

DANGER OF DEATH AS A CIRCUMSTANCE AFFECTING THE RELAXATION OF THE DISCIPLINE OF THE SACRAMENTS

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Abstract. With defining the discipline of the sacraments, the legislator has introduced a series of exceptions that in the danger of death abolish or mitigate some of the conditions that are applicable under normal circumstances. This paper is an attempt of the synthesized presentation of these rules. At first, the definition of the term of the danger of death was formulated, followed by systematic presentation of norms mitigating the discipline of the sacraments in the danger of death. At the end of the paper, *the mind of legislator* and purpose of the mitigation of law in danger of death was presented.

Keywords: sacraments; discipline of sacraments; danger of death; case of necessity; mitigation of the law.

INTRODUCTION

The Holy Sacraments, instituted by Christ, were entrusted to the Church not only to sanctify the faithful, strengthen their faith and enable its expression, but also to build and solidify the Church community.¹ The universal right of the faithful to receive the sacraments² implies a corresponding duty of the ministers to prepare them for their reception and to administer them if the faithful “seek them at appropriate times, are properly disposed, and are not prohibited by law from receiving them” (Canon 843 § 1 CIC/83). The universal legal norms of the Church governing preparation for the sacraments, the conditions necessary for their celebration and reception are referred to as the discipline of the sacraments. The significance of these norms is underscored by the existence of a dedicated

¹ *Codex Iuri Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars. II, p. 1-317 [hereinafter: CIC/83], Canon 840.

² *Sacrosanctum Concilium Oecumenicum Vaticanum II, Constitutio dogmatica de Ecclesia Lumen gentium* (21.11.1964), AAS 57 (1965), p. 5-75 [hereinafter: LG], no. 37.

institution within the Roman Curia: the Dicastery for Divine Worship and the Discipline of the Sacraments.³

The regulations governing discipline of the sacraments can be classified into three categories. The first encompasses the conditions necessary for the validity of a sacrament. The second pertains to elements that determine the liceity of its administration, reception and the relevant procedures. Lastly, the third group includes regulations specifying the rites applicable to the celebration of the respective sacrament. Recognizing the importance of the sacraments for the life of the Church, the legislator has reserved the approval of conditions necessary for sacramental validity to the highest ecclesiastical authority, while allowing Episcopal Conferences and individual bishops to establish only the elements required to ensure the liceity of the rites performed.⁴

In defining the discipline of the sacraments, the legislator introduced a number of provisions that waive or mitigate certain conditions applicable under normal circumstances in the cases where a danger of death occurs. For the most part, in such exceptional situations, these rules permit the omission of certain elements established by the Church as necessary to ensure the liceity of sacrament administration or reception. However, some provisions grant further exemptions from the elements established by the Church as necessary conditions for the validity of a sacrament. These, however, are limited to the elements derived from positive ecclesiastical law rather than from divine law, from which one cannot dispense.

³ The name Sacred Congregation for the Discipline of the Sacraments appeared in 1908 in the Apostolic Constitution of Pius X *Sapienti Consilio*. During the successive reforms of the Roman Curia, the name of this Dicastery changed, it was also merged with the Congregation for Divine Worship, only to later regain autonomy. Finally, in the Constitution *Pastor Bonus*, John Paul II reunited these two Congregations, creating the Congregation for Divine Worship and the Discipline of the Sacraments, which in the Apostolic Constitution of Francis *Praedicate Evangelium* assumed the name Dicastery for Divine Worship and the Discipline of the Sacraments and retained its previous competences and tasks. Franciscus, *Constitutio apostolica Praedicate Evangelium* de Curia Romana eiusque servitio pro Ecclesia in mundo (10.02.2022), AAS 114 (2022), p. 375-455, no. 88-97.

⁴ Canon 841 CIC/83: *Cum sacramenta eadem sint pro universa Ecclesia et ad divinum depositum pertineant, unius supremae Ecclesiae auctoritatis est probare et definire quae ad eorum validitatem sunt requisita, atque eiusdem aliusve auctoritatis competentis, ad normam can. 838, §§ 3 et 4, est decernere quae ad eorum celebrationem, administrationem et receptionem licitam necnon ad ordinem in eorum celebratione servandum spectant.* Canon 838 § 3 CIC/83: *Ad Episcoporum Conferentias spectat versiones librorum liturgicorum in linguas vernaculas fideliter et convenienter intra limites definitos accommodatas parare et approbare atque libros liturgicos, pro regionibus ad quas pertinent, post confirmationem Apostolicae Sedis, edere.*

1. DANGER OF DEATH

Let us first examine the nature of the special circumstance of a danger of death. In canon doctrine, two terms have been developed in reference to this situation: *periculum mortis* and *articulus mortis* [Montini 2015, 278].

