

MAGNUM PRINCIPIUM

BY WHICH CAN. 838 OF THE CODE OF CANON LAW IS MODIFIED

The great principle, established by the Second Vatican Ecumenical Council, according to which liturgical prayer be accommodated to the comprehension of the people so that it might be understood, required the weighty task of introducing the vernacular language into the liturgy and of preparing and approving the versions of the liturgical books, a charge that was entrusted to the Bishops.

The Latin Church was aware of the attendant sacrifice involved in the partial loss of liturgical Latin, which had been in use throughout the world over the course of centuries. However it willingly opened the door so that these versions, as part of the rites themselves, might become the voice of the Church celebrating the divine mysteries along with the Latin language.

At the same time, especially given the various clearly expressed views of the Council Fathers with regard to the use of the vernacular language in the liturgy, the Church was aware of the difficulties that might present themselves in this regard. On the one hand it was necessary to unite the good of the faithful of a given time and culture and their right to a conscious and active participation in liturgical celebrations with the substantial unity of the Roman Rite. On the other hand the vernacular languages themselves, often only in a progressive manner, would be able to become liturgical languages, standing out in a not dissimilar way to liturgical Latin for their elegance of style and the profundity of their concepts with the aim of nourishing the faith.

This was the aim of various Liturgical Laws, Instructions, Circular Letters, indications and confirmations of liturgical books in the various vernacular languages issued by the Apostolic See from the time of the Council which was true both before as well as after the laws established by the Code of Canon Law.

The criteria indicated were and remain at the level of general guidelines and, as far as possible, must be followed by Liturgical Commissions as the most suitable instruments so that, across the great variety of languages, the liturgical community can arrive at an expressive style suitable and appropriate to the individual parts, maintaining integrity and accurate faithfulness especially in translating some texts of major importance in each liturgical book.

Because the liturgical text is a ritual sign it is a means of oral communication. However, for the believers who celebrate the sacred rites the word is also a mystery.

Indeed when words are uttered, in particular when the Sacred Scriptures are read, God speaks to us. In the Gospel Christ himself speaks to his people who respond either themselves or through the celebrant by prayer to the Lord in the Holy Spirit.

The goal of the translation of liturgical texts and of biblical texts for the Liturgy of the Word is to announce the word of salvation to the faithful in obedience to the faith and to express the prayer of the Church to the Lord. For this purpose it is necessary to communicate to a given people using its own language all that the Church intended to communicate to other people through the Latin language. While fidelity cannot always be judged by individual words but must be sought in the context of the whole communicative act and according to its literary genre, nevertheless some particular terms must also be considered in the context of the entire Catholic faith because each translation of texts must be congruent with sound doctrine.

It is no surprise that difficulties have arisen between the Episcopal Conferences and the Apostolic See in the course of this long passage of work. In order that the decisions of the Council about the use of vernacular languages in the liturgy can also be of value in the future a vigilant and creative collaboration full of reciprocal trust between the Episcopal Conferences and the Dicastery of the Apostolic See that exercises the task of promoting the Sacred Liturgy, i.e. the Congregation for Divine Worship and the Discipline of the Sacraments, is absolutely necessary. For this reason, in order that the renewal of the whole liturgical life might continue, it seemed opportune that some principles handed on since the time of the Council should be more clearly reaffirmed and put into practice.

Without doubt, attention must be paid to the benefit and good of the faithful, nor must the right and duty of Episcopal Conferences be forgotten who, together with Episcopal Conferences from regions sharing the same language and with the Apostolic See, must ensure and establish that, while the character of each language is safeguarded, the sense of the original text is fully and faithfully rendered and that even after adaptations the translated liturgical books always illuminate the unity of the Roman Rite.

To make collaboration in this service to the faithful between the Apostolic See and Episcopal Conferences easier and more fruitful, and having listened to the advice of the Commission of Bishops and Experts that I established, I order, with the authority entrusted to me, that the canonical discipline currently in force in can. 838 of the C.I.C. be made clearer so that, according to what is stated in the Constitution *Sacrosanctum Concilium*, in particular in articles 36 §§3.4, 40 and 63,

and in the Apostolic Letter *Motu Proprio Sacram Liturgiam*, n. IX, the competency of the Apostolic See surrounding the translation of liturgical books and the more radical adaptations established and approved by Episcopal Conferences be made clearer, among which can also be numbered eventual new texts to be inserted into these books.

Therefore, in the future can. 838 will read as follows:

Can. 838 - §1. The ordering and guidance of the sacred liturgy depends solely upon the authority of the Church, namely, that of the Apostolic See and, as provided by law, that of the diocesan Bishop.

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

§3. It pertains to the Episcopal Conferences 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**.

§4. Within the limits of his competence, it belongs to the diocesan Bishop to lay down in the Church entrusted to his care, liturgical regulations which are binding on all. Consequently this is how art. 64 §3 of the Apostolic Constitution *Pastor Bonus* as well as other laws are to be interpreted, particularly those contained in the liturgical books concerning their revision. Likewise I order that the Congregation for Divine Worship and the Discipline of the Sacraments modify its own "Regulations" on the basis of the new discipline and help the Episcopal Conferences to fulfil their task as well as working to promote ever more the liturgical life of the Latin Church.

Everything that I have decreed in this Apostolic Letter issued *Motu Proprio* must be observed in all its parts, notwithstanding anything to the contrary, even if it be worthy of particular mention, and I hereby set forth and I dispose that it be promulgated by publication in the daily newspaper *L'Osservatore Romano*, that it enter into force on 1 October 2017, and thereafter be published in *Acta Apostolicae Sedis*.

