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Reform in Action

The Application of *Mitis Iudex Dominus Iesus* at the Archdiocese of Malta

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Abstract: *In 2015, Pope Francis introduced significant reforms to the Catholic Church's marriage nullity process through *Mitis Iudex Dominus Iesus* (MIDI), aiming to simplify procedures, reduce costs, and improve accessibility while maintaining the Church's commitment to the indissolubility of marriage. Key innovations included the elimination of the requirement for two concurring judgments and the introduction of a briefer process for clear-cut cases. In the Archdiocese of Malta, these reforms significantly reduced case resolution times, with approximately 6% of cases processed through the briefer process between 2016 and 2023. This article provides an overview of MIDI's objectives and key reforms, focusing on their practical implementation within the Archdiocese of Malta during this period.*

Zusammenfassung: *Im Jahr 2015 führte Papst Franziskus durch *Mitis Iudex Dominus Iesus* (MIDI) bedeutende Reformen im Ehenichtigkeitsverfahren der katholischen Kirche ein, mit dem Ziel, die Verfahren zu vereinfachen, Kosten zu senken und den Zugang zu verbessern, während gleichzeitig das kirchliche Bekenntnis zur Unauflöslichkeit der Ehe gewahrt blieb. Zu den wichtigsten Neuerungen gehörten die Abschaffung der Notwendigkeit von zwei übereinstimmenden Urteilen und die Einführung eines verkürzten Verfahrens für eindeutige Fälle. Im Erzbistum Malta führten diese Reformen zu einer signifikanten Verkürzung der Verfahrensdauer, wobei etwa 6 % der Fälle zwischen 2016 und 2023 im verkürzten Verfahren bearbeitet wurden. Dieser Artikel bietet einen Überblick über die Ziele und wesentlichen Reformen von MIDI und konzentriert sich auf deren praktische Umsetzung im Erzbistum Malta in diesem Zeitraum.*

Keywords: Marriage nullity, Canonical reforms, *Mitis Iudex Dominus Iesus* (MIDI), Pope Francis, Briefer process, Archdiocese of Malta

Schlagworte: Ehenichtigkeit, Kanonische Reformen, *Mitis Iudex Dominus Iesus* (MIDI), Papst Franziskus, Kürzeres Verfahren, Erzdiozese Malta

Introduction

On 15 August 2015, Pope Francis promulgated the apostolic letter *Mitis Iudex Dominus Iesus* (MIDI), introducing substantial reforms to the judicial processes of the Latin Catholic Church concerning marriage nullity.¹ The *motu proprio* was published on 8 September 2015,

¹ See: Francis, apostolic letter *Mitis Iudex Dominus Iesus* from 15 August 2015, in: AAS 107 (2015), p. 958-970; eng. VATICAN. URL: https://t1p.de/Mitis_iudex_dominus_iesus [last view 12.09.2024]. Here after referred to as MIDI.

alongside another apostolic letter addressing nullity procedures within the Eastern Catholic Churches.² Both documents became effective on 8 December 2015. This study begins by offering general remarks on MIDI and then proceeds to outline its key innovations, examining their reception and application within the Archdiocese of Malta from 2016 through 2023.

Some general remarks on MIDI

MIDI was Pope Francis' direct response to the *Instrumentum Laboris* and the *Relatio Synodi* of the Third Extraordinary General Assembly of the 2014 Synod of Bishops on the family. The *Instrumentum Laboris*, published in June 2014, highlighted numerous calls from around the world for a more simplified and expedited marriage nullity process, reduced financial costs, increased involvement of laypersons as ecclesiastical judges, and greater authority for local bishops. There were also suggestions to reconsider the requirement for two confirming judgments, particularly when no appeal is made, and to decentralise the third instance.³ During the Synodal Assembly held at the Vatican from 5 to 19 October 2014, participants heeded these calls and examined the difficulties the faithful encountered when approaching church tribunals for marriage nullity cases. The *Relatio Synodi*, published right after the conclusion of the Assembly, documented the perspectives of numerous synod fathers who underscored the need for a nullity procedure that is more streamlined and accessible, less time-consuming, and, where possible, free of charge. Among the proposals were eliminating the necessity of two confirming judgments, establishing an administrative process under the diocesan bishop's jurisdiction, and introducing a simplified process for cases where nullity is evident.⁴

In response to these concerns, Pope Francis established the Pontifical Commission for the Study of the Reform of Matrimonial Processes in Canon Law.⁵ This commission, chaired by the then-Dean of the Roman Rota, was tasked with developing a proposal to reform the marriage

² See: Francis, apostolic letter *Mitis et Misericors Iesus* from 15 August 2015, in: AAS 107 (2015), p. 946-957.

³ See: III Extraordinary General Assembly of the Synod of Bishops, *Instrumentum Laboris* from 24 June 2014, n. 100. URL: https://t1p.de/Instrumentum_laboris [last view 12.09.2024].

⁴ See: III Extraordinary General Assembly of the Synod of Bishops, *Relatio Synodi* from 18 October 2014, n. 48. URL: https://t1p.de/Relatio_Synodi [last view 12.09.2024].

⁵ See: *Per la Riforma del Processo Matrimoniale Canonico*, in: *L'Osservatore Romano* from 21 September 2014. See also: DANEELS, Frans, *A First Approach to the Reform of the Process for the Declaration of Nullity of Marriage*, in: *The Jurist* 76,1 (2016), p. 115-136; here p. 118.

nullity process “with due regard for the need to protect the principle of the indissolubility of the marital bond.”⁶ Based on the Commission’s recommendations, the Pope promulgated MIDI, which amended canons 1671-1691 of the Code of Canon Law and featured 21 articles outlining Procedural Rules (PR) that are “necessary for the proper and accurate implementation of this new law.”⁷

The promulgation of MIDI represented a significant development in the “ongoing aggiornamento of the Church’s legal corpus in response to changing theological-pastoral exigencies.”⁸ This reform was not an isolated event but rather part of a broader historical continuum of canonical adjustments addressing marriage nullity procedures. Key milestones in this tradition include Pope Benedict XIV’s apostolic constitution *Dei Miseratione* of 1741,⁹ the 1917 promulgation of the *Codex Iuris Canonici*,¹⁰ the 1936 instruction *Provida Mater* issued by the Sacred Congregation for the Discipline of the Sacraments,¹¹ Pope Paul VI’s apostolic letter *Causas Matrimoniales* of 1971,¹² the 1983 promulgation of the revised Code of Canon Law,¹³ and the 2005 instruction *Dignitas Connubii* (DC) issued by the Pontifical Council for Legislative Texts.¹⁴ With the promulgation of MIDI, the Legislator confirmed that “[o]nly through such regular rethinking and reformulating of our legal institutes will Church law be able to be a vital force in serving the Church’s salvific mission.”¹⁵

⁶ MIDI, Preamble.

⁷ MIDI, Conclusion. See also: Pontifical Council for Legislative Texts, Letter on Two Questions about the Procedural Rules and Canon 1676 of *Mitis Iudex Dominus Iesus*: Prot. No. 15363/2016 from 8 April 2016. URL: https://t1p.de/pontifical_council_for_legislative_texts [last view 12.09.2024].