The term *periculum mortis* describes a situation in which an individual faces a real and significant risk of losing their life, while still standing a chance of survival. For a person exposed to such risk, the likelihood of survival and the likelihood of death may appear equally uncertain or differ in degree, but both possibilities are consciously perceived. Importantly, the potential end of our earthly lives is an ever-present aspect of our reality, even if we are often only dimly aware of it in our daily existence. For example, moving through city streets, we may become involved in a traffic accident, suffer the consequences of an unexpected natural disaster or become a victim to a crime. Nevertheless, to qualify as *periculum mortis* in the legal sense, it is necessary that certain circumstances and arguments occur to justify our anticipation of a potential life-threatening danger. This remains true even if the situation does not ultimately result in death or the end of life occurs only in the distant future [Idem 1998, 310-11].

Articulus mortis, in contrast, describes a situation where death is imminent and its inevitability is morally certain. While this moral certainty of death does not entirely rule out the survival, the possibility is remote and largely theoretical. However, it excludes a reasonable likelihood of avoiding death, which might only occur under extraordinary circumstances [Capello 1962, 370].

Both *periculum mortis* and *articulus mortis* involve specific defining circumstances that persist for a certain period of time, which may be substantial, particularly in the case of the former. The danger of death is a condition that can be experienced over an extended period of time. What is crucial, though, is that it always involves some probability of death in the relatively near future, even if the risk itself is prolonged [Ciprotti 1983, 2].

In current legislation, the two concepts have been unified, and whenever the Code refers to *periculum mortis*, it should be understood to encompass both the classic situation of the probability of death and cases where death is imminent. This equalization resulted from a broad doctrinal interpretation of the provisions traditionally applicable to *articulus mortis*, extending them to cases involving the risk of death. As a result, in Book IV CIC/83, the term *periculum mortis* appears twenty times, whereas *articulus mortis* is absent [Montini 2015, 280].

Nowadays, what seems more relevant for pastoral practice is the ability to distinguish between the danger of death caused by external factors, such as an impending execution, war, dangerous travel, risky surgery, and that

arising from the condition of the individual, e.g. their advanced age or serious illness. The determination of the existence of the danger of death, its duration or cessation, relies on empirical observation or familiarity with the specific case. Expert opinions from doctors or other specialists may also provide valuable insight. Ultimately, the decision as to whether *periculum mortis* exists in a given situation rests with the minister, who, according to Canon 144,⁵ may act even in cases of factual doubt as to whether the person receiving the sacrament is in danger of death.

It should also be noted that the legislator didn't use the term *periculum mortis* in all instances where the Code allows the discipline of the sacraments to be relaxed in view of a danger of death. The term *casus necessitatis*, translated as an incident/case of necessity, appears in a number of places. A threat to the life of the recipient of the sacrament, especially when death might occur at any moment, clearly constitutes a circumstance where the legislator has allowed for the application of provisions containing this clause.⁶

When analyzing the Code's norms regarding the special circumstance of a danger of death, we will come across provisions that relax the discipline of the sacraments. These primarily concern the elements necessary for the licit administration or reception of the sacrament or the compliance with the prescribed rite. However, the Code also allows for cases where the conditions required for the validity of the sacrament do not have to be followed.⁷

2. PROVISIONS ON THE LICEITY OF THE ADMINISTRATION, RECEPTION AND CELEBRATION OF THE SACRAMENTS

The option to abstain from observing the conditions necessary for the licit administration or reception of a sacrament is the most common

⁵ Canon 144 § 1 CIC/83: *In errore communi de facto aut de iure, itemque in dubio positivo et probabili sive iuris sive facti, supplet Ecclesia, pro foro tam externo quam interno, potestatem regiminis executivam.*

⁶ For example in canons regarding the celebration of baptism: Canons 850, 853, 857, 860 CIC/83.

