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Law Religion Multicultural Societies

Право Религия Мультикультурные Общества

انون والدين في المجتمعات متعددة الثقافات
多元化社会中的法与宗教

LAW, RELIGION AND COVID-19 EMERGENCY

EDITED BY
PIERLUIGI CONSORTI

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papers 1

DiReSoM Papers

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LAW, RELIGION AND COVID-19 EMERGENCY

edited by

Pierluigi Consorti

DiReSoM (Diritto e Religione nelle Società Multiculturali – Law and Religion in Multicultural Societies) is a research group created in 2017 by Italian Scholars in Law and Religion.
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DOES THE COVID-19 PANDEMIC AUTHORIZE THE DEROGATION FROM THE CANONICAL RULE OF ABSOLUTION NECESSARILY PRECEDED BY INDIVIDUAL CONFESSION? (CANON 961 CIC)*

Stefano Testa Bappenheim

In this period there is a very serious state of global emergency worldwide and also at the extra-ecclesial level as explicitly repeated [several times](#) by Pope Francis, who in the *Angelus* on 22nd March raised the alarm: “In these trying days, while humanity trembles due to the threat of the pandemic, I would like to propose to all Christians that together we lift our voices towards Heaven. I invite all the Heads of the Churches and the leaders of every Christian community, together with all Christian of the various confessions, to invoke the Almighty, the omnipotent God”¹, and he underscored the extraordinary dangerousness of the situation in the ‘Extraordinary [moment of prayer](#), and so it appears especially significant and relevant that the [Note from the Apostolic Penitentiary on the Sacrament of Reconciliation in the current pandemic](#) was issued last March 20th with which it *alio modo dicto* (stated in a different way) declared it to be ‘Defcon-2’.

* Submitted: April 8th 2020. Published: April 22nd 2020. For ITA version [click here](#).

¹ Francesco, [Angelus](#), march 22nd, 2020.

Last March 20th, the Apostolic Penitentiary issued a note in which it *ea ipsa* declared to have considered the hypotheses established by Canon 961, § 1, n. 2, to give absolution in general form to a number of penitents together, without their prior individual confession. In fact, it underscores the “*gravis necessitas*” that authorizes diocesan bishops (*ex Can. 961 § 2*) to use the special faculties provided for pursuant to *Can. 961 § 1*.

Indeed, Can. 960 foresees that individual and integral confession constitutes the only *ordinary* means to receive absolution from a priest. The general absolution is only foreseen by the Codex for absolute emergency situations of a general nature, and this is the case envisaged by Can. 961, § 1, at No. 2 (the “*gravis necessitas*” (grave necessity), to which the Signatura refers), or of a personal nature, provided for in No. 1 (*periculum mortis*’ (danger of death). Canon 961, § 2, therefore, refers the decision back to the diocesan bishops, in which two lines of thought can be identified: on the one hand, in fact, there were many bishops and archbishops who made use of this faculty by declaring the state of total global general emergency, and by granting the priests the power to administer the general absolution, and it appears worth noting that it is a matter of circumstances that are not geographically circumscribed: by making a non-exhaustive overview (also because the list is being constantly updated), we can recall: in Italy, the Archbishop of Arezzo (S. E. [mons. Fontana](#)), and the Bishop of San Marino²; in Scotland, the Bishop of Motherwell³; in the United States, the Bishops of Albany (NY)⁴, Pittsburgh (PA)⁵, Fort Worth (TX)⁶, Lexington (KY)⁷, the Archbishops of Santa Fe (NM)⁸, Cincinnati (OH)⁹; in Japan, the Archbishop of Tokyo¹⁰; in the Holy Land, the Apostolic Administrator¹¹; in Mexico, the Archbishop of Chihuahua¹² and that of Puebla¹³, the Apostolic Administrator (and Bishop emeritus) of Querétaro¹⁴, the Bishop of Texcoco¹⁵; in Nicaragua, the Cardinal Archbishop of Managua¹⁶ and the Bishop of Granada¹⁷; in Malaysia, the Archbishop of Kota Kinabalu¹⁸ and the Bishops of Malacca Johore¹⁹ and of Penang²⁰.

Then there are at least (so far) three Episcopal Conferences which have collegially not only defined the general criteria, pursuant to Canon 961 § 2, but also established that the emergency

² S.E. Mons. Turazzi, [*Lacerdoti assistenti religiosi presso le strutture, i presidi ospedalieri e le case di Cura.*](#)

³ S.E. Mons. Toal: “I give all celebrants permission to celebrate the 3rd Form of the Rite of Reconciliation – General Absolution. This can only be used in exceptional circumstances, which is clearly the case at present. I recognise also that those who attend Daily Mass would probably wish to go to Confession before Easter, and that will be difficult in the weeks ahead. By celebrating the Sacrament in this way, they are receiving the consolation of the Lord’s mercy and forgiveness as they face this prolonged period without Mass and Holy Communion. If someone present at Mass tomorrow is living with grave sin they are still required to make an individual confession as soon as possible. I ask priests to carry out this instruction and to explain to the faithful the reason for celebrating the sacrament in this way. I recommend that a reasonable amount of time is allowed for people to examine their conscience and express their sorrow communally before the absolution and to joyfully pray the Gloria in thanksgiving for the Lord’s forgiveness”; see [here](#).

⁴ S.E. Mons. Scharfenberger: “As of March 22, beginning at 8 pm, we will be in a situation of ‘grave necessity’ with respect to the granting of permission for general absolution in certain cases. This is due to the Order of Governor Cuomo (03.20.20), which means it is not possible for people to celebrate individual confession/reconciliation. Therefore, priests may give general absolution in certain cases. Please contact either of the Vicars General [...] to see whether the conditions are in place for the giving of general absolution, and only then to receive the necessary mandate by the Vicar General. As is always the case, if you must give general absolution immediately due to some unforeseen and urgent situation (that is before checking with either of the Vicars General), you must notify one of them as soon as possible after the absolution has been given. It should be remembered that serious sins that could not be confessed at the granting of general absolution should be confessed in due time”; see [here](#).

⁵ S.E. Mons. Zubik: “Therefore, in hospitals, nursing homes and other healthcare facilities, where a priest is not allowed to personally interact with patients or staff due to COVID-19 restrictions, he may grant general absolution. The faithful are to know that he is offering absolution and his voice should be able to be heard by those receiving absolution, this could be over a PA system or by some other means. If a priest imparts general absolution, he is to inform penitents of the need to confess serious sins at the earliest possible moment”; see [here](#).

⁶ S.E. Mons. Olson: “1. Apart from immediate danger of death, authorization of general confession and absolution according to the precept of canon 961 § 1, 2°, is restricted to celebrations within hospitals and nursing homes including residents, staff and all workers present. General absolution remains forbidden

elsewhere in the diocese”; see [here](#). Again: “In the time since promulgating that instruction [*the aforementioned one*], I have received pious and zealous requests from the clergy of the diocese to extend that authorization for general absolution beyond hospitals and nursing homes to also include all jails, prisons and detention centers located within the territory. I am pleased to grant these requests *motu proprio*, and do *hereby* judge that the same onerous conditions of grave necessity laid out in canon 961 § 1, 2^o, also apply to the incarcerated and detained within the diocese for the duration of the state of emergency on account of the COVID-19 pandemic. Furthermore, I decree that the diocesan norms laid out in the aforementioned instruction are to be likewise interpreted and diligently applied in the granting of general absolution not only for all residents, staff, and workers present inside hospitals and nursing homes within the territory, but also for similar such persons within all jails, prisons, and detention centers as well, without prejudice to the prescripts of universal and particular law as well as those liturgical adaptations already in force throughout the diocese”; see [here](#); see also P.L. Consorti, *L’assistenza religiosa ai carcerati*, in *AGFS*, 1988, pp. 39 ss.; ID., *Alcuni cenni sulle origini della pena carceraria secondo il diritto canonico e civile*, in *DE*, 1986, pp. 354 ss.; J.I. Arrieta, *La asistencia religiosa, particular referencia a los centros de especial sujeción: fuerzas armadas, centros de detención y centros sanitarios*, in AA.VV., *La Libertad religiosa. Memoria del IX Congreso internacional de Derecho Canónico*, México, 1996, pp. 219 ss.

