

EXTRAJUDICIAL ROMAN PENAL PROCESS OF THE DECLARATION OF EXCOMMUNICATION: ARCHBISHOP CARLO MARIA VIGANÒ'S CASE

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Abstract. In 2024, the Dicastery for the Doctrine of the Faith, having received the necessary mandate from the Roman Pontiff, conducted a criminal process of the Most Reverend Carlo Maria Viganò. The Archbishop was accused of the crime of schism under Canons 751 and 1364 of the CIC/83. The accusation concerned breaking communion with Pope Francis and denying the Second Vatican Council's magisterium and was mainly based on his public statements posted online. The criminal process was conducted extrajudicially in light of Canon 1720 of the CIC/83 and the 2021 *Normae de delictis*. It concluded with the decree of July 4, 2024, which was issued by the Disciplinary Section of the Dicastery for the Doctrine of the Faith. As a result, the Dicastery declared excommunication against the Archbishop, the censure which he had incurred by virtue of the law itself.

Keywords: extrajudicial process; administrative process; penal process; censure; excommunication; schism; Viganò.

INTRODUCTION

On July 5, 2024, a communiqué from the Dicastery for the Doctrine of the Faith (DDF) concerning the Most Reverend Carlo Maria Viganò was posted on the website www.vatican.va. The communiqué concerned the crime of schism he had committed by undermining the authority of Pope Francis and the Second Vatican Council's teaching. As a result, this communiqué announced the declaration of the penalty of *latae sententiae* excommunication.¹ Archbishop Carlo Maria Viganò (1941-), Titular Archbishop of Ulpiana, served in the Secretariat of State (1978-1989). He also served as the Secretary

¹ Dicasterium pro Doctrina Fidei, *Comunicato stampa circa la conclusione del processo extragiudiziale di S.E.R. Mons. Carlo Maria Viganò* (05.07.2024), https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_ddf_doc_20240705_comunicato-scisma-vigano_it.html [accessed: 15.11.2025] [hereinafter: Comm.VV]. See also <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2024/07/05/0554/01148.html>.

General of the Governorate of Vatican City State (2009-2011), as well as Apostolic Nuncio to Nigeria (1992-1998) and the United States (2011-2016).²

The purpose of this study is to present of the Roman administrative (extra-judicial) process conducted by the DDF's Disciplinary Section against Archbishop Viganò. Therefore, the procedure for declaration the penalty of excommunication against a bishop will be analyzed using a specific case study as an example. Such processes are a unique phenomenon and rarely occur in the Catholic Church.³ Moreover, Archbishop Viganò's *casus* is quite well-known to the Church's faithful and has been widely commented on, as this hierarch was a distinguished Vatican employee. It is also a matter close to the faithful associated with the Roman liturgy that is celebrated according to the 1962 books (*Extraordinary Form of the Roman Rite; usus antiquior*). Therefore, in the current situation in which these faithful operate following the 2021 apostolic letter *Traditionis custodes*, a canonical analysis of the aforementioned process seems to be necessary and helpful [cf. Pietras 2023a, 406-412; Idem 2023b; Idem 2023c; Rivoire 2022; Doyle 2024].⁴ Taking all this into account, the following research questions should be asked: What were the reasons for accusing Archbishop Viganò of the crime of schism? What was the procedure for declaring excommunication against the accused? What was the attitude of the accused towards the ongoing process and the declaration of ecclesiastical punishment?

In the undertaken research, in addition to the documents of universal law (the 1983 Code of Canon Law and 2021 *Normae de delictis* of the DDF), the main basis for the investigation will be the DDF's two decrees of June 11, 2024, and July 4, 2024, which were made available online by Archbishop Viganò himself [cf. Borek 2014; Viayna 2022].⁵ The Archbishop's statements

² See Sala Stampa della Santa Sede, *Nomina del Segretario Generale del Governatorato dello Stato della Città del Vaticano* (16.07.2009), <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2009/07/16/0478/01128.html> [accessed: 13.11.2025]; Idem, *Nomina del Nunzio Apostolico negli Stati Uniti d'America* (19.10.2011), <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2011/10/19/0616/01457.html> [accessed: 16.11.2025].

³ We can mention bishops such as Pierre Martin Ngo-dinh-Thuc, Marcel Lefebvre, Richard Williamson, and Emmanuel Milingo, who received the penalty of excommunication after the Second Vatican Council.

⁴ Franciscus PP., *Litterae apostolicae motu proprio datae de usu librorum liturgicorum instaurationem Concilii Vaticani II antecedentium Traditionis custodes* (16.07.2021), AAS 113 (2021), p. 793-96; Congregatio de Cultu Divino et Disciplina Sacramentorum, *Responsa ad dubia* su alcune disposizioni della Lettera apostolica in forma di Motu Proprio *Traditionis custodes* (04.12.2021), "Communicationes" 53 (2021), p. 515-26; Dicasterium de Cultu Divino et Disciplina Sacramentorum, *Rescriptum ex Audientia Ss.mi* de Motu Proprio *Traditionis custodes* (20.02.2023), AAS 115 (2023), p. 370-71.

