

To His Eminence Dominique François Joseph Cardinal Mamberti
Prefect of the Signatura.

Palazzo della Cancelleria,
Piazza della Cancelleria 1,
00186 Roma,

27.04.2015

Re: We desire to appeal the rejection by PCED (Protocol # 121/2006)

Your Eminence,

We are writing at this time to bring to your attention our letter of 07.07.2014 which was sent to your predecessor as Prefect of the Signatura, His Eminence Cardinal Burke, to which we have yet to receive a response.

We understand that much has happened in the interim since that the letter was sent, including the summer holydays period, the Extraordinary Synod of Bishops, the reassignment of both Cardinal Burke and Your Eminence, the holy days of Advent, Christmas as well as the Holy Week and Eastern. Because we also understand how these events very well could have caused our letter to escape the attention of the Signatura, we enclose the original letter with this in an attachment for your convenience.

With our heartfelt gratitude for your consideration in this matter, and in hope of your assistance in response, we offer the assurance of our filial support and prayers for your work, for His Holiness, and with hope for a speedy and just resolution of the matter addressed. We ask for the kindness of your blessing.

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Also in the name of:

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Schwindgasse 16/4
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To His Eminence Raymond Cardinal Burke
Prefect of the Signatura.
Palazzo della Cancelleria,
Piazza della Cancelleria 1,
00186 Roma,

07.07.2014

re: appeal to the rejection by PCED (Protocol # 121/2006)

Your Eminence,

In accordance with Canon Law [specifically Can. 208-223, especially Can. 212 § 2 Can 213 and Can. 214], we are writing to you because of and in appeal to the rejection by PCED (You will find attached this rejection, Protocol # 121/2006) to ensure that every religious and/or community of the Institute of the Franciscan Friars of the Immaculate that requests the necessary explicit authorization to celebrate the liturgy according to the Extraordinary Form be granted such permission, after it has become clearly evident that the Apostolic Commissioner has refused to give such permission.

The PCED based its decision on the consideration that the decree by the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life (CICL), protocol # 52741/2012, has been confirmed by the Holy Father. Having been so confirmed, they hold that no recourse to this decree is possible.

We here request that Your Eminence intervene in this matter in accordance to the addition by His Holiness, which certainly is also a part of the decree, "... *that, in the event the use of the Extraordinary Form (Vetus Ordo) must be explicitly authorized by the competent authorities, for every religious and/or community that requests it.*" When permission is sought, it should be assumed that permission will not be denied, as has been the case to this point. We are very concerned that this part of the requirements, added by the Holy Father, is being ignored and will become a dead issue because of the argument used by the PCED in rejecting our brief. According to the motu proprio *Summorum Pontificum* the PCED itself is the first external authority in matters such as this, and therefore has authority to act in this matter.

The request for permission celebrating the Extraordinary Form of the Mass should certainly be granted not solely, but especially to those priests who have in the past offered, or who are requested to and/or desire to offer the Extraordinary Form of the Mass for the laity, in order that they may be able to meet the rightful aspirations of the faithful entrusted to their care. (cf. Can. 214; *Summorum Pontificum*, Art. 5 § 1 and Art. 7) Numerous Masses throughout the world which were offered by priests of the FFI have had to be cancelled since the restrictions on them have been imposed.

Your Eminence, we would be grateful if you would please consider the following:

The decree (Protocol # 52741/2012) published by the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life can be distinguished by two parts:

The first part concerns the decisions by the CICL founded on the conclusions drawn in the report of the Apostolic Visitor of the Franciscan Friars of the Immaculate, Mgr. Todisco OFM Cap. These decisions as formulated have been confirmed by His Holiness Pope Francis. Evidently none of these decisions concern the Liturgy.

