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Tempus utile

Period of use according to c. 201 § 2 CIC

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Zusammenfassung: Dieser Artikel untersucht das in c. 201 § 2 CIC/83 normierte kanonische Rechtsinstitut der Nutzfrist (tempus utile). Nach einem Überblick über Genese und Systematik des Canons wird der Ursprung der Nutzfrist im römischen Recht sowie ihre Ausprägung im geltenden Kirchenrecht thematisiert. Der Beitrag erläutert die Voraussetzungen von Unwissenheit und Handlungsunfähigkeit, die den Lauf einer Nutzfrist hemmen. Anhand einschlägiger Entscheidungen der Apostolischen Signatur werden wesentliche praktische Kriterien verdeutlicht. Abschließend wird die Nutzfrist als Ausdruck kanonischer Billigkeit interpretiert.

Abstract: This article examines the canonical concept of useful time (tempus utile) as laid down in c. 201 § 2 CIC/83. Following an overview of the canon's origin and structure, it analyzes the roots of the concept of useful time in Roman law and its application in current canon law. The article explains how ignorance and incapacity to act suspend the running of a time limit. Selected decisions of the Apostolic Signatura illustrate important practical standards. The concept of useful time is finally interpreted as an expression of canonical equity.

Schlagwörter: Frist, Fristberechnung, Nutzfrist, *tempus utile*

Keywords: time limit, computation of time, useful time, *tempus utile*

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The article examines the concept of tempus utile (useful time or “utilizable period”) in canon law as regulated in canon 201 of the 1983 Code of Canon Law (CIC/83), situating it within the broader canonical system of time limits and emphasizing its role as an expression of aequitas canonica. The central thesis is that the tempus utile constitutes a distinctive and enduring feature of canonical legal culture, balancing strict procedural certainty with substantive fairness by safeguarding the effective exercise of rights in cases of ignorance or incapacity.

The study begins with an analysis of the content and legislative history of canon 201. Canon 201 distinguishes between two fundamental types of legal time limits: tempus continuum (continuous or unitary time) and tempus utile (useful time). Paragraph §1 defines tempus continuum as a period that admits no interruption, while §2 defines tempus utile as a period

granted to a person exercising or pursuing a right in such a way that it does not run when the person is ignorant or unable to act. The current formulation closely follows canon 35 of the 1917 Code, although the revised structure—separating the two concepts into distinct paragraphs and placing the ordinary case (*tempus continuum*) first—enhances conceptual clarity and systematic coherence.

The article traces the redaction history of canon 201 through the preparatory work of the Code revision commission between 1969 and 1982, noting minor but significant linguistic adjustments. These editorial choices reflect a deliberate effort to emphasize the dichotomy between continuous time and useful time rather than other forms of temporal interruption, underscoring that *tempus utile* is a true exception to the general rule of uninterrupted temporal flow.

The discussion then turns to *tempus continuum* as the normative model for canonical time limits. A *tempus continuum* requires uninterrupted passage for its legal effects to occur; if interrupted, the time does not accumulate and must recommence. The article illustrates this principle through several examples from general canon law, including the acquisition of domicile, the establishment of lawful custom, and automatic incardination. By contrast, canon law also recognizes *tempus intermissum*, a category not explicitly named in canon 201 but nonetheless operative, where interruptions are permitted and cumulative time suffices. Examples include permissible absences under residence obligations and the minimum duration of the novitiate. The decisive factor in *tempus intermissum* is the total sum of elapsed periods rather than continuity.

The core of the article is devoted to *tempus utile*. Unlike *tempus continuum*, a useful time limit either does not begin to run or is suspended when the person entitled to act is prevented by ignorance (*ignorantia*) or incapacity (*impotentia agendi*). This suspension applies only insofar as the impediment actually exists and ceases once knowledge and capacity are restored.

The article demonstrates that the doctrine of *tempus utile* is rooted in Roman law, particularly in Digest texts addressing inheritance and procedural deadlines. These sources articulate the foundational principle that time counts only on days when the rights-holder both knows of the right and is capable of exercising it. Roman jurisprudence already distinguished between

knowledge, factual ability, and legal access to authority, elements that continue to shape canonical interpretation.

The author then analyzes the two constitutive grounds for suspending a useful time limit. Ignorance may concern the existence of a right, available remedies, the commencement or duration of a deadline, the legal consequences of inaction, or the competent authority. Canon law does not presume ignorance (cf. c. 15 §2), and mere lack of canonical expertise is insufficient. Ignorance must be demonstrated or at least rendered credible in the concrete case and must not be culpable. The article stresses that the principle *vigilantibus iura subveniunt* remains operative: the law protects those who act with due diligence. Consequently, the faithful are expected to seek information or legal counsel when necessary.

Incapacity to act may be physical or moral. Physical incapacity includes circumstances such as severe illness, detention, or objective impossibility of communication. Moral incapacity arises when acting would require extraordinary effort, risk scandal, or generate serious scruples. However, incapacity must be real and specific, not abstract or presumed. Illness, for example, suspends a *tempus utile* only if it demonstrably prevented both personal action and the appointment of a representative. Moreover, incapacity suspends time only if the will to act was present; a lack of intent to pursue one's right precludes reliance on *tempus utile*.

The article proceeds to catalog time limits in the CIC/83 that are explicitly designated as useful time, particularly in administrative and judicial procedures, including elections, recourse against administrative acts, procedural appeals, and filings before the Apostolic Signatura. It also addresses implicitly recognized *tempora utilia*, identified in canonical doctrine where the deadline primarily serves the interest of the individual without harming the common good. In such cases, the burden of proof lies with the party asserting the useful nature of the deadline.

A crucial doctrinal distinction is drawn between *tempus utile* and deadlines delayed by a *iustum impedimentum*. In the latter case, time simply does not begin to run until the impediment ceases, after which it runs continuously. By contrast, *tempus utile* may pause and resume multiple times. The article notes that when deadlines are set by administrative or judicial authority rather than by law, the authority may specify whether they are continuous or useful.

The enduring relevance of *tempus utile* is then interpreted as a manifestation of *aequitas canonica*. Canon law, particularly procedural law, contains short peremptory deadlines that can cause hardship if applied rigidly. The useful time limit mitigates such harshness by ensuring that rights are not forfeited due to non-culpable ignorance or genuine incapacity, while still preserving legal certainty through stringent evidentiary requirements.

The final substantive section analyzes selected decisions of the Apostolic Signatura. These decisions consistently affirm that ignorance is not presumed and must be proven, that diligence is required of the faithful, and that higher expectations of legal knowledge apply to bishops and trained canonists. The jurisprudence also clarifies that weekends and holidays do not suspend canonical deadlines and that illness suspends a *tempus utile* only when it demonstrably prevents effective action. Collectively, these decisions illustrate a nuanced, fact-sensitive application of canon 201 §2.

In conclusion, the article situates *tempus utile* among four canonical approaches to time limits: continuous time, interrupted cumulative time, time delayed by lawful impediment, and useful time. While some authors propose abolishing *tempus utile* in favor of the simpler *iustum impedimentum* model, the article argues for its retention. Despite its procedural complexity, *tempus utile* embodies a distinctive canonical commitment to equity and pastoral justice, ensuring that the faithful are not deprived of rights due to circumstances beyond their control. The institution thus remains a valuable, if demanding, instrument for achieving a just balance between legal certainty and individualized fairness in the canonical legal order.