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## Comment on Law Blessing or non-blessing?

The Apostolic See, imploring trust and the blessing of  
persons in irregular situations

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**Zusammenfassung:** Die Erklärung *Fiducia supplicans* des Dikasteriums für die Glaubenslehre vom 18.12.2023 ist eine Weiterentwicklung des Umgangs der Kirche mit Paaren in „irregulären“ Situationen. Auch wenn der Papst eine rechtliche Regelung der Segnung selbst ausschließt, bedarf es einer kanonistischen Einordnung, um abschätzen zu können, was die Neuerungen konkret rechtlich und insbesondere liturgierechtlich für Konsequenzen haben. Der Artikel nimmt diese Einordnung in zwei Schritten vor, zunächst mit der Klärung des Segnungsbegriffs im engen und weiten Sinn, sowie durch die Distanzierung der neuen Segnung von dem Sakrament der Ehe.

**Abstract:** The declaration *Fiducia supplicans* of the Dicastery for the Doctrine of the Faith of 18 December 2023 is a further development of how the Church deals with couples in "irregular" situations. Even if the Pope excludes a legal regulation of the blessing itself, a canonical categorisation is required in order to be able to assess the concrete legal and, in particular, liturgical consequences of the innovations. The article undertakes this categorisation in two steps, firstly by clarifying the concept of blessing in the narrow and broad sense, and by distancing the new blessing from the sacrament of marriage.

Schlagwörter: Eherecht; Segnung; Sakramentalie; Gleichgeschlechtliche Ehe

Keywords: Matrimonial Canon Law; Consecration; Sacramentals; same sex partnership

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A few days before the blessed feast of Christmas 2023, the Dicastery for the Doctrine of the Faith (DDF) publishes news about the possibility of granting a blessing to couples in same-sex relationships or remarried couples after divorce – in short, irregular situations.

What is remarkable here is not only the timing of the publication, but also the high density of official documents <sup>1</sup> on this topic in the last two years. A brief reminder of the most recent

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<sup>1</sup> Numerous doctrinal documents have already been published on this topic: CDF, *Persona humana*. Declaration on some questions of sexual ethics of 29 December 1975, in: OR dated 16.01.1975, p. 1-2; DIES., *Homosexualitas problemata*. Letter on pastoral care for homosexual persons dated 1 October 1986, in: OR of 31.10.1986, p.5; DIES. Some comments on the proposed legislation on non-discrimination against homosexuals dated 23 July 1992, in:

documents: On 22 February 2021, the Congregation for the Doctrine of the Faith (CDF) published a responsum, i.e. an official answer to a question (dubium) submitted to the Congregation: “Does the Church have the authority to bless unions of persons of the same sex?” The answer, in the usual curial style, was short: “No;” even if, quite unusually, an explanation and an additional explanatory note were also published.<sup>2</sup> This did not seem to convince Cardinals Burke and Brandmüller, so they submitted a whole complex of questions to the Pope, including Dubia 2:

“Can the Church derogate from this ‚principio’, considering it as a mere ideal—in contrast to what was taught in *Veritatis Splendor*, 103—and accepting as a ‚possible good’ objectively sinful situations, such as unions with persons of the same sex, without departing from revealed doctrine?”<sup>3</sup>

Pope Francis now states primatially, in the exercise of his ordinary magisterium, that the term marriage can only be applied to relationships of different sexes, according to c. 1055 § 1 CIC/1983:

“For this reason, the Church avoids any type of rite or sacramental that might contradict this conviction and imply that something that is not marriage is being recognized as marriage.”<sup>4</sup>

In the same breath, Pope Francis calls for pastoral care in dealing with all people and opens up the possibility of allowing God's help and blessing to be bestowed on people to whom the sacrament of marriage is not open. Specifically, he explains:

“For this reason, pastoral prudence must adequately discern whether there are forms of blessing, requested by one or more persons, that do not convey an erroneous conception of marriage. For, when one asks for a blessing, one is expressing a petition for God's assistance, a plea to live better, and confidence in a Father who can help us live better.”<sup>5</sup>