The second part of this decree is not a decision by the CICL, but has been added to the decree by His holiness Pope Francis himself. We wish to point out that the addition *does* concern the Liturgy, as follows:

- a) While obliging the friars to celebrate the Mass by the Ordinary Form of the Roman Rite, he (Pope Francis) also decided that
- b) “...*the use of the Extraordinary Form must be explicitly authorized by the competent authorities for every religious and/or community that requests it.*”

As we have underlined, His Holiness Pope Francis is using here the plural form “competent authorities”, which indicates that more than one authority has been stated to have that competency, and it does not solely rest in the hands of the internal authority of the Apostolic Commissioner.

His Holiness Pope Francis did not set out any specific restrictions or conditions for the granting of such permission to the individual religious or communities of the Franciscan Friars. Neither did His Holiness Pope Francis explicitly suspend the authority of the motu proprio *Summorum Pontificum*. Following the Apostolic Commissioner as the appointed internal authority, according to the motu proprio the PCED is the first external authority with competence in this area. Therefore, if the Apostolic Commissioner refuses to give the explicit authorization, the Friars have the right to seek permission from PCED. We understand that PCED has not been responding to these requests for assistance.

We understand that the requirement for explicit permission added to the decree of the CICL by our Holy Father is in response to the complaint by a small number of friars that they would be forced to celebrate the Mass according to the Extraordinary Form. All would be/are free to celebrate the Form of their choosing, albeit at this time with special permission for the Extraordinary Form. Recognition and acceptance of this being the case would lead to a final and peaceful resolution that is in harmony with the motu proprio *Summorum Pontificum*.

Rather than coming to this peaceful resolution, by his refusal to give the required authorization to the friars requesting it, the Apostolic Commissioner has created a situation in which the great majority of the friars are liturgically persecuted and constrained because of a very small number of the institute’s members. It also appears that contrary to the given responsibilities of the Apostolic Commissioner to bring peace, to protect and to promote the internal unity of this religious institute and its fraternal communication, the opposite has in reality been brought about.

Here we believe it to be necessary to underline that the liturgy is not a matter of the decree of the CICL as confirmed by the Holy Father, but is rather a direct initiative from him, in which he did *not* set any specific restrictions/conditions for the granting of the explicitly authorized permissions. Neither the Apostolic Commissioner, the CICL nor the PCED can claim any formal argument, based on this decree, to refuse any or even all of such permission to any of the friars.

According the report of the audience of the Franciscan Friars of the Immaculate with His Holiness Pope Francis on 10th of June 2014 by Andrea Tornielli in La Stampa on 23rd June 2014 the Holy Father confirms the above given point of view. The Holy Father said he “did not want to deviate from the line of Benedict XVI, and reiterated that the Franciscan Friars of the Immaculate remained free to celebrate the old mass, even if for the moment, in light of the controversies surrounding the exclusive right to use that missal – an element that did not constitute part of the founding charisma of the institution – they required “a discernment” with the superior and with the bishop if it concerned celebrations in parish churches, sanctuaries and teaching houses. The Pope explained that there must be freedom, both for those who wish to celebrate with the old rite, and those who wish to celebrate with the new rite, without the rite becoming an ideological banner.”

Commenting on that last point, using the rite as ideological banner it is certainly possible that both sides could potentially be doing so. However looking at the fact that the Friars were celebrating the

liturgy by both, the new and the traditional rites and now in obedience are celebrating it in the new rite only proves that the Friars do not use the rite as an ideological banner. We have to conclude that the Apostolic Commissioner, Father Volpi seems to be using the rite as an ideological banner, because he has refused for at least 10 to 12 months, almost all requests for a permission to celebrate the liturgy in the traditional rite, which runs counter to the decision and applied mandate added by His Holiness Pope Francis,

Finally, by this letter we express our strongest concern about the following, which is also a concern of this appeal:

