

**CANON 838**  
**IN THE LIGHT OF CONCILIAR AND POST CONCILIAR SOURCES**

On the occasion of the publication of the Motu Proprio *Magnum principium*, by which Pope Francis makes variations to can. 838 §§2 & 3 of the C.I.C., the Secretary of the Congregation for Divine Worship and the Discipline of the Sacraments offers, in the following note, a commentary on the underlying sources of these paragraphs, taking into consideration the formulation in force until now as well as the new formulation.

**The current text**

Until now can. 838 §§2 & 3 read as follows:

§2. Apostolicae Sedis est sacram liturgiam Ecclesiae universae ordinare, libros liturgicos edere eorumque versiones in linguas vernaculas recognoscere, necnon advigilare ut ordinationes liturgicae ubique fideliter observentur.

§3. Ad Episcoporum conferentias spectat versiones librorum liturgicorum in linguas vernaculas, convenienter intra limites in ipsis libris liturgicis definitos aptatas, parare, easque edere, praevia recognitione Sanctae Sedis.<sup>1</sup>

The references for §2 are the Instruction *Inter Oecumenici* (26 Sept 1964), n.21 and can. 1257 of the 1917 C.I.C.

For §3 they are *Sacrosanctum concilium* n.22 §2 and n.36 §§3-4; S. Congr. Pro Sacramentis et Cultu Divino, Epist. *Decem iam annos* (5 June 1976); S. Congr. Pro Doctrina Fidei, *Ecclesiae pastorum* (19 March 1975), art. 3.

Although the sources have a merely indicative value and are not exhaustive it is possible to make some remarks in their regard.

This is so above all regarding can. 838 §2. *Inter Oecumenici* n.21 is found in cap. I,VI. *De competenti auctoritate in re liturgica* (ad Const. art. 22) and reads as follows: “Apostolicae Sedis est tum libros liturgicos generales instaurare atque approbare, tum sacram Liturgiam in iis quae universam Ecclesiam respiciunt ordinare, tum Acta et deliberationes auctoritatis territorialis probare seu confirmare, tum eiusdem auctoritatis territorialis propositiones et petitiones accipere”.<sup>2</sup> A clear presupposed equivalence appears between the verb “recognoscere” used in can. 838 §2 and the expression “probare seu confirmare” used in *Inter Oecumenici*. This latter expression was desired by the Liturgical Commission of the Second Vatican Council to substitute the terminology derived from the verb “recognoscere” (“actis recognitis”), referring to can. 250 §4 (cf. can. 304 §2) of the 1917 C.I.C., as was explained to the Council Fathers in the *Relatio* and voted on by them in *Sacrosanctum concilium* n.36 §3 in the form “actis ab Apostolica Sede probatis seu confirmatis”. It is also possible to note that *Inter Oecumenici* n.21 covers all acts of the territorial authorities, while the Code applies it specifically to the “interpretationes textum liturgicorum”, material that *Inter Oecumenici* n.40 deals with explicitly.

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<sup>1</sup> §2. It is for the Apostolic See to order the sacred liturgy of the universal Church, publish liturgical books and recognise their translations in vernacular languages, and exercise vigilance that liturgical regulations are observed faithfully everywhere.

§3. It pertains to the conferences of bishops to prepare and publish, after the prior review of the Holy See, translations of liturgical books in vernacular languages, adapted appropriately within the limits defined in the liturgical books themselves.

<sup>2</sup> “The Holy See has the authority to reform and approve the general liturgical books; to regulate the liturgy in matters affecting the universal Church; to approve or confirm the *acta* and decisions of the territorial authorities; and to accede to their proposals and requests.”

Regarding can. 838 §3 the reference to *Sacrosanctum concilium* n.22 §2 is pertinent. By referring to *Sacrosanctum concilium* n.36 §§3-4 (§3 deals with “de usu et modo linguae vernaculae statuere, actis ab Apostolica Sede probatis seu confirmatis” and §4 deals with “conversio textus latini in linguam vernaculam in Liturgia adhibenda, a competenti auctoritate ecclesiastica territoriali, de qua supra, approbari debet”) it is clear how, for translations, neither a *probatio seu confirmatio* nor a *recognitio* in the strict juridical sense of can. 455 §2 is required.