⁸ GREEN, Thomas, The Revision of Canon Law: Theological Implications, in: *Theological Studies* 40,4 (1979), p. 593-679; here p. 679. MIDI hints at this ongoing development in the Preamble: “Through the centuries, the Church ... developed a system of nullities of matrimonial consent, and put together a judicial process more fitting to the matter so that ecclesiastical discipline might conform more and more to the truth of the faith she was professing.” See also: PINTO, Pio Vito, *I Processi nel Codice di Diritto Canonico. Commento Sistematico al Libro VII*, Vatican City 1993, p. 11-12.

⁹ See: Benedict XIV, apostolic constitution *Dei Miseratione* from 3 November 1741, *Venetii 1768* (*Sanctissimi Domini nostri Benedicti Papae XIV bullarium*; 1), p. 36-39.

¹⁰ See: *Codex Iuris Canonici*. Pii X Pontificis Maximi Iussu Digestus Benedicti Papae XV Auctoritate Promulgatus, New York 1918, cc. 1960-1992; eng. PETERS, Edward N., *The 1917 Pio-Benedictine Code of Canon Law. In English Translation with Extensive Scholarly Apparatus*, San Francisco 2001.

¹¹ See: Sacred Congregation for the Discipline of the Sacraments, instruction *Provida Mater* from 15 August 1936, in: *AAS* 28 (1936), p. 313-361; eng. BOUSCAREN, Timothy Lincoln, *The Canon Law Digest. Officially Published Documents Affecting the Code of Canon Law vol. II*, Milwaukee 1943.

¹² See: Paul VI, apostolic letter *Causas Matrimoniales* from 27 March 1971, in: *AAS* 63 (1971), p. 441-446.

¹³ See: John Paul II, *Code of Canon Law* from 25 January 1983, cc. 1671-1707. URL: https://t1p.de/code_of_canon_law [last view 12.09.2024]

¹⁴ See: Pontifical Council for Legislative Texts, instruction *Dignitas Connubii* from 25 January 2005, in: *Communicationes* 37 (2005), p. 11-92.

¹⁵ GREEN, Thomas, *The Revision of Canon Law*, p. 679.

Indeed, the *motu proprio* explicitly links its objective to “the good of the faithful”¹⁶ and “the salvation of souls that, today like yesterday, always remains the supreme end of the Church’s institutions, rules, and law.”¹⁷ MIDI is designed to assist those faithful who, seeking to reconcile their consciences, are often deterred from engaging with the Church’s juridical processes due to physical or moral obstacles. For instance, the Legislator expressed concern about “the clouds of doubt [that] overshadow the hearts of the faithful awaiting a decision regarding their state because of a delayed sentence.”¹⁸ This concern, echoed in the apostolic exhortation *Amoris Laetitia*,¹⁹ was also present in Pope Francis’ predecessors. One should not forget that Pope Benedict XV set time limits in the 1917 *Codex* for the completion of nullity cases,²⁰ and Pope Paul VI twice exhorted the Tribunal of the Roman Rota to expedite its processes, emphasising that any culpable delay on the part of the judges in delivering a decision constitutes an injustice in itself.²¹ In *Causas Matrimoniales*, Paul VI also stated that the spiritual well-being of the spouses was being “damaged by the excessive lengthiness of matrimonial processes.”²² Pope Benedict XVI, in his first allocution to the Tribunal of the Roman Rota, insisted that Church tribunals must “endeavour to guarantee the objectivity, speed and efficacy of the judges’ decisions.”²³

The pastoral spirit of MIDI resonates with Pope Francis’s vision of a Church that, “like a good mother”, goes forth to encounter and remain “close to her children who feel estranged from her.”²⁴ In fact, MIDI exhorts episcopal conferences to “be driven by apostolic zeal to reach out

¹⁶ MIDI, Conclusion.

¹⁷ MIDI, Preamble.

¹⁸ MIDI, Preamble.

¹⁹ In *Amoris Laetitia*, the Pope observed: “The slowness of the process causes distress and strain on the parties.” Francis, apostolic exhortation *Amoris Laetitia* from 19 March 2016, in: AAS 108 (2016), p. 311-446, n. 244.

²⁰ Canon 1620 of the 1917 *Codex* stipulated: “Judges and tribunals are to take care that as soon as possible, with due regard for justice, all cases are terminated, and that in first instance they not be protracted beyond two years, and in second instance not beyond one year.”

²¹ Paul VI, Allocution to the Tribunal of the Sacra Romana Rota from 11 January 1965. URL: https://t1p.de/allocution_to_the_tribunal_1965 [last view 12.09.2024]; Idem, Allocution to the Tribunal of the Sacra Romana Rota from 28 January 1978. URL: https://t1p.de/allocution_to_the_tribunal_1978 [last view 12.09.2024].

²² Paul VI, *Causas Matrimoniales*, Preamble.

²³ Benedict XVI, Allocution to the Tribunal of the Roman Rota from 28 January 2006. URL: https://t1p.de/allocution_to_the_tribunal_2006 [last view 12.09.2024].

²⁴ MIDI, Preamble. See also: Francis, apostolic exhortation *Evangelii Gaudium* from 24 November 2013, in: AAS 105 (2013), p. 1019-1137, nn. 20, 30, 46, 169-173, 220. In 2014, Francis observed: “So many people who need a word from the Church on their marital situation, for a ‘yes’ or a ‘no’ [...] Some procedures are so long or so onerous that they do not facilitate them, and the people leave [...] And Mother Church must do justice and say: ‘Yes, it’s true, your marriage is annulled. No, your marriage is valid’ [...] This way they can move forward without this doubt, this darkness in their spirit [...] It is Mother Church who goes and seeks out her children so as to do justice.” Francis, Greetings to Participants in a Course on Marriage Offered

to the dispersed faithful.”²⁵ It also reminds local bishops and parish priests that they are “obliged, with an apostolic spirit, to attend to separated or divorced spouses who perhaps, by the conditions of their lives, have abandoned religious practice” (PR, art. 1). As one bishop put it, MIDI’s reform “brings the diocesan bishop into the ward of the Field Hospital where the wounds of those who are involved in marital breakdown cry out for care.”²⁶

The title of the apostolic letter, emphasising the Lord Jesus as the “Gentle Judge,” reflects this pastoral spirit, which Pope Paul VI also highlighted in one of his addresses to the Tribunal of the Roman Rota, describing the ministry of Church tribunals as fundamentally pastoral, akin to the work of the Good Shepherd.²⁷ Pope Francis frequently reaffirms this vision, emphasising that the Church’s juridical and pastoral dimensions are not in opposition,²⁸ and that the *salus animarum* “is not necessarily found outside of justice, but rather, with justice.”²⁹

It should be noted that while emphasising pastoral care, MIDI remains committed to upholding the indissolubility of marriage. The *motu proprio* clearly states that the reform favours not the nullity of marriages but the speed and simplicity of the process.³⁰ In fact, following his predecessors, the Legislator determined that cases of marriage nullity should continue to be handled judicially rather than administratively, “not because the nature of the matter demands it, but rather due to the unparalleled need to safeguard the truth of the sacred bond.”³¹

by the Tribunal of the Roman Rota from 5 November 2014. URL: https://t1p.de/greetings_to_participants [last view 12.09.2024].

²⁵ MIDI, Preamble.

²⁶ HEBDA, Bernard A., Reflections on the Role of the Diocesan Bishop Envisioned by Mitis Iudex Dominus Iesus, in: *The Jurist* 76,1 (2016), p. 137-157; here p. 149.

