreme Pontiff.

Art. 9. While the Roman See is entirely but temporarily impeded, ordinary activities of the Vatican City State continue.<sup>10</sup>

Art. 10. While the Roman See is entirely but temporarily impeded, the Cardinal Vicar General for the Diocese of Rome does not cease from office,<sup>11</sup> and ordinary activities of the Vicariate continue;<sup>12</sup> however, the Cardinal Vicar will

<sup>6</sup> Cfr. c. 335 CIC; c. 47 CCEO.

<sup>7</sup> Cfr. JOHN PAUL II, const. ap. *Pastor bonus*, 28.VI.1988, AAS, 80 (1988), 841-912, art. 18.

<sup>8</sup> Cfr. Universi Dominici Gregis, n. 25.

<sup>9</sup> Cfr. FRANCIS, *Motu proprio*, 27.VI.2015, AAS, 107 (2015), 591-592; *Rescriptum ex Audientia Ss.mi*, 23.II.2018, AAS, 110 (2018), 426.

<sup>10</sup> Cfr. Universi Dominici Gregis, n. 23; JOHN PAUL II, Legge fondamentale dello Stato della Città del Vaticano, 26.XI.2000, AAS Suppl., 71 (2000), art. 1 § 2.

<sup>11</sup> Cfr. Universi Dominici Gregis, n. 14.

<sup>12</sup> Cfr. PAUL VI, const. ap. *Vicariae potestatis*, 6.I.1977, AAS, 69 (1977), 9-10; JOHN PAUL II, const. ap. *Ecclesia in Urbe*, 1.I.1998, AAS, 90 (1998), 177-193, artt. 13, 16.

refrain from undertaking important pastoral and governmental initiatives for which the Roman Pontiff must be consulted.

Art. 11. Once the Roman See is declared entirely but temporarily impeded according to art. 4 of this apostolic constitution, the celebration of the ecumenical council or the synod of bishops is suspended by the law itself until the Roman Pontiff, when the see is occupied again, has decided about its continuation.<sup>13</sup>

Art. 12. The situation of the entirely but temporarily impeded Roman See ceases in the following cases:

a) *Ipsa facta* with the cessation of the external cause that determined it.

b) In case of the Roman Pontiff's personal incapacity, with the verification that it has ceased, in accordance with the medical examination foreseen by art. 4 § 3.

Without prejudice to the Roman Pontiff's rights, the College of Cardinals is to be convoked as soon as possible for the sole purpose of declaring the cessation of the temporary situation of the entirely impeded see and the transition to the occupied see (*sede plena*); the norm of art. 4 of this apostolic constitution is to be observed.

## **CHAPTER II. THE ENTIRELY IMPEDED ROMAN SEE BY REASON OF DEFINITE, PERMANENT AND INCURABLE INCAPACITY OF THE ROMAN PONTIFF**

Art. 13. If the Roman Pontiff is entirely impeded from exercising his office by reason of personal incapacity (*inabilitas*) and a medical examination certifies that such incapacity is incurable and permanent, the Roman See shall be declared entirely and permanently impeded according to the norms established in the following articles, unless the Roman Pontiff had given different dispositions pursuant to art. 2.

Art. 14. In the event that the examination referenced in art. 3 of this apostolic constitution has certified the existence of the Roman Pontiff's total, permanent and incurable incapacity, a canonical declaration from the College of Cardinals will be needed. For this purpose, after the report has been communicated, the Dean shall as soon as possible convvoke the College, which will have to gather within 15 days in the designated place, and will officially inform it of the results of the clinical examination.

Art. 15. The entirely impeded Roman See by reason of the Roman Pontiff's permanent incapacity is to be declared by a two-thirds majority of the votes of Cardinals present.<sup>14</sup> All the Cardinals, convoked by the Dean, or by another Cardinal in his name, are required, in virtue of holy obedience, to obey the announcement of convocation and to proceed to the place designated for this purpose, unless they are hindered by sickness or by some other grave impediment, which must be recognized as such by the College of Cardinals. However, should any Cardinal arrive *re integra*, that is, before the entirely impeded Roman See is declared, they shall be allowed to take part in the work of the assembly at the stage which it has reached. Furthermore, if a Cardinal leaves the designated place for some grave reason, acknowledged as such by the majority

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<sup>13</sup> Cfr. cc. 340, 347 § 2 CIC; c. 53 CCEO.