⁵ *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, pp. 1-317 [hereinafter: CIC/83]; Congregatio pro Doctrina Fidei, *Rescriptum ex Audientia Ss.mi con cui approva le Norme sui delitti riservati della Congregazione per la*

will be also important. They were published on the website *exsurgedomine.it*. In the statements, he expressed his view and attitude towards the ongoing process. Three of them will be particularly relevant to ongoing research.⁶ This process will be presented chronologically, analyzing the documents and Archbishop's statements and pointing out possible solutions.

At the beginning of this work of scientific research, it should be noted that this study is an attempt to objectively present the existing canonical situation of declaration of the penalty of excommunication against a bishops, which is a *delicate* issue. This article, therefore, stems from the author's concern for the ecclesial unity of the Mystical Body of Christ.

1. LETTER OF THE DICASTERY FOR THE DOCTRINE OF THE FAITH OF MARCH 25, 2024

The Dicastery for the Doctrine of the Faith is the Supreme Apostolic Tribunal for the Catholic Church. It judges those crimes that were defined in the *Normae de delictis* of this Dicastery of October 11, 2021, and according to the norms of the CIC/83 (NdeD 2021, 9 § 1, 29) [cf. Toxé 2016b, 289-90; Llobell 2023, 212-13; Vajani 2012].⁷ One of the crimes reserved to this Dicastery is schism, which consists in refusing (*detrectatio*) to recognize the Roman Pontiff's authority or remaining in communion with members of the Church who recognize that authority (Canon 751 CIC/83). Along with this crime, the legislator added the penalty of *latae sententiae* excommunication (Canon 1364 CIC/83; NdeD 2021, 1, 2 § 1) [cf. Kiełpiński 2023, 339-44, 358-59; Syryjczyk 1990]. Archbishop Carlo Maria Viganò was suspected of committing this *delictum*. The basis for accusing the Archbishop

Dottrina della Fede (07.10.2021), "Communicationes" 53 (2021), p. 427; Idem, *Normae de delictis Congregationi pro Doctrina Fidei reservatis* (11.10.2021), "Communicationes" 53 (2021), p. 428-36 [hereinafter: NdeD 2021]; Dicasterium pro Doctrina Fidei, *Decreto (S.E. Mons. Carlo Maria Viganò; Processo penale extragiudiziale; Prot. N. 194/2024)* (11.06.2024), <https://exsurgedomine.it/240620-attendite-ita/> [accessed: 13.11.2025] [hereinafter: DECR. I]; Idem, *Decreto penale (S.E.R. Mons. Carlo Maria Viganò; Processo penale extragiudiziale ex can. 1720 CIC coram Dicastero per la Dottrina della Fede. Can 1364 CIC; art. 2 SST; Prot. N. 194/2024)* (04.07.2024), <https://acrobat.adobe.com/id/urn:aaid:sc:US:ec47af0f-94a1-4051-a1c6-1be5e9a1af1b> [accessed: 13.11.2025] [hereinafter: DECR. II].

⁶ C. Viganò, *Testimony*, <https://online.wsj.com/media/Viganos-letter.pdf> [accessed: 17.11.2025]; Idem, *Announcement regarding the start of the extrajudicial criminal trial for schism*, <https://exsurgedomine.it/240620-attendite-eng/> [accessed: 17.11.2025]; Idem, *Statement on the accusation of schism*, <https://exsurgedomine.it/240628-jaccuse-eng/> [accessed: 17.11.2025].

⁷ Dicasterium de Legum Textibus, *Le sanzioni penali nella Chiesa. Sussidio applicativo del Libro VI del Codice di Diritto Canonico*, https://www.delegumtextibus.va/content/dam/testilegislativi/TESTI_NORMATIVI/Testi_Norm_CIC/Libro_VI/LibroVISussidio/Sanzioni_penali_Sussidio.pdf [accessed: 16.11.2025] [hereinafter: DLT], no. 179.

of this crime was his public statements, which were ultimately cited in the final decree, which will be discussed later in this article. Another document of significance is Viganò's open letter of August 22, 2018, in which the Archbishop criticized Pope Francis's teachings and attitude. He accused the Pope of, among other items of concern, being passive towards the abuses committed by the Church's clergy through sexual abuse and corruption.⁸

Taking into account the above-mentioned circumstances, on March 25, 2024, the DDF sent a letter to Archbishop Viganò by e-mail, as his postal address was not known to the Dicastery. The Archbishop was asked to meet at the Dicastery's headquarters to address his public statements he had published online on the Foundation's website, *Exsurge Domine*.⁹ The Dicastery noted that Viganò's statements were linked to the rejection of subordination to the Roman Pontiff, communion with members of the Church who are subject to the Pope, and the legitimacy and magisterial authority of the Second Vatican Council. Archbishop Viganò was informed that the meeting could also take place in the presence of a person he trusted, if he deemed it more appropriate. The suspect was also asked to indicate his place of residence, to which the original letter could be sent (DECR. II 2). However, the Archbishop did not respond to the letter from the DDF (DECR. II 3).