⁷ Among the regulations taking into account the circumstance of danger of death, there are also those, which do not so much allow for the omission of certain elements or failure to meet the conditions, but which outright command and impose the obligation to administer the sacrament without fulfilling what is necessary for licitness, or even for validity in ordinary circumstances. In addition to the obvious obligation of pastors to administer viaticum to the faithful in danger of death, imposed by Canons 911 and 921 [Rivella 1996a, 314-20], we also find Canon 866 § 2, which orders a child to be baptized immediately in danger of death, and Canon 867 § 2 permits this even against the will of the parents [Rivella 1996b, 66-75]. This type of regulation also includes Canon 986, which obliges every priest to hear the confessions of the faithful in danger of death, including those who, due to a lack of permission or a prohibition resulting from an ecclesiastical penalty, cannot validly hear confessions.

solution found in the canons which employ the term *periculum mortis* (or the broader *casum necessitatis*) to describe a circumstance permitting the relaxation of the discipline of the sacraments. These instances can be classified into several groups, which will be discussed below.

2.1. Exemption from the requirement to comply with the conditions concerning the place of celebration of a sacrament

Under ordinary circumstances, all sacraments, with the exception of the Anointing of the Sick, should be administered and received in a church or, possibly, in another holy place.⁸ However, in cases of danger of death or even less severe circumstances, the legislator allows for the sacraments to be celebrated outside of holy places.

Due to the unique nature of Baptism, as the gateway to other sacraments and a prerequisite for salvation (Canon 849 CIC/83), the requirement to celebrate it in a parish church⁹ or another church or chapel within the parish may be waived not only in danger of death, but also in cases of significant inconvenience caused by other circumstances. In such situations, Baptism may be celebrated in another church or chapel, or even in another suitable location.¹⁰ Furthermore, Baptism may also be performed in private homes or hospitals, but only with the relevant ordinary's permission or under compelling necessity, as it is explicitly forbidden under ordinary circumstances.¹¹ This necessity, in addition to other possibilities, may arise from the danger of death of the candidate for Baptism and the lack of time to reach the Church, which could endanger him or her even more.

A similar rule applies to the celebration of the Eucharist, which must occur in a holy place. However, in special cases where circumstances prevent this, the Eucharist should be celebrated in a dignified location.¹² One of such circumstances may involve a danger of death of the celebrant, the participants, or both.

⁸ See Canons 857 § 1, 881, 932 § 1, 964 § 1, 1011 § 1, 1118 § 1 CIC/83.

⁹ Canon 857 § 1 CIC/83: *Extra casum necessitatis, proprius baptismi locus est ecclesia aut oratorium. Canon 860 § 1: Praeter casum necessitatis, baptismus ne conferatur in domibus privatis, nisi loci Ordinarius gravi de causa id permiserit.*

¹⁰ Canon 859 CIC/83: *Si ad ecclesiam paroecialem aut ad aliam ecclesiam vel oratorium, de quo in can. 858, § 2, baptizandus, propter locorum distantiam aliave adiuncta, sine gravi incommodo accedere vel transferri nequeat, baptismus conferri potest et debet in alia propinquiore ecclesia vel oratorio, aut etiam alio in loco decenti.*

¹¹ Canon 860 § 1 CIC/83: *Praeter casum necessitatis, baptismus ne conferatur in domibus privatis, nisi loci Ordinarius gravi de causa id permiserit.*

¹² Canon 932 § 1 CIC/83: *Celebratio eucharistica peragatur in loco sacro, nisi in casu particulari necessitas aliud postulet; quo in casu, in loco honesto celebratio fieri debet.*

A similar provision was put in place with regard to the place of administration of the sacraments of Confirmation and Penance, but in these cases the legislator requires a just and reasonable cause.¹³

Obviously, a situation where a candidate for Confirmation or a penitent is in danger of death should be considered a legitimate reason to administer these sacraments in a location other than a church or chapel. This principle, especially in the case of the sacrament of Penance, is applied both during military operations by military chaplains and by priests visiting the sick and dying, or in similar emergencies, such as road accidents.

2.2. Licit administration of sacraments by unauthorized or extraordinary ministers

The provisions of Book IV CIC/83 specify who can validly administer each sacrament. With the exception of Baptism, Marriage and the distribution of Holy Communion, sacraments may be dispensed only by clerics with the appropriate degree of ordination. However, in addition to the provisions regarding validity, the law also imposes other conditions that the minister of the sacrament must meet to ensure it is administered licitly. These include, for example, jurisdiction over the territory or the person receiving the sacrament, as well as the authorization granted by a competent authority or vested in a specific office. Nevertheless, certain regulations provide exemptions from these additional conditions when the recipient of the sacrament is in danger of death.

