



The ecclesiastical discipline of the celebration of marriage according to the books of the Roman Rite of 1962 after the Second Vatican Council according to the motu proprio *Summorum Pontificum* and *Traditionis custodes*

Dyscyplina kościelna celebracji małżeństwa według ksiąg rytu rzymskiego
z 1962 r. po II Soborze Watykańskim według motu proprio
Summorum Pontificum i *Traditionis custodes*

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Abstract: Through Pope Benedict XVI's motu proprio *Summorum Pontificum* of July 7, 2007, the universal law for use of the 1962 liturgical books entered into force, but under certain conditions. Bishops received the unrestricted right to use the *Pontificale Romanum* of 1961/62 in the celebration of marriage. Nevertheless, the use of the *Rituale Romanum* of 1952 by priests or deacons when assisting at marriages required the permission of the parson or rector of the church hosting the ceremony. In addition, members of the clergy whose communities received the special permission necessary from the Apostolic See or the local Ordinary could also participate as qualified witnesses in a marriage ceremony celebrated according to the *earlier rites*. However, since July 16, 2021, after the issuance of the motu proprio *Traditionis custodes*, celebrating a marriage according to the books of 1962 is only possible in personal parishes with the permission of the diocesan bishop. The local Ordinary can also authorise priests of communities that have the special right to celebrate the *earlier rites* to celebrate such marriages. During the celebration of marriage according to the books of 1962, the current Code's discipline should be maintained, providing it does not violate the shape of the rites contained in these books.

Keywords: marriage, liturgy of 1962, Second Vatican Council, *Rituale Romanum* of 1952, *Summorum Pontificum*, *Traditionis custodes*

Streszczenie: Na mocy motu proprio *Summorum Pontificum* papieża Benedykta XVI z 7 lipca 2007 r. zostało wprowadzone powszechne prawo do używania ksiąg z 1962 r. pod określonymi warunkami. Biskupi otrzymali upoważnienie do celebracji małżeństwa według *Pontificale Romanum* z 1961/62 r. Natomiast użycie *Rituale Romanum* z 1952 r. przez prezbiterów lub diakonów do asystowania przy zawarciu małżeństwa wymagało

zezwoleń proboszcza lub rektora kościoła. Ponadto przy zawarciu małżeństwa według *wcześniejszych obrzędów* jako świadkowie kwalifikowani uczestniczyli także duchowni, których wspólnoty otrzymały prawo specjalne od Stolicy Apostolskiej lub ordynariusza miejsca. Natomiast od 16 lipca 2021 r., po wydaniu motu proprio *Traditionis custodes* papieża Franciszka, celebrowanie małżeństwa według ksiąg z 1962 r. możliwa jest jedynie w parafiach personalnych. Dokonuje się to za zezwoleniem biskupa diecezjalnego. Ordynariusz miejsca może zezwolić na to także kapłanom wspólnot, które posiadają prawo specjalne do celebrowania *wcześniejszych obrzędów*. Podczas celebrowania małżeństwa według ksiąg z 1962 r. należy zachować obecną dyscyplinę kodeksową, jeśli nie narusza ona kształtu obrzędów zawartych w tych księgach.

Słowa kluczowe: małżeństwo, liturgia z 1962 r., II Sobór Watykański, *Rituale Romanum* z 1952 r., *Summorum Pontificum*, *Traditionis custodes*

Treść: Introduction. 1. The rules of the celebration of marriage from 2007-2021. 1.1. The universal law of the motu proprio *Summorum Pontificum*. 1.2. The special right of the communities. 2. The celebration of marriage since 2021. 2.1. The universal law of the motu proprio *Traditionis custodes*. 2.2. The special right of the communities. 3. The Code of Canon Law of 1983 and the celebration of marriage according to the books of 1962. Conclusions.

Introduction

This study is a continuation of the topic undertaken in the article entitled: „The ecclesiastical discipline of the celebration of marriage according to the books of the Roman Rite of 1962 after the Second Vatican Council in 1965-2007”. The article presented the reform and characterization of the marriage rites according to the *Rituale Romanum* of 1952 and the other books that also were in force in 1962 after *Vaticanum II* in the *sui iuris* Latin Church. An attempt was made to specify the legal basis of the permissions issued for the celebration of these rites, which has taken place since 1988 following the publication of the motu proprio *Ecclesia Dei adflicta* of Pope John Paul II and the establishment of the Pontifical Commission *Ecclesia Dei*. The communities that received the right to celebrate these rites were also described.

This second elaboration on the subject will investigate the legal regulations of the celebration of the liturgy of marriage since 2007, i.e. since the publication Pope Benedict XVI's motu proprio *Summorum Pontificum*. At this point, the universal law for the use

of the liturgical books of 1962 as the *extraordinary form of the Roman Rite* was introduced. As a result, marriage celebrations utilising the Mass according to these rites began to be held in many places. New communities, including personal parishes, which held the special right to use these books were also established.

However, the situation changed with the publication of Pope Francis's apostolic letter *motu proprio Traditionis custodes* in 2021. Under the new restrictive regulations of the pontifical law and the *Responsa ad dubia* of the Congregation for Divine Worship and the Discipline of the Sacraments of 2021, the use of the *Rituale Romanum* of 1952 has been significantly limited. These documents have subsequently caused tension among the faithful attached to the *earlier rites*.

In this article, in addition to showing the ecclesiastical discipline of the celebration of marriage according to the books of 1962 in light of these papal documents, an attempt will be made to verify the relationship of the rules contained in these books with the current discipline of the Code of Canon Law of 1983. It will also be important to indicate the current rules of the celebration of marriage according to the earlier Roman Ritual, in light of the *motu proprio Traditionis custodes*. The need for this study was realised following the changes in the ecclesiastical discipline of the discussed matter. Therefore, it will be helpful mainly for the Ordinaries and parish priests.

1. The rules of the celebration of marriage from 2007-2021

1.1. The universal law of the *motu proprio Summorum Pontificum*

As was already noted in the introduction, the year 2007 was an important and groundbreaking one for the Church's discipline of the celebrating the Sacrament of Marriage according to the books of 1962¹

¹ It should be noted that these are not only the books published in 1962, but also the books that are current in the typical 1962 edition. Therefore, they could have been published earlier.

after the Second Vatican Council (1962-1965). This significance was related to the publication of Pope Benedict XVI's apostolic letter *Summorum Pontificum*, pursuant to which the 1962 liturgy was constituted as the *forma extraordinaria Ritus Romani*². It was issued on July 7, 2007, and entered into force on September 14, 2007. Through this general decree, the Roman Pontiff authorised the use of the 1962 *Missale Romanum* on the basis of universal law, thereby strengthening the faithful's right to participate in the liturgy of the Mass according to the rites of this Missal³. With the promulgation of this apostolic letter, the earlier principles contained in the letter *Quattuor abhinc*

² BENEDICTUS XVI, *Litterae Apostolicae Motu Proprio datae de usu extraordinario antiquae formae Ritus Romani Summorum Pontificum*, 7.07.2007, AAS 99 (2007), p. 777-781. See W.F. ROTHE, *Liturgische Versöhnung. Ein kirchenrechtlicher Kommentar zum Motu proprio Summorum pontificum für Studium und Praxis*, Augsburg 2009; M. REHAK, *Der außerordentliche Gebrauch der alten Form des römischen Ritus: kirchenrechtliche Skizzen zum Motu Proprio Summorum Pontificum vom 7.07.2007*, Münchener Theologische Studien III/64, St. Ottilien 2009; G.P. WEISHAUP, *Päpstliche Weichenstellungen. Das Motu Proprio Summorum Pontificum Papst Benedikts XVI und der Begleitbrief an die Bischöfe. Ein kirchenrechtlicher Kommentar und Überlegungen zu einer Reform der Reform*, Bonn 2010; C.J. GLENDINNING, *Summorum Pontificum and the use of the extraordinary form of the roman rite: a canonical analysis in light of the current liturgical law*, Ottawa 2010, *pro manuscripto*; A. SORIA JIMÉNEZ, *Los principios de interpretación del Motu Proprio Summorum Pontificum*, Madrid 2014; W.H. JOHNSTON, *Care for the Church and Its Liturgy. A Study of Summorum Pontificum and the Extraordinary Form of the Roman Rite*, Collegeville-Minnesota 2013; M. GURTNER, *Rechte und Pflichten nach Summorum Pontificum: Ein liturgierechtliches Vademecum*, Aadorf 2012; D. PIETRAS, *Nadzwyczajna forma rytu rzymskiego. Status prawny liturgii i wspólnot*, Dębogóra 2021, p. 66-71, 77-84.

³ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIAE DEI, *Instructio ad exsequendas Litteras Apostolicas Summorum Pontificum a S.S. Benedicto PP. XVI Motu Proprio Universae Ecclesiae*, 30.04.2011, AAS 103 (2011), p. 413-420, no. 2: „Hisce Litteris Motu Proprio datis Summus Pontifex Benedictus XVI legem universalem Ecclesiae tulit ut regulis nostris temporibus aptioribus quoad usum Romanae Liturgiae anno 1962 vigentem provideret”; *Missale Romanum ex decreto SS. Concilii Tridentini restitutum Summorum Pontificum cura recognitum*, Editio typica 1962, M. SODI, A. TONIOLO (eds.), *Monumenta Liturgica Pia* 1, Libreria Editrice Vaticana 2007 [hereafter referred to as „*Missale Romanum* (1962)"]. See D. PIETRAS, *Nadzwyczajna forma...*, p. 67: „Poprzez ten dekret papież promulgował

annos of 1984 and the *motu proprio Ecclesia Dei adflicta* of 1988 were repealed⁴. At this point, the instruction *Universae Ecclesiae* of April 30, 2011, issued by the Pontifical Commission *Ecclesia Dei*, became an important explanatory document⁵. Moreover, it is pertinent for the discussed topic that, for the first time in the universal law of the Latin Church after *Vaticanum II*, the possibility of the unrestricted use of the *Pontificale Romanum* of 1961/62 in the celebration of marriage was formally articulated. The current 1962 *Caeremoniale Episcoporum* should therefore also be taken into account⁶. However, the use of the *Rituale Romanum* (according to the *Titulus VIII* of this

prawo powszechne dla Kościoła, w celu wprowadzenia nowych ram normatywnych stosowania liturgii rzymskiej celebrowanej według *formy* obowiązującej w 1962 r.”.