²⁷ See: Paul VI, Allocution to the Tribunal of the Sacra Rota Romana from 8 February 1973. URL: https://t1p.de/allocution_to_the_tribunal_1973 [last view 12.09.2024].

²⁸ See: Francis, Allocution to the Tribunal of the Roman Rota from 24 January 2014. URL: https://t1p.de/allocution_to_the_tribunal_2014 [last view 12.09.2024].

²⁹ Francis, Greetings to Participants in a Course on Marriage.

³⁰ MIDI, Preamble. At the launch of MIDI, the then-President of the Pontifical Council for Legislative Texts also emphasised that the celerity of the briefer process favours the search for the truth about the validity of the marriage, rather than merely facilitating a declaration of nullity. See: COCCOPALMERIO, Francesco, Presentazione delle Due Lettere ‘motu proprio datae’ di Papa Francesco ‘Mitis Iudex Dominus Iesus’ e ‘Mitis et Misericors Iesus’, in: *Bollettino Sala Stampa della Santa Sede* from 8 September 2015. URL: https://t1p.de/presentazione_delle_due_lettere [last view 12.09.2024]

³¹ MIDI, Preamble.

Main innovations and their application in Malta

Having provided some general remarks on MIDI, this study now examines some of its major innovations and how these reforms have been received and implemented within the Archdiocese of Malta.

The Archdiocese of Malta is a metropolitan archdiocese of the Roman Catholic Church and one of the oldest dioceses in the world. Its origins trace back to when Paul the Apostle ordained Publius, the chief official of the island, as the first bishop of Malta.³² From 1156 to 1844, the Diocese of Malta, which included the islands of Malta, Gozo, and Comino, was a suffragan diocese to the Metropolitan Archdiocese of Palermo. In 1864, with the establishment of the Diocese of Gozo, it lost the territories of Gozo and Comino, and in 1944, it was elevated to an archdiocese.³³ By the end of 2023, the Archdiocese of Malta comprised 70 parishes and had a Catholic population of approximately 375,000, accounting for 78% of the total population.³⁴

The average number of canonical marriages celebrated annually in the Archdiocese of Malta between 2014 and 2023—excluding 2020, when only 344 marriages were recorded due to the COVID-19 pandemic—was 1,219, with the highest number being 1,458 in 2015 and the lowest being 909 in 2023.³⁵ In contrast, the average number of canonical nullity cases introduced each year before the Maltese Metropolitan Tribunal, which serves as the tribunal of first instance for the Archdiocese of Malta,³⁶ was 88, with a peak of 122 cases in 2017 and a low of 51 cases in 2023.³⁷ Under the 1993 Agreement between the Holy See and Malta, canonical

³² See: Acts 28, 1-10.

³³ See: BEZZINA, Joseph, *L-Istorja tal-Knisja f'Malta*, Malta 2002.

³⁴ Official statistics provided by the Secretariat of the Maltese Episcopal Conference.

³⁵ Official statistics provided by the Marriage Office of the Archdiocese of Malta show that there were 1387 canonical marriages in 2014, 1458 in 2015, 1354 in 2016, 1302 in 2017, 1192 in 2018, 1071 in 2019, 344 in 2020, 1133 in 2021, 1168 in 2022, and 909 in 2023.

³⁶ The Maltese Metropolitan Tribunal is located at the Archbishop's Palace in Valletta, Malta, which also houses the Regional Tribunal of Second Instance. Established in 1981, the Regional Tribunal, also known as the Appellate Tribunal, hears cases in second instance originating from Malta, Gozo, Gibraltar, and Tripoli, Libya. See: *Arcidjoċesi ta' Malta, Direttorju Ekkleżjastiku 2023*, Malta 2023, p. 65.

³⁷ Official statistics provided by the Maltese Metropolitan Tribunal show that 82 new cases were introduced in 2014, 73 in 2015, 114 in 2016, 122 in 2017, 106 in 2018, 104 in 2019, 64 in 2020, 85 in 2021, 74 in 2022, and 51 in 2023.

marriages and the decisions of ecclesiastical authorities and tribunals regarding these marriages have civil effects in Malta.³⁸

The innovations of MIDI discussed in this section include the introduction of the briefer process, the elimination of the double conformity sentence, the composition of the college of judges, the provision for the gratuity of causes, and the preliminary or pre-judicial inquiry. Other aspects of the reform are not covered in this discussion, as they either do not apply to the Maltese context or were already being implemented, as will be shown later.

The following analysis is based on four main sources: official statistics provided by the Maltese Metropolitan Tribunal; judgments of all nullity cases decided under the briefer process, also provided by the Metropolitan Tribunal;³⁹ a recent study on MIDI that included a brief overview of its reception in the Archdiocese of Malta and the Diocese of Gozo;⁴⁰ and the author's own observations and discussions with fellow staff members at the Metropolitan Tribunal.⁴¹

The briefer matrimonial process before the bishop

One of the most significant reforms introduced by MIDI was the establishment of the briefer matrimonial process before the bishop, as outlined in the new canons 1683-1687. The Legislator assigned sole competence to judge nullity cases within this process, which is designed to be quicker than the ordinary procedure, to the diocesan bishop (can. 1683 Code/1983). In doing so, Pope Francis expressed "his enormous confidence in his brother bishops"⁴² and reaffirmed the Second Vatican Council's teaching that the bishop, as the shepherd and head of his diocese, is inherently the judge of the faithful entrusted to his care.⁴³ This innovation also emphasised the importance of proximity in the Church's judicial

³⁸ For the texts of the Agreement between the Holy See and Malta on the Recognition of Civil Effects to Canonical Marriages and to the Decisions of the Ecclesiastical Authorities and Tribunals about the Same Marriages from 3 February 1993, the Protocol of Application thereto from 3 February 1993 and the Third Additional Protocol from 27 January 2014, see: Marriage Act, Chapter 255 of the Laws of Malta. URL: https://t1p.de/agreement_holy_see_malta [last view 12.09.2024].

³⁹ All personal details were redacted in accordance with data protection regulations.

⁴⁰ See: GALEA, Christine, *The Pastoral Intent of 'Mitis Iudex Dominus Iesus'*, Malta 2021, p. 71-77.

⁴¹ The author of this study serves as the defender of the bond at the Maltese Metropolitan Tribunal and acted as the defender of the bond in 23 cases examined under the briefer process.

⁴² BEAL, John P., *The Ordinary Process according to Mitis Iudex: Challenges to our 'Comfort Zone'*, in: *The Jurist* 76,1 (2016), p. 159-196; here p. 196.