<sup>14</sup> Cfr. Universi Dominici Gregis, n. 62.

of the Cardinals who are present, he can return, in order once again to take part in the gathering of the College.<sup>15</sup>

Art. 16. If the declaration of the entirely impeded Roman See by reason of permanent incapacity of the Roman Pontiff is not made according to the majority foreseen by art. 15 of this apostolic constitution, the vote must be repeated if at least one-third of the Cardinals who are present ask that the total and permanent impediment of the Roman See be discussed anew. If the result of the vote does not reach the majority requested by art. 15 and there is no new discussion and vote, the Cardinals shall gather again to declare the entirely but temporarily impeded Roman See, in accordance with artt. 4-11 of this apostolic constitution and with the absolute majority foreseen. Once six months have passed, the College of Cardinals will be convoked again after a new medical examination has been carried out according to the dispositions of Chapter I.

Art. 17. After the declaration of the entirely impeded Roman See by reason of the Roman Pontiff's permanent incapacity is made, the norms provided for the vacant Roman See are to be applied. Consequently, the Dean of the College of Cardinals will convoke the General Congregations of Cardinals, and at one of these the date and hour for the beginning of the Conclave and for the acts for the election of the new Successor of Peter are to be set.<sup>16</sup>

### **CHAPTER III. THE MEDICAL COMMITTEE**

Art. 18 § 1. In order that the medical examinations of the person of the Roman Pontiff provided for by this apostolic constitution may be properly carried out, it is necessary to make use of accredited specialists from different countries. The Cardinal Secretary of State, duly advised, must draw up a list of at least fifteen professionals of unblemished reputation, which will be presented for the approval of the Roman Pontiff. The pontifical appointment will last five years, and the composition of the list will have to be reviewed every year, at least partly, so that the medical committee always consists of a minimum number of fifteen members. Among the members of the list, the Cardinal Secretary of State or, in his absence, the Dean of the College of Cardinals will appoint five specialists who will be in charge of carrying out the corresponding examination.

§ 2. The Cardinal Secretary of State must prepare regulations that are to be approved by the Roman Pontiff. Such regulations shall specify the requirements for the pontifical appointment of the members of the committee and for possible substitutions, as well as the time limits for the examination and the ways of deliberating and voting within the group of specialists.

### **CHAPTER IV. FINAL DISPOSITIONS**

Art. 19. Canon 332 of the CIC is reformed by adding a new paragraph. Starting from now, canon 332 § 3 will prescribe: «If it happens that the Roman See is entirely impeded by reason of permanent incapacity of the Roman Pontiff, such that he cannot even resign his office, the procedure provided by the special

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<sup>15</sup> Cfr. *Universi Dominici Gregis*, nn. 38-40.

<sup>16</sup> Cfr. *Universi Dominici Gregis*, nn. 11, 13, i).

legislation is to be applied, and the same effects of the vacant see are produced by the law itself».

Art. 20. Canon 44 of the CCEO is reformed by adding a new paragraph. Starting from now, canon 44 § 3 CCEO will prescribe: «If it happens that the Roman See is entirely impeded by reason of permanent incapacity of the Roman Pontiff, such that he cannot even resign his office, the procedure provided by the special legislation is to be applied and the same effects of the vacant see are produced by the law itself».

Art. 21. As a consequence of the dispositions of this apostolic constitution, numbers 3 and 77 of the apostolic constitution *Universi Dominici Gregis* are reformed; they are therefore respectively formulated as follows:

§ 1. «I further establish that the College of Cardinals may make no dispositions whatsoever concerning the rights of the Apostolic See and of the Roman Church, much less allow any of these rights to lapse, either directly or indirectly, even though it be to resolve disputes or to prosecute actions perpetrated against these same rights after the death, the valid resignation or the declaration that the Roman See is impeded by reason of total and permanent incapacity of the Supreme Pontiff. All the Cardinals are obliged to defend these rights» (cfr. *Universi Dominici Gregis*, n. 3).