During the meeting which Mrs. Monika Rheinschmitt and Mr. Jack P. Oostveen had in the first week of February, 2014 at the Pontifical Commission Ecclesia Dei, Article 3 of the motu proprio *Summorum Pontificum* was denied by Mgr. Pozzo, secretary of the PCED. This article regards all religious groups founded under the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life, which is the case of the Franciscans of the Immaculate. It was stated at this meeting that all groups such as this were founded as “*Novus Ordo groups*”, and therefore the Congregation for the Institutes of Consecrated Life and Societies of Apostolic Life has the right and even the duty to defend them against moving towards use of the *Vetus Ordo*. We argue here that merely because the *Vetus Ordo* was not directly mentioned in the formation of this institute does not preclude the friars’ right to include the use of an accepted form of the Mass in the Roman Rite of Holy Mother Church in their liturgical life, if they so desire. This right is specifically guaranteed and permitted under Article 3 of the motu proprio *Summorum Pontificum*.

About this last point we have received information that the PCED has refused in November 2013 a request by a large number of the Franciscan Friars of the Immaculate to establish a new religious group under the PCED.

With our heartfelt gratitude for your consideration and hope for you help regarding this matter, we offer the assurance of our filial support and prayers for your work, for His Holiness, and in hope of a speedy and just resolution of the present matter. We ask for the kindness of your blessing.



Ecclesia Dei Delft,
Mr. Jack P. Oostveen



Vancouver Traditional Mass Society/ Una Voce Canada,
Mr. David Reid



Ecclesia Dei Society of New Zealand,
Mrs. Diane Taylor



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PONTIFICIA COMMISSIO
« ECCLESIA DEI »

20 May 2014

Prot. N. 121/2006

Dear Mr Oostveen,

This Pontifical Commission is in receipt of your letter of 14 April 2014, co-signed by the respective representatives of Una Voce Canada, the Ecclesia Dei Society of New Zealand, and Una Voce Austria, containing a recourse against measures taken by the Apostolic Commissioner of the Franciscan Friars of the Immaculate in relation to the celebration of the Extraordinary Form of the Mass.

Please be advised that such measures have been specifically confirmed by the Holy Father (cf. Can. 1405, §2 of the Code of Canon Law).

With prayerful best wishes and kind regards, we remain

Yours sincerely in Christ,

The Secretariat



- CC: 1. Ms Diane Taylor, Ecclesia Dei Society New Zealand
2. Mr David Reid, Una Voce Canada
3. Mr Benedikt Hensellek, Una Voce Austria

Mr Jack P. Oostveen

Ecclesia Dei Delft
A. van Schendelplein 135
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THE NETHERLANDS

Archbishop Guido Pozzo
Secretary of the Pontifical Commission Ecclesia Dei
Plazzo della Congr. per la Dottrina della Fede
Piazza del S. Uffizio, 11
00193 Roma
Italy

11th of April, 2014

Your Excellency,

We are writing to you on behalf of four organizations:

1. Ecclesia Dei Delft
2. Ecclesia Dei Society of New Zealand
3. Una Voce Austria
4. Vancouver Traditional Mass Society/Una Voce Canada

This legal brief is submitted in order to fulfill the duties which we owe to the universal Church and the particular church to which we belong, according to the precepts of the law. We are aware that the Christian faithful are free to make known to the pastors of the Church their needs, especially spiritual ones, and their desires.

Also we are aware that we have not only the right, but also the duty to manifest to the sacred pastors our opinion on matters which pertain to the good of the Church and to make our opinion known to the rest of the Christian faithful, without prejudice to the integrity of faith and morals, with reverence toward our pastors, whilst being attentive to common advantage and the dignity of persons.

The purpose of this brief is to address the actions taken by Fr. Volpi, Apostolic Commissioner appointed for the priests of the Franciscan Friars of the Immaculate, through the use of both Canon Law in our right to protest, and the law as stated in Pope Benedict XVI's Motu Proprio *Summorum Pontificum*. We believe these actions are both ultra vires and prohibited under the motu proprio and the instruction *Universae Ecclesiae*.

We understand that all members of the congregation of the Franciscan Friars of the Immaculate are now required to offer Holy Mass in exclusively the Ordinary Form. Should an occasion arise when celebration in the Extraordinary Form (*Vetus Ordo*) is desired, permission must be explicitly authorized by the competent authorities, for every religious and/or community that makes the request.