⁴ SACRA CONGREGATIO PRO CULTU DIVINO, *Epistula de usu Missalis Romani iuxta editionem typicam anni MCMLXII Quattuor abhinc annos*, 3.10.1984, Prot. N. 686/84, AAS 76 (1984), p. 1088-1089; JOANNES PAULUS II, *Litterae Apostolicae Motu Proprio datae quibus Commissio quaedam ad plenam ecclesiam communionem Fraternalitatis sacerdotalis a sancto Pio X sodalium vel eidem coniunctorum expediendam instituitur Ecclesia Dei adflicta*, 2.07.1988, AAS 80 (1988), p. 1495-1498. See D. PIETRAS, *Nadzwyczajna forma...*, p. 175-190.

⁵ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Instructio Universae Ecclesiae*. See G.P. WEISHAUP, *Die Instruktion Universae Ecclesiae. Ein kirchenrechtlicher Kommentar*, Aadorf – Benedetto 2013, p. 57-62, 93-95; C.J. GLENDINNING, *Universae Ecclesiae: text and commentary*, *Studia Canonica* 45 (2011), p. 398-401; J.J. FOSTER, *Canonical Reflections on Universae Ecclesiae, the Instruction on the Application of Summorum Pontificum*, *The Jurist* 73 (2013), p. 89-129; D. PIETRAS, *Nadzwyczajna forma...*, p. 74-77.

⁶ BENEDICTUS XVI, *Litterae Apostolicae Summorum Pontificum*, no. 9 § 2; CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Instructio Universae Ecclesiae*, no. 29, 31, 35: „Salvo quod sub n. 31 huius Instructionis praescriptum est, ad mentem n. 28 ipsius Instructionis licet Pontificale Romanum, Rituale Romanum et Caeremoniale Episcoporum anno 1962 vigentia adhibere”; *Pontificale Romanum. Editio typica 1961-1962*, M. SODI, A. TONIOLO (eds.), *Monumenta Liturgica Pia* 3, Libreria Editrice Vaticana 2008 (*Ritus pontificalis pro celebrando Sacramento Matrimonii; De benedictione nuptiarum – Appendix*); *Caeremoniale Episcoporum, Clementis VIII, Innocentii X et Benedicti XIII, jussu editum, Benedicti XIV et Leonis XIII auctoritate recognitum*, Editio tertia post typicam, Taurini-Marietti-Romae 1948. See D. PIETRAS, *Nadzwyczajna forma...*, p. 307-308. These particular sections of the *Pontificale Romanum* were published in 1961 and 1962, hence the designation: 1961/62.

book) in the celebration of the sacrament⁷ was further laden with certain conditions, which will be discussed later in the study. Since then, according to the books of 1962, marriages could be contracted in the entire *sui iuris* Latin Church.

In the *motu proprio Summorum Pontificum*, Pope Benedict XVI decided that a parish priest, after careful consideration of all circumstances, could permit (*licentiam concedere potest*) the usage of the *Rituale Romanum* of 1952 in the celebration of marriage, if the good of souls required it⁸. It should be assumed that the necessary permission was issued by the spouse's personal parish priest who assisted at the marriage (or delegated another priest) or the territorial parish priest of the place where the marriage is being contracted (CIC/83⁹, c. 1109-1110). Such permission could also be given by the Ordinary by virtue of the executive power (CIC/83, c. 134, 136, 139 § 2). In a response made to the faithful of Brazil of July 18, 2009, the Pontifical Commission *Ecclesia Dei* also confirmed the possibility of celebration of marriage with the permission of the parish priest according to the norm of the papal *motu proprio*¹⁰. It was then further

⁷ SACRA CONGREGATIO RITUUM, Decretum adprobationis novae editionis typicae Ritualis Romani *Cum denuo excudenda*, 25.01.1952, Ephemerides Liturgicae 66 (1952), p. 220; *Rituale Romanum Pauli V Pontificis Maximi iussu editum aliorumque Pontificum cura recognitum atque ad normam Codicis Iuris Canonici accomodatum*, SS-mi D.N. Pii Papae XII auctoritate ordinatum et auctum, Editio typica, Typis Polyglottis Vaticanis 1952, tit. VIII [hereafter referred to as „*Rituale Romanum* (1952)“].

⁸ BENEDICTUS XVI, Litterae Apostolicae *Summorum Pontificum*, no. 9 § 1: „Parochus item, omnibus bene perpensis, licentiam concedere potest utendi rituali antiquiore in ministrandis sacramentis Baptismatis, Matrimonii, Poenitentiae et Unctionis Infirmorum, bono animarum id suadente“. See G.P. WEISHAUPT, *Päpstliche Weichenstellungen...*, p. 93-97; C.J. GLENDINNING, *Summorum Pontificum...*, p. 271-276; D. PIETRAS, *Nadzwyczajna forma...*, p. 284-285.

⁹ *Codex Iuris Canonici, Auctoritate Ioannis Pauli PP. II promulgatus*; Kodeks Prawa Kanonicznego promulgowany przez papieża Jana Pawła II w dniu 25 stycznia 1983 roku. Stan prawny na dzień 18 maja 2022 roku. Zaktualizowany przekład na język polski, Poznań 2022 [hereafter referred to as „CIC/83“].

¹⁰ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Resposta para os fiéis no Brasil*, 18.07.2009, Prot. N. 97/09, in:

detailed in the 2011 instruction *Universae Ecclesiae*. The Pontifical Commission *Ecclesia Dei* noted that it was allowed to use the *Rituale Romanum* when contracting a marriage according to the *usus antiquior*, while observing the indications of this liturgical book¹¹. This important principle (preserving the rites of the 1962 books – rubrics and nigrics) will be extensively discussed in the final point of this article.

In the papal motu proprio, two conditions were set for granting permission to use the earlier Roman Ritual: careful consideration of all circumstances (*omnibus bene perpensis*) and the good of souls resulting from the permission (*bono animarum id suadente*) (cf. CIC/83, c. 1752). Therefore, parish priests had some freedom in making their decision after assessing the request for the celebration of marriage in the *earlier form of the Roman Rite*. When making their decision, the parson had to remember that the motu proprio *Summorum Pontificum* was issued for the good of the faithful. On the other hand, he had to take into account the ecclesiastical aspects, e.g. ecclesial unity (CIC/83, c. 205, 209 § 1, 837, 843 § 1). It was also required that these faithful should not deny the validity and legitimacy of the liturgy reformed after *Vaticanum II*¹². The parish

http://www.wdtp.rs.com/images/09_07_27_carta-comissao-ecclesia-dei_LR.jpg [access 3.07.2020], no. 6: “Os matrimônios segundo a forma extraordinária são possíveis, de acordo com o pároco (art. 9 par. 1)”.

¹¹ EADEM, Instructio *Universae Ecclesiae*, no. 35: „Salvo quod sub n. 31 huius Instructionis praescriptum est, ad mentem n. 28 ipsius Instructionis licet Pontificale Romanum, Rituale Romanum et Caeremoniale Episcoporum anno 1962 vigentia adhibere”. See G.P. WEISHAUP, *Die Instruktion...*, p. 57-62, 93-95; C.J. GLENDINNING, *Universae Ecclesiae...*, p. 398-401.

¹² CONGREGATIO PRO DOCTRINA FIDELI. PONTIFICIA COMMISSIO ECCLESIAE DEI, Instructio *Universae Ecclesiae*, no. 8: „Litterae Apostolicae *Summorum Pontificum* eminenter expriment Magisterium Romani Pontificis eiusque munus regendi atque Sacram Liturgiam ordinandi, ipsiusque sollicitudinem utpote Christi Vicarii et Ecclesiae Universae Pastoris. Ipsae Litterae intendunt: a) Liturgiam Romanam in Antiquiore Usu, prout pretiosum thesaurum servandum, omnibus largiri fidelibus; b) Usus eiusdem Liturgiae iis re vera certum facere, qui id petunt, considerando ipsum Usus Liturgiae Romanae anno 1962 vigentem esse facultatem ad bonum fidelium datam, ac proinde in favorem fidelium benigne esse interpretandam,

priest had to demonstrate appropriate *prudentialia pastoralis*. Thus, through the papal law, parish priests – by virtue of their office – were given the authority to issue the permission necessary to use the 1952 *Rituale Romanum* for the celebration of marriage¹³. This is a function specifically entrusted to the parish priest (CIC/83, c. 530 no. 4)¹⁴.

It should also be noted that Pope Benedict XVI, in the motu proprio *Summorum Pontificum*, introduced a norm regarding the special circumstances and occasions on which parish priests ought to have allowed the celebration of the Holy Mass with additional ceremonies. Among them, the circumstance of getting married was mentioned¹⁵. The *Universae Ecclesiae* instruction, when referring to this principle, mentioned sanctuaries and places of pilgrimage

quibus praecipue destinatur; c) Reconciliationi in sinu Ecclesiae favere”; *Ibid.*, no. 19: „Christifideles celebrationem secundum *formam extraordinariam* postulantes, auxilium ne ferant neque nomen dent consociationibus, quae validitatem vel legitimitatem Sanctae Missae Sacrificii et Sacramentorum secundum *formam ordinariam* impugnent, vel Romano Pontifici, Universae Ecclesiae Pastori quoquo modo sint infensae”. See D. PIETRAS, *Nadzwyczajna forma...*, p. 285-286; Id., *Udział wiernych we Mszy św. sprawowanej przez kapłanów Bractwa Kapłańskiego Świętego Piusa X (FSSPX) w świetle aktualnych wytycznych Stolicy Apostolskiej*, *Poznańskie Studia Teologiczne* 41 (2022), p. 96-97.