In the case of the sacrament of Baptism, the ordinary minister is a cleric, and the relevant pastor in particular (Canon 861 § 1 CIC/83). However, when necessary, i.e. above all in danger of death, any person with the right intention can baptize.¹⁴ On the one hand, this provision underscores the necessity of Baptism for salvation and the resultant missionary duty given to the Church by Christ to administer this sacrament. On the other hand, however, it highlights the importance of catechesis on the subject, to ensure that everyone is aware of this obligation and capable of administering this sacrament when required [Tejero 2023, 537]. Such circumstances justify minister's failure to comply with the prohibition

¹³ Canon 881: *Expedit ut confirmationis sacramentum in ecclesia, et quidem intra Missam, celebretur; ex causa tamen iusta et rationabili, extra Missam et quolibet loco digno celebrari potest. Canon 964 § 3: Confessiones extra sedem confessionalem ne excipiantur, nisi iusta de causa.*

¹⁴ Canon 861 § 2 CIC/83: *Absente aut impedito ministro ordinario, licite baptismus confert catechista aliisque ad hoc munus ab Ordinario loci deputatus, immo, in casu necessitatis, quilibet homo debita intentione motus solliciti sint animarum pastores, praesertim parochus, ut christifideles de recto baptizandi modo edoceantur.*

on administering the sacrament of Baptism outside one's territory without proper authorization.¹⁵

Under Canon 882 CIC/83 the subsequent sacrament in the path of Christian initiation, i.e. Confirmation, is typically administered by a bishop or a duly authorized presbyter. However, when a person is in danger of death, this sacrament may be administered by a parish priest or even any presbyter, even if they do not hold the requisite authorization.¹⁶

Another sacrament of critical importance for the faithful's pursuit of holiness is the sacrament of Penance. This sacrament is subject to special protection under canon law to eliminate the risks of abuse in its administration. In addition to the obligation to maintain the secrecy of confession and severe penalties for offenses related to the administration of this sacrament, canon law requires that, to grant valid and licit absolution, a priest must have except ordination also the faculty to confess the faithful to whom he forgives sins (Canon 966 § CIC/83). However, if the penitent is in danger of death, the minister can validly and licitly grant absolution even if he lacks this faculty.¹⁷

The Code of Canon Law requires Catholics wishing to marry to do so in the presence of an authorized person and two witnesses. The regulations detail the catalogue of persons who have the authority to assist in a marriage, and provide that marriage celebrated before an unauthorized person is deemed concluded invalidly (Canon 1108-1112 CIC/83). However, also in this case, Canon 1116 § 1, 1° allows prospective spouses in danger of death to marry validly and licitly in the presence of witnesses only.¹⁸

2.3. Exemption from the mandatory preparation of the faithful for the sacraments of Christian initiation and from other preparatory legal procedures and rites

The Church, recognizing the sacraments as essential to building and strengthening the community of the faithful (Canon 840 CIC/83), requires adequate preparation for their reception. This responsibility lies with the priests and extends beyond catechesis (Canon 841 CIC/83)

¹⁵ Canon 862 CIC/83: *Excepto casu necessitatis, nemini licet, sine debita licentia, in alieno territorio baptismum conferre, ne suis quidem subditis.*

¹⁶ Canon 883 CIC/83: *Ipso iure facultate confirmationem ministrandi gaudet: [...] 3° quoad eos qui in periculo mortis versantur, parochus, immo quilibet presbyter.*

¹⁷ Canon 976 CIC/83: *Quilibet sacerdos, licet ad confessiones excipiendas facultate careat, quoslibet paenitentes in periculo mortis versantes valide et licite absolvit a quibusvis censuris et peccatis, etiamsi praesens sit sacerdos approbatus.*

¹⁸ Canon 1116 § 1 CIC/83: *Si haberi vel adiri nequeat sine gravi incommodo assistens ad normam iuris competens, qui intendunt verum matrimonium inire, illud valide ac licite coram solis testibus contrahere possunt: 1° in mortis periculo.*

to include the fulfilment of conditions and performance of administrative formalities and procedures necessary for the licit reception of the sacraments.