The Code legislator stipulates that the Ordinary is obligated to initiate a judicial or administrative process to impose or declare a penalty when he determines that neither pastoral care (especially fraternal correction), nor admonition, nor a reprimand can sufficiently restore the violated justice, bring about the reformation of the perpetrator, and repair the scandal. The grounds for initiating a process must therefore be objectively serious and indicate the fact of committing the offense and the perpetrator's imputability. There should also be the certainty that it will be possible to justify the offense externally (Canons 1339, 1341, 1347 § 1, 1718 § 1 CIC/83) [cf. Krukowski 2007, 404-405]. Consequently, on May 10, 2024, the DDF's Congress decided to initiate an extrajudicial criminal process within this Dicastery (DECR. I; DECR. II 4). The crime that was reserved to the DDF as the Supreme Tribunal can be dealt with in a judicial process ending with a judgment or in an extrajudicial process that is finished with a decree (*duplex ratio puniendi*) (NdeD 2021, 9 § 3) [cf. Llobell 2023, 187-90].

In the case of Archbishop Viganò, the Dicastery could have decided to conduct a judicial trial. However, it opted for an extrajudicial process, likely because it is faster and based on more *flexible* rules than a court trial. This choice could also have been supported by the clear evidence of the crime and the

⁸ C. Viganò, *Testimony*. In his open letter, Archbishop Viganò devoted a lot of attention to the case of Cardinal Theodore McCarrick.

⁹ Website: <https://exsurgedomine.it/documenti-ed/> [accessed: 12.11.2025].

suspect's imputability, as well as the high profile and urgency of the case. The legislator stipulates that whenever just reasons prevent a judicial process (ordinary procedure), then a censure may be imposed or declared by an extrajudicial decree (extraordinary procedure). Canon 1720 of the CIC/83 should be taken into account, especially concerning the right to defense and the internal moral certainty of the one who issues a decree (Canons 1342 § 1, 1608 CIC/83). The *Normae de delictis* also state that, in an extrajudicial process conducted by the DDF, the norm of Canon 1720 of the CIC/83 is observed. As William L. Daniel observes, the penal decisional decree is, in essence, an act of a judicial character (Canon 1342 § 1 CIC/83; DLT 199, 202; NdeD 2021, 19 § 1) [Daniel 2021, 86; cf. Toxé 2016a, 315-19; Llobell 2023, 190-98, 202-205; Ayala Partida 2021; Huysmans 2006, 477-81; D'Auria 2018; Pons-Portella 2018; Viayna 2022, 67-68; Miziński 2003; Krukowski 2007, 405].

2. DECREE OF THE DICASTERY FOR THE DOCTRINE OF THE FAITH OF JUNE 11, 2024

2.1. Characteristics of the letter

As a result of the above-mentioned decision of May 10, 2024, the DDF issued the decree in Italian, thereby initiating the administrative criminal process against The Most Reverend Carlo Maria Viganò, dated June 11, 2024 (Prot. N. 194/2024), signed by the Secretary of the DDF's Disciplinary Section, the Most Reverend John J. Kennedy (DECR. I; cf. DECR. II 7). With this document, the Archbishop was informed about the ongoing extrajudicial penal process, in which he had been accused of the crime of schism (Canons 751, 1364 CIC/83).

At the beginning of the decree, there is information about the papal mandate received by the DDF, under which the Dicastery can conduct a criminal process in the case in question. The decree cites the 2021 *Normae de delictis* of the Dicastery, which states that, after receiving a mandate from the Roman Pontiff (*praevio mandato Romani Pontificis*), the DDF has the right to judge bishops for crimes against the faith (*delicta contra fidem*). This point also stems from the CIC/83, which states that only the Pope has the right to judge bishops in criminal cases (DECR. I; DECR. II 4; Canons 1401, 1405 § 1, 3° CIC/83; NdeD 2021, 1, 20 § 1).¹⁰ Furthermore, the 2022 apostolic constitution *Praedicate Evangelium* specifies that, through the Office for Disciplinary Affairs, the DDF addresses the crimes reserved to it. It handles penal cases

¹⁰ See Ioannes Paulus PP. II, *Constitutio Apostolica de Romana Curia Pastor bonus* (28.06.1988), AAS 80 (1988), p. 841-912 [hereinafter: PB], no. 52.