¹³ See C.J. GLENDINNING, *Summorum Pontificum...*, p. 273: „In virtue of *Summorum Pontificum*, the legislator has now granted a faculty to pastors to permit use of the earlier ritual for the administration of these sacraments which were heretofore abrogated. The pastor may use this power himself and may grant permission to use the earlier ritual at the request of others”.

¹⁴ See K. BURCZAK, *Szczegółowe obowiązki kanoniczne proboszcza w zakresie nauczania, uświęcania i pasterzowania*, *Studia Prawnicze KUL* 66 (2016) no. 2, p. 17-20, 24-25; E. SZTAFFOWSKI, *Pozycja proboszcza w prawie kodeksowym*, *Prawo Kanoniczne* 35 (1992) no. 1-2, p. 56-57.

¹⁵ BENEDICTUS XVI, *Litterae Apostolicae Summorum Pontificum*, no. 5 § 3: „Fidelibus seu sacerdotibus id petentibus, parochus celebrationes, hac in forma extraordinaria, permittat etiam in adiunctis peculiaribus, uti sunt matrimonia, exsequiae aut celebrationes occasionales, verbi gratia peregrinationes”. See C.J. GLENDINNING, *Summorum Pontificum...*, p. 257-258; D. PIETRAS, *Nadzwyczajna forma...*, p. 218-219.

where these ceremonies could take place if there was a competent priest (*sacerdos idoneus*)¹⁶.

It should be added that, according to the motu proprio *Summorum Pontificum*, in churches not of a conventual or parish character, permission in the above-described situations was issued by the rector of the church (CIC/83, c. 561-562)¹⁷.

The local Ordinaries – as has already been mentioned – also issued permissions for the celebration of marriages according to the 1962 books. They usually did so by establishing personal parishes under the motu proprio *Summorum Pontificum* (CIC/83, c. 518)¹⁸. An example of a personal parish, where priests could assist at a marriage according to these books, is the parish of the Holy Family, located in Vancouver, Canada, which was erected in 2008, as well as the parish of Saint Stanislaus in Manchester, England, which was erected in 2016¹⁹.

¹⁶ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIAE DEI, *Instructio Universae Ecclesiae*, no. 18: „In sanctuariis et in peregrinationum locis possibilitas celebrandi secundum *extraordinariam formam* coetibus peregrinorum id petentibus praebeatur (cf. Litterae Apostolicae *Summorum Pontificum*, art. 5 § 3), si sacerdos adest idoneus”. See G.P. WEISHAUPT, *Päpstliche Weichenstellungen...*, p. 76-77; C.J. GLENDINNING, *Universae Ecclesiae...*, p. 373; M. GURTNER, *Rechte und Pflichten...*, p. 85-88, 91-93.

¹⁷ BENEDICTUS XVI, Litterae Apostolicae *Summorum Pontificum*, no. 5 § 5: „In ecclesiis, quae non sunt nec paroeciales nec conventuales, Rectoris ecclesiae est concedere licentiam de qua supra”. Cf. G.P. WEISHAUPT, *Päpstliche Weichenstellungen...*, p. 82-84; D. PIETRAS, *Nadzwyczajna forma...*, p. 219-220.

¹⁸ BENEDICTUS XVI, Litterae Apostolicae *Summorum Pontificum*, no. 10.

¹⁹ R. ROUSSIN, *Decree of establishment of parish of Holy Family in Vancouver, British Columbia*, 1.07.2008, in: <https://holyfamilyvancouver.ca/decreeofestablishment/> [access 25.11.2022]: „I do hereby establish canonically a personal parish (canon 515 § 1) (...), to serve the faithful of the Archdiocese of Vancouver who remain attached to the Roman Missal promulgated by Blessed John XXIII in 1962”; *Ibid.*, no. 5: „The parish will keep registers of baptisms, marriages and funerals as required by canon law”; P.A. LIBASCI, *Decree of establishing personal parish in Manchester*, 1.07.2016, in: <https://www.catholicnh.org/assets/Documents/Parishes/Decrees/Decree-StStanislaus-Nashua.pdf> [access 25.11.2022]: „I hereby erect (...) Personal Parish to serve those faithful who, out of sincere attachment to the Latin liturgical tradition, desire to celebrate the Rites of the Church exclusively in accord with

It should also be mentioned that, according to the *Universae Ecclesiae* instruction, religious communities (such as the Dominican, Carmelite, Carthusian, Cistercian, Premonstratensian, and Franciscan Rites) were allowed to use the liturgical books of the Roman tradition that were in force in 1962²⁰. In addition, a broad interpretation of the papal motu proprio *Summorum Pontificum* leads to the conclusion that rituals of local Rites (such as the Lyonese, Bragan, Mozarabic, and Ambrosian) could also be used during the celebration of marriage²¹.

the typical edition of the liturgical books by Saint John XXIII in 1962; *Ibid.*, no. 6: „The Parish will keep records of Baptisms, First Communions, Confirmations, Marriages and Funerals celebrated in the Parish in accord with Church law and diocesan guidelines”.

²⁰ BENEDICTUS XVI, Litterae Apostolicae *Summorum Pontificum*, no. 3; CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, Instructio *Universae Ecclesiae*, no. 34: „Sodalibus Ordinum Religiosorum licet uti propriis libris liturgicis anno 1962 vigentibus”. Sample rituals: *Rituale Romano-Seraphicum Ordinis Fratrum Minorum Conventualium a Sacra Rituum Congregatione approbatum jussu Reverendissimi Patris P.M. Bedae M. Hess totius ejusdem Ordinis post Seraphicum Patriarcham Ministri Generalis CXII editum*, Typis Polyglottis Vaticanis 1942; *Rituale Ordinis Fratrum Beatissimae Virginis Mariae de Monte Carmelo juxta Jerosolymitanae Ecclesiae antiquam consuetudinem recognitum atque ad normam Codicis Juris Canonici et Constitutionum Ordinis accommodatum Revmi. P. Kiliani Lynch totius Ordinis Prioris Generalis jussu editum*, Typis Polyglottis Vaticanis 1952. See CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Response concerning liturgies and rituals of religious orders*, 15.10.2009, Prot. N. 121/09, in: <http://thebarqueofpeter.blogspot.com/2010/02/ecclesia-dei-clarification-on-rituals.html> [access 2.09.2022]; G.P. WEISHAUP, *Die Instruktion...*, p. 91-92; A. SORIA JIMÉNEZ, *Los principios...*, p. 174-175; D. PIETRAS, *Nadzwyczajna forma...*, p. 45-57, 85-87.

²¹ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, Instructio *Universae Ecclesiae*, no. 8 b; PONTIFICIA COMMISSIO ECCLESIA DEI, *Risposta riguardo al rito ambrosiano*, 22.05.2009, Prot. N. 73/2009, in: <http://blog.messinlatino.it/2009/06/ecclesia-dei-il-motu-proprio-si-applica.html> [access 8.11.2022]: „Mentre é vero che il Motu proprio del Santo Padre non cita espressamente il rito ambrosiano, non esclude nemmeno gli altri riti latini; se la volontà del Sommo Pontefice vale per il rito Romano, considerato il superiore in dignità, di conseguenza, tanto più per gli altri riti latini, incluso il Rito Ambrosiano”. See A. SORIA JIMÉNEZ, *Los principios...*, p. 172; D. PIETRAS, *Nadzwyczajna forma...*, p. 42-45, 57-63, 87-90.

The issued regulations did not take into account the possibility of using national rituals, which were discussed in more detail in the previous article. In practice, however, they were used and the Apostolic See did not oppose them²². The possibility of using these rituals when contracting a marriage, is supported by the fact that – as was already noted in the previous study – these rituals complement and complete the marriage rites contained in the *Rituale Romanum* of 1952. In practice, local Ordinaries permitted their usage. An example of this is the Ministry of the Faithful of the Latin Tradition in Warsaw, where the use of the *Collectio Rituum* of 1963 was pronounced²³. In addition, the Pontifical Commission *Ecclesia Dei* itself authorised the Priestly Fraternity of Saint Peter in 2017 to use the Latin-French marriage rites contained in the Ritual for Montreal which were in force in 1962²⁴.

²² CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Response concerning 29 questions*, 14.11.2018, Prot. N. 39/2011L – ED, in: D. PIETRAS, *Nadzwyczajna forma...*, p. 690-691, no. 10: „To obtain a response, a full copy if the document(s) in question should be sent to this Pontifical Commission”. See C.J. GLENDINNING, *Summorum Pontificum...*, p. 274-275; ID., *Universae Ecclesiae...*, p. 398-399.

²³ K. NYCZ, *Statut Duszpasterstwa Wiernych Tradycji Łacińskiej w Archidiecezji Warszawskiej korzystających z nadzwyczajnej formy Rytu Rzymskiego z siedzibą przy kościele parafialnym pw. Klemensa Hofbauera Warszawa, ul. Karolkowa 49*, 6.06.2011, Prot. N. 2221/D/2011, *pro manuscripto*, no. 12: „Do sprawowania innych sakramentów używa się księgi *Collectio Rituum continens excerpta e Rituali Romano Ecclesiis Poloniae adaptato z 1963 r.*”; *Collectio Rituum continens excerpta e Rituali Romano Ecclesiis Poloniae adaptato*, Katowice 1963. See D. PIETRAS, *Nadzwyczajna forma...*, p. 287.

²⁴ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Decretum*, 2.08.2017, Prot. N. 153/2009, in: *Vademecum of the Priestly Fraternity of Saint Peter*, Fribourg 2021, p. 286: „Haec Pontificia Commissio ‘Ecclesia Dei’ Riturum celebrandi matrimonii sacramentum, jam olim ad usum Archidioecesis Marianopolitanae probatum et diligenti studio apte revisum et emendatum, prout in adnexo prostat exemplari, et probat et ut a sodalibus praedictae Fraternitatis, necnon ab aliis ministris fungentibus in locis sacris ministerio ejusdem Fraternitatis adsignatis, adhibeatur benigne concedit, servatis de cetero servandis”.