For a child's licit Baptism, the minister must ordinarily obtain the parents' consent and have a reasonable hope that the child will be raised Catholic (Canon 868 § 1, 2° CIC/83). However, in danger of death, this hope is not required. The sacrament can be licitly administered even if the parents are not Catholic, and therefore there is a reasonable belief that they will not raise the child in the faith. Moreover, in such a case the legislator allows for a licit administration of baptism even against the parents' will.¹⁹

For an adult to receive the sacrament of Baptism licitly, the candidate must be instructed in the truths of the faith and Christian duties, and undergo a trial period of Christian life in the catechumenate (Canon 865 § 1 CIC/83). However, when the candidate for Baptism is in danger of death, this requirement of preparation is waived and only the intention to receive Baptism and the pledge to keep the precepts of the Christian faith is sufficient.²⁰

Likewise, the reception of the sacrament of Confirmation ordinarily requires proper instruction of the candidate, being in a state of sanctifying grace, having the right intention and the ability to renew baptismal promises. In a life-threatening event, however, these conditions are dispensed with.²¹

It is the responsibility of parents and the parish priest to ensure that children are appropriately prepared to receive Holy Communion for the first time. This preparation is aimed at imparting knowledge about the Eucharist and ensuring that the children understand the mystery of Christ's presence in it and are ready to receive it with faith and devotion (Canon 913 § 1 and 914 CIC/83). In danger of death, however, these preparations and requirements are reduced only to the child's basic ability to distinguish between food and the Body of Christ and to receive Holy Communion in a reverent manner.²²

Another provision concerning Holy Communion is the rule that allows for it to be received a second time on the same day only when participating in a Eucharistic celebration (Canon 917 CIC/83). In the case of Viaticum,

¹⁹ Canon 868 § 2 CIC/83: *Infans parentum catholicorum, immo et non catholicorum, in periculo mortis licite baptizatur, etiam invitis parentibus.*

²⁰ Canon 865 § 2 CIC/83: *Adultus, qui in periculo mortis versatur, baptizari potest si, aliquam de praecipuis fidei veritatibus cognitionem habens, quovis modo intentionem suam baptismum recipiendi manifestaverit et promittat se christianae religionis mandata esse servaturum.*

²¹ Canon 889 § 2 CIC/83: *Extra periculum mortis, ut quis licite confirmationem recipiat, requiritur, si rationis usu polleat, ut sit apte institutus, rite dispositus et promissiones baptismales renovare valeat.*

²² Canon 913 § 2 CIC/83: *Pueris tamen in periculo mortis versantibus sanctissima Eucharistia ministrari potest, si Corpus Christi a communi cibo discernere et communionem reverenter suscipere possint.*

which by its very nature is given in danger of death, this rule obviously does not apply.²³

Preparation for the sacrament of Marriage is extensively detailed in the Code of Canon Law, where the legislator dedicated a separate chapter to it. Additionally, Canon 1067 introduces an obligation for the bishops' conference to prepare detailed regulations outlining the formalities and responsibilities of priests to ensure that the sacrament will be received validly and licitly (Canon 1066 and 1067 CIC/83). The key document that prospective spouses must present before they marry is a baptismal certificate, which confirms their acceptance of Baptism, as well as their single status.²⁴ This document is so important that the prenuptial protocol cannot be initiated unless the couple presents it [Majer and Adamowicz 2019, 58-59]. Meanwhile, the canonical examination itself aims at preventing marriages from being invalidated due to an impediment or defect in consent.²⁵ Nevertheless, when the couple are in danger of death, their statement is considered sufficient to confirm the fact of Baptism, single status and the absence of impediments.²⁶

Additionally, licit assistance in the celebration of Marriage involves obtaining the consent of the local Ordinary in specific situations such as mixed marriages, marriages that cannot be recognized by state law, proxy marriages and other cases listed in Canon 1071 § 1. However, when necessary, and therefore also in danger of death, this consent may be omitted.²⁷

2.4. Reduction of the rite of sacrament celebration to its most essential element or permission to use an extraordinary rite form

Since the Church is formed and embodied through its sacraments (LG 11), it is up to the highest authority in the Church to determine what is required for their validity (Canon 841 CIC/83). It is also the Holy See that issues

²³ Canon 921 CIC/83: *Etiam si eadem die sacra communione refecti fuerint, valde tamen suadet ut qui in vitae discrimen adducti sint, denuo communicent.*

²⁴ Polish Bishops' Conference, *Dekret ogólny o przeprowadzaniu rozmów kanoniczno-duszpasterskich z narzeczonymi przed zawarciem małżeństwa kanonicznego* (08.10.2019), "Akta Konferencji Episkopatu Polski" 31 (2019), p. 28-39, Article 20.