⁴³ See: Second Vatican Council, dogmatic constitution *Lumen Gentium* from 21 November 1964, in: *AAS* 57 (1965), p. 7-71, n. 27.

processes, ensuring that bishops are closer to the pastoral realities of their faithful.⁴⁴ Additionally, recognising that a briefer process and the appointment of a sole judge could potentially jeopardise the principle of marital indissolubility, the Legislator ensured that the bishop's direct involvement would safeguard against any laxism in the application of this process.⁴⁵

MIDI outlines specific conditions for a marriage nullity case to qualify for the *processus brevior*. The *libellus* (petition) must be submitted by both spouses or by one with the other's consent⁴⁶ and must be supported by testimonies and records that demonstrate nullity without requiring further investigation (can. 1683 Code/1983; PR, art. 14, §1).⁴⁷ Furthermore, the *libellus* must clearly and concisely present the facts on which the petition is based, indicate the proofs that can be immediately collected, and include relevant documents—such as medical records that render the need for an *ex officio* expert unnecessary—as attachments (can. 1684 Code/1983; PR, art. 14, §2). If a *libellus* initially presented for the ordinary process appears suitable for the briefer process, the judicial vicar is to invite the parties to agree to the change and to adjust the *libellus* accordingly (PR, art. 15). This can also occur after the ordinary process has formally begun.⁴⁸ Upon determining the formula of the doubt, the judicial vicar must name an instructor and an assessor and summon all relevant parties to a session to be held within thirty days (can. 1685 Code/1983). The instructor is responsible for collecting the proofs, preferably in a single session, and for setting a fifteen-day deadline for the defender of the bond and the parties to submit their observations and briefs (can. 1686 Code/1983; PR, art. 18). The judicial

⁴⁴ Since the beginning of his pontificate, Francis has demonstrated that 'proximity' is a theme particularly close to his heart. In his very first interview, he stated that "the thing the Church needs most today is the ability to heal wounds and to warm the hearts of the faithful; it needs nearness, proximity." SPADARO, Antonio, A Big Heart Open to God. An Interview with Pope Francis, in: America from 30 September 2013. URL: https://t1p.de/a_big_heart [last view 12.09.2024].

⁴⁵ MIDI, Preamble.

⁴⁶ The Pontifical Council for Legislative Texts explained that "[t]he consent of both parties required to initiate this procedure is a condition *sine qua non*. This explicit consent is foremost necessary because the brief process is an exception to the general norm." Pontifical Council for Legislative Texts, Letter on the Consent of Both Parties as Requirement for the *Processus Brevior*, Can. 1683 MIDI: Prot. No. 15139/2015 from 1 October 2015. URL: https://t1p.de/letter_on_the_consent [last view 12.09.2024].

⁴⁷ For a better understanding of the circumstances of things and persons outlined in PR, art. 14, §1, see: Apostolic Tribunal of the Roman Rota, Subsidium for the Application of the m.p. Mitis Iudex Dominus Iesus, Vatican City 2016, p. 32-36. One also needs to understand these circumstances "in light of the postmodern anthropological crisis, excellently summarized in the second chapter of the apostolic exhortation *Amoris Laetitia*." AIXENDRI, Montserrat Gas, La Reforma el Proceso Canónico e Nulidad del Matrimonio. Algunas Claves de Lectura desde el Magisterio del Papa Francisco, in: Revista Jurídica Digital Uandes 1,1 (2017), p. 85-100; here p. 12.

⁴⁸ See: Pontifical Council for Legislative Texts, Letter on the Conversion of the Formal Process to the *Processus Brevior*: Prot. No. 15138/2015 from 1 October 2015. URL: https://t1p.de/letter_on_the_consent [last view 12.09.2024].

vicar can designate himself as instructor or someone from the diocese where the case originated (PR, art. 16). After reviewing the acts of the case and consulting with the instructor and assessor, the diocesan bishop is to issue a sentence if moral certainty about the nullity is reached. He is to refer the case to the ordinary process if such certainty is not achieved. The bishop decides how to pronounce the sentence, but it must be signed by him, certified by a notary, and concisely explain the reasons for the decision. Appeals against the judgment of the bishop can be made to the metropolitan or the Roman Rota (can. 1687 Code/1983; PR, artt. 19-20).

The briefer process has proven particularly effective in Malta. The Archdiocese of Malta began applying the *processus brevior* as soon as MIDI took effect. As illustrated by **Table 1**, of the 720 cases introduced in the first instance before the Maltese Metropolitan Tribunal between 8 December 2015 and the end of 2023, 43 (nearly 6%) were accepted as briefer processes, a rate significantly higher than the global average of around 3%.⁴⁹ Four of these 43 cases were later referred by the bishop to the ordinary process for the following reasons: one case exhibited conflicting evidence, two cases required further investigation, and one case was referred for a psychological assessment to ensure a just resolution.

⁴⁹ See: Pozzo, Massimo del, L'Andamento Statistico del 'Processus Matrimonialis Brevior'. Motivi di Soddisfazione e di Qualche Preoccupazione, in: Stato, Chiese e Pluralismo Confessionale 14 (2021), p. 89-129; here p. 90; Idem: Statistiche e Riscontri della Ricezione del MIDI; FRANCESCHI, Hector; ORTIZ, Miguel A. (eds.), Ius et Matrimonium IV: Atti dell'VIII Corso di Aggiornamento in Diritto Matrimoniale e Processuale Canonico, Rome 2023, p. 367-414; here p. 394.

Table 1. *Marriage nullity cases accepted as ordinary or briefer processes (2016-2023)*

Year	Cases introduced	Accepted as ordinary	Accepted as briefer	% Accepted as briefer	Briefer sent to ordinary
2016	114	111	3	2.6%	1
2017	122	111	11	9%	-
2018	106	95	11	10.4%	-
2019	104	96	8	7.7%	2
2020	64	63	1	1.6%	-
2021	85	80	5	5.9%	-
2022	74	73	1	1.4%	-
2023	51	48	3	5.9%	1
Total	720	677	43	5.97%	4

In 14 of the 43 cases accepted as briefer processes, the *libellus* was initially proposed by both spouses or one spouse with the other's consent. In these instances, the judicial vicar, after verifying that the petition was supported by testimonies and records that made the nullity manifest, was able to issue a decree promptly.

In the other 29 cases, the initial dynamic was not as straightforward because the *libellus* was proposed by one spouse without the consent of the other. However, the judicial vicar believed these cases had the potential to be treated under the briefer process and initiated a preliminary inquiry to determine if the conditions for the *processus brevior* were met. This inquiry took place either through an in-person session of the joinder or through sessions in the ordinary process. Once it became clear that the case was suitable, the judicial vicar invited the parties to consider the briefer process and adjust the *libellus* accordingly.

As expected, in these 29 cases, the time between the presentation of the initial *libellus* and the issuance of the decree initiating the briefer process was longer. Moreover, two of these cases experienced further delays due to requests from the parties themselves to temporarily suspend the process, resulting in gaps of five and seven months, respectively. For the remaining 27 cases, the average time lapse from the initial *libellus* presentation to the decree issuance was approximately 2.3 months.

On the other hand, across the 39 cases decided by the briefer process, the average time lapse from the issuance of the decree to the pronouncement of the judgment by the bishop was 3.1 months. As illustrated in **Table 2**, this time period varied, with 15 cases taking less than two months, 16 cases taking between two and four months, and eight cases taking more than four months. Although the average duration of 3.1 months (from the issuance of the decree to the judgment) may be slightly longer than what is expected under MIDI, it is still significantly shorter than the ordinary process, which currently takes between 1 and 1.5 years at the Maltese Metropolitan Tribunal.

Table 2. *Time-lapse from the issuance of the decree initiating the briefer process to the judgment*

Number of months	Number of cases
Two months or less	15
Between two and three months	11
Between three and four months	5
Over four months	8

The 43 cases accepted under the briefer process featured different grounds for nullity, and some cases were examined on more than one ground, as illustrated by **Table 3**.