within the jurisdiction of the Supreme Apostolic Tribunal that was established within it. The Disciplinary Section of the Dicastery declares or imposes canonical penalties in accordance with the universal and proper law, taking into account the competence of the Tribunal of the Apostolic Penitentiary. By the Roman Pontiff's authority, the DDF judges bishops in matters reserved to this Dicastery – in accordance with the provisions of canon law.¹¹

The DDF also informed Archbishop Viganò that a preliminary investigation had been omitted. The Dicastery referred to Canon 1717 § 1 of the CIC/83, according to which the Ordinary should investigate the facts and circumstances of the case, as well as the suspect's imputability, unless an investigation seems completely superfluous. The decree in question also recalls the above-mentioned decision of the DDF's Congress of May 10, 2024, to choose the path of an administrative process, which will end with an extrajudicial decree (DECR. I; DECR. II 4; cf. DLT 175-199) [cf. Busso 2011; Sánchez 2017]. Finally, the DDF's decree of June 3, 2024 was recalled, by which the instructor of the process, assessors, and notary, who are officials of this Dicastery, were appointed. The legislator requires that in an extrajudicial process, the Ordinary, together with two assessors, carefully considers all proofs and arguments (DECR. I; DECR. II 5; Canon 1720, 2° CIC/83; DLT 203). The judges of this Supreme Tribunal are, by virtue of the law, the DDF's employees. The Tribunal is presided over by the Prefect of the Dicastery, as first among equals (*primus inter pares*). In the case of a vacancy or impediment of the Prefect's office, the Secretary of the Dicastery (Secretary of the Disciplinary Section) presides over the Tribunal (NdeD 2021, 12; cf. PE 70). As a result, Cardinal Víctor M. Fernández himself, as the Prefect, was the instructor of the administrative criminal process, which is the subject of analysis of this article.

In a further part of the decree of June 11, 2024, quoting the above-mentioned information, Archbishop Viganò was informed that he was asked to arrive at the DDF's palace with a valid identity document on June 20, 2024, at 3:30 p.m. The purpose of his visit to the Dicastery's seat was to familiarize himself with the accusation and evidence connected to the crime of schism for which he was accused. The decree briefly justified the accusation, which is based on public statements that result in the denial of elements essential to maintaining communion with the Catholic Church, the negation of the legitimacy of Pope Francis, the breaking of unity with him, and the rejection of Vatican II (DECR. I; cf. DECR. II 6, 12). The legislator assumes that, when the Ordinary decides that it is necessary to follow the path of an extrajudicial process, he should present the accusations and proofs to the perpetrator (Canon 1720, 1° CIC/83).

¹¹ Franciscus PP., *Constitutio Apostolica de Curia Romana eiusque servitio pro Ecclesia in mundo Praedicate Evangelium* (19.03.2022), AAS 114 (2022), p. 375-455 [hereinafter: PE], no. 76.

At the conclusion of the decree, it was noted that the accused has the right to appoint an advocate/procurator (according to his choice) to defend/represent him in the process. In the case of the absence of such a person, as is mentioned in the decree, an advocate/prosecutor will be appointed *ex officio*. The legislator stipulates that, in judicial and extrajudicial criminal cases, the accused must have a defender appointed by him, by a judge, or by an instructor (DECR. I; cf. DECR. II 6; Canons 1481 § 2, 1720, 1° 1723 CIC/83; NdeD 2021, 20 § 7) [cf. Toxé 2016a, 316-17; Segovia 2014; Sánchez 2017]. As a result, as may be noted in the final decree and was reported in the *L'Osservatore Romano*, a public defender was appointed by the Dicastery (DECR. II 9).¹² Archbishop Viganò was also warned that, if he fails to appear or submit a written defense, which had to be submitted to this Dicastery by June 28, 2024, he would be tried in the absence of the accused. The legislator provides for such a possibility when the perpetrator, having been duly summoned, neglects to appear in court (DECR. I; DECR. II 6; Canon 1720, 1° CIC/83).

2.2. Archbishop Viganò's reaction to the letter

On June 20, 2024, the day scheduled for the meeting, Archbishop Viganò published the Dicastery's decree on his website *exsurgedomine.it*, along with his own open letter. Therefore, the DDF concluded that the decree had been delivered to the accused (DECR. II 8). In his letter, Archbishop assumed the Dicastery's pre-prepared decision, due to the fact that it was an extrajudicial process. Moreover, he criticized the Second Vatican Council, describing it as an ideological, theological, moral, and liturgical cancer, of which the 'Bergoglian synodal church' is the necessary *metastasis*. He stated that, in the face of the DDF's accusations, as Successor of the Apostles, he remained in full communion with the Holy Roman Apostolic Catholic Church, with the Magisterium of the Roman Pontiffs, and with the uninterrupted doctrinal, moral, and liturgical Tradition which they have faithfully preserved. He repudiated – as he claimed – the neo-modernist errors that are inherent in Vatican II and in the so-called 'post-conciliar magisterium,' in particular in those matters of collegialism, ecumenism, religious freedom, secularism, and the liturgy. Viganò wrote that he rejected and condemned the scandals, errors, and heresies of Jorge Mario Bergoglio, who manifests an absolutely tyrannical management of power, exercised against the purpose that legitimizes authority in the Church. He concluded that no Catholic worthy of this name can be in communion with this 'Bergoglian church,' because it acts in clear discontinuity and rupture with all the Popes

