



Office of the President

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Most Reverend William S. Skylstad, D.D.

Bishop of Spokane

MEMORANDUM

DATE: April 5, 2006

TO: All Bishops 

FROM: Most Reverend William S. Skylstad

RE: **Notification from Pontifical Council for Legislative Texts on the *actus formalis defectionis***

I recently received the attached circular letter from His Eminence, Julián Cardinal Herranz, President of the Pontifical Council on Legislative Texts, sent to the Presidents of all Episcopal Conferences by order of His Holiness, Benedict XVI, who himself approved the contents of the letter.

Cardinal Herranz addresses the question of what elements are necessary for an act of defection from the faith to qualify as a specifically *formal* act of defection, or an *actus formalis defectionis ab Ecclesia catholica* as mentioned in the Code of Canon Law (c. 1086 §1). As you may well be aware, the answer to that question has important practical consequences for the work of Chancery and Tribunal officials, specifically when they must determine whether a person who has defected from the Catholic faith is bound by the impediment of disparity of cult (c. 1086 §1 CIC), must observe the canonical form of marriage (c. 1117 CIC), or needs to obtain permission to enter a marriage with a baptized non-Catholic (c. 1124 CIC).

At my request, the Chairman of the Committee on Canonical Affairs, the Most Reverend John J. Myers, has agreed to discuss the circular letter at the next meeting of his Committee. He thought it might prove helpful for the Committee to provide observations on the matter for the benefit of the Bishops. May I also suggest that the Notification be forwarded to the appropriate officials of your diocese, and to well-instructed canonists who might provide assistance to those who will address the issue in individual cases?

Thank you for your attention to this memorandum.



PONTIFICIUM CONSILIUM
DE LEGUM TEXTIBUS

Vatican City, 13 March 2006

Prot. N. 10279/2006

Your Excellency:

For quite some time, a considerable number of Bishops, Judicial Vicars and others working in the field of canon law have been posing to this Pontifical Council questions and requests for clarification concerning the so-called *actus formalis defectionis ab Ecclesia catholica* mentioned in canons 1086, § 1, 1117 and 1124 of the Code of Canon Law. The concept therein presented is new to canonical legislation and is distinct from the other – rather “virtual” (that is, deduced from behaviors) – forms of “notoriously” or “publicly” abandoning the faith (cfr. can. 171, § 1, 4°; 194, § 1, 2°; 316, § 1; 694, § 1, 1°; 1071, § 1, 4° and § 2). In the latter circumstances, those who have been baptized or received into the Catholic Church continue to be bound by merely ecclesiastical laws (cfr. can. 11).

The issue was carefully examined by the competent Dicasteries of the Holy See in order to identify, first of all, the theological and doctrinal components of an *actus formalis defectionis ab Ecclesia catholica* and then in turn the requirements or juridical formalities that would be necessary so that such an action would constitute a true “formal act” of defection.

After having received the decision of the Congregation of the Doctrine of the Faith concerning the theological and doctrinal elements, and after subsequently examining the entire matter in Plenary Session, this Pontifical Council communicates the following to the Presidents of Episcopal Conferences:

1. For the abandonment of the Catholic Church to be validly configured as a true *actus formalis defectionis ab Ecclesia* so that the exceptions foreseen in the previously mentioned canons would apply, it is necessary that there concretely be:

- a) the internal decision to leave the Catholic Church;
- b) the realization and external manifestation of that decision; and
- c) the reception of that decision by the competent ecclesiastical authority.

2. The substance of the act of the will must be the rupture of those bonds of communion – faith, sacraments, and pastoral governance – that permit the Faithful to receive the life of grace within the Church. This means that the formal act of defection must have more than a juridical-administrative character (the removal of one’s name from a Church membership registry maintained by the government in order to produce certain civil consequences), but be configured as a true separation from the constitutive elements of the life of the Church: it supposes, therefore, **an act of apostasy, heresy or schism.**

His Excellency
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3. The juridical-administrative act of abandoning the Church does not *per se* constitute a formal act of defection as understood in the Code, given that there could still be the will to remain in the communion of the faith.

On the other hand, heresy (whether formal or material), schism and apostasy do not in themselves constitute a formal act of defection if they are not externally concretized and manifested to the ecclesiastical authority in the required manner.

4. The defection must be a valid juridical act, placed by a person who is canonically capable and in conformity with the canonical norms that regulate such matters (cfr. cann.124-126). Such an act must be taken personally, consciously and freely.

5. It is required, moreover, that the act be manifested by the interested party in written form, before the competent authority of the Catholic Church: the Ordinary or proper pastor, who is uniquely qualified to make the judgment concerning the existence or non-existence of the act of the will as described above in n. 2.

Consequently, only the convergence of the two elements – the theological content of the interior act and its manifestation in the manner defined above – constitutes the *actus formalis defectionis ab Ecclesia catholica*, with the corresponding canonical penalties (cfr. can. 1364, § 1).

6. In such cases, the competent ecclesiastical authority mentioned above is to provide that this act be noted in the baptismal registry (cfr. can. 535, § 2) with explicit mention of the occurrence of a “*defectio ab Ecclesia catholica actu formali*”.

7. It remains clear, in any event, that the sacramental bond of belonging to the Body of Christ that is the Church, conferred by the baptismal character, is an ontological and permanent bond which is not lost by reason of any act or fact of defection..

With the certainty that the Bishops of your Conference, conscious of the salvific dimension of ecclesiastical communion, will well understand the pastoral motivations underlying these norms, I welcome this opportunity to renew my sentiments of fraternal esteem.

Faithfully yours in the Lord,



JULIÁN CARD. HERRANZ
President



✠ BRUNO BERTAGNA
Secretary

This notification was approved by the Supreme Pontiff, Benedict XVI, who directed that it be transmitted to all Presidents of Episcopal Conferences.