Table 3. *Grounds of nullity examined in the cases handled through the briefer process*

Ground for marriage nullity	Number of cases
Grave defect of discretion of judgment (can. 1095, 2°)	21
Inability to assume marital obligations (can. 1095, 3°)	9
Partial simulation for exclusion of the <i>bonum prolis</i> (can. 1101)	9
Total simulation of marriage (can. 1101)	3
Partial simulation for exclusion of the <i>bonum fidei</i> (can. 1101)	3
Deceit by malice (can. 1098)	3
Partial simulation for exclusion of the <i>bonum sacramenti</i> (can. 1101)	1
Condition about the future (can. 1102)	1
Force or grave fear (can. 1103)	1

The judicial vicar acted as the instructor in 9 of the 39 cases decided by the briefer process. In the remaining cases, four judges from the Metropolitan Tribunal were appointed as instructors: two lay judges handled 16 and 5 cases each, while two clerics dealt with 6 and 3 cases, respectively. The author of this study served as the defender of the bond in 23 of the 39 cases, while two other individuals acted as defenders of the bond in the remaining 16 cases.

The 39 sentences pronounced by the bishop averaged 12 pages, “avoiding both an excessive brevity and an excessive length” (DC, art. 254). All sentences were divided into the following sections, in accordance with the provisions of canons 1611-1614 and articles 250-254 of DC: the facts of the case; the reasons in law and in fact supporting the dispositive part of the sentence;⁵⁰ the dispositive part itself; information regarding the execution and appeal of the sentence, as well as the judicial expenses; and the conclusion, indicating the date and place where the sentence was rendered, along with the signatures of the diocesan bishop and the notary. In 14 of the 39 cases, a *vetitum* was added to the sentence (DC, art. 251).

The double-conforming decision in favour of nullity

Another major reform introduced by MIDI is found in the new canon 1679, which stipulates that moral certainty attained in the first instance suffices to declare nullity. In other words, the sentence declaring the nullity of marriage becomes effective after the appeal period has expired. This reform marks a departure from the previous requirement (former can. 1682, §1 Code/1983) that necessitated a second confirming judgment in favour of nullity. Pope Benedict XIV had introduced this requirement in 1741 to curtail abuses in granting marriage nullity declarations. However, Pope Francis, with the backing of the Synod participants, recognised that the kind of moral certainty sought by his predecessor is now outweighed by the prolonged time and increased financial burden associated with the process, as well as the emotional toll on those who, after a lengthy wait, see a favourable first-instance decision overturned by the

⁵⁰ Jenkins, referring to Pope John Paul II’s 1981 Allocution to the Roman Rota, asserts that diocesan bishops utilising the *processus brevior* are bound to adhere to the common jurisprudence of the Church. See: JENKINS, Ronny E., Applying Article 14 of *Mitis Iudex Dominus Iesus* to the *Processus Brevior* in Light of the Church’s Constant and Common Jurisprudence on Nullity of Consent, in: *The Jurist* 76,1 (2016), p. 231-265; here p. 231-232.; See also: John Paul II, Allocution to the Tribunal of the Roman Rota from 24 January 1981. URL: https://t1p.de/allocution_to_the_tribunal_1981 [last view 12.09.2024]

second-instance tribunal. The Pontiff and the Synod participants probably also understood that, in several tribunals, the double-confirming sentence had become pure formalism.⁵¹

This reform has also proven particularly effective in Malta. As illustrated by **Table 4**, the number of positive judgments forwarded from the Metropolitan Tribunal to the Regional Tribunal of Second Instance significantly decreased after 8 December 2015. Before MIDI, all positive judgments were automatically reviewed by the second instance tribunal. From the time MIDI took effect until the end of 2023, only 28 out of 752 positive judgments—representing just 3.7% of all cases—were forwarded due to an appeal being filed. This figure is slightly lower than the global average, which stands at around 5%.⁵²

It is important to note that the reform introduced by MIDI coincided with a notable increase in the rate of positive judgments issued by the Metropolitan Tribunal. Between 2004 and 2015, 779 out of 1278 judgments, or 60%, were positive. From 2016 to 2023, this rate rose sharply, with 752 out of 790 judgments, or 95.1%, being positive. This recent figure is considerably higher than the European average of positive judgments, which stands at 80%, and is on par with the North American average, which is also 95%.⁵³

⁵¹ See: KOWAL, Wojciech, Celerity of Marriage Nullity Processes and the Mandatory Review of Judgements Declaring the Nullity of a Marriage, in: *Studia Canonica* 55,1 (2021), p. 425-462; here p. 450; DANEELS, Frans, A First Approach to the Reform, p. 125-128.

⁵² See: Pozzo, Massimo del, *Statistiche e Riscontri*, p. 390.

⁵³ See: Pozzo, Massimo del, *Statistiche e Riscontri*, p. 49; Idem: *L'Andamento Statistico*, p. 102.

Table 4. *Judgments forwarded to the Regional Tribunal before and after MIDI (2004-2023)*

Year	Positive judgments given by the Metropolitan Tribunal	Positive judgments forwarded to the Regional Tribunal	Negative judgments given by the Metropolitan Tribunal	Negative judgments appealed to the Regional Tribunal
2004	39	39	29	18
2005	50	50	27	17
2006	47	47	37	22
2007	53	53	22	15
2008	57	57	32	23
2009	82	82	39	26
2010	55	55	51	33
2011	64	64	46	21
2012	77	77	75	45
2013	78	78	58	32
2014	85	85	59	42
2015	92	92	24	14
TOTAL (2004-2015)	779	779	499	308
MIDI took effect on 8 December 2015				
2016	109	1	14	7
2017	86	0	5	5
2018	104	3	3	1
2019	104	6	5	2
2020	101	7	3	0
2021	79	3	4	1
2022	81	2	2	1
2023	88	6	2	0
TOTAL (2016-2023)	752	28	38	17

The composition of the college of judges

Another reform introduced by MIDI is found in the new canon 1673, §3, which reaffirms that marriage nullity cases are to be judged by a college of three judges but introduces this innovation: “A judge who is a cleric must preside over the college, but the other judges may be laypersons.” This innovation goes beyond the provision of canon 1421 and article 43 of DC regarding the tribunal of first instance, which stipulates that clerics should be appointed as diocesan judges but allows the conference of bishops to permit the appointment of laypersons as judges, with one of them being selected to form a college if necessary.

The new provision in MIDI allowing for two of the three members in a college of judges to be laypersons has been favourably received in the Archdiocese of Malta, where, since 2005, two of the five diocesan judges have been laypersons.⁵⁴ The expertise and particular approach of these lay judges in scrutinising the facts complement the perspectives of the three clerical judges, thereby enhancing the tribunal’s pursuit of objective truth.

Gratuitousness of the nullity process

In its Preamble, the *motu proprio* called on episcopal conferences, in close collaboration with judges, to “ensure, to the best of their ability and with due regard for the just compensation of tribunal employees, that processes remain free of charge.” Right after making this appeal, the Legislator revealed his intent: “the Church, showing herself a generous mother to the faithful, manifest, in a matter so intimately tied to the salvation of souls, the gratuitous love of Christ by which we have all been saved.”⁵⁵ It is also clear that the Legislator was mindful of the potential for public scandals surrounding nullity procedures.⁵⁶

⁵⁴ See: Supreme Tribunal of the Apostolic Signatura, Decree, Prot. 4865/05 SAT from 18 March 2005. Unpublished. See also: Buttigieg, Charles, *Ilkoll Ahwa fi Kristu: Ġużeppi Mercieca*. Memorji, Malta 2014, p. 231.