§ 2. «I decree that the dispositions concerning everything that precedes the election of the Roman Pontiff and the carrying out of the election itself must be observed in full, even if the vacancy of the Apostolic See should occur as a result of the resignation or the declaration that the Roman See is impeded by reason of total and permanent incapacity of the Supreme Pontiff, in accordance with the provisions of canon 332 §§ 2 and 3 of the CIC and canon 44 §§ 2 and 3 of the CCEO» (cfr. *Universi Dominici Gregis*, n. 77).

—Final clause of promulgation and entry into force of the law

—Date

**PROPOSAL FOR AN APOSTOLIC CONSTITUTION ON THE CANONICAL CONDITION  
OF THE BISHOP OF ROME WHO RESIGNED HIS OFFICE**

**INTRODUCTION**

1. On February 11, 2013, in the consistory of cardinals, His Holiness Benedict XVI announced his resignation from office, and on the same day he decided that the renunciation would take effect on February 28 of the same year.<sup>1</sup> This decision gave rise to a situation with very few precedents in the history of the Church, namely, the years-long coexistence of the previous Roman Pontiff with the new one, Pope Francis, who was legitimately elected on March 13, 2013.<sup>2</sup>

Trusting above all in the help of Divine Providence toward the Church, the experience of these years, the opinions of pastors, theologians and canonists, as well as the possibility that the same situation of coexistence might repeat itself in the future, suggest the promulgation of some provisions in order to prevent doubts and misunderstandings.

2. The uniqueness of the Petrine ministry is a fundamental principle that informs the living communion of the Church. By divine law, this aspect of the hierarchical structure of the Church excludes any bicephaly or diarchy in the universal Church. Jesus Christ entrusted the Apostle Peter and his successors with the office of being the head of the whole Church (Mt 16:17-19; Jn 21:15-19), such that the Roman Pontiff is the visible and perpetual foundation of communion, especially of the bishops among themselves.<sup>3</sup> Title to the primatial office belongs to only one man, a member of the faithful who, by accepting his legitimate election and having received episcopal consecration, becomes «the head of the college of bishops, the Vicar of Christ, and the pastor of the universal Church on earth».<sup>4</sup> For these reasons, the office of the Roman Pontiff is unique and personal, and this is compatible with the theological reality of the College of Bishops, which integrates the supreme authority of the Church with the Roman Pontiff himself. For, «just as by the will of the Lord St. Peter and the other Apostles constitute one apostolic College, so in a similar way are the Roman Pontiff, the successor of Peter, and the bishops, the successors of the Apostles, joined together».<sup>5</sup> In accord with its specific configuration, the primatial office cannot be held by a college nor shared as such with another person, though this naturally does not prevent the Roman Pontiff from being able to count on the collaboration of other people or institutions that help him in his ministry.

3. In addition to insisting on the uniqueness of the primatial office—which must always be respected, including in the terminology that is used—there is a series of practical issues that affect the person who resigned the Petrine office and that should be resolved, such as his title and name, place of residence, sustenance, institutional relationships with the Roman Pontiff, personal condition and ecclesial responsibilities, precedence, and burial. It seems appropriate that the

<sup>1</sup> AAS, 105 (2013), 239-240.

<sup>2</sup> AAS, 105 (2013), 362-364.

<sup>3</sup> Cfr. VATICAN COUNCIL II, const. *Lumen gentium*, nn. 18, 23.

<sup>4</sup> CIC, c. 331; CCEO, c. 43.

<sup>5</sup> VATICAN COUNCIL II, const. *Lumen gentium*, n. 22; cfr. CIC, c. 330; CCEO, c. 42.

supreme authority establish certain dispositions that could bring clarity and also nourish ecclesial communion in practical terms.

4. At the same time, these dispositions establish nothing about the concrete reason(s) that could lead the Roman Pontiff to resign, beyond the fact that it must always take into account the common good of the Church. The Roman Pontiff shall examine his conscience before God, including in such an examination the reasons for his resignation as well as the consequences that it will foreseeably have in the life of the Church. This personal examination cannot be reviewed by any other person nor by any authority other than the Roman Pontiff himself.