The story of the Apostolic Letter issued Motu Proprio *Sacram Liturgiam* n. IX (25 Jan 1964), which had to be corrected in *Acta Apostolicae Sedis* because of the reaction of the Council Fathers, seems not to have been adequately taken into consideration. When *Sacram Liturgiam* appeared in *L'Osservatore Romano* on 29 January 1964 it read: “...populares interpretationes, a competente auctoritate ecclesiastica territoriali propositas,<sup>3</sup> ab Apostolica Sede esse rite recognoscendas<sup>4</sup> atque probandas”<sup>5</sup>. However in *Acta Apostolicae Sedis* the conciliar terminology was adopted: “...populares interpretationes, a competente auctoritate ecclesiastica territoriali conficiendas et approbandas esse, ad normam art. 36, §§3 et 4; acta vero huius auctoritatis, ad normam eiusdem art. 36, §3, ab Apostolica Sede esse rite probanda seu confirmanda”<sup>6</sup>. Thus the Motu Proprio *Sacram Liturgiam* distinguished the approval of translations as such on the part of territorial authorities with a decree that rendered them obligatory, and the fact that such an act had to be “probatus seu confirmatus” by the Apostolic See. Moreover, one must note that *Sacram Liturgiam* adds: “Quod ut semper servetur praescribimus, quoties liturgicus quidam textus latinus a legitima, quam diximus, auctoritate in linguam vernaculam convertetur”.<sup>7</sup> This ordinance regards both of these distinct moments, namely the *conficere et approbare* of a translation and the act of making it obligatory with the publication of the book that contains it.

The reference to the Epist. *Decem iam annos* (5 June 1976) of the S. Congr. Pro Sacramentis et Cultu Divino is relevant but it must be noted that it never uses the term “recognoscere” but only “probare, confirmare, confirmatio”.

Turning to *Ecclesiae pastorum* of the S. Congr. Pro Doctrina Fidei, art.3 (made up of three numbers), only n.1 is relevant to our material. It reads: “1. Libri liturgici itemque eorum versiones in linguam vernaculam eorumve partes ne edantur nisi de mandato Episcoporum Conferentiae atque sub eiusdem vigilantia, praevia confirmatione Apostolicae Sedis”.<sup>8</sup> N. 2 concerns reissues and n. 3 prayer books. However it must be noted that the oversight and the mandate are attributed to the Episcopal Conferences while the “praevia confirmatio”, concerning the book that is published, is attributed to the Apostolic See. This is not precisely a “recognitio” of the version like that found in can. 838.

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<sup>3</sup> Art. 36 §4 of *SC* uses the verb “approbare”.

<sup>4</sup> Art 36 §3 of *SC* says: “actis ab Apostolica Sede probatis seu confirmatis”. “enactments approved, that is, confirmed, by the Holy See.”

<sup>5</sup> *L'Osservatore Romano* 29 January 1964, 1. “...vernacular versions proposed by the competent territorial ecclesiastical authority must always be recognised and approved by the Holy See.”

<sup>6</sup> Cf. AAS 56 (1964), 143. “...vernacular versions must be drawn up and approved by the competent, territorial ecclesiastical authority, as provided in art. 36 §§3 & 4; and that, as provided in art. 36 §3, the acts of this authority require due approval, that is, confirmation, of the Holy See.”

<sup>7</sup> Cf. *ibidem*. “This is the course to be taken whenever any Latin liturgical text is translated into the vernacular by the authority already mentioned.”

<sup>8</sup> “1. Liturgical books, including vernacular translations or parts thereof, are to be published only by mandate of the Conference of Bishops and under its supervision, after confirmation by the Holy See.”

## The new text

With the changes decided by the Motu Proprio *Magnum principium* can. 838 §§2 & 3 read as follows:

§2. Apostolicae Sedis est sacram liturgiam Ecclesiae universae ordinare, libros liturgicos edere, **aptationes, ad normam iuris a conferentia Episcoporum approbatas, recognoscere**, necnon advigiliare ut ordinationes liturgicae ubique fideliter observentur.