⁵⁵ MIDI, Preamble. In November 2014, Pope Francis had spoken this intent: “Mother Church is so generous, that justice may be given free of charge, as we were absolved by Jesus Christ freely.” Francis, Greetings to Participants in a Course on Marriage.

⁵⁶ In November 2014, Pope Francis had issued a caution along these lines, stating, “we must also be very careful that the procedures are not in the context of business deals.” Francis, Greetings to Participants in a Course on Marriage.

That said, MIDI neither mandated that the processes should be completely free nor overturned article 302 of DC, which states that the parties are bound to contribute to paying judicial expenses according to their ability.⁵⁷ This is evident from several points: MIDI's appeal for gratuitousness was put in the Preamble but not in the new canons; the call on episcopal conferences mentioned above featured the proviso "to the best of their ability and with due regard for the just compensation of tribunal employees"; and the procedural rules contained this tempered guideline: "care is to be taken that everyone, parties or witnesses, can participate in the process at a minimum of cost" (PR, art. 7, §2).

After all, Pope Francis's appeal for gratuitousness was not unprecedented. As far back as 1965, Pope Paul VI had already addressed this issue.⁵⁸ Forty years later, DC, in light of canon 221, §1, called on bishops to do everything possible to ensure that both spouses participate in the nullity process (DC, art. 303) and that the faithful are not deterred from accessing tribunal services due to excessive costs (DC, art. 308). The 2005 instruction also called for the establishment of norms concerning gratuitous legal assistance and the reduction of expenses (DC, art. 303), while noting that any exemption from expenses should remain in effect in higher instances unless a just cause revokes it (DC, art. 306, 4°). DC further stipulated that when determining the expenses of a case, "account is to be taken, however, of the poverty of the parties in terms of the payment" (DC, art. 304). It also stated that "those who are completely unable to bear the judicial expenses have a right to obtain an exemption from them; those who can pay them in part, have the right to a reduction of the same expenses" (DC, art. 305).

At the 2019 Inauguration of the Judicial Year of the Maltese Ecclesiastical Tribunals, the Archbishop of Malta addressed the call of MIDI and offered his interpretation, stating: "The Holy Father has asked that this ministry is available for everybody and to everybody without distinction, without any constraints whether economical or financial, and this is a challenge that we have to take. I am very grateful for people who can afford to support the tribunals ... However, the message has to be very clear: the ministry the Church offers should not be closed to those who cannot or are not in a position to pay. This is something that Pope Francis has

⁵⁷ In contrast, Daneels commented that MIDI's exhortation in favour of gratuity "completely turns on its head the contrary statement of *Dignitas Connubii*, art. 302." DANEELS, Frans, A First Approach to the Reform, p. 132-133.

⁵⁸ See: Paul VI, Allocution to the Tribunal of the Sacra Romana Rota from 11 January 1965.

repeated on a number of occasions, and it also has to be very clear. We have expenses, and both dioceses, the Archdiocese of Malta and the Diocese of Gozo, take on all the expenses necessary to ensure that the tribunals are run properly, function well, and with dignity.”⁵⁹ A year earlier, he had already stated: “We need to make it known that the question of money should not impede people from seeking justice. This has to be very clear.”⁶⁰

To ensure the financial sustainability of its tribunal, the Archdiocese of Malta adopts a balanced approach. Those who can afford the tribunal’s moderate expenses are encouraged to contribute. At the same time, those who face financial difficulties are offered options to pay in instalments or to receive partial or full subsidies from the Church.

The pre-judicial or pastoral inquiry

MIDI emphasised the importance of a pre-judicial or pastoral inquiry to understand the circumstances of individuals who have doubts about the validity of their marriage and to gather relevant information for the subsequent judicial process. The primary responsibility for overseeing this inquiry lies with the bishop, who, together with parish priests, shares pastoral care for separated or divorced spouses (PR, art. 1; cann. 383 §1 and 529 §1). In fact, MIDI advocated that this inquiry be integrated into the broader diocesan pastoral care of marriage (PR, art. 2). The *motu proprio* also specified that the responsibility for conducting this inquiry should be entrusted to individuals with the requisite expertise, which need not be limited to juridical-canonical knowledge, and who are deemed appropriate by the local ordinary. For example, the task may be assigned to the parish priest, the person who prepared the couple for marriage, or other qualified clerics, religious, or laypeople. Dioceses may establish stable struc-

⁵⁹ SCICLUNA, Charles J., Concluding Message on the Occasion of the Inauguration of the Judicial Year of the Maltese Ecclesiastical Tribunals from 28 January 2019. URL: https://t1p.de/concluding_message [last view 12.09.2024].

⁶⁰ SCICLUNA, Charles J., *Lectio Magistralis on Mitis Iudex Dominus Iesus* on the Occasion of the Inauguration of the Judicial Year of the Maltese Ecclesiastical Tribunals from 17 January 2018, unpublished text provided by the Chancellor of the Regional Tribunal of Second Instance.

tures or develop handbooks to facilitate the inquiry (PR, art. 3). The apostolic exhortation *Amoris Laetitia* had already emphasised the need to prepare clerics and laypersons for this ecclesial service.⁶¹

In the Archdiocese of Malta, there is no formalised pastoral plan for marriage and the family. However, many of the proposals of MIDI related to the pre-judicial or pastoral inquiry are being implemented. For instance, the Maltese Metropolitan Tribunal offers a free canonical advisory service twice weekly for spouses seeking guidance about their marital situation. Regarding the preparation of individuals who can assist in the pre-judicial inquiry, the Metropolitan Tribunal provided an in-house diploma in matrimonial canon law and jurisprudence for lawyers until 2008. Since then, the Tribunal has partnered with the Faculty of Theology at the University of Malta to offer a Master's degree in the same field. This programme ensures a steady supply of trained personnel, thereby safeguarding the quality of inquiries and judicial procedures.

Additionally, within the Archdiocese, there is ongoing informal communication between members of the Metropolitan Tribunal, the diocesan Marriage Office, and the Cana Movement, which is responsible for marriage preparation courses in Malta. Moreover, regarding the pastoral care for separated and divorced faithful, the Maltese bishops were among the first to issue local guidelines for accompanying these individuals in light of Chapter VIII of *Amoris Laetitia*.⁶² These efforts collectively support the implementation of MIDI's call for the pre-judicial or pastoral inquiry in Malta, even in the absence of a formalised pastoral plan.

⁶¹ Francis, *Amoris Laetitia*, n. 244, quoting XIV Ordinary General Assembly, Final Report from 24 October 2015, n. 82. URL: https://t1p.de/final_report [last view 12.09.2024].

⁶² See: Maltese Episcopal Conference, *Criteria for the Application of Chapter VIII of Amoris Laetitia*, Malta 2017.