⁷ S.E. Mons. Stowe: “If conditions become such that a number of patients in the same hospital ward or a place functioning as a hospital ward are in need of absolution, general absolution could be offered to them with a simple explanation by the priests of how the penitents are to participate: ideally with a brief passage from Scripture, an act of penance and the formula of general absolution. In necessity, only the formula of absolution is necessary. Every priest with faculties in the Diocese of Lexington has my authorization to use general absolution in the circumstances described above”; see [here](#).

⁸ S.E. Mons. Wester: “2) General Absolution: In case of sudden need to impart absolution to several faithful together due to: 1) imminent danger of death; 2) insufficient time to hear individual confessions; 3) grave necessity, priests are to: a. Inform the Archbishop if possible. If imparted due to insufficient time or ability to inform the Archbishop beforehand, do so as soon as possible; b. Accompany the general absolution with a reminder that they are obliged to seek individual sacramental confession as soon as possible if they are able and the sacrament is available. I emphasize that general absolution should be imparted only in those cases *where* the current pandemic and/or the imminent danger of death make it necessary. This would include, but is not limited to, circumstances *where* the priest cannot enter a ward with dying COVID-19

patients or even with those who will hopefully recover but would be comforted by the absolution of their sins”; see [here](#).

⁹ S.E. Mons. Schnurr: “However, at this time, Archbishop Schnurr has authorized priests to use general absolution CF: confer the Rite of Reconciliation of Several Penitents with General Confession and Absolution in ONLY the following situation: 1) A hospital ward, 2) In which *there* is danger of death, 3) And individual confessions are deemed impossible, 4) And the penitents are instructed that they are to confess their sins individually when they next have the opportunity”; see [here](#).

¹⁰ S.E. Mons. Kikuchi: “General absolution refers to imparting collective absolution, without prior individual confession, *where there* is ‘grave necessity’, such as an imminent danger of death. The Apostolic Penitentiary believes that a case of ‘grave necessity’ has already occurred, especially in places most affected by the pandemic contagion, at this present situation until it subsides. However, general absolution to every person each time will not be imparted individually, and will only be applicable for occasions when *there* are several faithful seeking the Sacrament of Reconciliation, all of whom ‘resolve to confess serious sins in due time, which at that time could not be confessed’ (Can. 962, §1) when the situation normalizes. Each parish may respond differently according to the needs of the situation. However, I have granted permission, on this occasion, to all the parish priests of the Tokyo Archdiocese to provide opportunities to impart general absolution”; see [here](#).

¹¹ S.E. Mons. Pizzaballa: “Negli ospizi per anziani, negli ospedali e nelle case di accoglienza per disabili o di altro genere, dove comunque sono raccolte diverse persone in stato di necessità, è possibile dare assoluzioni collettive, come prescritto dal Codice di Diritto Canonico (961§2). I sacerdoti rileggano il rito del sacramento nella parte che riguarda questa possibilità, senza inventare nulla di nuovo o di diverso”; see [here](#).

¹² S.E. Mons. Weckmann: “6. Autorizo a los Sacerdotes dar la Absolución General al terminar la Misa Dominical del 22 de Marzo (que es mañana), a los Fieles que estén en posibilidad de recibirla”; see [here](#).

¹³ S.E. Mons. Sánchez Espinosa: “confiero a todos los sacerdotes de la Arquidiócesis de Puebla de los Ángeles (diocesanos y religiosos), la facultad de administrar la ABSOLUCIÓN GENERAL, únicamente durante el tiempo de la contingencia sanitaria con motivo de la presencia de coronavirus”; see [here](#).

¹⁴ S.E. Mons. Gasperín: “c) Nuestra situación. Durante el tiempo que dure el Covid-19 podrá impartirse la absolución general en los casos de aglomeración de enfermos, por ejemplo en los hospitales o casas de asistencia, hogares concurridos en cuarentena, o cuando la absolución individual no sea

humanamente posible, procurando que los enfermos puedan escuchar las palabras de la absolución. [...]

e) Posibilidad. Cuando no sea posible observar estas precauciones y haya sido solicitado el sacramento de la reconciliación, procédase a impartirlo con absolución general. Estos casos pueden presentarse durante todo el tiempo que dure la emergencia sanitaria. Donde felizmente y con certeza no exista la pandemia, ni peligro de contagio, se observará la práctica acostumbrada;

f) Derecho permanente pero limitado. Por tanto, permanece el derecho de los fieles de pedir la reconciliación individual, pero está limitado por la gravedad de las circunstancias. Durante la pandemia la administración del sacramento de la reconciliación por medio de la absolución general, es enteramente legítima. Deben observarse las cautelas arriba anotadas, especialmente la absoluta guarda del sigilo de la confesión y la debida reserva. La Iglesia administra los sacramentos en el contexto de la caridad pastoral del celebrante y de la petición razonable de los fieles.

5°. Validez de la absolución general. Para la validez de la absolución general, es decir, para obtener la gracia del perdón de los pecados, veniales o mortales, se necesitan los siguientes requisitos indispensables de parte del penitente: La debida disposición y el propósito de confesar los pecados graves aquí perdonados, en la próxima confesión individual tan pronto como sea posible, “de no interponerse causa justa” (Cf c. 963). En nuestro caso, es posible que, para algunas personas, esto sólo sea realizable hasta el término de la pandemia. Todo perdón de los pecados pasa por manos de la santa Iglesia y el corazón de su esposo y cabeza, Jesucristo”; see [here](#).

¹⁵ S.E. Mons. Sancilla Sánchez: “Los sacerdotes, al tenor del Derecho Canónico, den a los fieles la absolución general sin confesión individual, en las fechas programadas de confesiones cuaresmales en cada decanato”; see [here](#).

¹⁶ S. Em.za Card. José: “Sobre el Sacramento de la Reconciliación: autorizo al clero en la Arquidiócesis aplicar la absolución general prevista en las disposiciones de la Penitenciaría Apostólica, recordando a los fieles que la reciben la obligación de acercarse a la confesión individual concluida esta situación especial. Quienes no puedan asistir ante el ministro del sacramento recordarles la enseñanza sobre la contrición perfecta (cfr. C 961, §2 CIC; CC 1452)”; see [here](#).

¹⁷ S.E. Mons. Solorzano Pérez: “Para evitar el contagio del virus, la Iglesia permite en sus normas canónicas (can. 961 § 2 y el Catecismo de la Iglesia Católica #1452) que quienes acuden al sacramento de la Reconciliación se les dé la absolución general de sus pecados, con el compromiso que se puedan confesar individualmente lo más pronto posible pasada la crisis de la pandemia. Por ello,

conditions provided for in § 1²¹ have been met: this concerns the Hungarian Bishops' Conference²², as well as that of South Africa²³ and the Philippines²⁴.

autorizo a los sacerdotes de nuestra Diócesis, ejercer esta práctica en lo que queda del Tiempo de Cuaresma y Semana Santa”, see [here](#).