¹² *Comunicato del Dicastero per la Dottrina della Fede su Carlo Maria Viganò*, <https://www.osservatoreromano.va/it/news/2024-07/quo-151/comunicato-del-dicastero-per-la-dottrina-della-fede-su-carlo-mar.html> [accessed: 16.11.2025] [hereinafter: Comm.OR].

of history and with the Church of Christ.¹³ He also referred to the Most Reverend Marcel Lefebvre's *casus*, as Lefebvre had been accused of schism after the ordination of bishops in Switzerland in 1988. Viganò indicated that he empathized with the attitude and views of this archbishop¹⁴ [cf. Pietras 2021, 428-47; Idem 2024; Glendinning 2014]. Cardinal Pietro Parolin, as the Secretary of State, commented on the case, emphasizing that Archbishop Viganò would have to face consequences for his attitude, and confirmed that the Archbishop had the right to defend himself in the ongoing process.¹⁵

The letter made public by Archbishop Viganò on June 28, 2024, when he was supposed to appear at the DDF's palace for his own defense in an extrajudicial process, also became important point for the case under investigation.¹⁶ In this letter, he declared that he did not recognize the authority of the Dicastery, its Prefect, and the participants appointed by the prefect in the process. He maintained that the Catholic hierarchy, along with the Roman Pontiff, had lost the Catholic faith and, as a result, no longer represented the true Church, thus remaining in a schism itself.¹⁷ He assumed that the crime of schism is not committed when there are serious doubts about the legitimate election of the Roman Pontiff. Viganò cited Paul IV's 1559 bull *Cum ex apostolatus*, which stipulated that a heretic cannot be validly elected Pope. Therefore, Archbishop Viganò assumed that Cardinal Bergoglio's election as Pope was invalid. As a result, it is not possible to remain in communion with him because, as a heretic, he is not a member of the Church. Viganò called on the bishops to judge Cardinal Bergoglio as a heretic and schismatic and, consequently, to remove him from the papal throne, which he illegally usurps.¹⁸ In his open letter, the Archbishop also condemned the *heterogeneous* teaching of the Second Vatican Council as lacking magisterial authority and contradicting in its content the previous true Councils and the papal Magisterium before Vatican II¹⁹ [cf. Lucien 2022].

¹³ C. Viganò, *Announcement regarding the start of the extrajudicial criminal trial for schism*. See *L'arcivescovo Viganò annuncia di essere sotto processo per scisma*, <https://www.osservatore romano.va/it/news/2024-06/quo-140/l-arcivescovo-vigano-annuncia-di-essere-sotto-processo-per-scisma.html> [accessed: 17.11.2025].

¹⁴ C. Viganò, *Announcement regarding the start of the extrajudicial criminal trial for schism*.

¹⁵ See *L'arcivescovo Viganò annuncia*.

¹⁶ C. Viganò, *Statement on the accusation of schism*.

¹⁷ Ibid.

¹⁸ Ibid. See Paulus IV PP., Bulla *Cum ex apostolatus* (15.02.1559), in: *Codicis Iuris Canonici Fontes. Cura em.mi Petri Card. Gasparri editi*, vol. I, Romae 1947, no. 94, 163-166.

¹⁹ C. Viganò, *Statement on the accusation of schism*.

3. PENAL DECREE OF THE DICASTERY FOR THE DOCTRINE OF THE FAITH OF JULY 4, 2024

The legislator in Canon 1720, 3° of the CIC/83 states that, if the crime has been proved with certainty and the criminal action has not been terminated, the Ordinary is to issue a decree in accordance with the provisions of Canons 1342-1350 of the CIC/83, at least briefly stating the legal and factual justification (*in iure et in facto*) [cf. Toxé 2016a, 317-18]. After having fulfilled the requirements of the process according to Canon 1720, 1-2° of the CIC/83 the DDF's Congress issued the penal decree on July 4, 2024, which was designated as Prot. N. 194/2024 and written in Italian (cf. Comm.VV). The decree was signed by Cardinal Víctor M. Fernández, the DDF's Prefect, and Archbishop John J. Kennedy, the Secretary of the Dicastery's Disciplinary Section. This decree is 11 pages long and consists of introductory information (no. 1-9), legal justification (no. 10-11), factual justification (accusation – no. 12, evidence – no. 13-14, defense by a public defender – no. 15, evaluation of defense evidence – no. 16, conclusions – no. 17), decision (no. 18-21). The information contained in the first points of the penal decree has already been considered in this study in presenting the process in discussion. Therefore, the other elements of this decree will now be discussed.