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OR of 27.07.1992, p. 4; DIES., Considerations on the drafts for the legal recognition of same-sex partnerships dated 3 June 2003, in: OR of 1.08.2004, p. 4; DIES., Responsum ad dubium on the blessing of unions between persons of the same sex dated 22 February 2021, online: [https://www.vatican.va/roman\\_curia/congregations/cfaith/doc\\_doc\\_index\\_ge.htm](https://www.vatican.va/roman_curia/congregations/cfaith/doc_doc_index_ge.htm) [accessed 19.12.2023]; POPE FRANCIS, Respuestas a los Dubia propuestos por dos Cardenales dated 11. Juli 2023, online: [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_risposta-dubia-2023\\_ge.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_risposta-dubia-2023_ge.html) [accessed 19.12.2023].

<sup>2</sup> Cf. CDF, *Responsa ad dubium* (cf. n. 1).

<sup>3</sup> POPE FRANCIS, *Respuestas* (cf. n. 1).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

According to the prefect of the DDF, the declaration *Fiducia supplicans* (FS) is the fulfilment of the papal mandate to find forms of blessing that are open to people in irregular situations.<sup>6</sup>

Ecclesiastical news portals are treating this declaration by the DDF as sensational news: “Drumbeat in the Vatican”<sup>7</sup>; “Vatican authorises blessing of 'irregular' couples”<sup>8</sup>; more negative: “Homosexuals and unmarried people: a blessing that backfires”<sup>9</sup>. Theologians were also quick to comment on the Vatican document: Münster dogmatist Michael Seewald sees it as the most groundbreaking development since Vatican II<sup>10</sup>, while Bonn moral theologian Jochen Sautermeister considers the declaration to be groundbreaking in terms of the universal church<sup>11</sup>. The Erfurt dogmatist Julia Knop is rather more cautious, as in her judgement there is nothing really new in the content of the document, meaning that there has not been a paradigm shift in doctrine, but if anything in practice.<sup>12</sup>

So, what could be the canonist's contribution to this work by the Pope or his Ministry of Faith? Pope Francis himself does not see canonists as having a role to play here when he formulates his response to the cardinals' dubia:

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<sup>6</sup> DDF, Declaration *Fiducia supplicans*. On the Pastoral Meaning of Blessings dated 18.12.2023, online: [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_ddf\\_doc\\_20231218\\_fiducia-supplicans\\_ge.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_ddf_doc_20231218_fiducia-supplicans_ge.html) [accessed 19.12.2023]: „The value of this document, however, is that it offers a specific and innovative contribution to the pastoral meaning of blessings, permitting a broadening and enrichment of the classical understanding of blessings, which is closely linked to a liturgical perspective. Such theological reflection, based on the pastoral vision of Pope Francis, implies a real development from what has been said about blessings in the Magisterium and the official texts of the Church.“

<sup>7</sup> KNA; CHRISTOPH BRÜWER, Katholische Kirche erlaubt Segnung für homosexuelle Paare. Verwechslung mit Eheschließung müsse ausgeschlossen werden, in: *katholisch.de* vom 18.12.2023, online: <https://katholisch.de/artikel/49651-katholische-kirche-erlaubt-segnung-fuer-homosexuelle-paare> [accessed 19.12.2023].

<sup>8</sup> VATICAN NEWS vom 18.12.2023, online: <https://www.vaticannews.va/de/vatikan/news/2023-12/erklarung-vatikan-dikasterium-glauben-segen-segnung-paare-homo.html> [accessed 19.12.2023].

<sup>9</sup> HORST, Guido, Kommentar: Homosexuelle und Unverheiratete: Ein Segen, der nach hinten losgeht vom 18.12.2023, in: *Die Tagespost*, online: <https://www.die-tagespost.de/kirche/aktuell/homosexuelle-und-unverheiratete-ein-segen-der-nach-hinten-losgeht-art-246026> [accessed 19.12.2023].

<sup>10</sup> KNA; Kirche und Leben, Sautermeister und Seewald: Vatikan-Ja ‚wegweisend‘ und ‚bahnbrechend‘, Theologen bewerten Erklärung zu Segnungen vom 19.12.2023, online: <https://www.kirche-und-leben.de/artikel/sautermeister-und-seewald-vatikan-ja-wegweisend-und-bahnbrechend> [accessed 19.12.2023].