¹⁸ S.E. Mons. Wong: “Dates and times for the yearly Penitential Services in the parishes for Lent (beginning from 2nd March 2020) has been published. However, to avoid the numerous and close personal contact individual confession involve, and as a prudent precaution against the possible spread of the COVID-19, the Archdiocese of Kota Kinabalu ha decides on the following: [...]. 4. Instead of personal confessions however, the priest shall give General Absolution to all present”; see [here](#).

¹⁹ S.E. Mons. Paul: “Penitential Service continues with full liturgy of the Word (2 Readings); homily, examination of conscience, act of contrition, common penance to be fulfilled, general absolution to all present”; see [here](#).

²⁰ S.E. Mons. Francis: “Due to this ‘grave and urgent necessity’, the Bishop of Penang, Rt Rev Sebastian Francis has decided that at all Masses within the weekend of March 22 and 29, 2020 on the 4th and 5th Sundays of Lent, the presiding priest shall give a General Absolution will be given to all present.’ As for the chapels and Mass centres in the Diocese of Penang, this general absolution will be done at any time during the Season of Lent. However, priests are requested to make themselves available for individual confessions as and when required”; see [here](#).

²¹ V. L. Navarro, *Manifestazioni giuridiche della comunione fra i vescovi*, in *IE*, 1991, pp. 573 ss.; J.T. Martín de Agar, *Normativa de las Conferencias episcopales sobre el Sacramento de la Penitencia*, in *AC*, 1992, pp. 497 ss.; A. Riccardi, *Chiesa del papa e Chiesa locale*, in AA.VV., *Divinarum rerum notitia: la teologia tra filosofia e storia. Studi in onore del Cardinale Walter Kasper*, Roma, 2001, pp. 347 ss.

²² “We shall follow state epidemic protocols while caring for the sick, hearing confessions and administering extraordinary communion. Due to the extraordinary situation – effective immediately until revoked – absolution may be imparted in a general manner (CIC Can. 961–963) [...]. This instruction concerns the Latin rite dioceses of Hungary”; see [here](#).

²³ “Safer measures are to be taken in administering the Sacrament of Penance and Reconciliation. Necessary permission will be granted for general absolution for the duration pandemic”; see [here](#).

²⁴ “Since the Lenten season is the time for Kumpisalang Bayan, each bishop may grant the permission for the use of General Absolution in this cases”; see [here](#).

Does this ever-growing application not risk altering the exceptional nature of the assumption? In order to answer this, it behooves us to get a comprehensive picture, which can offer us a sense of the unfolding of the regulation over time, since the current code arrangement is the outcome of an interesting historical evolution: among the previous variants of the general absolution given to soldiers before the battle, we can recall that of Pope Saint Leo IX, who in 1053 granted it to all his soldiers before the battle of Civitate, against the Normans²⁵.

Already in 1915, a few months after the start of the First World War, the Sacred Penitentiary²⁶, with the Declaration of February 6, 1915, allowed military chaplains²⁷ to administer the general absolution of soldiers who were called to the front even without their previous confession, if this were impossible²⁸. A

²⁵ V. C. Munier, *Le pape Léon IX et le droit canonique de son temps*, in AA.VV., *Léon IX et son temps: Actes du colloque international organisé par l'Institut d'Histoire Médiévale de l'Université Marc-Bloch*, Strasbourg-Eguisheim, 20-22 juin 2002, Turnhout, 2007, pp. 385 ss.

²⁶ V. P.L. Consorti, *Guerra giusta? Tra teologia e diritto*, in RDC, 2004, pp. 69 ss.; ID., *La Chiesa in armi*, in RTM, 2000, pp. 209 ss.

²⁷ J.M. Bergoglio, *Ponerse la patria al hombro*, Buenos Aires, 2004, pp. 23 ss.; R. Morozzo della Rocca, *La fede e la guerra: cappellani militari e preti-soldati, 1915-1919*, Roma, 1980, passim; A. Crescenzi, *I cappellani militari italiani e l'“inutile strage”*, in AA.VV., *Benedetto 15.: Papa Giacomo Della Chiesa nel mondo dell'“inutile strage”*, Bologna, 2017, pp. 190 ss.

²⁸ “Declaratio de absoluteione impertienda militibus ad praelium vocatis. Proposito huic sacrae Poenitentiariae dubio: “An liceat milites ad praelium vocatos, antequam ad sacram Communionem admittantur, absolvere generali formula, seu communi absoluteione, sine praecedente confessione, quando tantus est eorum numerus, ut singuli audiri nequeant, doloris actu debite emisso?” Eadem sacra Poenitentiaria, mature consideratis expositis, benigne sic annuente sanctissimo Domino nostro Benedicto Papa XV, respondendum esse censuit: “Affirmative. Nihil vero obstare quominus sic absoluti in praefatis adiunctis ad sacram Eucharistiam suscipiendam admittantur. Ne omittant vero cappellani militum, data oportunitate, eos docere absoluteionem sic impertiendam non esse

document that immediately followed this (which recalls and quotes a previous reply given in 1912 to a request from French Bishops²⁹) expanded the scope of the general absolution, which could be granted to all mobilized soldiers, and no longer only to those who had been sent to the front³⁰.

These decisions of the Penitentiary, clearly in favor of the *salus animarum*³¹ took place while the work on the drafting of the Codex of 1917 was at an advanced stage, and it does not seem - as far as it is known on the basis of an initial, rapid and preliminary research - that the schemes on the (future) canons relating to the Sacrament of Penance foresaw a hypothesis of general absolution without confession. After the war, these special faculties were revoked by a

profuturam, nisi rite dispositi fuerint, iisdemque obligationem manere integram confessionem suo tempore peragendi, si periculum evaserint”, in *AAS*, 1915 (VII), p. 72 (and [here](#)).

²⁹ V. M. d’Arienzo, *La laicità francese: ‘aperta’, ‘positiva’ o ‘im-positiva’?*, in *DeR*, 2011, pp. 354 ss.; Eadem, *La “religione della laicità” nella Costituzione francese*, in P. Becchi – V. Pacillo, *Sull’invocazione a Dio nella Costituzione federale e nelle Carte fondamentali europee*, Lugano, 2013, pp. 139 ss.; P. Valdrini, *Il principio di laicità nel diritto francese. Neutralità dello Stato e libertà dei cittadini*, in *EIC*, 2015, pp. 39 ss.; M. Impagliazzo, *Francia e S. Sede nella Grande guerra*, in *Studium*, 1992, pp. 43 ss.; F. Fede – S. Testa Bappenheim, *Dalla laïcité di Parigi alla Nominatio Dei di Berlino, passando per Roma*, Milano, 2007, pp. 11 ss.

³⁰ “Dubium de militibus in statu bellicae convocationis

Proposito huic sacrae Poenitentiariae dubio: Utrum miles quicumque in statu bellicae convocationis, seu, ut aiunt, mobilitationis, constitutus, ipso facto equiparari possit iis qui versantur in periculo mortis, ita ut a quovis obvio sacerdote possit absolvi.

Resp. Detur responsum diei 18 martii 1912, ad Episcopum V., nempe: Affirmative, iuxta regulas a probatis auctoribus traditas”, in *AAS*, 1915 (VII), p. 282.