3.1. Legal justification

In the legal justification of the accusation made in the decree in question, the DDF referred to the principles contained in the CIC/83 (no. 10 a-n) and the 2021 *Normae de delictis* of this Dicastery (no. 11 a-h).

Therefore, the norms concerning ecclesial unity were invoked, such as Canon 209 § 1 (maintaining communion with the Church), Canon 750 § 2 (accepting the truths of faith and morals definitively announced), and Canon 751 of the CIC/83, containing the definition of the crime of schism. In the decree, the Dicastery also invoked Canons 1321 § 4, 1322, 1323, 1324, and 1345 of the CIC/83 regarding mitigating circumstances, such as the perpetrator's imputability (DLT 15-25). Canon 1331 of the CIC/83 (cf. DLT 36-37; Comm.OR), which is important for the addressed affair, concerning effects of the excommunication censure, as well as Canon 1336 on expiatory penalties, were also quoted. Next, reference was made to Canon 1364 of the CIC/83, according to which a person in schism incurs *latae sententiae* excommunication because of the schism's crime and may be punished with other penalties, which will be discussed in more detail later in the article (cf. Canon 194 § 1 CIC/83). Finally, the procedural norms contained in Canon 1608 (on the moral certainty of the judge in sentencing), Canon 1717 § 1 (rules of the preliminary investigation), and the

abovementioned Canon 1720 of the CIC/83 (rules of the extrajudicial criminal process) were given.

Then, in the decree in question (no. 11), the DDF recalled the material norms contained in no. 1, 2 and 7 of the *Normae de delictis* reserved to the Dicastery (NdeD 2021, 2 § 1). Reference was also made to the procedural principles contained in no. 9 § 3-4, 19, 20 § 1 and 7, 24, and 25 of these Norms of the Apostolic See.

3.2. Factual justification

After presenting the legal basis for the accusation, the decree presents the facts of the case. Therefore, the DDF formulated a concise accusation concerning the crime of schism committed by Archbishop Viganò through his public statements regarding his rejection of subordination to the Roman Pontiff and communion with the faithful of the Church by communion with the Pope (DECR. II, 12; Canons 751, 1364 CIC/83). The Dicastery for Legal Texts stated that, for the crime of schism to exist, it must involve external conduct attributable to the subject. And since these are crimes involving declarations or manifestations of the will, there must also exist some social consequences. The Code legislator states that an offence should not be considered to have been effectively committed if no one has noticed this statement or expression (Canon 1330 CIC/83; DLT 87). Therefore, as a proof of the crime of schism, the Dicastery cited a number of Archbishop Viganò's statements. They were divided into statements concerning the rejection of communion with the Roman Pontiff and the faithful in communion with him (no. 13) and statements concerning the undermining of the magisterial authority of the Second Vatican Council (no. 14) (DECR. II 13; DECR.II 14; cf. Comm.OR; Comm.VV). Nine quotations were cited to support the accusation of breaking unity with the Pope, and six quotations to maintain a thesis of rejecting Vatican II. Most of them were taken from the websites *exsurgedomine.it* and *aldomariavalli.it* and were made from 2023-24.²⁰ It is worth noting, that in the decree, the Dicastery also relied on the previously cited key statements made by Archbishop Viganò during the ongoing process on June 20 and 28, 2024 (no. 13 g, 13 i, 14 e, 14 f).²¹

²⁰ C. Viganò, *Response to Reid, Cavadini, Healy, Weinandy*, <https://exsurgedomine.it/230121-filo-concilio/> [accessed: 17.11.2015]; Idem, *Declaration*, <https://exsurgedomine.it/231109-dichiarazione/> [accessed: 17.11.2025]; Idem, *Intervention*, <https://exsurgedomine.it/231209-aspicite-ita/> [accessed: 17.11.2025]; Idem, *Habemus papam? Note all'ultimo saggio del prof. Massimo Viglione*, <https://exsurgedomine.it/240205-habemus-papam/> [accessed: 17.11.2025].

²¹ C. Viganò, *Announcement regarding the start of the extrajudicial criminal trial for schism*; Idem, *Statement on the accusation of schism*.

The authors of the decree then presented five points raised in the arguments of the public defender assigned *ex officio*. He emphasized that, although the objective evidence of schism is clear, the accused is not subjectively assigned to the reserved crime. Furthermore, as the defender noted, declaring any censure or imposing a punishment would not serve the purposes defined by the Code legislator, nor would it bring any spiritual benefit to Archbishop Viganò. A declaration of excommunication would have no curative effect, as its purpose is to reconcile the offender with the Church. Meanwhile, the accused stated that the declared censure would be an *honor* for him (DECR. II 15a, 15d).²² In addition, the defender mentioned the reputation that the Archbishop had enjoyed due to the offices he had previously held, his dedication to his work, and his devotion to the Successors of Saint Peter (DECR. II 15b). The defender also raised the following questions: How could the Dicastery, by relying solely on the accused's statements, obtain the necessary moral certainty that Archbishop Viganò has full responsibility for the crime? If issues of imputability can be established, despite the accused's refusal to participate in the process, how can a canonical criminal process overcome them so that a verdict of guilt can be reached? (DECR. II 15c). Finally, the argument was put forward that a declaration of censure would be fruitless and would contribute to inflaming the already divided public opinion (DECR. II 15e).