Concluding observations

Implementation and benefit

Despite certain reservations about MIDI's reform raised by some scholars and commentators worldwide,⁶³ the Archdiocese of Malta has taken Pope Francis's *motu proprio* seriously and implemented most of its reforms. After all, the Legislator emphasised that the new law "must be observed diligently to foster the good of the faithful"⁶⁴ and that its application was "a great responsibility for Ordinaries in dioceses."⁶⁵ The Apostolic Signatura⁶⁶ also reminded bishops and Church tribunals that the *processus brevior* is "inextricably linked" to the tribunal and instructed them to include statistics related to this process in their annual reports.⁶⁷

As this study shows, the Archdiocese of Malta has found the reforms introduced by MIDI beneficial in enhancing the efficiency and accessibility of the annulment process. The reduction in processing time—mainly due to the elimination of the double-conforming decision and the introduction of the briefer process—has been welcomed by the parties involved and the tribunal members. In 2018, the Archbishop of Malta acknowledged that "experience has shown

⁶³ Among these reservations, one finds concerns that MIDI was developed in a relatively short period with minimal consultation, that the *motu proprio* might compromise the reliability of canonical judgments and could oversimplify the process of marriage nullity to the point where it resembles a 'Catholic-style' divorce, that it might reduce the perception of marriage nullity as a public good, or that it might place an undue burden on bishops. See, for instance: DANIEL, William L., An Analysis of Pope Francis' 2015 Reform of the General Legislation Governing Causes of Nullity of Marriage, in: *The Jurist* 75,2 (2015), p. 429-466; here p. 432; BERNARDO, Elena di, Il Processus Brevior. Una Forma Sui Generis di 'Divorzio Canonico' Breve?, in: *Monitor Ecclesiasticus* 131 (2016), p. 441-458; PAGÉ, Roch, Questions Regarding the Motu Proprio Mitis Iudex Dominus Iesus, in: *The Jurist* 75,2 (2015), p. 607-617; BONI, Geraldina, La Recente Riforma del Processo di Nullità Matrimoniale. Problemi, Criticità, Dubbi, in: *Stato, Chiese e Pluralismo Confessionale* 9 (2016), p. 1-78 [parte prima]; 10 (2016), p. 1-76 [parte seconda]; 11 (2016), p. 1-82 [parte terza]; KOWAL, Wojciech, Celerity of Marriage Nullity Processes; PETERS, Wojciech, A Second Look at Mitis, Especially at the New Fast-Track Annulment Process, in: *In the Light of the Law* from 8 September 2015. URL: https://t1p.de/a_second_look [last view 12.09.2024]; PENTIN, Edward, With Annulment Reforms, Pope Seeks to Remedy 'Darkness of Doubt', in: *National Catholic Register* from 8 September 2015. URL: https://t1p.de/darkness_of_doubt [last view 12.09.2024]; MARTENS, Kurt, New Norms for Marriage Nullity, in: *First Things* from 12 April 2015. URL: https://t1p.de/marriage_nullity [last view 12.09.2024]; NGUYEN, Benedict, Annulment Reforms: 6 Misconceptions and 6 Developments, in: *National Catholic Register* from 9 September 2015. URL: https://t1p.de/annulment_reforms [last view 12.09.2024].

⁶⁴ MIDI, Conclusion.

⁶⁵ Francis, *Amoris Laetitia*, n. 244, quoting XIV Ordinary General Assembly, Final Report, n. 82.

⁶⁶ The Apostolic Signatura is responsible for overseeing the correct administration of justice in the Church. See: c. 1445, §3, 1° and Francis, apostolic constitution *Praedicate Evangelium* from 19 March 2022, in: AAS 114 (2022), p. 375-455, artt. 194, 198.

⁶⁷ See: Apostolic Signatura, Circular Letter on the State and Activity of Tribunals: Prot. No. 51712/16 from 30 July 2016, in: AAS 108 (2016), p. 948-953.

us that there are some cases that are so obvious, and it is only fair that they are given an expedited process, *salva iustitia, salva veritate*.”⁶⁸

The significant reduction in the number of positive judgments forwarded from the Maltese Metropolitan Tribunal to the Regional Tribunal of Second Instance after the introduction of MIDI also underscores the positive impact of the reform, as it enabled the Regional Tribunal to reduce its backlog of cases, thereby improving operational efficiency and allowing for more timely handling of new cases referred by first instance tribunals.

Equilibrium and integrity

The experience at the Maltese Metropolitan Tribunal also demonstrates that although MIDI’s call to strike a balance between judicial thoroughness and pastoral care is challenging, this equilibrium is achievable. The reform has neither trivialised the serious nature of marriage nor compromised the integrity of canonical procedures. In 2018, the Archbishop of Malta insisted that “the briefer process does not economise with the main procedures of the ordinary process,” such as the right of defence of the parties and the participation of the defender of the bond. He further noted that special attention to canonical integrity is particularly necessary in Malta due to the agreement between the Republic of Malta and the Holy See, which allows judgments rendered by Church tribunals to have juridic effects once registered before the Maltese Court of Appeal.⁶⁹ A year later, the Archbishop revisited this issue, noting that MIDI has placed great responsibility on the parties, the defender of the bond, and the judges to diligently seek the truth: “[t]here is no justice without respect for truth ... If truth is not respected, we are not going to respect our own consciences.”⁷⁰

This study also confirms that rigorous standards were upheld in the context of the *processus brevior*. For instance, the average time taken from the submission of the *libellus* to the decree initiating the process and from the issuance of the decree to the judgment was slightly above the timeframe indicated by MIDI. Additionally, the Archbishop of Malta did not achieve moral

⁶⁸ SCICLUNA, Charles J., Lectio Magistralis from 17 January 2018.

⁶⁹ SCICLUNA, Charles J., Lectio Magistralis from 17 January 2018.

⁷⁰ SCICLUNA, Charles J., Concluding Message from 28 January 2019.

certainty in four of the 43 cases initiated as a briefer process and referred these cases to the ordinary process. His 39 sentences were thorough and included a solid *iure section*, and he added a *vetitum* in 14 cases.

Limitations and challenges

That said, implementing the reform in Malta has not been without limitations. Although infrequent, there have been instances at the Metropolitan Tribunal where staff handling ordinary cases encountered disruptions due to the more demanding deadlines of the *processus brevior*.⁷¹ Moreover, the average time required to instruct cases under the briefer process has exceeded the timeframe proposed by MIDI, sometimes due to logistical issues and other times because the bishop did not have sufficient time to review the cases presented to him. Additionally, the writing style of the sentences issued by the bishop varied depending on the instructor involved, suggesting that, while the bishop thoroughly reviewed the acts—even referring four cases to the ordinary process—he relied heavily on the instructors. The instructors likely drafted the judgments, which he carefully reviewed and signed. Moreover, although the Archdiocese of Malta provides options for instalment payments and offers partial or full subsidies to those facing financial difficulties, it has not fully implemented MIDI’s appeal to make the nullity process entirely free. Conversely, there have been instances where the reforms introduced by MIDI were perceived as not extensive enough. For example, no new grounds of nullity were introduced, and those who do not qualify for the briefer process—approximately 94% of all cases in the Maltese context—must still navigate the ordinary method, which has seen only minimal modifications.

The author also knows that MIDI’s application in regions with differing cultural settings and ecclesiastical structures has encountered various challenges. Statistics from the Apostolic Signatura reveal varying levels of adoption of the *processus brevior* in different contexts, such as the United States and Iberian-American countries.⁷² Nearly two-thirds of the countries listed

⁷¹ See: GALEA, Christine, *The Pastoral Intent*, p. 73.