The last issue regarding the general law of the celebration of marriage according to the 1962 books in the years 2007-2021 is the addition of the *De Nuptiis* preface. Through the *Quo magis* decree of February 22, 2020, the Congregation for the Doctrine of the Faith introduced seven new *ad libitum* prefaces to the *Missale Romanum* of 1962. The decree was *in forma communi* approved by Pope Francis on December 5, 2019²⁵. It had been already announced by Pope Benedict XVI in the July 7, 2007 letter *Con grande fiducia* and the aforementioned instruction *Universae Ecclesiae*²⁶. In the explanatory Note of the *Quo Magis* decree of March 25, 2020, special attention was paid to the *De Nuptiis* preface. It was emphasised that this preface, with the solemn blessing of the spouses in the *Pro Sponsis* Masses, had been placed – with minor changes – in the ancient Sacramentaries, such as *Gelasianum Vetus* and *Sacramentarium Gregorianum*. It was noted that this ancient preface, already existing in the *ordinary form of the Roman Rite*, can now also be used in the *extraordinary form of the Roman Rite*²⁷.

²⁵ CONGREGATIO PRO DOCTRINA FIDEI, Decreto recante approvazione di sette nuovi prefazi eucaristici per la ‘forma straordinaria’ del Rito Romano *Quo magis*, 22.02.2020, Prot. N. 137/2009P – ED, *Ephemerides Liturgicae* 134 (2020), p. 216-217; *Praefationes a Sancta Sede concessae pro antiqua vel extraordinaria Ritus Romani forma*, Libreria Editrice Vaticana 2020. See A. WARD, *The Quo magis Prefaces added to the Missal of Saint John XXIII*, *Ephemerides Liturgicae* 134 (2020), p. 454-457; D. PIETRAS, *Nadzwyczajna forma...*, p. 252-254; INTERNATIONAL FEDERATION UNA VOCE, *Positio 8: The Prefaces of the 1962 Missal*, in: J. SHAW (ed.), *The FIUV Position Papers on the 1962 Missal*, 2015, p. 55-65.

²⁶ BENEDICTUS XVI, Epistula ad Episcopos Catholicae Ecclesiae Ritus Romani *Con grande fiducia*, 7.07.2007, AAS 99 (2007), p. 797; CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIAE DEI, *Instructio Universae Ecclesiae*, no. 25.

²⁷ CONGREGATIO PRO DOCTRINA FIDEI, Nota di presentazione del decreto *Quo magis*, 25.03.2020, Prot. N. 137/2009P – ED, *Ephemerides Liturgicae* 134 (2020), p. 219: „Si attira l’attenzione, infine, sul prefazio *de Nuptiis*, che insieme alla grande benedizione nuziale tuttora in uso nelle messe *pro Sponsis*, è riportato – con piccole varianti – nei Sacramentari antichi quali il Gelasiano antico e il Gregoriano. Questo antico prefazio, già ripristinato per la *forma ordinaria*, è ormai utilizzabile anche nella *forma straordinaria*”.

1.2. The special right of the communities

In the years 2007-2021, other communities also received the right to use the *Rituale Romanum* of 1952 during the contracting of marriage. The first mention should be given to the Institute of Christ the King Sovereign Priest, which was erected by the Pontifical Commission *Ecclesia Dei* on October 7, 2008, as a clerical society of apostolic life under the pontifical right. The decree of this community's founding stated that the liturgy would be celebrated in the *extraordinary form of the Roman Rite* (*cultus liturgici secundum formam extraordinariam Ritus Romani*), which would be the charism of the Institute²⁸. However, it is difficult to obtain detailed data on the current rules of this community's usage of the 1962 books, due to the unavailability of additional documents.

Other communities that can be mentioned are those that were allowed to celebrate the Sacrament of Marriage according to the *Rituale Romanum* of 1952, via the special law. An example of such a community is the Missionaries of Saint John the Baptist, erected on September 5, 2019, by Bishop Roger J. Foy – Ordinary of the Diocese of Covington, in the USA as a public association of the faithful. The decree of erection articulated the possibility

²⁸ PONTIFICIA COMMISSIO ECCLESIA DEI, Decretum erectionis 'Instituti Christi Regis Summi Sacerdotis' *Saeculorum Rex*, 7.10.2008, Prot. N. 181/2008, in: http://www.clerus.org/clerus/dati/200810/0720/Decreto_approvazione_7.10.08.pdf [access 24.11.2022]: „Nostris etiam temporibus Christus, 'Rex regum et Dominus dominantium', novam sacerdotum congregationem oriri voluit, cui haud pauci iuvenes sponte nomen dederunt, scilicet Institutum Christi Regis Summi Sacerdotis, quod sedem habet in loco Gricigliano, in archidioecesi Fiorentina. Sodales, qui vitam communem ad instar canonicorum degunt, sibi proponunt, decore ac sanctitate cultus liturgici secundum formam extraordinariam Ritus Romani, Summi Pontificis Benedicti XVI cura denuo promotam, thesaurum traditionis liturgicae fidelibus latius aperire, existimantes Sacrificium Christi, in altaribus Ecclesiae incruenter renovatum, culmen esse vitae communis totius Instituti necnon initium finemque curae animarum”.

of celebrating the liturgy according to the *extraordinary form of the Roman Rite*²⁹.

In taking up the matter of ecclesiastical discipline regarding the celebration of marriage according to the books of 1962 after *Vaticanum II*, one should mention the regulations issued for the Society of Saint Pius X (SSPX), which has not yet achieved a regulated canonical status. The Pontifical Commission *Ecclesia Dei* sent a letter to the presidents of the bishops' conferences on March 27, 2017, that authorised the local Ordinaries to delegate priests of this community to assist at marriages. The letter was approved by Pope Francis *in forma communi* on March 24, 2017. This step was taken by the Apostolic See to prevent the faithful from getting married without the canonical form required for the validity of the marriage (CIC/83, c. 1108-1111). A broader description of this issue would exceed the scope of this article. It has been extensively described in other studies, including the *Ius Matrimoniale* journal³⁰.

²⁹ R.J. FOYS, *Decree erecting the Missionaries of Saint John the Baptist as a public association of the faithful*, 5.09.2019, *pro manuscripto*: „Its members will work out their salvation by laboring as true missionaries of the Lord, serving in particular those attached to the Extraordinary Form of the Roman Rite”.

³⁰ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Epistula ad Praesules Conferentiarum Episcopaliū quarum interest de licentia ad celebranda matrimonia fidelium Fraternitatis Sancti Pii X*, 27.03.2017, Prot. N. 61/2010, AAS 109 (2017), p. 426-427. See D. PIETRAS, *Status kanoniczny małżeństw zawieranych przy asystowaniu kapłanów Bractwa Kapłańskiego Świętego Piusa X (FSSPX) po wydaniu listu Papieskiej Komisji Ecclesia Dei z 27 marca 2017 r.*, *Ius Matrimoniale* 33 (2022) no. 1, p. 79-116; ID., *Nadzwyczajna forma...*, p. 474-482; G. DZIERŻON, *Status kapłanów Bractwa Św. Piusa X w przedmiocie asystowania do zawierania małżeństwa w kontekście wytycznych listu Papieskiej Komisji Ecclesia Dei z 27 marca 2017 roku*, *Biuletyn Stowarzyszenia Kanonistów Polskich* 34 (2021), p. 51-65; G. BELFIORE, *Commento alla Lettera della Pontificia Commissione Ecclesia Dei ai Presuli delle Conferenze episcopali interessate circa la licenza per la celebrazione di matrimoni dei fedeli della Fraternità San Pio X (4 aprile 2017)*, *Monitor Ecclesiasticus* 131 (2016), p. 591-595; F. CATOZZELLA, *La validità dei matrimoni celebrati davanti ai sacerdoti della Fraternità san Pio X. Commento alla Lettera della Pontificia Commissione Ecclesia Dei*, *Ius Ecclesiae* 30 (2018), p. 285-305; B. GONÇALVES, *Le mariage des fidèles fréquentant la Fraternité sacerdotale Saint-Pie X depuis la lettre du 27 mars*

2. The celebration of marriage since 2021

2.1. The universal law of the motu proprio *Traditionis custodes*

On July 16, 2021, Pope Francis issued the apostolic letter motu proprio *Traditionis custodes*, through which he abolished (*sono abrogate*) those existing documents and regulations regarding the liturgy before the 1970 reform which were contrary to the document (CIC/83, c. 20). As a result, the liturgy according to the books reformed after the Second Vatican Council became the *unique expression* (*l'unica espressione*) of the Roman Rite³¹. In addition, the 1962 rites, including the Sacrament of Marriage, ceased to be the *extraordinary form of the Roman Rite*. Therefore, a question arose regarding future possibilities of using the *Rituale Romanum* of 1952 during the celebration of marriage. In the papal motu proprio, the celebration of other sacraments was not mentioned; rather, only the Holy Mass. However, the reading of the papal law, and taking into account the purpose, circumstances, and thoughts of the legislator, indicated

2017 de la commission Ecclesia Dei, L'Année Canonique 59 (2018), p. 183-199; ID., *Le mariage entre forme ordinaire et forme extraordinaire : les enjeux de la lettre du 27 mars 2017 aux présidents de conférences épiscopales*, La Maison Dieu 292 (2018), p. 121-144; J. RAPACZ, *Zwyczajna forma zawarcia małżeństwa według Kodeksu Jana Pawła II*, Prawo Kanoniczne 41 (1998) no. 1-2, p. 239-258.