³¹ J.I. Arrieta, *La salus animarum quale guida applicativa del diritto da parte dei pastori*, in *IE*, 2000, pp. 343 ss.

decree of February 22, 1919³², returning back to the necessary individual confession which had been theologically defined at the Council of Trent³³. In 1939, at the dawn of the Second World War,

³² “Decretum de cessatione quarumdam facultatum quae sacerdotibus durante bello concessae sunt.

Quum atrox bellum, quod plures annos Europam cruentabat, Dei miserentis gratia, finem tandem habuerit, oportet ut, cessante causa; facultates quoque extraordinariae circumscribantur quae sacerdotibus, militaribus copiis addictis, in suum ac militum bonum fuerunt tributae. Ne autem, in re tam gravi, angustiis et ambiguitatibus pateat locus, SSmus D. N. Benedictus PP . XV censuit expedire ut pressius determinetur quatenus ex praedictis facultatibus cessasse dicendae sint. Itaque, de mandato SSnii, declaratur natur a sua finem habuisse facultates ut supra sacerdotibus factas, quae sequuntur:

- 1) absolvendi in quibusdam casibus milites generali formula, seu communi absolutione sine praecedenti confessione;
- 2) absolvendi ab omnibus censuris et casibus reservatis;
- 3) Missam celebrandi in quocumque loco, etiam sub dio, remoto quidem irreverentiae periculo;
- 4) bis in die, etiam una hora post meridiem, et in casibus extraordinariis vel non servato ieiunio, Sacrum peragendi;
- 5) Missas votivas loco propriae a rubricis praescriptae legendi;
- 6) asservandi SSmum Sacramentum in bellicis navibus et in stativis castrorum valetudinariis;
- 7) benedicendi unico crucis signo coronas, cruces, numismata cum applicatione indulgentiarum;
- 8) sese eximendi a recitatione divini officii, ac pariter idem officium in alias pias preces commutandi.

Hisc demptis, reliqua quae attinent ad iurisdictionem Ordinariorum castrensiu, usque dum eorum ministerium subsistat et servetur, sarta tecta que sunt.

Curae tamen ipsorum Ordinarioru Castrensiu erit vigilare ut omnia quae pertinent ad sacrae liturgiae observantiam, praesertim in Missae celebratione, a sacerdotibus sibi adhuc subditis adamussim et ex integro serventur.

Officii pariter omnium Ordinarioru locorum erit curare ut sacerdotes in dioecesi e militia reversi ad pristinam perfectamque sacroru rituum observantiam redeant”, in *AAS*, 1919 (XI), pp. 74 ss. (and [here](#)).

³³ V. P. Erdö, *Il valore teologico del diritto canonico: una questione storica*, in J. Miñambres (a cura di), *Diritto canonico e culture giuridiche nel centenario del Codex Iuris Canonici del*

and with the CIC-17 having been promulgated and in force, Pius XII, with the Apostolic Exhortation *Asperis Commoti*, announced that he was thinking of granting “new and extraordinary faculties to all the Military Ordinariates or Chaplains of the nations or regions in which the state of war or mobilization exists or will exist — without prejudice to the ordinary faculties already granted. These new and extraordinary faculties”, which were phenotyped by the Penitentiary on August 30th, and by the Sacred Consistorial Congregation, on December 8, 1939, in the *Index Facultatum*³⁴, provided for the possibility of general absolution to be further enlarged to englobe entire groups of civilians exposed to cannonades and aerial bombardments³⁵.

These provisions were better defined and specified first by two instructions issued by the Congregation for Sacraments, the first dated April 22, 1940, the second on July 26, and later a

1917. *Atti del XVI Congresso Internazionale della Consociatio internationalis Studio Iuris Canonici Promovendo, Roma 4-7 ottobre 2017*, Roma, 2019, pp. 181 ss.

³⁴ In *AAS*, 1939 (XXXI), pp. 710 ss. (and [here](#)).

³⁵ “14. Imminenti aut commisso praelio: [...]

b) liceat iisdem sacerdotibus absolvere a quibusvis peccatis et censuris quantumvis reservatis et notoriis, generali formula seu communi absolutione, absque praevia orali confessione, sed doloris actu debite emisso, quando sive prae militum multitudine sive prae temporis angustia singuli audiri nequeant, eosque ita absolutos, ad S. Mensam Eucharisticam, per modum Viatici, admittere. Ne omittant vero poenitentes docere absolutionem ita receptam non esse profuturam, nisi rite dispositi fuerint, eisdemque obligationem manere integram confessionem suo tempore peragendi;

c) [...] Quoniam vero occasione belli ipsae civitates, quae liberae seu apertae vocantur, aeréis incursionibus expositae inveniuntur, ne christifideles religionis subsidiis in vitae discrimine destituantur, liceat sacerdotibus, instante mortis periculo durantibus praefatis incursionibus, eosdem a quibusvis peccatis et censuris reservatis et notoriis, etiam formula generali eadem ratione de qua sub n. 14 absolvere, eisdemque impertire Benedictionem Apostolicam cum Indulgentia plenaria de qua supra”

response, dated December 19, 1940, from the Penitentiary to a *Dubium circa absolutionem generali modo impertiendam militibus imminenti aut commisso proelio*³⁶. Towards the end of the war, the *Ut dubia* Instruction, dated March 25, 1944, extended the absolution beyond moments of belligerence³⁷: the points 4 and 5 reaffirmed the duty

³⁶ “In Indice facultatum, quas Ssmus Dominus Noster Pius div. Prov. Pp. XII concessit pro tempore belli, et de quibus in Acta Ap. Sedis, a. 1939, p. 710 et sqq., legitur: «Imminenti aut commisso proelio [...] liceat [...] Sacerdotibus absolvere a quibusvis peccatis et censuris quantumvis reservatis et notoriis, generali formula seu communi absolutione, absque praevia orali confessione, sed doloris actu debite emisso, quando sive prae militum multitudine sive prae temporis angustia singuli audiri nequeant».

Iamvero quaesitum est: Quid faciendum si aliquando circumstantiae tales sint ut praevideatur moraliter impossibile aut valde difficile fore ut milites turmatim absolvi possint ‘imminenti aut commisso proelio’?

Sacra Paenitentaria Apostolica, omnibus mature perpensis, respondendum censuit: In praedictis circumstantiis, iuxta Theologiae moralis principia, licet, statim ac necessarium indicabitur, milites turmatim absolvere. Sacerdotes autem sic absolventes ne omittant paenitentes docere absolutionem ita receptam non esse profuturam, nisi rite dispositi fuerint eisdemque obligationem manere integram confessionem suo tempore peragendi”, in *AAS*, 1942 (XXXII), pp. 571 ss. (and [here](#)).

³⁷ “Circa sacramentalem absolutionem generali modo pluribus impertiendam.

Ut dubia et difficultates removeantur in interpretanda et exsequenda facultate impertiendi in quibusdam rerum adiunctis absolutionem sacramentalem generali formula seu communi absolutione, sine praevia peccatorum confessione a singulis Christifidelibus peracta, Sacra Paenitentaria opportunum ducit haec quae sequuntur declarare atque edicere:

I. Sacerdotes, licet ad confessiones sacramentales excipiendas adprobati non sint, facultate fruuntur absolventi generali modo atque una simul: a) Milites imminenti aut commisso proelio, prout in mortis periculo constitutos, quando, sive prae militum multitudine sive prae temporis angustia, singuli audiri nequeunt. Si tamen rerum adiuncta eiusmodi sint, ut vel moraliter impossibile, vel admodum difficile videatur milites absolvere imminenti aut commisso proelio, tunc licet eos absolvere statim ac necessarium iudicabitur [...] b) Cives et milites instante mortis periculo, durantibus hostilibus incursionibus.