5. These norms do not regulate unnecessary aspects and are intended to be especially respectful of the personal dignity<sup>6</sup> of the one who sat on the chair of Saint Peter. The Church owes gratitude to him who, moved by faith and love for Jesus Christ, decided to accept and carry out—maybe for many years—the hard and difficult burden of the Roman pontificate, which is impossible to bear with human ability alone. Rather than binding prescriptions drawn out of the canonical legislation, these provisions mainly include some appropriate orientations that will have to be applied with caution. The personal and public relations between the new Roman Pontiff and his predecessor is a particularly important aspect. It seems necessary to establish certain dispositions in order to address such relations, but it is undoubtable that the human and spiritual factors involved in this coexistence must not and cannot be disciplined by a law. In any case, fraternity and a spirit of communion, which have to inspire such relations, are compatible with the obedience always due to the one Successor of Peter.

6. The Roman Pontiff who resigns his office is called to live in a very special way John the Baptist's statement regarding Jesus Christ: «He must increase; I must decrease» (Jn 3:30). In this sense, he will try to live the humility of being «the grain of wheat that dies and so produces much fruit» (Jn 12:24). The new condition of a Pope who resigns clearly suggests a retirement from ecclesiastical and civil public life, which facilitates the work of the Roman Pontiff. In this sense, some dispositions are established in order to, in a certain way, moderate the exercise of the rights enjoyed by the one who resigned, in view of the common good of the Church.<sup>7</sup> These are recommended in order to avoid confusing situations, misinterpretations, and possible misunderstandings.

## NORMS

### Art. 1 (The Act of Resignation)

§ 1. If it happens that the Roman Pontiff resigns his office, it is required for validity that the resignation is free, made by one who is responsible for himself (*compos sui*) and formally manifested, but not that it is accepted by anyone.<sup>8</sup>

§ 2. The resignation of the Roman Pontiff refers to his office and to all the powers, ministries, responsibilities, rights, privileges, faculties, favours, titles,

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<sup>6</sup> Cfr. VATICAN COUNCIL II, const. *Lumen gentium*, n. 32; CIC, c. 208; CCEO, c. 11.

<sup>7</sup> Cfr. CIC, c. 223 § 2; CCEO, c. 26 § 2.

<sup>8</sup> Cfr. CIC, cc. 187, 188, 332 § 2; CCEO, cc. 44 § 2, 967, 968. Cfr. CIC 1917, c. 221.

and insignia, including the merely honorary ones, that are inherent in the office itself.

§ 3. The manifestation of the resignation must preferably be put into writing and ordinarily presented in a consistory of the College of Cardinals or in another way that makes it publicly knowable.

§ 4. If the act of resignation is not immediately effective, it must indicate, preferably in a specific manner, the date when it will take effect, which must be not excessively postponed; from that moment, the resignation can no longer be revoked.<sup>9</sup>

#### Art. 2 (Title and Name)

§ 1. Once the resignation has taken effect, the Roman Pontiff receives the title of *Bishop emeritus of Rome*,<sup>10</sup> while leaving intact the possibility of using other titles that are compatible with the uniqueness of the primatial office and avoiding possible confusion.

§ 2. The name of the one who resigned can be the same that he used during his office.

§ 3. Symbols indicative of Petrine jurisdiction must be removed from the coat of arms of the one who resigned.

#### Art. 3 (Personal Condition)

§ 1. After the Roman Pontiff's resignation, the Cardinals, gathered in the General Congregations that precede the Conclave for the election of the successor, shall arrange for the destruction of the Fisherman's Ring and of the lead seal with which the Bishop emeritus's Apostolic Letters were issued.<sup>11</sup> The Bishop emeritus of Rome uses the ring that every bishop must wear.<sup>12</sup>

§ 2. In his public appearances, the Bishop emeritus of Rome may continue to use the white cassock that Roman Pontiffs usually wear.

§ 3. If invited to take part in liturgical celebrations or official public events, the Bishop emeritus of Rome shall occupy a preferential place, without prejudice to the Roman Pontiff's rights.