Next, the defender's arguments and all of the collected proofs were evaluated. It was therefore emphasized that the assessors of the process had concluded that the statements of Archbishop Viganò were more than sufficient (*più che sufficienti*) to constitute the crime of schism in accordance with Canon 751 of the CIC/83. In particular, the Archbishop's words and actions demonstrated a refusal to submit to the Roman Pontiff and a refusal to participate in communion with those members of the Church remaining in communion with him. It was noted that, based on the statements of the accused, the assessors were certain of his rejection of the legitimacy and teaching authority of the Second Vatican Council, which constitutes clear evidence of schism. The assessors noted that there was no basis for presuming that the accused was under the influence of a psychological factor that could have an impact on his imputability. They posited that the documents showed the accused was generally cheerful, rational, free, and purposeful in making statements, and that no solid evidence concerning an imputability could be found under Canon 1321 § 4 of the CIC/83. The assessors, therefore, considered it necessary to declare *latae sententiae* excommunication (Canon 1364 § 1 CIC/83) (DECR. II 16).

²² C. Viganò, *Statement on the accusation of schism*.

After evaluating the proofs and defense, the assessors in the criminal process concluded their findings. They presented the following conclusions: Archbishop Viganò's public statements constituted proof of the crime; there is no doubt that Archbishop Viganò was the author of these statements (the statements published in written form are signed with his name, surname, and episcopal coat of arms; they are accompanied by his photos; most of them were published on the website *exsurgedomine.it*, which is related to the accused and his activities; Archbishop Viganò has never denied being the author of these statements; there are video recordings of his statements in which the accused is identified); Archbishop Viganò presented his theses in a coherent manner, using reason, broadly justifying them (even if mistakenly) theologically and legally; he acted voluntarily (there is no evidence or indication that he was acting under the influence of physical violence or was forced to do so out by serious fear); he acted consciously (he was not unaware that he was violating Canon law, because he knew that he has been accused of the crime of schism); he is the patron of the *Exsurge Domine* Foundation and undertakes various social activities; Archbishop Viganò explicitly rejects attempts to discredit him due to his mental state, and there is no medical documentation confirming the possibility of him having a mental illness; it does not seem that Archbishop Viganò did not possess the constant use of reason in his action (Canon 1322 CIC/83), was deprived of the use of reason (Canon 1323, 6° CIC/83), had an imperfect use of reason (Canon 1324 § 1, 1° CIC/83), or did not act in imputability (Canon 1324 § 1, 10° CIC/83) (DECR. II 17).

In the second part of the conclusion, the authors of the decree noted that, while taking into account the above analyses, the arguments presented by the assessors, and the presumption of imputability (Canon 1321 § 4 CIC/83), it is obvious that, in the case under consideration, the circumstances of schismatic behavior according to Canon 751 of the CIC/83 occurred. Consequently, it was assumed that Archbishop Viganò has directly, expressly, and constantly (*direttamente, esplicitamente e costantemente*) denied the legitimacy of Pope Francis, claiming that his election is invalid; does not consider himself to be in communion with Pope Francis and with those who are in communion with him; believes that the Church headed by Pope Francis is not the Catholic Church; and rejects the Second Vatican Council, considering it to be devoid of teaching authority (Canon 1321 § 4 CIC/83) (DECR. II 17b).

3.3. Decision and final remarks

After the conclusions, the final decision in the process was presented. The translation of the DDF's decision reads: "After carefully evaluating the legal provisions applicable to the case in question, taking into account all the evidence and arguments of the case (Canon 1720, 2° CIC/83) and referring

to the arguments presented above, this Dicastery, for the public good of the People of God, declares that: a. The Most Reverend Archbishop Carlo Maria Viganò is guilty of the reserved crime of schism; b. excommunication *lat-ae sententiae* was imposed by the accused one according to Canon 1364 § 1 of the CIC/83.” (DECR. II 18; Comm.VV).

After formulating the final decision, the Dicastery recalled that the lifting of the declared penalty is reserved to the Apostolic See (DECR. II 19; Canons 1354-1355 CIC/83; cf. Comm.VV). An exemption from censure, however, cannot be granted if the offender has not abandoned his stubbornness. A withdrawal from the contumacy takes place when the offender has expressed his regret for the crime, has adequately repaired the scandal and damage, or has at least seriously promised to do so (Canons 1347 § 2, 1348, 1358 CIC/83).