<sup>11</sup> BRÜGGENJÜRGEN, Ingo, „In weltkirchlicher Hinsicht wegweisen.“ Sautermeister betont Dimension der „Segnung für alle“ vom 19.12.2023, in: *Domradio.de*, online: <https://www.domradio.de/artikel/sautermeister-betont-dimension-der-segnungen-fuer-alle> [accessed: 19.12.2023].

<sup>12</sup> SCHULZ, Benedikt, Rom erlaubt Segnung gleichgeschlechtlicher Paare – Gespräch mit Julia Knop vom 19.12.2023, in: *Deutschlandfunk*, online: <https://www.deutschlandfunk.de/rom-erlaubt-segnung-gleichgeschlechtlicher-paare-gespraech-mit-julia-knop-dlf-c4505b18-100.html> [accessed 19.12.2023].

“Canon Law should not and cannot cover everything, nor should the Episcopal Conferences claim to do so with their various documents and protocols, since the life of the Church flows through many channels besides the normative ones.”<sup>13</sup>

In this article it is not intended to draft a legal regulation for the blessing, but rather a legal classification in order to better recognise opportunities and limits. The law must not attempt to standardise moral and ethical behaviour; that is the boundary that cannot be crossed.<sup>14</sup> In itself, the law, and here canon law is no different, serves to reduce complexity in everyday life; to put it another way – theologically – canon law is an instrument “with the help of which the necessary order in personal and social life as well as in the leadership of the church itself is ensured.”<sup>15</sup>

The first and probably most important statement: There is no norm in canon law that prohibits the blessing of couples in irregular situations. The ecclesiastical legislator is even relatively cautious with regard to legal regulations on blessing in general. Only in c. 1169 § 2 CIC/1983 is the question of the donor – with the exception of papal reservations of any priest – and in c. 1170 CIC/1983 the question of the recipient – all people, if there is no prohibition to the contrary – is regulated.

Nevertheless, the Declaration FS contains some canonical and, above all, liturgical provisions that can help with the categorisation.

## 1. The comprehensive and liturgical understanding of blessings

In the Declaration, the DDF refers to the already familiar context that things, places or circumstances which are contrary to the law or the spirit of the Gospel cannot be blessed in the form of official celebrations presented by the Church (No. 10). This is the liturgical – narrow – understanding of blessings. Codicological, blessings are among the sacramentals regulated in cc.

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<sup>13</sup> POPE FRANCIS, *Respuestas* (cf. n. 1), question 2, letter g.

<sup>14</sup> Cf. NEUMANN, Johannes, *Das Kirchenrecht, Chance und Versuchung*, Graz 1972, p. 13.

<sup>15</sup> POPE JOHN PAUL II., *Apostolic Constitution Sacrae disciplinae leges* dated 25. Januar 1983, in: AAS 75 (1983), p. VII-XIV.

1166-1172 CIC/1983. The ecclesiastical legislator even provides a legal definition of sacramentals in c. 1166 CIC/1983:

“Sacramentals are sacred signs by which effects, especially spiritual effects, are signified in some imitation of the sacraments and are obtained through the intercession of the Church.”

Consequently, sacramentals and thus also blessings always have a connection to a sacrament, spiritual or gracious effects in personal life with regard to tasks, family, church or society<sup>16</sup> and these occur through the intercession of the Church – i.e. indirectly and not directly as with the sacraments<sup>17</sup> According to c. 1167 § 1 CIC/1983, the Apostolic See alone is authorised to introduce new sacramentals or change existing ones. Thus, according to c. 1167 § 2 CIC/1983, the rites and formulae approved by the ecclesiastical authority are to be strictly observed when administering them. Legally, it should therefore be unmistakably clear that no ecclesiastical authority below the Pope – e.g. an episcopal conference – is authorised to introduce a new blessing in the sense of a sacramental. A sacramental also requires specific rites, which in turn are authorised by the Apostolic See. So even if individual diocesan bishops, inspired by the recommendations of the Synodal Path, wanted to introduce blessings for same-sex couples, they would not be able to do so without the authorisation of the Apostolic See. This is not a new regulation, but has been the law for forty years.