II. Praeter casus in quibus agitur de mortis periculo, non licet sacramentaliter absolvere plures una simul, aut singulos dimidiate tantum

to confess one's mortal sins as soon as possible, however - foreseeing that many of the faithful would not have this concrete possibility - point 5 specifies that the priests, before granting collective absolution, should remind the faithful of their specific

confessos, ratione tantum magni concursus paenitentium, qualis verbi gratia potest contingere in die magnae alicuius festivitatis aut indulgentiae (cfr. Prop. 59 ex damnatis ab Innocentio XI die 2 Martii 1679): licet vero si accedat alia gravis omnino et urgens necessitas, gravitati praecepti divini integritatis confessionis proportionata, verbi gratia si paenitentes — secus nulla sua culpa — diu gratia sacramentali et sacra Communione carere cogantur. Decernere autem si militum aut captivorum aut civium turma in tali necessitate inveniatur, locorum Ordinariis reservatur, ad quos praevis recurrere tenentur Sacerdotes, quoties id possibile sit, ut licite eiusmodi absolutionem impertiant.

III. Absolutiones sacramentales pluribus una simul a Sacerdotibus arbitrio suo impertitae, extra casus de quibus in n. I, vel non obtenta praevis Ordinarii licentia, licet hic adiri potuerit, iuxta dicta in n. II, utpote abusus habendae sunt.

IV. Antequam Sacerdotes sacramentalem absolutionem impertiant, quantum rerum adiuncta permittant, de his quae sequuntur Christifideles commonere debent: a) Necessarium scilicet esse ut se quisque paeniteat admissorum suorum et a peccatis abstinere proponat. - Convenit etiam Sacerdotes opportune monere paenitentes, ut contritionis actum externo aliquo modo ostendant, si possibile sit, verbi gratia suum percutiendo pectus. b) Atque omnino necesse esse ut, qui absolutionem turmatim acceperint, in primo deinceps suscipiendo Paenitentiae Sacramento, gravia singula peccata sua rite confiteantur, quae non antea conf essi fuerint.

V. Sacerdotes aperte fideles doceant eos graviter prohiberi, ne, quamvis sibi conscii sint culpae mortalis, nondum in confessione recte accusatae et remissae, et obligatio integre lethalia peccata confitendi urgeat ex lege sive divina sive ecclesiastica, de industria declinent huic obligationi satisfacere, occasionem exspectantes, qua absolutio turmatim detur.

VI. Meminerint vero locorum Ordinarii ut de hisce normis gravissimoque officio tunc Sacerdotes commonetaeiant cum iisdem facultatis usum permittant — in peculiaribus rerum adiunctis — sacramentalem absolutionem generali formula una simul impertiendi.

VII. Si tempus suppetat, haec absolutio sueta atque integra formula in plurali numero impertienda est; secus vero haec brevior formula adhiberi potest: Ego vos absolvo ab omnibus censuris et peccatis in nomine Patris et Filii et Spiritus Sancti [...].

duty “*occasionem exspectantes*”, i.e., had there been favorable circumstances³⁸. This document is particularly important, in as much as it generalizes collective absolution beyond wartime, allowing it if a group of believers found themselves in emergency circumstances.

After the general reforms launched following the Council – extremely important as regards the main traditional scenario of the ‘ordinary’ confession, namely that of the parish church³⁹–, the reforms, decided therein, led to the document *Sacramentum Poenitentiae* of the Sacred Congregation for the Doctrine of the Faith⁴⁰, which confirmed the possibility of general confession everywhere in the event of grave necessity (no. III) alongside the traditional case of the danger of death (no. II)⁴¹.

³⁸ In *AAS*, 1944 (XXXVI), pp. 155 ss. (and [here](#)).

³⁹ M.G. Belgiorno de Stefano, *La parrocchia prima e dopo il Concilio Vaticano II*, in *AA.VV.*, *Studi in onore di P.A. D’Arack*, I, Milano, 1976, pagg. 206 ss.; F. de Gregorio, *Il Concilio Vaticano II e la libertà religiosa*, in *Coscienza e libertà*, 1991, pp. 91 ss.; J.T. Martín de Agar, *El canon 964 del CIC: sobre el uso del Confesionario*, in *AA.VV.*, *Reconciliación y Penitencia*, Pamplona, 1983, pp. 1011 ss.; O. Condorelli, *‘Dalla penitenza pubblica alla penitenza privata, tra Occidente latino e Oriente bizantino: percorsi e concezioni a confronto’*, in G. Ruysen (a cura di), *La disciplina della penitenza nelle Chiese orientali. Atti del simposio tenuto presso il Pontificio Istituto Orientale, Roma, 3-5 giugno 2011*, Roma, 2013, pp. 29 ss.

⁴⁰ In *AAS*, 1972 (LXIV), pp. 510 ss. (see [here](#) and also [here](#)).

⁴¹ “Praeter casus in quibus agitur de mortis periculo, licet sacramentaliter absolvere una simul plures fideles generice tantum confessos, sed apte ad paenitentiam revocatos si accedat gravis necessitas, nimirum quando, attento paenitentium numero, confessariorum copia praesto non est ad rite audiendas singulorum confessiones intra congruum tempus, ita ut paenitentes-absque sua culpa-gratia sacramentali, vel sacra Communionem diu carere cogantur. Quod evenire potest, praesertim in terris missionum, sed in aliis etiam locis, necnon apud cætus personarum, in quibus illa necessitas constat.

Hoc vero non licet, cum confessarii praesto esse possunt, ratione solius magni concursus paenitentium, qualis verbi gratia potest haberi in magna aliqua festivitate aut peregrinatione?”

The scope of the document was illustrated by Paul VI himself in one of the audiences immediately following its promulgation⁴², recalling the possibility and lawfulness, and at the same time the exceptionality, of the general confession.

Other normative interventions from the Congregation for Divine Worship followed, which, with the decree *De novo Ordine Paenitentiae*, of December 22, 1973⁴³ – with which the new *Rituale Romanum ex decreto Sacrosancti Œcumenici Concilii Vaticani II instauratum auctoritate Pauli PP. VI promulgatum: Ordo Paenitentiae*⁴⁴ was promulgated, which was in turn, openly based on the *Sacrosanctum Concilium* 72⁴⁵ – expressly provides for the “joint celebration of reconciliation with general confession and general absolution”: a case that is possible, but still one with an “exceptional character”⁴⁶, both *in se ipsa*, as well as in the conditions of admissibility, so that it is not up to the individual priest, but only “to the Ordinary, after consulting other members of the Episcopal Conference, to judge whether there are indeed the necessary conditions established by the Apostolic See and specified in the Norm No.3. [Nonetheless the matter is indeed so exceptional that] The Ordinaries were not authorized to change the required conditions, to replace them with other conditions, or to determine the grave necessity according to

⁴² Paolo VI, *Il Sacro Ministero per la riconciliazione nella penitenza, Udienza generale del 19 VII 1972*.

⁴³ In *AAS*, 1974 (LXIV), pp. 172 ss. (and [here](#)).