Given in Rome, at St. Peter's, on 3 September of the year 2017, the fifth of my Pontificate

FRANCISCUS P.P.

Note on canon 838 of the Code of Canon Law

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.¹

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”.² 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.

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,³ ab Apostolica Sede esse rite recognoscendas⁴ atque probandas”⁵. 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”⁶. 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”.⁷ 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”.⁸ 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.

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 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.⁹

§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 *Istitutio 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 *Istitutio 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 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.

¹ §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.

² “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.”

³ Art. 36 §4 of *SC* uses the verb “approbare”.

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

⁵ *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.”

⁶ 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.”

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

⁸ “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.”

° §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**.

Comment on the *Motu Proprio* by the secretary of the Congregation for Divine Worship and the Discipline of the Sacraments

A key to reading the *Motu Proprio* “Magnum principium”

The new *Motu Proprio Magnum principium* has altered the formulation of some norms of the *Codex iuris canonici* regarding the translation of liturgical books into modern languages.

Pope Francis has introduced some modifications to the text of canon 838 in this *Motu Proprio*, dated 3 September 2017 and entering into force from 1st October 2017. The reason for these changes is explained in the papal text itself, which recalls and explicates the principles which underlie translations of the Latin typical editions as well as the delicacy required by those who undertake such work. Because the Liturgy is the prayer of the Church it is regulated by ecclesial authority.

Given the importance of this work, the Fathers of the Second Vatican Council had already considered the question of the roles of both the Apostolic See and the Episcopal Conferences in this regard (cf. *Sacrosanctum concilium*, nn.36, 40 & 36). In effect the great task of providing for liturgical translations was guided by norms and by specific Instructions from the competent Dicastery, in particular *Comme le prévoit* (25 January 1969) and then, after the *Codex iuris canonici* of 1983, by *Liturgiam authenticam* (28 March 2001), both published at different stages with the goal of responding to concrete problems which had become evident over the course of time and which had arisen as a result of the complex work that is involved in the translation of liturgical texts. The material relating to the whole field of inculturation was, on the other hand, regulated by the Instruction *Varietates legitimae* (25 January 1994).

Taking into account the experience of these years, the Pope writes that now “it seemed opportune that some principles handed on since the time of the Council should be more clearly reaffirmed and put into practice”. Thus, taking account of the experience during the course of these years and with an eye to the future based on the liturgical constitution of Vatican II, *Sacrosanctum concilium*, the Pope intends to clarify the current discipline by introducing some changes to canon 838 of the *Codex iuris canonici*.

The object of the changes is to define better the roles of the Apostolic See and the Conferences of Bishops in respect to their proper competencies which are different yet remain complementary. They are called to work in a spirit of dialogue regarding the translation of the typical Latin books as well as for any eventual adaptations that could touch on rites and texts. All of this is at the service of the Liturgical Prayer of the People of God.

In particular, in the new formulation of the said canon, there is a more adequate distinction, as far as the role of the Apostolic See is concerned, between the scope of the *recognitio* and that of the *confirmatio* in respect of what belongs to the Episcopal Conferences, taking account of their pastoral and doctrinal responsibility as well as the limits to their actions.

The *recognitio*, mentioned in canon 838 §2, implies the process of recognising on the part of the Apostolic See legitimate liturgical adaptations, including those that are “more radical” (*Sacrosanctum concilium* 40), which the Episcopal Conferences can establish and approve for their territories within defined limits. In the encounter between liturgy and culture the Apostolic See is called to *recognoscere*, that is, to review and evaluate such adaptations in order to safeguard the substantial unity of the Roman Rite: the references for this material are *Sacrosanctum concilium* nn. 39-40; and its application, when indicated in the liturgical books and elsewhere, is regulated by the Instruction *Varietates legitimae*.

The *confirmatio* – terminology already adopted in the motu proprio *Sacram Liturgiam* n. IX (25 January 1964) – pertains instead to the translations of liturgical texts which, on the basis of *Sacrosanctum concilium* (n.36, §4), are within the competency of the Episcopal Conferences to prepare and approve; canon 838 §3 clarifies that the translations must be completed *fideliter* according to the original texts, thus acknowledging the principal preoccupation of the Instruction *Liturgiam authenticam*. Indeed, recalling the right, and the grave responsibility of translation entrusted to the Episcopal Conferences, the motu proprio also points out that the

Conferences “must ensure and establish that, while the character of each language is safeguarded, the sense of the original text should be rendered fully and faithfully”.

The *confirmatio* of the Apostolic See is therefore not to be considered as an alternative intervention in the process of translation, but rather as an authoritative act by which the competent Dicastery ratifies the approval of the bishops. Obviously, this presupposes a positive evaluation of the fidelity and congruence of the texts produced in respect to the typical editions on which the unity of the Rite is founded, and, above all, taking account of the texts of greatest importance, in particular the Sacramental formulae, the Eucharistic Prayers, the prayers of Ordination, the Order of Mass and so on.

Naturally, this modification to the *Codex iuris canonici* entails an adjustment to the Apostolic Constitution *Pastor bonus* n.64 §3, as well as to the norms surrounding translations. This means, for example, that it will be necessary to readjust some numbers of the *Institutio generalis missalis Romani* and of the *Praenotanda* of the liturgical books. The Instruction *Liturgiam authenticam* itself, which is to be appreciated for the attention it brings to bear on this complicated work and its implications, must be interpreted in the light of the new formulation of canon 838 when it speaks about seeking the *recognitio*. Finally, the *motu proprio* provides that the Congregation for Divine Worship and the Discipline of the Sacraments will also “modify its own *Regolamento* on the basis of the new discipline and help the Episcopal Conferences to fulfil their task”.

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