In the overall context of the Church's sanctification service, blessings as sacramentals are part of the liturgy, the *cultus divinus*. According to c. 834 § 2, this is the case “when it is offered in the name of the Church by persons legitimately authorised to do so and by acts approved by ecclesiastical authority.” For a more complete understanding, c. 837 § 1 CIC/1983 should be consulted:

“Liturgical actions are not private actions but celebrations of the Church itself which is the sacrament of unity, that is, a holy people gathered and ordered under the bishops. Liturgical actions therefore belong to the whole body of the Church and manifest and affect it; they touch its individual members in different ways, however, according to the diversity of orders, functions, and actual participation.”

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<sup>16</sup> Cf. ALTHAUS, Rüdiger, Kommentar zu c. 1166, in: Lüdicke, Klaus (Hrsg.), *Münsterischer Kommentar zum Codex Iuris Canonici*, unter besonderer Berücksichtigung der Rechtslage in Deutschland, Österreich und der Schweiz, Loseblattwerk, Essen seit 1985, 62. Ergänzungslieferung, Stand Oktober 2022, Rn. 2.

<sup>17</sup> Cf. *ibid.*, Rn. 3

To summarise, a blessing in the strict liturgical sense is always a celebration of the Church itself, approved by the highest authority. This form remains closed to couples in irregular situations.

The broader meaning of blessing as a further development of doctrine is explained in No. 24 of the Declaration FS:

“From the point of view of pastoral care, blessings should be evaluated as acts of devotion that ,are external to the celebration of the Holy Eucharist and of the other sacraments.’ Indeed, the ,language, rhythm, course, and theological emphasis’ of popular piety differ ,from those of the corresponding liturgical action.’ For this reason, ,pious practices must conserve their proper style, simplicity, and language, [and] attempts to impose forms of ‘liturgical celebration’ on them are always to be avoided’.”<sup>18</sup>

The attentive canonist will not miss the signal word “acts of piety” in this passage. This provides a direct link to the Codex, as the Church exercises the service of sanctification in a special way through the liturgy defined above, but not exclusively. The pious and sacred exercises (*piet et sacra exercitia*) according to c. 839 § 1 CIC/1983 are also part of the service of sanctification:

“The Church carries out the function of sanctifying also by other means, both by prayers in which it asks God to sanctify the Christian faithful in truth, and by works of penance and charity which greatly help to root and strengthen the kingdom of Christ in souls and contribute to the salvation of the world.”

According to c. 839 § 2 CIC/1983, their supervision is the responsibility of the rectors of the respective particular churches. However, these are not acts of the Church but, with the aid of the permissible interpretation of c. 1256 CIC/1917, private acts.<sup>19</sup> Their effect results from the believing prayer itself<sup>20</sup>, the Church has no part in this.

To summarise, in the case of blessings in the broader sense, it is not the Church itself that acts, but the recipient asks a minister of the Church for a private act of intercession for himself and his relationship. It is a work of piety like the blessing of a newly built house or the blessing of travellers on holiday. Any attempt to place the private character of this work of sanctification in an official framework as an act of the Church itself would distort this blessing, as explained in No. 36 FS:

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<sup>18</sup> DDF, *Fiducia supplicans* (cf. n. 6).

<sup>19</sup> In detail: NEUMANN, Thomas, *Recht und Ritual, Eine kanonistische Annäherung an den normativen Charakter der Liturgie*, in: *Liturgisches Jahrbuch*, 68 (2018), p. 109-126; bes. p. 119-122.

<sup>20</sup> Cf. ALTHAUS, *Kommentar zu c. 1166* (cf. n. 16), Rn. 4.