³¹ FRANCISCUS, Lettera Apostolica in forma di 'motu proprio' sull'uso della liturgia romana anteriore alla riforma del 1970 *Traditionis custodes*, 16.07.2021, Ephemerides Liturgicae 135 (2021), p. 486-491, no. 1: „I libri liturgici promulgati dai santi Pontefici Paolo VI e Giovanni Paolo II, in conformità ai decreti del Concilio Vaticano II, sono l'unica espressione della *lex orandi* del Rito Romano”; *Ibid.*, no. 8: „Le norme, istruzioni, concessioni e consuetudini precedenti, che risultino non conformi con quanto disposto dal presente *Motu Proprio*, sono abrogate”; ID., *Lettera ai vescovi di tutto il mondo per presentare il motu proprio Traditionis custodes sull'uso della liturgia romana anteriore alla riforma del 1970*, 16.07.2021, Ephemerides Liturgicae 135 (2021), p. 496: „Rispondendo alle vostre richieste, prendo la ferma decisione di abrogare tutte le norme, le istruzioni, le concessioni e le consuetudini precedenti al presente *Motu Proprio*, e di ritenerli libri liturgici promulgati dai santi Pontefici Paolo VI e Giovanni Paolo II, in conformità ai decreti del Concilio Vaticano II, come l'unica espressione della *lex orandi* del Rito Romano”.

that the further using of the Roman Ritual was no longer possible (CIC/83, c. 17). So a *dubium* emerged, which was then presented to the Apostolic See.

A few months later, the mentioned question was clarified in the *Responsa ad dubia* issued by the Congregation for Divine Worship and the Discipline of the Sacraments on December 4, 2021. The *Responses*, with the letter of the prefect of the Dicastery, were *in forma communi* approved by Pope Francis on November 18, 2021³². It is significant that the Congregation answered the question regarding the possibility of using the earlier Roman Ritual in a negative way, referring to the first and eighth point of the motu proprio *Traditionis custodes*. The Congregation for Divine Worship and the Discipline of the Sacraments has clarified that the diocesan bishop is authorised to permit the usage of the 1952 *Rituale Romanum* only in canonically erected personal parishes where the liturgy according to the 1962 *Missale Romanum* is celebrated. In addition, it was noted that the diocesan bishop can not authorise the usage of the *Pontificale Romanum* (CIC/83, c. 134)³³. As a result,

³² CONGREGATIO DE CULTU DIVINO ET DISCIPLINA SACRAMENTORUM, ‘*Responsa ad dubia*’ su alcune disposizioni della Lettera Apostolica in forma di Motu Proprio *Traditionis custodes*, 4.12.2021, Prot. N. 620/21, Communicationes 53 (2021), p. 515-526. See Anamnesis 109 (2022), p. 21-38.

³³ CONGREGATIO DE CULTU DIVINO ET DISCIPLINA SACRAMENTORUM, ‘*Responsa ad dubia*’... (Response to art. 1 and 8 of the motu proprio *Traditionis custodes*): „È possibile, secondo quanto disposto dal Motu Proprio *Traditionis custodes*, celebrare i Sacramenti con il *Rituale Romanum* e con il *Pontificale Romanum* precedenti alla riforma liturgica del Concilio Vaticano II? *Si risponde*: Negativamente. Solo alle parrocchie personali canonicamente erette che, secondo quanto disposto dal Motu Proprio *Traditionis custodes*, celebrano con il *Missale Romanum* del 1962, il Vescovo diocesano è autorizzato a concedere la licenza di usare solo il *Rituale Romanum* (ultima editio typica 1952) e non il *Pontificale Romanum* precedente alla riforma liturgica del Concilio Vaticano II. (...) Questa Congregazione, esercitando, per la materia di sua competenza, l’autorità della Santa Sede (cf. *Traditionis custodes*, n. 7), ritiene che, volendo progredire nella direzione indicata dal Motu proprio, non si debba concedere la licenza di usare il *Rituale Romanum* e il *Pontificale Romanum* precedenti alla riforma liturgica, libri liturgici che, come tutte le norme, le istruzioni, le concessioni e le consuetudini precedenti, sono stati abrogati (cf. *Traditionis*

the celebration of the Sacrament of Marriage according to the earlier rites, as of July 16, 2021, can only take place in personal parishes that were established for the *extraordinary form of the Roman Rite*. It seems, however, that the diocesan bishop could, in a specific case, and for a just and rational reason, grant a dispensation, thus allowing the celebration of a marriage according to the earlier Roman Ritual outside a personal parish. The act of granting the dispensation in this matter was not reserved for the Apostolic See (CIC/83, c. 87 § 1, 90). In addition, according to the rules introduced, the celebration should not take place in parish churches, a point which may be dispensed of by the Congregation for Divine Worship and the Discipline of the Sacraments³⁴. Similarly to the motu proprio *Summorum*

custodes, n. 8). Solo alle parrocchie personali canonicamente erette che, secondo quanto disposto dal Motu Proprio *Traditionis custodes*, celebrano con il *Missale Romanum* del 1962, il Vescovo diocesano è autorizzato a concedere la licenza di usare solo il *Rituale Romanum* (ultima *editio typica* 1952) e non il *Pontificale Romanum* precedente alla riforma liturgica del Concilio Vaticano II”.

³⁴ FRANCISCUS, Lettera Apostolica *Traditionis custodes*, no. 3 § 2: „Indichi, uno o più luoghi dove i fedeli aderenti a questi gruppi possano radunarsi per la celebrazione eucaristica (non però nelle chiese parrocchiali [...])”; *Ibid.*, no. 3 § 3: „Stabilisca nel luogo indicato i giorni in cui sono consentite le celebrazioni eucaristiche con l’uso del Messale Romano promulgato da san Giovanni XXIII nel 1962”; CONGREGATIO DE CULTU DIVINO ET DISCIPLINA SACRAMENTORUM, *Responsa ad dubia...* (Response to art. 3 § 2 of the motu proprio *Traditionis custodes*): „Laddove non vi sia la possibilità di individuare una chiesa od oratorio o cappella disponibile per accogliere i fedeli che celebrano con il *Missale Romanum* (*editio typica* 1962), il Vescovo diocesano può chiedere alla Congregazione per il Culto Divino e la Disciplina dei Sacramenti la dispensa dalla disposizione del Motu Proprio *Traditionis custodes* (art. 3 § 2), e, quindi, permettere la celebrazione nella chiesa parrocchiale? *Si risponde*: Affermativamente. (...). L’esclusione della chiesa parrocchiale vuole affermare che la celebrazione eucaristica secondo il rito precedente, essendo una concessione limitata ai suddetti gruppi, non fa parte dell’ordinarietà della vita della comunità parrocchiale. Questa Congregazione, esercitando, per la materia di sua competenza, l’autorità della Santa Sede (cf. *Traditionis custodes*, n. 7), può concedere, su richiesta del Vescovo diocesano, che venga utilizzata la chiesa parrocchiale per la celebrazione secondo il *Missale Romanum* del 1962 solo nel caso in cui sia accertata l’impossibilità di utilizzare un’altra chiesa, od oratorio o cappella. La valutazione di tale impossibilità deve essere fatta con scrupolosa attenzione. (...) Resta inteso

Pontificum, it was noted that the faithful participating in these rites should not negate the teaching of post-conciliar Popes, *Vaticanum II*, and the validity and legitimacy of the liturgy reformed after this Council³⁵.

2.2. The special right of the communities

After the publication of the above-mentioned motu proprio *Traditionis custodes* and *Responsa ad dubia* of 2021, another *dubium* concerning the communities under the pontifical right erected by the Pontifical Commission *Ecclesia Dei* appeared. The doubt concerned communities such as the Priestly Fraternity of Saint Peter, the Personal Apostolic Administration of Saint John Mary Vianney, the Institute of the Good Shepherd, the Institute of Christ the King Sovereign Priest, and the other communities which have been described in this article and the previous article of the study. They have the right to celebrate the Sacrament of Marriage according to the *Rituale Romanum* of 1952. This right has been articulated in their own Constitutions, statutes, or decrees of erection on the basis of – so to speak – their *own rite*. According to the intention of the code legislator, if it has not been expressly mentioned in the text, then this right has not been abrogated by the norms of the general law motu proprio *Traditionis custodes* (CIC/83, c. 20)³⁶.

The abovementioned point was confirmed by Pope Francis through the issuance of the decree addressed to the Priestly Fraternity of Saint Peter on February 11, 2022. He confirmed that the priests of this community may celebrate the liturgy according to the 1962 books and

che nel momento in cui dovesse essere disponibile un altro luogo, tale licenza sarà ritirata”.

³⁵ FRANCISCUS, Lettera Apostolica *Traditionis custodes*, no. 3 § 1: „Accerti che tali gruppi non escludano la validità e la legittimità della riforma liturgica, dei dettati del Concilio Vaticano II e del Magistero dei Sommi Pontefici”.

³⁶ CIC/83, c. 20: „ (...) sed lex universalis minime derogat iuri particolari aut speciali, nisi aliud in iure expresse caveatur”. See L.-M. BLIGNIÈRES, *The Pope and the Law of Religious Institutes*, Sedes Sapientiae (Supplement) 159 (2022), p. 15-19.

assist at marriages according to the 1952 *Rituale Romanum*. He noted, however, that the use of these books outside of the community's own churches and oratories (except for the private celebration of Mass) is only allowed with the permission of the local Ordinary (cf. CIC/83, c. 837)³⁷. The contracting of a marriage is in and of itself a public act, not a private celebration. Therefore, the Pope only mentioned the celebration of Mass *in a private way*, which should be more precisely defined as the *missa sine populo*, as emphasised in the instruction *De musica sacra* of the Sacred Congregation of Rites of 1958³⁸. In light of this decree, other communities which also hold the special right in this matter can continue to use it under certain conditions. The liturgy of 1962 constitutes the heritage (*patrimonium*) of these communities, which is connected with their right to autonomy of life (CIC/83, c. 586-587)³⁹. Therefore, if the local Ordinary has not granted permanent

³⁷ FRANCISCUS, *Decretum*, 11.02.2022, in: *Ordo Administrativus ad usum Cleri Fraternalitatis Sacerdotalis Sancti Petri 2023*, Fribourg 2023, p. 150: „Sanctus Pater Franciscus, omnibus et singulis sodalibus Instituti vitae consecratae ‘Fraternitas Sancti Petri’ nuncupati, die 18 iulii 1988 erecti et a Sancta Sede pontificii iuris declarati, facultatem concedit celebrandi sacrificium Missae, sacramentorum necnon alios sacros ritus, sicut et persolvendi Officium divinum, iuxta editiones typicas librorum liturgicorum, scilicet Missalis, Ritualis, Pontificalis et Breviarii, anno 1962 vigentium. Qua facultate uti poterunt in ecclesiis vel oratoriis propriis, alibi vero nonnisi de consensu Ordinarii loci, excepta Missae privatae celebratione. Quibus rite servatis, Sanctus Pater etiam suadet ut sedulo cogitetur, quantum fieri potest, de statutis in litteris apostolicis motu proprio datis ‘Traditionis Custodes’”. See KATOLICKA AGENCJA INFORMACYJNA, *Papież Franciszek potwierdził prawo Bractwa św. Piotra do sprawowania liturgii tradycyjnej*, *Anamnesis* 109 (2022), p. 76-77; D. PIETRAS, *Nadzwyczajna forma...*, p. 360-370.