⁴⁴ *Rituale Romanum: Ordo Paenitentiae, editio typica*, Typis Polyglottis Vaticanis MCMLXXV; *Rituale Romanum: Rito della Penitenza* [Conferenza Episcopale Italiana], Città del Vaticano, 1974.

⁴⁵ In *AAS*, 1964 (LVI), p. 118 (and [here](#)).

⁴⁶ Paolo VI, *La penitenza, sacramento della Risurrezione e della Pace, Udienza generale del 23 marzo 1977*; cfr. J.P. Schouppe, *Convergences et différences entre le droit divin des canonistes et le droit naturel des juristes*, in *IE*, 2000, pp. 29 ss.

their personal criteria, however worthy they might be. The document “*Sacramentum Paenitentiae*” recognized that the norms governing the fundamental discipline of the ministry of reconciliation in the Church are matters of special interest to the universal Church and of regulation by the supreme authority”⁴⁷.

John Paul II took this up once again, stressed and reiterated the emergency character of the general absolution first in his speech of January 30, 1981, to the Penitentiary⁴⁸, and then slightly after the promulgation of the new *Codex*, as well as in the post-synodal exhortation *Reconciliatio et Paenitentia*⁴⁹ and in a speech given

⁴⁷ Paolo VI, *Speech ‘In the name. Ad sacros Praesules districtus Neo-Eboracensis, in Foederatis Americae Septentrionalis Civitatibus’*, in *AAS*, 1978 (LXX), pp. 328 ss. (and [here](#)).

⁴⁸ “La Chiesa di recente, per gravi ragioni pastorali e sotto precise e indispensabili norme, per facilitare il bene supremo della grazia a tante anime, ha esteso l’uso dell’assoluzione collettiva. Ma voglio richiamare la scrupolosa osservanza delle condizioni citate, ribadire che, in caso di peccato mortale, anche dopo la assoluzione collettiva, sussiste l’obbligo di una specifica accusa sacramentale del peccato, e confermare che, in qualsiasi caso, i fedeli hanno diritto alla propria confessione privata”; Giovanni Paolo I, *Speech ‘Ad S. Paenitentiarum Tribunal et Urbis basilicarum paenitentiarum: sacramentalis confessionis necessitas, iure divino introducta, adhuc viget et semper in Ecclesia vigebit’*, January 1st, 1981, in *AAS*, 1981 (LXXIII), pp. 201 ss. (and [here](#)).

⁴⁹ “33. Nel nuovo ordinamento liturgico e, più recentemente, nel nuovo Codice di diritto canonico (*Codex Iuris Canonici*, can. 961-963), si precisano le condizioni che legittimano il ricorso al «rito della riconciliazione di più penitenti con la confessione e l’assoluzione generale». Le norme e gli ordinamenti dati su questo punto, frutto di matura ed equilibrata considerazione, devono essere accolti e applicati evitando ogni tipo di interpretazione arbitraria.

È opportuno riflettere in maniera più approfondita sulle motivazioni, che impongono la celebrazione della penitenza in una delle prime due forme e consentono il ricorso alla terza forma. Vi è, anzitutto, una motivazione di fedeltà alla volontà del Signore Gesù, trasmessa dalla dottrina della Chiesa, e di obbedienza, altresì, alle leggi della Chiesa; il Sinodo ha ribadito in una delle sue «Propositiones» l’immutato insegnamento, che la Chiesa ha attinto alla più antica tradizione, e la legge, con cui essa ha codificato l’antica prassi penitenziale: la

confessione individuale e integra dei peccati con l'assoluzione egualmente individuale costituisce l'unico modo ordinario, con cui il fedele, consapevole di peccato grave, è riconciliato con Dio e con la Chiesa. Da questa riconferma dell'insegnamento della Chiesa risulta chiaramente che ogni peccato grave deve essere sempre dichiarato, con le sue circostanze determinanti, in una confessione individuale.

Vi è, poi, una motivazione di ordine pastorale. Se è vero che, ricorrendo le condizioni richieste dalla disciplina canonica, si può fare uso della terza forma di celebrazione, non si deve però dimenticare che questa non può diventare una forma ordinaria, e che non può e non deve essere adoperata - lo ha ripetuto il Sinodo - se non «in casi di grave necessità», fermo restando l'obbligo di confessare individualmente i peccati gravi prima di ricorrere di nuovo a un'altra assoluzione generale. Il vescovo, pertanto, al quale soltanto spetta, nell'ambito della sua diocesi, di valutare se esistano in concreto le condizioni che la legge canonica stabilisce per l'uso della terza forma, darà questo giudizio con grave onere della sua coscienza, nel pieno rispetto della legge e della prassi della Chiesa, e tenendo conto, altresì, dei criteri e degli orientamenti concordati - sulla base delle considerazioni dottrinali e pastorali sopra esposte - con gli altri membri della conferenza episcopale. Parimenti, sarà sempre un'autentica preoccupazione pastorale a porre e garantire le condizioni che rendono il ricorso alla terza forma capace di dare quei frutti spirituali, per i quali essa è prevista. Né l'uso eccezionale della terza forma di celebrazione dovrà mai condurre ad una minore considerazione, tanto meno all'abbandono, delle forme ordinarie, né a ritenere tale forma come alternativa delle altre due: non è, infatti, lasciato alla libertà dei pastori e dei fedeli di scegliere fra le menzionate forme di celebrazione quella ritenuta più opportuna. Ai pastori rimane l'obbligo di facilitare ai fedeli la pratica della confessione integra e individuale dei peccati, che costituisce per essi non solo un dovere, ma anche un diritto inviolabile e inalienabile, oltre che un bisogno dell'anima. Per i fedeli l'uso della terza forma di celebrazione comporta l'obbligo di attenersi a tutte le norme che ne regolano l'esercizio, compresa quella di non ricorrere di nuovo all'assoluzione generale prima di una regolare confessione integra e individuale dei peccati, che deve essere fatta non appena possibile. Di questa norma e dell'obbligo di osservarla i fedeli devono essere avvertiti e istruiti dal sacerdote prima dell'assoluzione". Giovanni Paolo II, Es. ap. postsin. *'Reconciliatio et poenitentia'*, december 2nd, 1984, in *AAS*, 1985 (LXXVII), pp. 185 ss. (and [here](#)).

at the Congregation for the Sacraments, on April 17th, 1986⁵⁰, in which the Pope complained of some abuses, reaffirming the exceptional nature of the general absolution. He invited the bishops to instruct the faithful so that they would not confuse general absolution and individual confession, the latter remaining necessary “as soon as it was possible”, even after receiving the general absolution for serious sins committed. On this occasion, the Pope also clarified that individual confession was not only an obligation, but also a real right: a reflection of that personal relationship that the good shepherd strives to establish with each sheep of his flock, whom he knows individually, indeed - according to beautiful expression of the Gospel of John – he calls his own sheep by name” (cf. Jn 10, 3). For this reason, he agreed with the necessary clarification, given by the individual Episcopal Conferences, of the cases of “grave necessity” foreseen by the Code of Canon Law [...] for the legitimate recourse to absolution in collective form, and then constantly working to guide the pastoral practice of their Churches in accordance with these directives “(No. 5).

An initial intervention to standardize the provisions of SP with the new Code had immediately taken place, with the decree *Variationes* of the Congregation for Divine Worship and the Sacraments, where it was precisely specified how the liturgical provisions on collective absolution that did not coincide with the canonical norms were abrogated⁵¹.