“In this sense, it is essential to grasp the Holy Father’s concern that these non-ritualized blessings never cease being simple gestures that provide an effective means of increasing trust in God on the part of the people who ask for them, careful that they should not become a liturgical or semi-liturgical act, similar to a sacrament. Indeed, such a ritualization would constitute a serious impoverishment because it would subject a gesture of great value in popular piety to excessive control, depriving ministers of freedom and spontaneity in their pastoral accompaniment of people’s lives.”<sup>21</sup>

The Pope explicitly understands such ritualisation to include the development of own liturgical rites by episcopal conferences or other authorities.<sup>22</sup>

## 2. The necessary distance from the sacrament of marriage

When reading the FS Declaration, the regular distancing from the sacrament of marriage continues to be striking. The Church's concern about the impending confusion of its faithful seems immense. The Responsum of the CDF of 21 February 2021 states:

“Consequently, in order to conform with the nature of sacramentals, when a blessing is invoked on particular human relationships, in addition to the right intention of those who participate, it is necessary that what is blessed be objectively and positively ordered to receive and express grace, according to the designs of God inscribed in creation, and fully revealed by Christ the Lord. Therefore, only those realities which are in themselves ordered to serve those ends are congruent with the essence of the blessing imparted by the Church.

For this reason, it is not licit to impart a blessing on relationships, or partnerships, even stable, that involve sexual activity outside of marriage (i.e., outside the indissoluble union of a man and a woman open in itself to the transmission of life), as is the case of the unions between persons of the same sex. The presence in such relationships of positive elements, which are in themselves to be valued and appreciated, cannot justify these relationships and render them legitimate objects of an ecclesial blessing, since the positive elements exist within the context of a union not ordered to the Creator’s plan.”<sup>23</sup>

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<sup>21</sup> DDF, *Fiducia Supplicans* (cf. n. 6).

<sup>22</sup> Cf. POPE FRANCIS, *Respuestas* (cf. n. 1): “Decisions that may be part of pastoral prudence in certain circumstances need not necessarily become the norm. This means that it is not appropriate for a diocese, a bishops' conference or any other ecclesial structure to permanently and officially authorise procedures or rites for all possible matters, because anything “which is part of a practical discernment in the face of a particular situation cannot be elevated to the status of norm”, because this would give rise to “intolerable casuistry” (*Amoris laetitia*, 304). Canon law should not and cannot cover everything, nor can the bishops' conferences with their various documents and protocols do so, since the life of the Church flows through many channels besides the normative ones.”

<sup>23</sup> CDF, *Responsum ad dubium* (cf. n. 1).

Under these circumstances, it seems helpful to ascertain canonically what a marriage is as a sacrament. The ecclesiastical legislator defines it in c. 1055 § 1 CIC/1983:

“The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized.”

In addition, the essential properties of marriage according to c. 1056 CIC/1983, the unity and indissolubility of marriage are necessary for the definition of marriage. It could now be legally examined what significance the complementarity of the sexes mentioned in c. 1055 § 1 CIC/1983 has for the nature of marriage. According to c. 1096 CIC/1983, the legislator counts it as part of the minimum knowledge about marriage. In a declaration from 2003, the CDF effectively elevated the complementarity of the sexes to a further essential property of marriage:

“The Church's teaching on marriage and on the complementarity of the sexes reiterates a truth that is evident to right reason and recognized as such by all the major cultures of the world. Marriage is not just any relationship between human beings. It was established by the Creator with its own nature, essential properties and purpose.”<sup>24</sup>

The apodictic but unambiguous vocabulary of marriage law contributes to a better understanding. The object of consensus, i.e. what constitutes marriage, is given by God and beyond human control. Formulated in a gesture of powerlessness, the Church cannot change what is essential to marriage, even if she wanted to, because she does not have the necessary authority. The objection to this is that they only want to bless and recognise same-sex couples and that the administration of the sacrament of marriage is not up for debate. However, this is at least a self-deception, because the legitimacy of the blessing for such unions is justified with elements that can also be found in marriages: Fidelity (c. 1056 CIC/1983), equality (c. 1135 CIC/1983), unity (1056 CIC/1983), good of the partners (c. 1055 § 1 CIC/1983), permanence (c. 1056 in conjunction with c. 1096 CIC/1983). However, it is not a marriage, but a marriage light or, to put it another way, a legitimate sexual relationship filled with love. Something like that must be possible, right?

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<sup>24</sup> CDF, Considerations (cf. n. 1).



