

## **VADEMECUM**

### **Procedures for treating Clerical Abuse of Minors**

The Congregation for the Doctrine of the Faith published on July 16, 2020, a *Vademecum* on the procedure for treating cases of sexual abuse of minors committed by clergy.

It is an Instruction Manual to guide those who must find out the truth in cases of the aforementioned crime. The document does not modify current legislation, seeking rather to clarify it.

The word truth is important here, because it clearly expresses the path that the Church wants to take.

The document is not a normative text or a new piece of legislation. It aims to be a flexible working tool geared to helping Ordinaries and jurists who need to translate canonical legislation into concrete actions.

The *Vademecum* is published in the version called 1.0 because it will be updated periodically according to the current legislation or the practice of the Congregation, and its objective is to establish a single universal practice.

The document has thirty pages and nine chapters. We wish to highlight some points that we believe are important. In each one, the paragraph where the information can be found is indicated in parentheses. Our summary is necessarily incomplete.

[Here is the link to the document in English](#) 

#### **The document reminds us that laws are not retroactive.**

- The age of a minor: Until April 30, 2001, a minor is a young person under 16 years of age. Therefore, the abuse of a 17-year-old youth before April 30, 2001 was not a crime, according to the law in force at the time. (Exception: United States since 1994 and Ireland since 1996). Today a young person is considered a minor until the age of 18 (par.3).
- Child pornography: Until January 1, 2020, child pornography refers to young people under the age of 14. From January 1, 2020, it also includes young people between the ages of 14 and 18.
- As of May 21, 2010, three new crimes have been added: acquiring, possessing and disseminating pornographic images of minors.

## **Some elements on the competence of the Congregation for the Doctrine of the Faith (CDF).**

- The abuse of vulnerable people, as defined in *Vos Estis Lux Mundi*, does not belong to the competence of the Congregation, but to the competent dicasteries. (par. 5).
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- Since January 1, 2020 with respect to clerics, the crime corresponds to the CDF. For Institutes of Consecrated Life and Societies of Apostolic Life, the competence lies with the other dicasteries. (par. 6)

## **The victims**

- The Church authorities must commit to treating the alleged victim and his/her family with dignity and respect; they must welcome, listen to and accompany them, including offering specific services, such as spiritual, medical and psychological assistance depending on the case (paragraph 55).
- No obligation of silence may be imposed on the person who notified the incident(s), the person who claims to have been harmed, or the witnesses (par. 30).
- Victims have the right to request that civil authorities not be informed, as long as this does not contravene civil law. However, the Ordinary [local bishop] or the Hierarch must encourage them to exercise their duties and rights before the State authorities. (pars. 48, 56).

## **The stages:**

### **1. Receiving information about a crime.**

- When information reaches the Ordinary or Hierarch, it must be seriously evaluated, even if its source is anonymous.
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- If the information turns out to be implausible, it will not be followed up. But even in this case, it is desirable to inform the CDF. (par.19).
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- Civil Authorities: Even without an explicit legal obligation, the church authority must file a complaint with the civil authorities whenever it considers it essential to protect the alleged victim, other minors and avoid the danger of new criminal acts. However, a canonical investigation must be conducted independently of any civil investigation. If the civil authority does not allow such investigations, the CDF should be informed. In certain cases, the church authority may also await the end of the civil investigations to know the results (pars.17, 22, 26).
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- If the information seems plausible, responsibility for the preliminary investigation belongs to the Ordinary or Hierarch or his delegate who received the *notitia de delicto*, that of the accused cleric, or that of the place where the alleged crime took place (par 21.)
- The prescription: The CDF has the right to derogate the prescription. Even in the case of a prescription, the results must be communicated to the CDF, the only one that can decide to retain the prescription or grant a derogation from it. (28).

## 2. The preliminary investigation

- Purpose:

a. to collect further data about the notification.

b. to establish the plausibility (not the moral certainty). Is there sufficient basis in law and in fact to consider the accusation as having the semblance of truth? (par. 32).

- What content?

The facts as reported, the number and time of the facts, the circumstances, general information about the alleged victims, as well as the possible damage, other possible crimes attributed to the accused, any problematic facts that might arise from his biographical profile (par. 34).

- Good reputation

The protection of the good reputation of the people involved (accused, alleged victims, witnesses). When the common good is threatened, the publication of information about the existence of an accusation does not necessarily constitute a violation of good reputation. (par.44).

Since in this stage the possible guilt of the accused person has yet to be established, all care should be taken to avoid – in public statements or private communication – any affirmation made in the name of the Church, the Institute or Society, or on one's own behalf, that could constitute an anticipation of judgement on the merits of the facts (46).

- *Collaboration with civil authorities.*

When the laws of the state require the Ordinary or Hierarch to report a *notitia de delicto*, he must do so, even if it is expected that on the basis of state laws no action will be taken (par 49).

- *Precautionary measures.*

Precautionary measures (for example, a prohibition on exercising the ministry) do not constitute a sanction but an administrative act, since there has not yet been a criminal trial and they can be modified or revoked when the situation changes. (61-62).

- *Open and closing the enquiry.*

The Ordinary or the Hierarch must issue a decree both to open the preliminary investigation (40) and to order its closure (68). He must send the facts to the CDF and await communications from the CDF, which may impose non-criminal disciplinary measures, such as limitations on the exercise of ministry, or criminal proceedings.

### 3- The criminal process

- *Possible decisions:*

To establish guilt or innocence or that, given the benefit of the doubt, guilt has not been established ...

- *Three forms:*

- The procedure reserved for very serious cases that ends with a direct decision by the Pope. The decision is final, without appeal.

- The judicial criminal process.

It can be directed by the CDF or a lower court and is always composed of at least three judges.

- The extrajudicial criminal process.

The extrajudicial criminal process, sometimes called “administrative trial”, is a form of criminal trial that reduces the formalities provided for in the judicial process, in order to speed up the course of justice, without eliminating the guarantees required for a fair trial (91). The accused is informed of the charge and the evidence and has the right to a lawyer for his defense.

Only the CDF can decide to follow this path. The CDF, its delegates or a lower body (for example, the Ordinary or the Hierarchy) can carry out this investigation.

When an Ordinary is commissioned by the CDF to carry out an extrajudicial criminal trial, he can decide whether to preside over it personally or to appoint a delegate. He must also designate two assessors, who will assist him in the evaluation phase.

If the crime is certain, the penalty shall be decreed by the Ordinary or his delegate (par.119). The records and the decree must be sent to the CDF. It is possible to file an appeal against the decree, which will suspend the penalty. (147-148). If an appeal has been filed, the CDF must be informed immediately.

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