We present this brief on behalf of our organizations and all those represented by them, and also on behalf of many of the faithful who have been unjustly deprived of the ability to worship according to their chosen form of the Roman Rite.

This brief is presented in accordance with the canons quoted below:

The Obligation and Rights of all the Christian Faithful

(Book II, Part I, Title I, Can. 208 - 223)

Can. 212 §3. According to the knowledge, competence, and prestige which they possess, they have the right and even at times the duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the Christian faithful, without prejudice to the integrity of faith and morals, with reverence toward their pastors, and attentive to common advantage and the dignity of persons.

Can. 213 The Christian faithful have the right to receive assistance from the sacred pastors out of the spiritual goods of the Church, especially the word of God and the sacraments.

Can. 214 The Christian faithful have the right to worship God according to the prescripts of their own rite approved by the legitimate pastors of the Church and to follow their own form of spiritual life so long as it is consonant with the doctrine of the Church.

In this brief being presented to PCED according to the provisions of both *Universae Ecclesiae* and *Summorum Pontificum*, we feel obligated to emphasize the following:

Universae Ecclesiae,

II. The Responsibilities of the Pontifical Commission *Ecclesia Dei*

9. The Sovereign Pontiff has conferred upon the Pontifical Commission *Ecclesia Dei* ordinary vicarious power for the matters within its competence, in a particular way for monitoring the observance and application of the provisions of the Motu Proprio *Summorum Pontificum* (cf. art. 12).

10. § 1. The Pontifical Commission exercises this power, beyond the faculties previously granted by Pope John Paul II and confirmed by Pope Benedict XVI (cf. Motu Proprio *Summorum Pontificum*, artt. 11-12), also by means of the power to decide upon recourses legitimately sent to it, as hierarchical Superior, against any possible singular administrative provision of an Ordinary which appears to be contrary to the Motu Proprio.

§ 2. The decrees by which the Pontifical Commission decides recourses may be challenged *ad normam iuris* before the Supreme Tribunal of the Apostolic Signatura.

Comment:

1) We note that Article 10. §1 of the instruction has empowered the Pontifical Commission *Ecclesia Dei* to exercise an administrative tribunal's role and decide canonical lawsuits filed before it.

2) We point out that with the Motu Proprio *Summorum Pontificum*, the Holy Father Pope Benedict XVI promulgated a universal law for the Church, intended to establish new regulations for the use of the Roman Liturgy in effect in 1962.

We also refer to the following articles from *Universae Ecclesiae* as being relevant to our legal brief:

I. Introduction

This Motu Proprio was accompanied by a letter from the Holy Father to the Bishops, of the same date, i.e. 7 July 2007. Among the statements made by the Holy Father was the following:

7. “*There is no contradiction between the two editions of the Roman Missal. In the history of the Liturgy growth and progress are found, but not a rupture. What was sacred for prior generations, remains sacred and great for us as well, and cannot be suddenly prohibited altogether or even judged harmful.*”[2]

III. Specific Norms

The Competence of Diocesan Bishops

13. Diocesan Bishops, according to Canon Law, are to monitor liturgical matters in order to guarantee the common good and to ensure that everything is proceeding in peace and serenity in their Dioceses[5], always in agreement with the mens of the Holy Father clearly expressed by the Motu Proprio *Summorum Pontificum*. [6]

Comment:

We contend that neither Bishops nor anyone else can issue administrative provisions which directly contradict the Motu Proprio.

Specifically we quote the following:

***Summorum Pontificum*, Art. 2.** In Masses celebrated without a congregation, any Catholic priest of the Latin rite, whether secular or regular, may use either the Roman Missal published in 1962 by Blessed Pope John XXII or the Roman Missal promulgated in 1970 by Pope Paul VI, and may do so on any day, with the exception of the Easter Triduum. For such a celebration with either Missal, the priest needs no permission from the Apostolic See or from his own Ordinary.