In short: due to the unavailability of the object of consensus, it is not possible. For the Catholic Church, the only allowed sexual union between two people is heterosexual marriage.

This can again be illustrated using marriage law terminology: in the context of partial simulation – the exclusion of an essential property or an essential element of marriage (c. 1101 § 2 CIC/1983) – it is declared that if someone wants a marriage without fidelity, for example, he or she does not get a marriage without fidelity, but nothing. Zenon Cardinal Grocholewski illustrates this with an example<sup>25</sup>: if you order the house platter in a restaurant without onions, you no longer get the house platter, but something else. If you want marriage without fidelity or without the complementarity of the sexes, you don't get something else – such as a marriage light (a platter without onions) – but nothing. The reason for this is that something essential to marriage is missing and the essence of marriage is not at the disposal of man. This can be applied to irregular relationships, because the complementarity of the sexes is obviously an essential characteristic of marriage. As already mentioned, there is no other form of church-recognised sexual relationships, so same-sex couples would not get something different, but nothing.

### 3. A conclusion: Perspectives?

In terms of truly recognising and valuing couples and their relationships in irregular situations, the canonical result is devastating. To repeat, canon law does not contain an explicit prohibition of the blessing of persons in irregular situations, it merely takes into account its foundation, the Catholic doctrine of faith.<sup>26</sup> However, canon law does not offer a legal institution that would be suitable for couples in these relationships. Marriage is not, and neither is blessing in the liturgical sense as a sacramental.<sup>27</sup> With the declaration FS of the DDF, the institute of

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<sup>25</sup> Cf. GROCHOLEWSKI, Zenon, *De errore circa matrimonii unitatem, indissolubilitatem et sacramentalem dignitatem*, in: *Periodica de re Canonica* 84 (1995), p. 395-418; hier p. 403.

<sup>26</sup> On the relationship between law and doctrine, see: NEUMANN, Thomas; SCHÜLLER Thomas, *ordinatio rationis et/vel ordinatio fidei. Diskurs über die Quelle(n) des Kanonischen Rechts*, in: *ancilla iuris* 57 (2020), DOI: 10.26031/2020.057.

<sup>27</sup> For a critical view on the question of whether marriage or blessing as heteronormative constructs should be strived for at all, see: SCHÜLLER Thomas, *Ehe anders denken – Die kirchliche Ehe für gleichgeschlechtliche Paare?*, in: Neumann, Thomas; Platen, Peter; Schüller, Thomas (Hrsg.), *Nulla est caritas sine iustitia. FS für Klaus Lüdicke zum 80. Geburtstag (= MK CIC. Beihefte: 82)*, Essen 2023, p. 351-363.

pious exercise (*pia exercitia*) in accordance with c. 839 CIC/1983 has now been found for such relationships, which is based on the "Belgian model".<sup>28</sup> The Church does not have the authority to go further.<sup>29</sup>

And yet something remarkable has happened in canon law: A new legal institution has been created to regulate something that had eluded legal regulation until 17 December 2023. This is a well-practised procedure in religious legal systems: Because something is forbidden for reasons of faith, we create a new legal institution – call it something else – in order to be able to realise it after all.

It is a small but noteworthy step, not towards marriage, but towards something else, the house plate without onions, and no longer towards nothing.

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<sup>28</sup> The FLEMISH BISHOPS, Declaration Homoseksuele personen pastoraal nabij zijn dated 20. september 2022, online: <https://www.kerknet.be/sites/default/files/20220920%20PB%20Aanspreekpunt%20-%20Bijlage%201.pdf> [accessed 19.12.2023].

<sup>29</sup> Cf. CDF, comment on Responsum ad dubium dated 21. February 2023, online: [https://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20210222\\_articolo-responsum-dubium-unioni\\_ge.html](https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20210222_articolo-responsum-dubium-unioni_ge.html) [accessed 19.12.2023]: „This must therefore be said of an authority that the Church does not possess, for she cannot dispose of God's plans, which would otherwise be misjudged and denied. The Church is not the arbiter of these plans and of the truths of life that they express, but their faithful interpreter and proclaimer.“