³⁸ SACRA CONGREGATIO RITUUM, *Instructio de musica sacra et sacra liturgia ad mentem litterarum encyclicarum Pii papae XII ‘Musicae sacrae disciplina’ et ‘Mediator Dei’ De musica sacra*, 3.09.1958, *AAS* 50 (1958), p. 630-663, no. I, 2: „Sacrosanctum Missae sacrificium est actus cultus publici, nomine Christi et Ecclesiae Deo redditi, quovis loco vel modo celebretur. Denominatio proinde ‘Missae privatae’ vitetur”. See BENEDICTUS XVI, *Litterae Apostolicae Summorum Pontificum*, no. 2, 4; D. PIETRAS, *Nadzwyczajna forma...*, p. 202. It is worth adding that the faithful can join the *sine populo* Mass by their own initiative.

³⁹ See W. NECEL, *Prawo własne instytutu życia konsekrowanego jako funkcja charyzmatycznego obdarowania Kościoła: Studium teologiczno-prawne*, Poznań 2006;

permission to these priests to use the *Rituale Romanum*, the procedure for obtaining permission according to can. 1071 § 1 CIC/83 should (in any case) be followed. It is worth noting that in the case of the Priestly Fraternity of Saint Peter (and similarly to other communities of this type), permission is issued not only by the diocesan bishop, but also by the local Ordinary through his executive power. Therefore, the vicar general and the episcopal vicar (if he has such competence) are also able to issue them (CIC/83, c. 134, 475-476, 479).

The issue of the celebration of marriage according to the above-mentioned rituals of the Latin rites should also be described in this study. It seems that the use of other books of the Latin rites is no longer possible, as the universal law contained in the motu proprio *Summorum Pontificum* (as well as in the instruction *Universae Ecclesiae*) has been abolished, and the motu proprio *Traditionis custodes* only mentions the 1962 *Missale Romanum* of Pope John XXIII. The exceptions, however, will be communities or particular Churches that have a special right to celebrate according to the earlier books of their own rite which, by virtue of particular law, have also not been abolished because it was not mentioned in the papal motu proprio (CIC/83, c. 20)⁴⁰.

It should also be noted that the rules expressed in the already described letter of the Pontifical Commission *Ecclesia Dei* of March 27, 2017, which made it possible to delegate SSPX priests to assist at marriages, have not been abolished⁴¹. These priests may still receive the required delegation from the local Ordinaries (CIC/83, c. 1108-1111). It should be noted, however, that a situation consequently arose in which the canonically irregular priests of the SSPX may be authorised under common law to use the *Rituale Romanum* of 1952

J. KAŁOWSKI, *Konstytucje i inne zbiory prawne instytucji życia konsekrowanego według Kodeksu Prawa Kanonicznego z 1983 r.*, *Prawo Kanoniczne* 29 (1986) no. 1-2, p. 149-184; G. FIRSZT, *Konstytucje instytucji życia konsekrowanego jako kodeks życia duchowego*, *Itinera Spiritualia* 9 (2016), p. 27-50.

⁴⁰ FRANCISCUS, *Lettera Apostolica Traditionis custodes*, no. 8.

⁴¹ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIA DEI, *Epistula ad Praesules*.

in the contracting of marriage⁴². However, the legislator does not provide such a possibility to those canonically – regular priests who are not members of communities that hold the special right to use the books of 1962.

3. The Code of Canon Law of 1983 and the celebration of marriage according to the books of 1962

Since 2007, when it became possible to celebrate marriages according to the books of 1962 under a common law (under certain conditions), questions have arisen concerning the current Code's discipline. And due to the point that the faithful attached to the Roman liturgy of 1962 are members of the Latin Church *sui iuris*, they do not constitute another Catholic Church *sui iuris* (CIC/83, c. 846 § 2)⁴³. Therefore, during celebrations of the liturgy of the Mass and marriage according to the *Missale Romanum*, *Rituale Romanum*, *Collectio Rituum* and *Pontificale Romanum* that were in force in 1962, the norms of the 1983 Code of Canon Law should be observed (CIC/83, c. 1) unless they are incompatible with the rubrics of these books, which determine the shape and structure of the liturgy (cf. CIC/83, c. 2, 6). Therefore,

⁴² See P.M. REYES VIZCAÍNO, *Relevancia canónica de los sacramentos y actos jurídicos realizados por sacerdotes de la Fraternidad Sacerdotal de San Pío X*, *Forum Canonicum* 10 (2015) no. 2, p. 71-98; G. DZIERŻON, *Status kapłanów...*; D. PIETRAS, *Nadzwyczajna forma...*, p. 456-460; ID., *Status kanoniczny...*, p. 81-85; ID., *Udział wiernych...*, p. 95-118.

⁴³ *Codex Canonum Ecclesiarum Orientalium, Auctoritate Joannis Pauli PP. II promulgatus*, 18.10.1990, AAS 82 (1990), p. 1045-1363, c. 674 § 2. See É. SLEMAN, *De 'ritus' à 'Ecclesia sui iuris' dans le code des canons des églises orientales*, *L'Année Canonique* 41 (1999), p. 253-276; N. LODA, *Dal ritus alla Chiesa sui iuris: Storia e problemi aperti*, *Ephemerides Iuris Canonici* 52 (2012), p. 173-210, 337-383; L. OKULIK, *Significato e limiti della definizione di Chiesa 'sui iuris'*, *Folia Canonica* 12 (2009), p. 67-94; G. WOJCIECHOWSKI, *Status prawny Kościoła 'sui iuris'*, in: R. KANTOR (ed.), *Kościół lokalny w Kościele Chrystusa*, Kraków 2015, p. 61-77; INTERNATIONAL FEDERATION UNA VOCE, *Positio 21: The Extraordinary Form and the Eastern Churches*, in: J. SHAW (ed.), *The FIUV Position Papers on the 1962 Missal*, 2015, p. 239-246; J. PEPINO, *Ex Oriente lux: St. John Paul II, the Eastern Rites, and Traditional Roman Rite*, *Sedes Sapientiae* (Supplement) 159 (2022), p. 91-102.

the current ecclesiastical discipline cannot *violate* the rites (rubrics and nigrics) that have been specified in the books of the *earlier form of the Roman Rite* (e.g. in the *praenotanda*) (CIC/83, c. 846 § 1, 1119; cf. CIC/17⁴⁴, c. 733 § 1). Moreover, in the case of doubt, it seems that the norm contained in the liturgical book of 1962 prevails, especially if it is connected with the celebrated liturgy. The liturgy of 1962 has to maintain its form. This important principle, based on the special law contained in the motu proprio *Summorum Pontificum*, was further specified in the aforementioned instruction *Universae Ecclesiae*. It became very helpful in practice⁴⁵. It can be assumed that this principle works in the spirit of can. 20 CIC/83, which states that common law does not abolish a special law. And although this instruction was abolished by Pope Francis through the motu proprio *Traditionis custodes*⁴⁶, it seems justified to apply this rule when using the 1962 books. There is often a *conflict* between the norms contained in these books and the current ecclesiastical discipline. Therefore, the norms determining the shape of this liturgy should be distinguished from the current disciplinary norms that apply to the faithful participating in this liturgy, because these rules do not affect the shape of this liturgy.

In light of the abovementioned principle, the current Code's disciplinary norms should be observed when preparing the engaged

⁴⁴ *Codex Iuris Canonici, Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus*, 25.03.1917, AAS 9 (1917) no. 2, p. 1-456 [hereafter referred to as „CIC/17”].

⁴⁵ CONGREGATIO PRO DOCTRINA FIDEI. PONTIFICIA COMMISSIO ECCLESIAE DEI, *Instructio Universae Ecclesiae*, no. 24: „Libri liturgici *formae extraordinariae* adhibeantur ut prostant”; *Ibid.*, no. 27: „Quoad regulas disciplinares ad celebrationem *formae extraordinariae* pertinentes, applicetur disciplina ecclesiastica Codicis Iuris Canonici anno 1983 promulgati”; *Ibid.*, no. 28: „Praeterea, cum sane de lege speciali agitur, quoad materiam propriam, Litterae Apostolicae *Summorum Pontificum* derogant omnibus legibus liturgicis, sacrorum rituum propriis, exinde ab anno 1962 promulgatis, et cum rubricis librorum liturgicorum anni 1962 non congruentibus”; *Ibid.*, no. 35. See D. PIETRAS, *Nadzwyczajna forma...*, p. 90-93; G.P. WEISHAUP, *Die Instruktion...*, p. 57-62; C.J. GLENDINNING, *Summorum Pontificum...*, p. 109; ID., *Universae Ecclesiae...*, p. 383-387.