§ 3. Ad Episcoporum Conferentias spectat versions 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.<sup>9</sup>

§2 now relates to the “aptationes” (“versiones” are no longer mentioned, such material is dealt with in §3), namely the texts and elements that do not form part of the *editio typica latina*, as well as the “profundiores aptationes” foreseen by *Sacrosanctum concilium* n.40 which are regulated by the Instruction *Varietates legitimae* on the Roman Liturgy and Inculturation (25 January 1994); after approval by the Episcopal Conference the “aptationes” must have the “recognitio” of the Apostolic See. The reference here is to *Sacrosanctum concilium* n.36 §3. The adjustment to §2 maintains can. 1257 of the 1917 C.I.C. among its sources, and adds the reference to the Instruction *Varietates legitimae* which deals with the application of nn.39 & 40 of *Sacrosanctum concilium* for which a full “recognitio” is required.

§3 relates to the “versiones” of the liturgical texts, which it more clearly specifies must be done “fideliter” and approved by the Episcopal Conferences. The reference is to *Sacrosanctum concilium* n.36 §4 and analogously to can. 825 §1 concerning the version of Sacred Scripture. These versions are published in liturgical books after receiving the “confirmatio” of the Apostolic See, as laid down by the Motu Proprio *Sacram Liturgiam*, n. IX.

The previous formulation of can. 838 §3 “intra limites in ipsis libris liturgicis definitos aptatas”, comes from *Sacrosanctum concilium* n.39 (“Intra limites in editionibus typicis librorum liturgicorum statutos...aptationes definire”), concerning the “aptationes” and not the “versiones” which are now dealt with by this paragraph so it is now rendered with the expression “intra limites definitos accommodatas”, drawing on the terminology of the *Institutio Generalis Missalis Romani* n.392; this allows an opportune distinction to be made in respect of the “aptationes” mentioned in §2.

Therefore, the readjusted §3 continues to be founded on *Sacrosanctum concilium* n.22 §2; n.36 §§3-4; S. Congr. Pro Sacramentis et Cultu Divino, Epist. *Decem iam annos* (5 iun. 1976); S. Congr. Pro Doctrina Fidei, *Ecclesiae pastorum* (19 mart. 1975), art. 3, with the addition of the reference to the *Institutio Generalis Missalis Romani* (ed. typica tertia) nn.391 & 392, avoiding, however, the term “recognoscere, recognitis” in such a way that the act of Apostolic See relative to the versions prepared by the Episcopal Conferences with particular fidelity to the Latin text (see the addition of the word *fideliter*) cannot be equated to the discipline of can. 455, but once again forms

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<sup>9</sup> §2. It is for the Apostolic See to order the sacred liturgy of the universal Church, publish liturgical books, **recognise adaptations approved by Conferences of Bishops according to the norm of law**, and exercise vigilance that liturgical regulations are observed faithfully everywhere.

§3. It pertains to the Conferences of Bishops to **faithfully** prepare versions of the liturgical books in vernacular languages, suitably **accommodated** within defined limits, and **to approve and publish the liturgical books for the regions for which they are responsible after the confirmation of the Apostolic See.**

part of the action of a *confirmatio* (as expressed in both *Decem iam annos* and *Ecclesiae pastorum*, art.3).

The “confirmatio” is an authoritative act by which the Congregation for Divine Worship and the Discipline of the Sacraments ratifies the approval of the Bishops, leaving the responsibility of translation, understood to be faithful, to the doctrinal and pastoral *munus* of the Conferences of Bishops. In brief, the “confirmatio”, ordinarily granted based on trust and confidence, supposes a positive evaluation of the faithfulness and congruence of the texts produced with respect to the typical Latin text, above all taking account of the texts of greatest importance (e.g. the sacramental formulae, which require the approval of the Holy Father, the Order of Mass, the Eucharistic Prayers and the Prayers of Ordination, which all require a detailed review).

As the Muto Proprio *Magnum principium* itself recalls the changes to can. 838, §§2 & 3 have consequences for the Apostolic Constitution *Pastor bonus* art. 64 §3 as well as for the *Istitutio Generalis Missalis Romani* and for the *Praenotanda* of the liturgical books in the places that touch on material related to translation and adaptations.