⁵⁰ Giovanni Paolo II, *Speech 'Ad eos qui plenario coetui Congregationis pro Sacramentis interfuerunt coram admissos'*, in *AAS*, 1986 (78), pp. 1124 ss. (and [here](#)); cfr. S. Mückl, *In der Welt, nicht von der Welt*, in AA.VV., *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*, Berlin, 2017, pp. 115 ss.

⁵¹ In *Notitiae*, 1983, pp. 541 ss. (see [here](#)).

The Pontifical Council for Legislative Texts also intervened on this point in 1996, with a note in which it reiterated that “what is prescribed in Can. 961 concerning the general absolution is of an exceptional nature, and remains subject to the dictate of Canon 18: “leges quae [...] exceptionem a lege continent, strictae subsunt interpretation”; it therefore must be interpreted in a strict manner.

John Paul II, in the previously aforementioned Apostolic Exhortation, expressly underscored the exceptional character by recalling Can. 961: “Immineat periculum mortis”, such that there is no time for the priest or the priests to hear the individual confession (with an explicit reference to the original reasons for the granting of the general absolution in wartime); and “adsit gravis necessitas”: when the number of penitents and the scarcity of priests means that the faithful, through no fault of their own, remain deprived, for a considerable time, of sacramental grace or holy communion. In order for this state of “grave necessity” to occur, two elements must both exist: firstly, that there is a shortage of priests and a large number of penitents; and secondly, that the faithful did not have or do not have the opportunity to confess before or immediately after. In practice, that they do not bear the responsibility, with their neglect, for the current deprivation of the state of grace or the impossibility of receiving holy communion (*sine propria culpa*) and that this state of affairs will predictably continue for a long time (*dii*).

It therefore follows, for example, that the meeting of large masses of faithful does not justify collective absolution in and of itself. Therefore, the same canonical norm specifies that “it is not deemed a sufficient necessity, when the confessors cannot be available, owing to the great presence of penitents in and of itself, which might occur in some major feasts or pilgrimages”.

Canon 961, § 2 establishes that it is up to the diocesan bishop to determine whether in the concrete case, in light of the criteria “agreed upon with the other members of the Episcopal Conference”, the conditions for giving the general absolution have been met. He has, therefore, in concrete cases and in light of the criteria established by the Episcopal Conference, the task of verifying the presence or absence of the conditions established by the Code, but does not have the power to modify, add or remove the conditions already established in the Code and the criteria agreed with the other Members of the Episcopal Conference.

Indeed, John Paul VI of venerable memory, in a speech to the Bishops of the United States, stated: “Ordinaries were not authorized to change the required conditions, to substitute other conditions for those given, or to determine grave necessity according to their personal criteria, however worthy”. John Paul II in the aforementioned Apostolic Exhortation reiterated this grave duty: “Episcopus ergo, cuius solius est, intra fines suae dioecesis, aestimare utrum condiciones reapse habeantur... hoc iudicium faciet graviter onerata conscientia pleneque observata lege et praxi Ecclesiae necnon ratione habita criteriorum et mentium directionis [...], cum ceteris membris Conferentiae Episcopalis convenerit”.

IV. The process of drafting Canon 961 as well, submitted to the Episcopate at the time, highlighted the exceptional nature of reconciliation through general absolution, as can be seen through the study of the documents published in the review *Communicationes*. Emblematic, in this regard, is the transition from an initial formulation that positively provided for the possibility of general absolution, to a formulation which, on the contrary, directly forbids general absolution by foreseeing it only as an exception.

V. The correct application of the rules relating to general absolution also requires compliance with the provisions set forth in the subsequent Canons 962 and 963.

Canon 962, § 1 establishes an additional specific obligation relating to general absolution. In order for the general absolution administered in accordance with canonical criteria to be valid, in addition to the provisions necessary for confession in the ordinary way, it is required that there be the intention of individually confessing all the grave sins that could not be confessed because of the state of grave necessity.

In the Apostolic Exhortation *Reconciliatio et Paenitentia*, after recalling that individual confession is the only ordinary means of reconciliation, [John Paul II] writes: “Ex hac confirmatione Ecclesiae doctrinae consequitur manifesto ut omne peccatum grave semper sit declarandum” in individual confession.

Although Canon 963 does not specifically specify a precise time period within which to make this individual confession, it does however establish clear normative criteria: an individual confession must be made before another possible general confession and must be made “*quam primum*”, i.e. as soon as the exceptional circumstances that had led to the use of collective absolution have ended”⁵².

Pope Wojtyła returned again on the subject with his *Motu Proprio “Misericordia Dei”*, of April 7, 2002, in which he reaffirmed that

“4. In the light of and within the framework of the above norms, the absolution of a number of penitents all together

⁵² Pontificio Consiglio per i Testi Legislativi, *Nota esplicativa dell’8 novembre 1996*, in *Comm.*, 1996, pp. 177 ss. (and [here](#)).

without previous confession, as envisaged by Can. 961 of the Code of Canon Law, is to be correctly understood and administered. Such absolution is in fact “exceptional in character” (18) and “cannot be imparted in a general manner unless:

1° the danger of death is imminent and there is not time for the priest or priests to hear the confessions of the individual penitents;

2° a grave necessity exists, that is, when in light of the number of penitents the number of confessors is insufficient and not readily available to hear the confessions of individuals in an appropriate way within an appropriate time, so that the penitents would be deprived of sacramental grace or Holy Communion for a long time through no fault of their own; it is not considered sufficient necessity if confessors cannot be readily available only because of the great number of penitents, as might occur on the occasion of some great feast or pilgrimage”.

With reference to the case of grave necessity, the following clarification is made:

a) It refers to situations which are objectively exceptional, such as those which might occur in mission territories or in isolated communities of the faithful, where the priest can visit only once or very few times a year, or when war or weather conditions or similar factors permit.

b) The two conditions set down in the Canon to determine grave necessity are inseparable. Therefore, it is never just a question of whether individuals can have their confession heard “in an appropriate way” and “within an appropriate time” because of the shortage of priests; this must be combined with the fact that penitents would otherwise be forced to remain deprived of sacramental grace “for a long time”, through no fault of their own.

Therefore, the overall circumstances of the penitents and of the Diocese must be taken into account, in what refers to its pastoral organization and the possibility of the faithful having access to the Sacrament of Penance.

c) The first condition, the impossibility of hearing confessions “in an appropriate way” “within an appropriate time”, refers only to the time reasonably required for administering a valid and worthy celebration of the Sacrament. It is not a question here of a more extended pastoral conversation, which can be left to more favourable circumstances. The reasonable and appropriate time within which confessions can be heard will depend upon the real possibilities of the confessor or confessors, and of the penitents themselves.

d) The second condition calls for a prudential judgement in order to assess how long penitents can be deprived of sacramental grace for there to be a true impossibility as described in Can. 960, presuming that there is no imminent danger of death. Such a judgement is not prudential if it distorts the sense of physical or moral impossibility, as would be the case, for example, if it were thought that a period of less than a month would mean remaining “for a long time” in such a state of privation.

e) It is not acceptable to contrive or to allow the contrivance of situations of apparent *grave necessity*, resulting from not administering the Sacrament in the ordinary way through a failure to implement the above mentioned norms, (20) and still less because of penitents’ preference for general absolution, as if this were a normal option equivalent to the two ordinary forms set out in the Ritual.

f) The large number of penitents gathered on the occasion of a great feast or pilgrimage, or for reasons of tourism or because of

today's increased mobility of people, does not in itself constitute sufficient necessity.