⁴⁶ FRANCISCUS, *Lettera Apostolica Traditionis custodes*, no. 1, 8.

couple for marriage according to the 1962 rites. Therefore, it is necessary to observe the activities preceding the marriage (CIC/83, c. 1063-1072; cf. CIC/17, c. 1019-1034)⁴⁷, the rules regarding matrimonial impediments, and the situations in which the permission of the Ordinary is required (CIC/83, c. 1071, 1073-1094). Thus, the division into impeding impediments (*impedimentis impediens*) and diriment impediments (*impedimentis dirimentibus*) no longer applies (cf. CIC/17, c. 1058-1080)⁴⁸. According to the books of 1962, Catholics getting married are no longer affected by the impediment of spiritual kinship that existed between the baptised, and the baptising person, and their godparents (CIC/17, c. 1079). However, these faithful are affected by other current norms of matrimonial law which concern such issues as, for example, mixed marriages (CIC/83, c. 1124-1129; cf. CIC/17, c. 1060). As a result, the Catholic party is no longer required to make an effort to convert the non-Catholic party, as was required by the previous code legislator (CIC/83, c. 1125; CIC/17, c. 1062)⁴⁹.

It should also be concluded that the liturgy of matrimony in the *old form*, with the solemn blessing, may take place – whereas earlier, it had been forbidden (cf. CIC/17, c. 1108 § 1-2)⁵⁰. Currently, it

⁴⁷ See *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 6-15. See KONFERENCJA EPISKOPATU POLSKI, *Dekret ogólny o przeprowadzaniu rozmów kanoniczno-duszpasterskich z narzeczonymi przed zawarciem małżeństwa kanonicznego*, 26.11.2019, Akta Konferencji Episkopatu Polski 31 (2019), p. 27-49; K. KARŁOWSKI, *Praktyczne normy kanoniczne*, Wprowadzenie do sakramentów świętych, vol. 1, Poznań-Warszawa-Lublin 1962, no. 75-81; S. BISKUPSKI, *Prawo małżeńskie Kościoła Rzymskokatolickiego*, Warszawa 1956, no. 105-139.

⁴⁸ See *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 2; K. KARŁOWSKI, *Praktyczne normy...*, no. 82-89h, 103; S. BISKUPSKI, *Prawo małżeńskie...*, no. 140-264.

⁴⁹ See *Catechismus Catholicae Ecclesiae*, Libreria Editrice Vaticana 1992, no. 1633-1637; S. BISKUPSKI, *Prawo małżeńskie...*, no. 206-228.

⁵⁰ *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 16: „Parochus curet ut sponsi, celebrato Matrimonio, benedictionem solemnem accipiant, quae dare eis potest etiam postquam diu vixerint in Matrimonio, sed solum in Missa, servata speciali rubrica et excepto tempore feriato. Solemnem benedictionem ille tantum Sacerdos per se ipse vel per alium dare potest, qui valide et licite Matrimonio potest assistere”); *Ibid.*, no. 19: „Matrimonium quolibet anni tempore contrahi potest. Solemnis tantum nuptiarum benedictio vetatur a prima Dominica Adventus usque ad diem Nativitatis

is prohibited to celebrate a marriage only on Good Friday and Holy Saturday⁵¹. Therefore, there is no need for the local Ordinary to offer a dispensation from the penitential period, which was required for the marriage ceremony with the solemn blessing by the previous code legislator (cf. CIC/17, c. 1108 § 3)⁵². In addition, it seems that the parish priest, when taking into account the circumstances, may decide to celebrate a marriage without a Mass⁵³. Likewise, the current penitential discipline should be observed (CIC/83, c. 1249-1253; cf. CIC/17, c. 1250-1254)⁵⁴ and, if necessary, the needed dispensation should be given (CIC/83, c. 90-91, 1245).

Domini inclusive, et a feria IV Cinerum usque ad Dominicam Paschatis inclusive”; SACRA CONGREGATIO RITUUM, *Explanatio de Missa votiva vel commemoratione pro sponsis*, 14.06.1918, AAS 10 (1918), p. 332. See A. ST. LOUIS-SANCHEZ, *The nuptial blessing: changes in the new law*, Ottawa 2013, in:

https://www.academia.edu/3024981/The_Nuptial_Blessing_Changes_in_the_New_Law [access 12.12. 2022], p. 10; W. SCHENK, *Liturgia sakramentów świętych*, vol. II, Towarzystwo Naukowe Katolickiego Uniwersytetu Lubelskiego 74, Lublin 1964, p. 150-152; S. BISKUPSKI, *Prawo małżeńskie...*, no. 509-510.

⁵¹ SACRA CONGREGATIO RITUUM. CONSILIUM, *Instructio ad executionem Constitutionis de Sacra Liturgia recte ordinandam Inter oecumenici*, 26.09.1964, AAS 56 (1964), p. 877-900, no. 71, 73, 75; *Rituale Romanum ex decreto Sacrosancti Oecumenici Concilii Vaticani II instauratum auctoritate Pauli PP. VI promulgatum. Ordo celebrandi matrimonium*, Editio typica, Typis Polyglottis Vaticanis 1969, no. 11; *Rituale Romanum ex decreto Sacrosancti Oecumenici Concilii Vaticani II instauratum auctoritate Pauli PP. VI promulgatum. Ordo celebrandi matrimonium*, Editio typica altera, Typis Polyglottis Vaticanis 1991, no. 28, 32. The Ritual states that if the marriage takes place on a penitential day, especially during Lent, the parson should admonish the engaged couple to bear in mind the special character of this day.

⁵² *Missale Romanum* (1962) (*Rubricae Generales*, no. 378); *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 19: „Ordinarii tamen locorum possunt, salvis legibus liturgicis, etiam praedictis temporibus eam permittere ex iusta causa, monitis sponsis ut a nimia pompa abstineant”. See K. KARŁOWSKI, *Praktyczne normy...*, no. 106, 106a.

⁵³ *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 29; cap. 2. See SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II, *Constitutio de Sacra Liturgia Sacrosanctum concilium*, 4.12.1963, AAS 56 (1964), p. 97-138, no. 78. See A. ST. LOUIS-SANCHEZ, *The nuptial blessing...*, p. 7-10.

⁵⁴ See S. WYSZYŃSKI, *Dekret dotyczący przepisów postnych*, 14.02.1957, in: P. WULGARIS (ed.), *Vademecum Nadzwyczajnej Formy Rytu Rzymskiego*, Gdańsk 2015, p. 220-221.

It also possible that the parson could, in light of the current discipline and after considering the circumstances and becoming familiar with the situation of the engaged couple, decide to give the solemn blessing to a woman remarrying (cf. CIC/17, c. 1101 § 1, 1143)⁵⁵. Another issue concerns the marriage between a Catholic and a baptised non-Catholic party. Under the norms of the previous Code of Canon Law, the solemn blessing was not given in such a situation. The local Ordinary could, however, grant a dispensation for the use of sacred rites when marrying a non-Catholic, but always without the Holy Mass (cf. CIC/17, c. 1102 § 2)⁵⁶. Currently, a marriage between a Catholic and a baptised non-Catholic may be celebrated during Mass, but doing so requires the permission of the local Ordinary. Alternatively, a marriage between a Catholic and a non-Christian (or a catechumen) must always take place outside of the Mass⁵⁷. It seems, therefore, that even in the 1962 rites, a marriage between a Catholic and a baptised non-Catholic could be celebrated (CIC/83, c. 1124-1129) with a solemn blessing at the Mass. As well, as the rites of marriage are integrally connected with the Mass, the permission of the local Ordinary for the celebration of the Mass would have to be obtained. Regarding the admission of a baptised non-Catholic to Holy Communion, the principles of the *communicatio in sacris* should be observed (CIC/83, c. 844). However, it can be assumed that, in this situation, after the contracting of marriage between a Catholic and a non-Christian, the prayers over the spouses should be used without the solemn blessing (CIC/83, c. 1086)⁵⁸.

The current ecclesiastical discipline must be applied with regard to the place where a marriage is celebrated. Currently, the legislator requires that a marriage must be celebrated in the fiancé's or fiancée's

⁵⁵ *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 18; cap. 4. See A. ST. LOUIS-SANCHEZ, *The nuptial blessing...*, p. 5-6; S. BISKUPSKI, *Prawo małżeńskie...*, no. 505-508.

⁵⁶ See *Ibid.*, no. 511-512.

⁵⁷ *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 36; cap. I, II, IV.

⁵⁸ *Rituale Romanum* (1952), tit. VIII, cap 2, cap. 4 (*Preces recitandae extra missam super coniuges ex Apostolicae Sedis indulto quando benedictio nuptialis non permittitur*).

parish, or elsewhere with the permission of their own Ordinary or parish priest (CIC/83, c. 1115)⁵⁹. Therefore, the rule that the bride's parish priest should bless the marriage is no longer valid (CIC/17, c. 1097 § 2)⁶⁰. A marriage between Catholics is usually celebrated in the parish church, and in another church or chapel with the permission of the local Ordinary or parson (CIC/83, c. 1118 § 1; cf. CIC/17, c. 1109 § 1-2)⁶¹. Under the current code law, the local Ordinary may allow a marriage to take place in another appropriate setting (CIC/83, c. 1118 § 2)⁶². Furthermore, a conference of bishops, when taking into account the pastoral needs of the nation, may decide that the sacrament itself may be performed in a house⁶³. Alternatively, a marriage between a Catholic and a non-baptised party may be celebrated in a church or another appropriate place, according to the 1962 liturgical books (CIC/83, c. 1118 § 3). The more restrictive norm of the previous Code, according to which the marriage between a Catholic and a non-Catholic was (as a rule) to be contracted outside the church, is no longer in force, unless the local Ordinary has granted a dispensation (CIC/17, c. 1109 § 3)⁶⁴.

The contracting of a marriage according to the 1962 rites can also be celebrated by a deacon, which was already a possibility according to the motu proprio *Sacrum diaconatus ordinem* of Pope Paul VI

⁵⁹ *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 27. See J. RAPACZ, *Zwyczajna forma...*, p. 255-157.

⁶⁰ See S. BISKUPSKI, *Prawo małżeńskie...*, no. 475.