***Summorum Pontificum*, Art. 3** If communities of Institutes of Consecrated Life and Societies of Apostolic Life, whether of pontifical or diocesan right, wish to celebrate the conventual or community Mass in their own oratories according to the 1962 edition of the Roman Missal, they are permitted to do so. If an individual community or an entire Institute or Society wishes to have such celebrations frequently, habitually or permanently, the matter is to be decided by the Major Superiors according to the norm of law and their particular laws and statutes.

***Universae Ecclesiae* Art. 23.** The faculty to celebrate sine populo (or with the participation of only one minister) in the forma extraordinaria of the Roman Rite is given by the Motu Proprio to all priests, whether secular or religious (cf. Motu Proprio *Summorum Pontificum*, art. 2). For such celebrations therefore, priests, by provision of the Motu Proprio *Summorum Pontificum*, do not require any special permission from their Ordinaries or superiors.

Comment:

As the Motu Proprio clearly specifies that all priests, whether diocesan or religious, can celebrate the Forma Extraordinaria of the Roman Rite in their private Masses, and they do not require any special permission from their Ordinaries or superiors, we believe actions forbidding same must be illegitimate.

We respectfully request that the PCED:

1. Issue instructions to rescind the directive restricting FFI priests to say the Ordinary Form of the Mass in private Masses contrary to their rights as specified in *Summorum Pontificum* and
2. Permit those priests who have offered or who are requested or desire to offer the Extraordinary Form of the Mass for the laity to return to freely doing so in order to ensure that the rights of priests guaranteed under the Motu Proprio *Summorum Pontificum* be upheld, thereby also enabling them to fulfill the obligations due to the faithful in their care.

Also we need to point out, as previously stated, in the Motu Proprio *Summorum Pontificum* Article 3, this right of priests to celebrate in the EF is granted to ALL priests worldwide, the right is not bound to any form of community they are members of - i.e. it doesn't matter if a specific priest belongs to the diocesan clergy, or to a fraternity whose members celebrate in the EF since its foundation, or to an order that developed even over time, to regularly offer Holy Mass according to both equally accepted forms.

In closing, we wish to make two final references to statements published by the FFI:

1) Concerning the introduction of the Vetus Ordo into the life of the FFI:

- <<Fr. Stefano Manelli, as Minister General, together with his General Council, legitimately undertook an effort to promote the Vetus Ordo, respecting the Motu Proprio *Summorum Pontificum* (2007), respecting the decisions of our General Chapter of 2008, and respecting the Instruction *Universae Ecclesiae* (2011).
With a letter, Prot. 77/2011, dated 21 Nov 2011, our General Secretary, in the name of our General Council, sent all the F.F.I. Marian Houses (Friaries) some indicative (not preceptive!) norms regarding the use of the Vetus Ordo and the harmony between the Vetus Ordo and the Novus Ordo in our Communities and our Institute.
After this letter, various communities peacefully continued to give pride of place to the Vetus or the Novus Ordo. So there was no imposition on the part of Fr. Manelli.>>

2) In a Rescript dated 14 April, 2012 emanating from PCED itself, about which the Franciscan Friars testified in an official statement on 3rd August 2013 by responding to an article in "Inside the Vatican" of 2nd August:

- <<.... Therefore, we consulted the Pontifical Commission *Ecclesia Dei*, which with a Rescript of 14 Apr 2012, Prot. 39/2011L, found conformity between this letter (Prot. 77/2011) and the "mens" of Holy Father Benedict XVI, expressed in the already-mentioned Instruction *Universae Ecclesiae*, n° 8a.>>

With our heartfelt gratitude for your help in the past in related matters, our assurances for our filial support and prayers for you work, for His Holiness, and in hope of a speedy and just resolution of the present matter, we ask the kindness of your blessing.



*Ecclesia Dei Delft,
Mr. Jack Oostveen*



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