Then, in the penultimate point of the decree, the Dicastery warned Archbishop Viganò that he could be punished with other penalties, including dismissal from the clerical state, if prolonged contumacy (*prolungata contumacia*) or the gravity of the scandal (*gravità dello scandalo*) required it (DECR. II 20; cf. DLT 87). These may be expiatory penalties (orders, prohibitions, deprivations) imposed by the decree of the Apostolic See, which may be permanently binding (Canons 1335 § 1, 1336 § 2-4, 1364 CIC/83; NdeD 2021, 19 § 2). Moreover – as mentioned in the decree – if long-term obstinacy or the degree of scandal justify it, the penalty of removal from the clerical state may be added (Canons 1336 § 5, 1364 § 2 CIC/83), which is also stated in the 2021 *Normae de delictis* (NdeD 2021, 7) [cf. Stokłosa 2015, 109-13, 153-98]. The DDF could also, at any stage and level of the process, directly refer the case of Archbishop Viganò under consideration to the Roman Pontiff, regarding the dismissal or deposition from the clerical state, together with the dispensation from celibacy, when it becomes clear that a crime has been committed, after giving the delinquent the right to defend himself (NdeD 2021, 26). Moreover, the accused held the right to present to the Pope during the process, through the DDF, a request to be released from all obligations associated with ordination, including celibacy (NdeD 2021, 27).

At the end of the decree, the possibility of filing a recourse from the DDF's decision to this Dicastery was indicated, i.e., requesting a modification or revocation of the decree (*remonstratio*). It was noted that the content of the recourse should indicate the *petitum* and the justification *in iure* and *in facto* on which the recourse would be based. This recourse had to be filed with the participation of a procurator within the mandatory deadline of 60 days from the notification of the decree. On the administrative channel, the Dicastery, in its Ordinary Session, would assess the recourse *de merito ac de legitimitate*, eliminating any further appeal. In this case, since the process was conducted by the Roman Curia itself, Canons 1734 § 2 and 1737 § 2 of the CIC/83 concerning hierarchical recourse did not apply. As a result, the penal

decree in question became definitive (*definitivum*) after the expiry of the period of 60 effective days from the moment of the offender's receiving information about this decree. Archbishop Viganò did not file a recourse against the penal decree he received, which declared the penalty of excommunication for the crime of schism (DECR. II 21; NdeD 2021, 24, 25; cf. PB 123; PE 197) [cf. Toxé 2016a, 318-19; Idem 2016b; Llobell 2023, 207-12, 217-25; Borek 2014].²³ In the *Normae de delictis*, it is stated that the DDF's decision is not subject to the approval of the Roman Pontiff (NdeD 2021, 9 § 4).

CONCLUSIONS

The conducted research has revealed the course of the criminal process conducted by the Disciplinary Section of the Dicastery for the Doctrine of the Faith against the Most Reverend Carlo Maria Viganò, having received the mandate of the Roman Pontiff from May to July 2024. By decision of this Dicastery, the procedure was extrajudicial, i.e., administrative, in accordance with Canon 1720 of the CIC/83 and the *Normae de delictis* of 2021. Archbishop Viganò was suspected and subsequently accused of committing the crime of schism, which entailed the penalty of excommunication by law itself (Canons 751, 1364 CIC/83). Analyses of his statements posted on the Internet convinced the trial assessors that he had committed a crime. No mitigating factors, such as imputability, were observed. As a result, by the decree of July 4, 2024, excommunication due to the crime of schism was declared. This decision was justified by Viganò's rejection of the legitimacy of Pope Francis (specifically, the valid election of Cardinal Jorge Mario Bergoglio as Pope), communion with the members of the Church who are subordinate to the Pope, and the denial of the legitimacy and teaching authority of the Second Vatican Council. The Dicastery did not punish the Archbishop with other ecclesiastical penalties.

During the ongoing process, Archbishop Viganò adopted a passive attitude, without changing his views. He did not respond to the Dicastery's letter of March 25, 2024, outlining the allegations of the crime he had committed. He did not appear at the DDF's palace on the scheduled date to defend himself, as was requested by the penal decree of June 11, 2024. He merely criticized the ongoing process and maintained his theses in open letters published online. The Archbishop also did not exercise his right of recourse to the DDF against the final penal decree of the Dicastery of July 4, 2024. As a result, the

²³ Secretariat Status, *De Collegio intra Congregationem pro Doctrina Fidei constituendo ad appellationes clericorum circa graviora delicta considerandas* (03.11.2014), AAS 106 (2014), p. 885-86, no. 4. See *Congregatio pro Doctrina Fidei, Normae de gravioribus delictis* (21.05.2010), AAS 102 (2010), p. 419-30, no. 27.

decree declaring excommunication for the crime of schism became definitive after the period for filing a recourse had expired.

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