⁶¹ See *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 20. See K. KARŁOWSKI, *Praktyczne normy...*, no. 107; S. BISKUPSKI, *Prawo małżeńskie...*, no. 524.

⁶² See KONFERENCJA EPISKOPATU POLSKI, *Stanowisko biskupów polskich w sprawie małżeństwa katolickiego zawieranego poza miejscem świętym*, 16.04.2016, Akta Konferencji Episkopatu Polski 28 (2016), p. 100-105. See M. STORY, *Kościół, urząd czy plener – miejsce zawarcia małżeństwa w Polsce*, *Annales Canonici* 15 (2019) no. 2, p. 101-113; ID., *Koloseum, stadion olimpijski czy kościół – miejsce zawarcia małżeństwa w Rzymie*, *Annales Canonici* 18 (2022) no. 1, p. 85-99.

⁶³ *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 44.

⁶⁴ *Rituale Romanum* (1952), tit. VIII, cap. 1, no. 20. See K. KARŁOWSKI, *Praktyczne normy...*, no. 107; C.J. GLENDINNING, *Universae Ecclesiae...*, p. 383; S. BISKUPSKI, *Prawo małżeńskie...*, no. 524.

of 1967 (cf. CIC/17, c. 1094-1096; CIC/83, c. 1108, 1111)⁶⁵. However, it seems that a layman should not do this, although according to the current church discipline, he can be delegated (CIC/83, c. 1112)⁶⁶. The texts in the 1952 *Rituale Romanum* were arranged in such a way that they could be read by a presbyter. Therefore, there is no possibility to hold a marriage ceremony before a delegated layman, as was done in the second edition of the renewed Ritual (*Caput 3*). In addition, the presence of a priest is now required for the validity of a marriage between a Catholic and a non-Catholic of the Eastern Rite (CIC/83, c. 1127 § 1)⁶⁷. It is also worth mentioning that it is not possible to give spouses Holy Communion under both species (CIC/17, c. 852; cf. CIC/83, c. 925). According to the *Collectio Rituum* for Poland, however, it is recommended to give them Holy Communion from the bread consecrated at this Mass, i.e. from the currently present Sacrifice of Christ⁶⁸. If a marriage is concluded outside of Mass, Holy

⁶⁵ PAULUS VI, Motu Proprio Generales normae de diaconatu permanenti in Ecclesia Latina restituendo feruntur *Sacrum diaconatus ordinem*, 18.06.1967, AAS 59 (1967), p. 697-704, no. 22, 4: „Ibi sacerdos deest, Ecclesiae nomine matrimonii celebrandis assistere et benedicere ex delegatione episcopi vel parochi, ceteris servatis, quae in O.I. C. iubentur 8 atque firmo manente can. 1098, ubi quae de sacerdote dicuntur, ea de diacono etiam sunt intellegenda”; *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 24; KONFERENCJA EPISKOPATU POLSKI, *Wskazania w sprawie realizacji M.P. Pawła VI „Matrimonia mixta”, nr III*, 1.04.1971, Wiadomości Archidiecezjalne Warszawskie 6-7 (1970), p. 148; S. WYSZYŃSKI, *Declaratio. Wyjaśnienie w sprawie nieudzielania w Polsce prawa asystowania diakonom przy zawieraniu małżeństw*, 11.03.1972, Prot. N. 792/72/P, Wiadomości Archidiecezjalne Warszawskie 62 (1972) no. 1-2, p. 146. See T. JAKUBIAK, *Początki prawa regulującego możliwość asystowania diakona przy zawarciu małżeństwa w zwykłych warunkach*, *Studia Bobolanum* 3 (2015), p. 171-187; ID., *Czy diakon może w Polsce zgodnie z przepisami Kościoła łacińskiego asystować jako świadek urzędowy przy zawarciu małżeństwa w zwykłych okolicznościach?*, *Ius Matrimoniale* 27 (2016) no. 2, p. 55-77; S. BISKUPSKI, *Prawo małżeńskie...*, no. 431-468.

⁶⁶ *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 25.

⁶⁷ FRANCISCUS, Litterae Apostolicae Motu Proprio datae Quibus nonnullae normae Codicis Iuris Canonici immutantur *De concordia inter Codices*, 31.05.2016, AAS 108 (2016), p. 602-606, c. 1127 § 1.

⁶⁸ *Collectio Rituum* (1963), tit. VII, cap. 2, no. 5: „Tunc sacerdos reversus ad medium altaris dicat *Libera nos, quaesumus, Domine*, et reliqua more solito; et postquam

Communion may also be administered according to the specific rites of the Roman Ritual⁶⁹.

At the end of these undertaken analyses, it is worth noting that, due to the changed discipline related to marriage, it has become problematic to publish earlier catechisms and other studies that do not annotate these changes⁷⁰. As a result, there is a risk of misleading the faithful attached to the *old liturgical forms*, as they have become acquainted with an outdated ecclesiastical discipline. Therefore, when publishing old studies, the text should be updated, or appropriate comments should be made.

Conclusions

This article has examined the discipline related to the celebration of marriage since the issuance of the papal motu proprio *Summorum*

sumpserit Sanguinem, communicet sponso ante omnes alios. Decet sponso accipere Sacram Communionem ex particulis in hac Missa consecratis”; *Rituale Romanum* (1952), tit. V, cap. 1, no. 15: „Sacerdos sacram communionem distribuat azymo pane vel fermentato, secundum proprium ritum”; *Ibid.*, tit. V, cap. 2, no. 5, 12: „Sacerdos, sumpto sacratissimo Sanguine, (...) ponat particulas consecratas in pyxide, vel, si pauci sint communicandi, super patenam, nisi a principio positae fuerint in pyxide seu alio calice”; *Missale Romanum* (1962) (*Ritus Servandus in celebratione Missae*), no. X, 5-6: „(...) sumit totum sanguinem cum particula in calice posita”. See SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II, *Constitutio Sacrosanctum concilium*, no. 55; *Rituale Romanum. Ordo celebrandi matrimonium* (1991), no. 38, 76; D. PIETRAS, *Nadzwyczajna forma...*, p. 240-242; ID., *Postawy i formy przyjmowania Komunii św. przez wiernych świeckich według dyscypliny kościelnej w trakcie pandemii Covid-19*, in: P. KIEJKOWSKI (ed.), *Teologia dogmatyczna. Kościół w Polsce wobec pandemii*, vol. 17, Poznań 2022, p. 201-204; P. MILCAREK, *De Sacramento Matrimonii...*, p. 49-50; INTERNATIONAL FEDERATION UNA VOCE, *Positio 17: The Reception of Holy Communion Under the Species of Bread Alone*, in: J. SHAW (ed.), *The FIUV Position Papers on the 1962 Missal*, 2015, p. 75-91.

⁶⁹ *Rituale Romanum* (1952), tit. V, cap. 2.

⁷⁰ See P. GASPARRI, *Katechizm Katolicki dla osób dorosłych, które pragną zdobyć pełniejszą znajomość nauki katolickiej*, Warszawa 1999, no. 487-505; *Katechizm św. Piusa X. Vademecum katolika*, Sandomierz 2006, p. 179-185 (*O sakramencie małżeństwa*); F. SPIRAGO, *Katechizm Katolicki dla Ludu Bożego*, vol. 3, Komorów 2014, no. VII.

Pontificum in 2007. Under this law, bishops could freely use the *Pontificale Romanum* of 1961/62 when assisting at marriage, and erect personal parishes for the *extraordinary form of the Roman Rite*. The use of the *Rituale Romanum* from 1952 was allowed when said with the permission of parish priests and the rectors of the church. In addition, the rituals of the religious rites and other territorial rites of the Latin Church *sui iuris* could be used. Multilingual national rituals which were in force in 1962 were also used. The new *De Nuptiis* preface, published by the Congregation for the Doctrine of the Faith in 2020, could also be used. Additionally, new structures were erected which were equipped with the special right to celebrate marriage according to the Roman Ritual. Among these communities is the Institute of Christ the King Sovereign Priest, which was erected as a society of apostolic life under the pontifical right in 2008. In addition, since 2017, local Ordinaries have been able to delegate the SSPX clergy to assist at marriages.

After the publication of the papal motu proprio *Traditionis custodes* in 2021, the use of the 1952 *Rituale Romanum* was limited to the celebration of marriage in personal parishes erected for the *forma extraordinaria*. The permission of the diocesan bishop acts as the circumstance providing for the possibility of this celebration to occur. In addition, Pope Francis, when issuing the decree for the Priestly Fraternity of Saint Peter in 2022, confirmed the right to use these rites in communities that have their own right to use the books of 1962. Likewise, particular Churches and religious communities still have a particular or special right to use the *ancient rites*. The analyses also show that the motu proprio *Traditionis custodes* did not abolish the right to delegate SSPX priests to assist at marriages.

The study has also shown that when celebrating the liturgy of marriage according to the 1962 books, the shape of the rites contained therein should be preserved, but the discipline of the Code of Canon Law of 1983 should also be applied. In practice, this is often difficult to implement, because there can be difficulty in distinguishing a disciplinary norm from a purely liturgical one. Consequently, the current pre-marriage procedures (e.g. announcements), the rules

regarding matrimonial impediments, and the situations in which the permission of the Ordinary is required must be observed. The current discipline regarding mixed marriages, as well as the place and time of marriage, should also be considered. The analyses have also shown that a deacon can assist at marriage. Furthermore, a lay person who has the delegation to assist in the sacrament should not use the *Rituale Romanum* of 1952. It also seems that the parish priest, when taking into account the circumstances, may decide to celebrate the marriage without saying Mass and to give the solemn blessing to the wife at her remarriage. It can also be assumed that in the 1962 rites – after obtaining the permission of the local Ordinary – it is possible to celebrate a marriage between a Catholic and a baptised non-Catholic using the solemn blessing at the Mass. However, after a marriage between a Catholic and a non-Christian, without celebrating the Holy Mass, the prayers over the spouses should be used without the solemn blessing.

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