

FAQ's regarding Pope Francis' recent document on changes in the annulment process

Why are there going to be changes to the marriage nullity process?

Pope Francis has made changes to the procedures for an annulment in an effort to simplify the process and allow more people to receive a just and expeditious judgment to questions regarding the validity of their former marriages. He wants to minimize the amount of time people spend in a state of uncertainty while their case is pending, and allow more people to come back to the full practice of their faith. That is not to say that the existing marriage nullity process is ineffective and/or unduly prolonged. But like any fallible, human process it can and should be reformed when necessary. Pope Francis, working with a commission of experts, has reformed the process in order to make it as accessible as possible, without in any way undermining the integrity of the process or compromising the dignity of marriage.

When will these changes take effect?

The revised laws take effect on December 8, 2015.

What are the major changes?

There are five major changes: (1) new rules regarding which tribunal can judge a case; (2) new requirements for tribunal personnel; (3) the elimination of an automatic review and confirmation of a decision (the requirement of a second affirmative decision); (4) a shorter and more streamlined process for certain rare and exceptional cases, and (5) a change in the approach to recovering tribunal expenses.

How might the rules regarding which tribunal may judge a case affect me?

Not every tribunal can hear every case. A tribunal needs to be competent in order to judge a case. Currently, there are four ways that a tribunal can be competent to hear a case: (1) if the marriage took place in that diocese, (2) if the former spouse lives in that diocese, (3) if the petitioner (the person bringing the case to the tribunal) lives in that diocese and certain other formalities and requirements are observed, and (4) if the majority of the relevant evidence is located in that diocese and certain other formalities and requirements are observed. These regulations were designed to protect the rights of the former spouse. However, in current times with increased mobility and communication technology, these requirements are practically obsolete. At times the current regulations can even be a barrier to parties wishing to begin the process. So, under the revised law, there will be three ways that a tribunal can be competent to hear a case, none of which require any of those extra formalities and requirements: (1) if the marriage took place in that diocese, (2) if either party lives in that diocese, and (3) if for whatever reason the majority of the relevant evidence is located in that diocese. Therefore, if your case is already pending, or if you introduce it before December 8, 2015, the changes will not affect you. If you introduce your petition on or after December 8, 2015, you may have additional options for where to introduce your petition.

How are the requirements for tribunal personnel going to change?

Marriage nullity cases are sometimes tried (heard) before a "college" of three judges, all of whom meet to decide whether or not the marriage is proven invalid. At this time only one of these three judges can be a layperson. Under the new law two of the judges can be laypeople. In the long run, it will make it easier for the tribunal to remain adequately staffed, which is the single most important factor in handling cases in a just, thorough, and expeditious manner.

What does it mean that the requirement of an automatic second affirmative decision is being eliminated?

Currently, any case that receives a first, affirmative decision must automatically go to an appeal court for a second decision before the decision is final. As of December 8, 2015, the first decision will be final. However, both parties and the defender of the bond will retain their right to appeal a first, affirmative decision.

What is the new, shorter process?

Pope Francis wants to make the process for a declaration of nullity easier and more accessible for everyone. The Holy Father has added a shorter process for rare and exceptional cases when the nullity of the marriage is clearly obvious so that these exceptional cases can be handled as expediently as possible.

In order to use the new, shorter process, three strict qualifications have to be met. (1) Both spouses have to petition for it together, or if not, then the other party must at least consent to it. (2) The nullity of the marriage must be obvious. Most marriage nullity cases deal with a defect in marital consent, that is, with an internal act of the will placed when the spouses married. Since the wedding often happened many years earlier, it would be exceptional for such a defect to be clearly obvious today. (3) All the facts that make the marriage clearly null have to be readily available. Currently it is not uncommon that the first criterion is met, but the second and third are both rare, especially in conjunction.

So, it is unlikely that most petitions will qualify for the shorter process. In any case, no one needs to be overly anxious to qualify for the shorter process: as it is, the cases that would qualify for the shorter process are already the cases that are completed the fastest, and qualifying for the shorter process is no guarantee of an eventual declaration of nullity.

How long will this new process take?

Whatever process is used, the marriage nullity process is not something that can be rushed: marriages are complex and unique, and in order to know beyond a reasonable doubt whether a marriage is invalid from the start, it is necessary to gather a great deal of information and to protect the rights of both parties. While various news outlets have suggested that the new process would take 45 days; that is unrealistic. 120 days might be more realistic. We won't know until we use it.

And, the new process will probably not be used in most cases. It is only an option when, at the time the petition is accepted, all the relevant facts are readily available and clearly demonstrate the nullity of the marriage. In such cases, some of the more time-consuming formalities of the ordinary process could safely be omitted without compromise to the integrity of the process.

Why do many tribunals currently charge for a declaration of nullity?

What many tribunals do as a matter of fairness is pass on some portion of their expenses (salaries, supplies, office space) to the parties who request their services. No one is ever denied his or her rights due to difficulty or inability to pay. Anyone who demonstrates the need for a partial or total reduction of fees receives one.

What did Pope Francis change with regard to tribunal fees and why?

Pope Francis didn't exactly eliminate all tribunal fees, but he said that the process should be gratuitous whenever that can be done without harming the right of tribunal workers to a just wage. He is asking bishops' conferences and local bishops to do their best to make tribunal services gratuitous *to the parties* (of course, they are never free; the costs are just made up from elsewhere). Pope Francis wants to make sure that nobody is ever discouraged from seeking an annulment due to cost. Partial or total reductions have always been granted to anyone who needed them.