²⁵ *Ibid.*, Article 2.

²⁶ Canon 1068 CIC/83: *In periculo mortis, si aliae probationes haberi nequeant, sufficit, nisi contraria adsint indicia, affirmatio contrahentium, si casus ferat etiam iurata, se baptizatos esse et nullo detineri impedimento.*

²⁷ Canon 1071 § 1 CIC/83: *Excepto casu necessitatis, sine licentia Ordinarii loci ne quis assistat: 1° matrimonio vagorum; 2° matrimonio quod ad normam legis civilis agnoscere vel celebrari nequeat; 3° matrimonio eius qui obligationibus teneatur naturalibus erga aliam partem filiosve ex praecedenti unione ortis; 4° matrimonio eius qui notorie catholicam fidem abiecerit; 5° matrimonio eius qui censura innodatus sit; 6° matrimonio filii familias minoris, insciis aut rationabiliter invitatis parentibus; 7° matrimonio per procuratorem ineundo, de quo in can. 1105.*

liturgical books and approves translations and adaptations made by bishops' conferences (Canon 838 § 2 CIC/83). Ministers administering the sacraments are obliged to strictly adhere to these books in celebrating the rites and are not allowed to "add, omit, or alter anything in them on one's own authority."²⁸ However, the legislator has provided certain exceptions from this rule when the person receiving the sacrament is in danger of death.

In the case of Baptism, Canon 850 reiterates the general principle mandating the observance of the rites described in the liturgical books. At the same time, it introduces an exception: in cases of necessity, which, as previously stated, also include the danger of death, some of the prescribed rites may be omitted, and only those necessary for the valid administration of the sacrament must be observed.²⁹

According to Canon 960, which repeats almost verbatim a provision from the *Ordo Penitentiae* liturgical book,³⁰ only individual confession and absolution constitute the ordinary method of administering the sacrament of Penance. However, if a person is in danger of death and there is no time for individual confession, the law permits the extraordinary form of simultaneous absolution of multiple penitents.³¹

Canon 1000 §1 reiterates the obligation to carefully follow the liturgical books in administering the sacrament of Anointing of the Sick. Nevertheless, it allows for the rite to be shortened and simplified if necessary, particularly in cases involving the risk of death.³²

An similar provision appears in canon 1119, which applies to the celebration of Marriage: the rites specified in the liturgical book must be observed, except in cases of necessity.³³

²⁸ Canon 846 § 1 CIC/83: *In sacramentis celebrandis fideliter servantur libri liturgici a competenti auctoritate probati; quapropter nemo in iisdem quidpiam proprio Marte addat, demat aut mutet.*

²⁹ Canon 850 CIC/83: *Baptismus ministratur secundum ordinem in probatis liturgicis libris praescriptum, excepto casu necessitatis urgentis, in quo ea tantum observari debent, quae ad validitatem sacramenti requirantur.*

³⁰ *Individualis et integra confessio atque absolutio manent unicus modus ordinarius, quo fideles se cum Deo et Ecclesia reconcilient.* Sacra Congregatio de Cultu Divino, *Ordo Penitentiae* (02.12.1972), Typis Polyglottis Vaticanis 1973, 31.

³¹ Canon 961 § 1 CIC/83: *Absolutio pluribus insimul paenitentibus sine praevia individuali confessione, generali modo impertiri non potest, nisi: 1° immineat periculum mortis et tempus non suppetat sacerdoti vel sacerdotibus ad audiendas singulorum paenitentium confessiones.*

³² Canon 1000 § 1 CIC/83: *Uctiones verbis, ordine et modo praescriptis in liturgicis libris, accurate peragantur; in casu tamen necessitatis, sufficit unctio unica in fronte vel etiam in alia corporis parte, integra formula prolata.*

³³ Canon 1119 CIC/83: *Extra casum necessitatis, in matrimonii celebratione servantur ritus in libris liturgicis, ab Ecclesia probatis, praescripti aut legitimis consuetudinibus recepti.*

2.5. Permitted use of unconsecrated water for Baptism and oil consecrated by the presbyter during the rite of Anointing of the Sick

The regulations governing the rite of Baptism provide for two forms: immersion or pouring, depending on the regulations issued by the bishops' conference (Canon 847). In both cases, however, the water used should be consecrated, either during the baptismal ceremony itself or beforehand (e.g. at Easter). However, this requirement is waived in cases of necessity, which obviously include the danger of death.³⁴