⁷² In the United States, only 1.16% of all nullity cases introduced—or 1.21% of all positive judgments—were examined through the briefer process. In the tribunals of more than 13 Iberian-American countries, the application of the briefer process in 2016 and 2017 varied significantly, ranging from 1.25% of all nullity cases introduced in Peru, to 4.15% in Portugal, to 13.51% in Bolivia, to 21.29% in Venezuela, and up to 44.19% in Uruguay. See: DEWITT, Sean R., *Statistical Analysis: Marriage Nullity Cases*

in the *Annuario Statisticum Ecclesiae* have yet to utilise the briefer process, often due to factors like a limited number of nullity cases, absence of Church tribunals, or resistance from bishops.⁷³ Speaking to the Italian Episcopal Conference in 2019, Pope Francis expressed his sadness by noting that, after more than four years, MIDI's reform was still far from being fully implemented in Italy.⁷⁴ Two years later, he established a pontifical commission to ascertain MIDI's full and immediate application in every Italian diocese.⁷⁵ In Africa, Church tribunals face significant challenges, including a lack of qualified personnel, insufficient funding, limited co-operation from moderators, unfavourable socio-economic conditions and challenging geographical environments,⁷⁶ even though, in some countries, the *processus brevior* was applied in more than 10% of nullity cases.⁷⁷ Furthermore, some countries have experienced inconsistent application of the briefer process over the years.⁷⁸ Another challenge arises when diocesan bishops are not canon lawyers, leading ecclesiastical judges or other canon lawyers to handle much of the work on their behalf. Financially struggling dioceses also face difficulties in implementing a gratuitous annulment process and may be unable to provide necessary subsidies, thus perpetuating financial barriers and limiting access to justice for the faithful in those areas.⁷⁹

in the United States of America from 2016-2018. URL: https://t1p.de/statistica_analysis [last view 12.09.2024]. See also: AS-TUDILLO, Martin, El Proceso Más Breve ante el Obispo: los Tribunales Iberoamericanos en el Año 2016. URL: https://t1p.de/el_proceso_2016 [last view 12.09.2024]; Idem, El Proceso Más Breve ante el Obispo: los Tribunales Iberoamericanos en el Año 2017. URL: https://t1p.de/el_proceso_2017 [last view 12.09.2024].

⁷³ See Pozzo, Massimo del, *Statistiche e Riscontri*, p. 396, 410; Idem: *L'Andamento Statistico*, p. 93.

⁷⁴ See Francis, Address to the Italian Episcopal Conference from 20 May 2019. URL: https://t1p.de/italian_episcopal_conference [last view 12.09.2024].

⁷⁵ See: Francis, Apostolic Letter Establishing the Pontifical Commission for the Verification and Application of *Mitis Iudex* in the Churches of Italy from 17 November 2021. URL: https://t1p.de/apostolic_letter [last view 12.09.2024]

⁷⁶ For example, see the following studies: MAPIRIA, Nelson Matthew, *Implementing Mitis Iudex Dominus Iesus in the Tribunals of Papua New Guinea*. Licentiate Dissertation, Catholic University of America 2020, p. 24-38; OLOWO, Ambrose Abejide, *Mitis Iudex Dominus Iesus: Challenges for its Implementation in Nigeria*, Master Dissertation, Universität Wien 2018, p. 70-104; NNUBIA, Christopher, *The Diocesan Tribunal of First Instance (Canon 1419, § 1). A Study of Its Operation in Abuja Archdiocese, Nigeria*, Licentiate Dissertation, Port Harcourt Catholic Institute of West Africa 2015, p. 39-48; Idem, *Diocesan Tribunal for the Nullity of Marriage in the Light of Mitis Iudex Dominus Iesus (Canon 1673, §§1,2). With Particular Reference to the Nigerian Context*, Licentiate Dissertation, Facoltà di Diritto Canonico San Pio X, Venezia 2017, p. 48-51.

⁷⁷ See: Pozzo, Massimo del, *Statistiche e Riscontri*, p. 396.

⁷⁸ For example, Tanzania and Zambia collectively reached 189 briefer processes in 2017, only to see this number drop to around fifty in the subsequent years. See: Pozzo, Massimo del, *L'Andamento Statistico*, p. 93.

⁷⁹ For example, in 2018, around 32% of nullity cases globally were processed without any charges to the petitioners. In contrast, petitioners were required to cover some costs in just over 20% of cases, while nearly 48% of cases involved the petitioners paying the full amount. See: WOODEN, Cindy, *By the Numbers: Statistics Illustrate Progress in Tribunal Reforms*, in: Catholic News Service from 17 September 2020. URL: https://t1p.de/by_the_numbers [last view 12.09.2024]. For an interesting study on this matter in 111 tribunals, see: MBITHI KING'OO, Christopher, *Survey of Tribunals on the Application of Mitis Iudex about Gratuity*, Doctoral Dissertation, Universidad de Navarra 2023.

Other elements of the *motu proprio*

Some aspects of MIDI are not covered in this study, as they either did not apply to the Maltese context or were already being implemented. For instance, the Archdiocese of Malta does not need to establish new tribunals because, as discussed earlier, it has its diocesan tribunal and sends its appeals to a regional appellate tribunal (can. 1673 §§2, 6 Code/1983; PR, art. 8, §§1-2). Concerning MIDI's provision allowing the bishop to entrust nullity cases to a sole clerical judge when a collegial tribunal cannot be formed (can. 1673 §4; MIDI, Preamble, II), the Archbishop of Malta has opted to retain the three-judge tribunal, as the Maltese Metropolitan Tribunal has no shortage of judges, with five available to serve.

With regard to the appeal of cases judged by the *processus brevior* (can. 1687 §§3-4 Code/1983), in Malta, there has not yet been a judgment that was appealed. The *Subsidium* of the Tribunal of the Roman Rota notes that "because we are dealing with a case initiated by common agreement between the parties or at least by one of them with the consent of the other, the appeal, though possible, will, in fact, be rare."⁸⁰ Nonetheless, if an appeal were to be made, a sentence rendered by the Archbishop of Malta, who is the metropolitan, would not be appealed to the Regional Tribunal of Second Instance but rather to the only suffragan, the Bishop of Gozo. An appeal against the sentence of the Bishop of Gozo would be made to the Archbishop of Malta as the metropolitan or to the Roman Rota.

When speaking of appeals to the Roman Rota, it is worth noting that when a case examined under the ordinary process is appealed to a tribunal of third instance—following different judgments in the first and second instances—the Archbishop of Malta typically requests that the Apostolic Signatura arrange for a Pontifical Commission to assign the case to an English-speaking tribunal other than the Roman Rota.⁸¹ This type of request aligns with several key principles that inspired MIDI, such as greater involvement of the bishop in judicial activities, proximity of the tribunals, and the expeditious handling of the nullity process.⁸²

⁸⁰ Apostolic Tribunal of the Roman Rota, *Subsidium* for the Application, p. 42.

⁸¹ See: Francis, *Praedicate Evangelium*, art. 198.

⁸² See: Pontifical Council for Legislative Texts, *Letters Clarifying Some Unclear Points of the motu proprio Mitis Iudex Dominus Iesus*, in: *The Jurist* 76,1 (2016), p. 287-292; here p. 289.

Final remark

In conclusion, while the implementation of MIDI poses challenges and demands careful attention, the positive outcomes observed in the Archdiocese Malta underscore the following truth: when Pope Francis' reform is approached with a genuine commitment to its principles, it has the potential to enhance the Church's ability to administer justice both effectively and pastorally. This benefits the faithful and ecclesiastical tribunals and reinforces the Church's mission to uphold truth, compassion and proximity in its judicial processes.