5. Judgement as to whether there exist the conditions required by Can. 961 §1, 2 is not a matter for the confessor but for "the diocesan Bishop who can determine cases of such a necessity in light of criteria agreed upon with other members of the Episcopal Conference" (21) These pastoral criteria must embody the pursuit of total fidelity, in the circumstances of their respective territories, to the fundamental criteria found in the universal discipline of the Church, which are themselves based upon the requirements deriving from the Sacrament of Penance itself as a divine institution.

6. Given the fundamental importance of full harmony among the Bishops' Conferences of the world in a matter so essential to the life of the Church, the various Conferences, observing Can. 455 § 2 of the Code of Canon Law, shall send as soon as possible the text of the norms which they intend to issue or update in the light of this *Motu Proprio* on the application of Can. 961 to the Congregation for Divine Worship and the Discipline of the Sacraments. This will help to foster an ever-greater communion among the Bishops of the Church as they encourage the faithful everywhere to draw abundantly from the fountains of divine mercy which flow unceasingly in the Sacrament of Reconciliation.

In this perspective of communion, it will also be appropriate for Diocesan Bishops to inform their respective Bishops' Conferences whether or not cases of *grave necessity* have occurred in their jurisdictions. It will then be the task of each Conference to inform the above-mentioned Congregation about the real situation in their regions and about any changes subsequently taking place.

7. As regards the personal dispositions of penitents, it should be reiterated that:

a) “In order for a worshiper to validly avail himself or herself of the sacramental absolution simultaneously given to many persons at one time, it is required that that not only he or she be suitably disposed, but also at the same time he or she intends to confess the serious sins, which at the present moment in time cannot be confessed”.

b) As far as possible, including cases of imminent danger of death, there should be a preliminary exhortation to the faithful “that each person shall take care to make an act of contrition”.

c) It is clear that penitents living in a habitual state of serious sin and who do not intend to change their situation cannot validly receive absolution.

8. Without prejudice to the obligation “to confess one’s serious sins at least once a year”, “a worshiper to whom serious sins are remitted by means of general absolution, should approach individual confession as soon as soon as there is an opportunity to do so, before receiving another general absolution, unless a just cause intervenes⁵³.

In conclusion, therefore, we would like to point out some of the most important differences between the current and previous law governing the granting of collective absolution; moreover, the evolution of the law has gone in the direction of not increasing, as some might have wished, but of reducing the possibility of absolution of many penitents at the same time without their previous individual confession:

⁵³ Giovanni Paolo II, *M.P. Misericordia Dei*, april 7th, 2002, in *AAS*, 2002 (94), pp. 452 ss. (and [here](#)).

I) it is currently only up to the Diocesan Ordinary, and no longer to the individual priest, as established in *Sacramentum Paenitentiae*, No. 5, to judge whether there is a grave necessity pursuant to Can. 961 § 1 no. 2, or conditions that allow collective absolution, although the penitents are not in danger of death;

II) the Diocesan Ordinary can no longer limit himself to consultations with neighboring bishops on the existence of the preconditions for collective absolution, as required by SP no. 5 (“after discussing it with other members of the Episcopal Conference”), but collegial decisions must be taken, pursuant to Can 961 § 2 (“taking into account the criteria agreed with the other members of the Episcopal Conference”).

We live today in a pluralistic world, and this pluralism also affects the life of the Church in an ever-increasing way: in the context of the Sacrament of Confession, more and more in recent decades, but as indeed already in previous centuries, the Church has shown that it knows how to adapt : when the going got tough, the Church has been able to continue playing, that is when a changed background scenario has required it to do so, the Church has been able to foresee and authorize even new ways to manage its economy of salvation: it has the power to give mankind the sacrament of salvation in various forms (Can. 960)⁵⁴, and the history of the Sacrament of Confession shows how it has been closely linked to the historical situation: therefore the Church, in each historical phase, can and will be able to establish how the sacramental salvation of men can be transmitted⁵⁵.

⁵⁴ V. CCC nn. 553 and 979 ([here](#)).

⁵⁵ A. Riccardi, *Il futuro del cristianesimo*, in AA.VV., *I cattolici e le chiese cristiane durante il pontificato di Giovanni Paolo II*, Cinisello Balsamo, 2006, pp. 11 ss.; J.I. Arrieta, *The Internal Forum: Notions and Juridical Regime*, in *SC-RCDC*, 2007, p. 27 ss.

History also shows the dynamic side of the Church, which has always tried to offer men, in whatever situation or danger they might find, the possibility of obtaining forgiveness of sins and Salvation⁵⁶.

The initial multiplicity of the forms of confession, theorized by the Shepard of Hermas, by Hugh of Saint Victor, Urban III, Gregory VII, Saint Leo IX, Peter Lombard, Simon of Tournai, was then simplified, starting from the thirteenth century, to one only: the Lateran Council IV, of 1215, annually fixed Confession and Communion at least at Easter⁵⁷; the Council of Trent, convened to respond to Luther and his ideas⁵⁸, established that the forgiveness of sins was divided into three phases: contrition, confession and forgiveness, and that the absolution by the priest was a judicial act⁵⁹, and, on the basis of the principle that the full confession of sins by the baptized was necessary by divine law⁶⁰, for the following centuries the Church regulated the form of the Sacrament of Confession, up to the reforms that we saw at the turn of the First World War and the codification of the CIC-17, to the reflections and general reconsiderations of Vatican Council II, to the codification in force, demonstrating – once more – that the

⁵⁶ V. M. d'Arienzo, *Diritto canonico e storia. I paradossi interpretativi tra tradizione e innovazione*, in *DeR*, 2018, pp. 69 ss.

⁵⁷ H. Denzinger, *Enchiridion Symbolorum*, Freiburg i.Br – Basel – Wien, 2017, 812 ss.; v. F. Marti, *Il favor fidei nello ius novum. Analisi delle fonti normative*, in *IE*, 2014, pp. 359 ss.

⁵⁸ V. M. d'Arienzo, *Il contributo del pensiero riformato del XVI secolo all'ermeneutica della laicità*, in *AGFS*, 2018, pp. 697 ss.; A. Melloni, *Il caso e la cosa. Lutero nella storiografia italiana del Novecento*, in *CnS*, 2016, pp. 613 ss.

⁵⁹ H. Denzinger, *Enchiridion Symbolorum, cit.*, 1676 ss.

⁶⁰ *Ivi*, 1679.

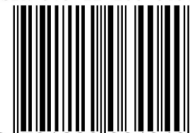
canonical norms – and, more generally, confessional, they change in terms of function: *salus animarum suprema lex*⁶¹.

⁶¹ P.L. Consorti, *Contributo metodologico alla comparazione dei diritti religiosi: il valore dei formanti*, in *DeR*, 2015, pp. 255 ss.

As scholars engaged in the study of the legal regulation of the religious phenomenon, we decided to create a web space to collect documents, comments and other useful materials related to the Covid-19 emergency, in order to assess the outcomes of the normative decisions made by state and religious authorities. So, on March 8th we have created www.diresom.net. By the end of April, we had already published more than 500 documents and comments related to this issue, and more than 20.000 unique visitors had surfed our website. Therefore, we decide to edit an open source book to share in a more orderly way the comments that we have already published online, thus giving the possibility to consult these first guidelines to all those who want to study or analyze the legal reaction, both state and religious, to this pandemic.

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