When holy oils are used to administer the sacraments, consecrated oil or oil blessed by the bishop should be used. This principle applies also to the sacrament of Anointing of the Sick and the oil of the sick, which is blessed each year by the bishop at the Chrism Mass (Canon 847 CIC/83). However, Canon 847 which establishes this rule, provides for a direct exception contained in Canon 999, 2°. When necessary, it allows the presbyter to consecrate the oil during the celebration of the sacrament of Anointing of the Sick and then use it for the rite.³⁵

3. PROVISIONS RELATING TO THE VALIDITY OF SACRAMENTS

The current Code of Canon Law includes five canons referring to the conditions specified by the authority of the Church as necessary for the validity of the sacraments, which may be waived in cases of danger of death. These provisions pertain to the sacraments of Confirmation, Penance and Marriage.

Canon 887 provides that a presbyter with the authority to administer the sacrament of Confirmation in a specific territory cannot validly administer the sacrament outside that territory. However, this invalidity clause is waived when the recipient of Confirmation is in danger of death. This exception is expressed by reference to the previously discussed provision from Canon 883, 3°, ³⁶ which permits any presbyter to confer Confirmation anywhere in cases of danger of death, including outside his assigned territory³⁷ [Le Tourneau 2011, 117].

³⁴ Canon 853 CIC/83: *Aqua in baptismo conferendo adhibenda, extra casum necessitatis, benedicta sit oportet, secundum librorum liturgicorum praescripta.*

³⁵ Canon 999 CIC/83: *Praeter Episcopum, oleum in unctione infirmorum adhibendum benedicere possunt: 1° qui iure Episcopo dioecesano aequiparantur; 2° in casu necessitatis, quilibet presbyter in ipsa tamen celebratione sacramenti.*

³⁶ Canon 883 CIC/83: *Ipso iure facultate confirmationem ministrandi gaudent: 3° quoad eos qui in periculo mortis versantur, parochus, immo quilibet presbyter.*

³⁷ Canon 887 CIC/83: *Presbyter facultate confirmationem ministrandi gaudens, in territorio sibi designato hoc sacramentum extraneis quoque licite confert, nisi obstat proprii eorum Ordinarii vetitum; illud vero in alieno territorio nemini valide confert, salvo praescripto can. 883, n. 3.*

The next two canons abrogating the conditions necessary for the validity of the sacraments concern the sacrament of Penance. The first one refers to the mentioned before requirement set forth in Canon 966, which mandates that a priest, in order to validly grant absolution, have both the authority of ordination and also the faculty to hear the confessions of the faithful.³⁸ In a situation of danger of death, Canon 976 allows a priest who is not authorized to hear confessions to validly do so, even when an authorized priest is present³⁹ [Pastuszko 1995, 28].

The second important provision regarding the sacrament of Penance, which contains an invalidity clause, is Canon 977. It prohibits a priest from validly absolving an accomplice in a sin against the sixth commandment. This means that a priest cannot validly give absolution to a person with whom he has committed the sin of impurity. However, the canon also provides for an exceptional situation in which this norm is abrogated. This situation is the case of danger of death, when a priest can validly grant absolution even to an accomplice in a sin against the sixth commandment.⁴⁰ In such circumstances, the priest does not commit the offense referred to in Canon 1384 and does not incur *latae sententiae* excommunication.

The third sacrament with respect to which the validity conditions may be relaxed in case of danger of death is Marriage. The Church requires Catholics to marry before an authorized cleric and in the presence of two witnesses under pain of nullity.⁴¹ In addition, the law provides for twelve situations in which a valid marriage cannot be concluded, referred to as the so-called diriment impediments. Some of these diriment impediments are derived from divine law, while others are established by the Church. According to Canon 85, authorized ecclesiastical authority may dispense from the latter.