§ 4. After having informed the Roman Pontiff, the Bishop emeritus of Rome can reside where he chooses, including the City of Rome and Vatican City.

§ 5. The Holy See must take care that suitable and decent support is provided for the Bishop emeritus of Rome, so that he is properly supported in his needs and in those of his family, according to the requirements of charity and justice.<sup>13</sup>

§ 6. In the causes referred to in c. 1401 CIC, both contentious and penal, the Roman Pontiff alone may judge the Bishop emeritus of Rome.

<sup>9</sup> Cfr. CIC, c. 189 § 4; CCEO, c. 970 § 2.

<sup>10</sup> Cfr. CIC, cc. 331, 402 § 1; CCEO, cc. 43, 211 § 1.

<sup>11</sup> Cfr. JOHN PAUL II, const. ap. *Universi Dominici Gregis*, 22.II.1996, AAS, 88 (1996), 305-343, n. 13, g).

<sup>12</sup> Cfr. *Caeremoniale episcoporum*, n. 58.

<sup>13</sup> Cfr. CIC, c. 402 § 1; CCEO, c. 211 § 2; SECRETARIAT OF STATE, *Rescriptum ex audiencia SS.mi*, 5.XI.2014, AAS, 106 (2014), 882-884, art. 4.

#### Art. 4 (Relations with the College of Cardinals)

§ 1. Once the resignation has taken effect, the Bishop emeritus of Rome does not assume or regain the dignity of Cardinal, nor the functions that are attached to it.

§ 2. Consequently, the Bishop emeritus of Rome does not attend consistories or other gatherings of the College of Cardinals;<sup>14</sup> nor does he exercise offices in the Roman Curia, in the Vatican City State or in the Vicariate of Rome.

§ 3. However, in liturgical and canonical matters the Bishop emeritus of Rome has the privileges and faculties attributed to Cardinals.<sup>15</sup>

#### Art. 5 (Relations with the Roman Pontiff)

§ 1. Because of the special position of retreat and prayer that he assumes, and in view of common good, the Church asks the Bishop emeritus of Rome to:

a) take special care not to interfere directly nor indirectly in the activities proper to the governance of the universal Church;

b) foster a close bond of communion and fraternal obedience with the Roman Pontiff;

c) avoid having a media presence;

d) consult with the Roman Pontiff for the publication of any writing on the doctrine and life of the Church, on social issues, or that could be interpreted as opinions in competition with the papal magisterium;

e) help the mission of evangelization with his life of prayer and penance, nourished with experience and knowledge of the spiritual and apostolic needs of the Church worldwide.

§ 2. The Roman Pontiff can freely seek the collaboration and the counsel of the Bishop emeritus of Rome in matters affecting the good of the universal Church.

#### Art. 6 (Exemptions from Gatherings of Bishops)

The Bishop emeritus of Rome is called to promote the unity of the Church in communion with the other members of the episcopal college. However, because of his special condition, set apart from the responsibilities of public magisterium and of governance, he is exempt from participating in the Ecumenical Council, in the Synod of Bishops and in any other episcopal assembly that is celebrated in his place of residence or to which he is invited.

#### Art. 7 (Funerals and Burial)

The Bishop emeritus of Rome can freely choose the place of his burial; if no arrangements had been made, he may be buried in the Vatican Basilica.<sup>16</sup> In

<sup>14</sup> Cfr. CIC, c. 353 §§ 2, 3.

<sup>15</sup> Cfr. CIC, c. 967 § 1; CCEO, c. 722 § 2; SECRETARIAT OF STATE, *Elenco dei privilegi e facoltà in materia liturgica e canonica dei Cardinale di S.R.E.*, 18.III.1999, *Communicationes*, 31 (1999), 11-13.

<sup>16</sup> Cfr. *Universi Dominici Gregis*, nn. 28-32.

such a case, as regards the funeral, the provisions of special legislation and of liturgical norms, which will have to be adequately adapted, are to be followed.<sup>17</sup>

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<sup>17</sup> Cfr. *Universi Dominici Gregis*, nn. 13, 27.