Canon 1078 of the Code gives such authority to dispense from the impediments of ecclesiastical law to the Ordinary of the relevant venue, except for those from which dispensation is reserved to the Apostolic See.⁴² However,

³⁸ Canon 966 § 1 CIC/83: *Ad validam peccatorum absolutionem requiritur ut minister, praeterquam potestate ordinis, facultate gaudeat eandem in fideles, quibus absolutionem impertitur, exercendi.*

³⁹ Canon 976 CIC/83: *Quilibet sacerdos, licet ad confessiones excipiendas facultate careat, quoslibet paenitentes in periculo mortis versantes valide et licite absolvit a quibusvis censuris et peccatis, etiamsi praesens sit sacerdos approbatus.*

⁴⁰ Canon 977 CIC/83: *Absolutio complicitis in peccato contra sextum Decalogi praeceptum invalida est, praeterquam in periculo mortis.*

⁴¹ Canon 1108 § 1 CIC/83: *Ea tantum matrimonia valida sunt, quae contrahuntur coram loci Ordinario aut parocho aut sacerdote vel diacono ab alterutro delegato qui assistant, necnon coram duobus testibus, secundum tamen regulas expressas in canonibus qui sequuntur, et salvis exceptionibus de quibus in cann. 144, 1112, §1, 1116 et 1127, §§1-2.*

⁴² Canon 1078 CIC/83: § 1. *Ordinarius loci proprios subditos ubique commorantes et omnes in proprio territorio actu degentes ab omnibus impedimentis iuris ecclesiastici dispensare potest, exceptis iis, quorum dispensatio Sedi Apostolicae reservatur.* § 2. *Impedimenta quorum dispensatio Sedi*

the subsequent canon extends this authority in cases of danger of death, empowering the Ordinary to dispense from all diriment impediments established by Church law, as well as from the canonical form. The only exception remains the obstacle of presbyteral ordination⁴³ [Suchocki 1998, 346].

Paragraph two of this canon vests the same power to dispense from the norms in cases of danger of death in the pastor and minister of the sacrament of Marriage, but only if the Ordinary cannot be reached. The third paragraph, on the other hand, grants similar authority of dispensation in the internal forum to the confessor, but limits it to secret impediments⁴⁴ [Renken 2010, 92].

The last provision relaxing the validity requirements for Marriage concerns the canonical form. In a case of danger of death when a person competent to assist in the marriage cannot be reached, mentioned before Canon 1116 permits a marriage to be validly concluded in the presence of witnesses alone.⁴⁵

CONCLUSIONS

Examining the extensive range of norms established by the Church that cease to be valid in the situation of danger of death, one might initially conclude that at this final moment of a person's life, the legislator relinquishes their authority to legislate the discipline of the sacraments (it should be noted that all canons of the Code referencing *periculum mortis* pertain to the sacraments). However, such a conclusion would be mistaken, as this particular relaxation of the law is itself established precisely by the norms of canon law. When confronted with the unique moment of a faithful person's imminent death, the Church assumes that even if the believer has not been diligent in practicing faith during their life, at the moment of death

Apostolicae reservatur sunt: 1° impedimentum ortum ex sacris ordinibus aut ex voto publico perpetuo castitatis in instituto religioso iuris pontificii; 2° impedimentum criminis de quo in can. 1090.

⁴³ Canon 1079 § 1 CIC/83: *Urgente mortis periculo, loci Ordinarius potest tum super forma in matrimonii celebratione servanda, tum super omnibus et singulis impedimentis iuris ecclesiastici sive publicis sive occultis, dispensare proprios subditos ubique commorantes et omnes in proprio territorio actu degentes, excepto impedimento orto ex sacro ordine presbyteratus.*

⁴⁴ Canon 1079 CIC/83: § 2. *In eisdem rerum adiunctis, de quibus in § 1, sed solum pro casibus in quibus ne loci quidem Ordinarius adiri possit, eadem dispensandi potestate pollet tum parochus, tum minister sacer rite delegatus, tum sacerdos vel diaconus qui matrimonio, ad normam can. 1116, § 2, assistit. § 3. In periculo mortis confessarius gaudet potestate dispensandi ab impedimentis occultis pro foro interno sive intra sive extra actum sacramentalis confessionis.*

⁴⁵ Canon 1116 § 1 CIC/83: *Si haberi vel adiri nequeat sine gravi incommodo assistens ad normam iuris competens, qui intendunt verum matrimonium inire, illud valide ac licite coram solis testibus contrahere possunt: 1° in mortis periculo.*

they nonetheless desire all that is necessary for salvation, which they can receive from the Church [Dziadosz 1953, 138]. The Church, therefore, seeks to provide all possible assistance at this time, setting aside its specific regulations and recognizing that the greatest aid it can offer is the granting of sacramental grace [Abonneau 1957, 947]. This approach strongly affirms of the overarching canonical principle that the salvation of souls is the supreme law of the Church (Canon 1752).

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