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**Wykluczenie nierozzerwalności małżeństwa i potomstwa przez pozwaną  
w świetle wyroku Roty Rzymskiej c. Monier z 6 marca 2015 roku**

**The exclusion of indissolubility of marriage and offspring by the defendant in the light of the  
sentence of the Roman Rota c. Monier of 6 March 2015**

Simulation of marital consent, either total or partial (can. 1101 § 2 of the CIC) is a ground of nullity of marriage often invoked in ecclesiastical courts which may be quite difficult to prove in individual cases. After all, the objective is to find the true intention of a person who allegedly simulates marital consent and who, by a positive act of will, excludes marriage itself, an essential element thereof or an essential quality of that union. The difficulties are increased by the need to invalidate the legal presumption made by the legislator in § 1 of the invoked canon according to which, the internal consent corresponds to words or equivalent signs used when entering into marriage, not to mention the need to invalidate the legal assumption under can. 1060 of the CIC.

The case law of the Roman Rota Tribunal provides significant help in adjudicating marriage invalidity cases, including on the ground of the simulation of marital consent, as per can. 19 of the CIC.

The case presented below is a *nullitatis matrimonii* case heard by turnus c. Monier due to the exclusion by the respondent (woman) of the indissolubility of marriage and offspring, an essential quality and element of marriage respectively<sup>1</sup>.

### **1. Status of the case**

Following a 6-year relationship, the last phase of which included intimate contacts, on 25 July 1998 Albert and Agnieszka entered into marriage in one of the parish churches of

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<sup>1</sup> R.P.D. *Mauritio Monier, Pisana. Nullitatis matrimonii. Sententia definitiva diei 6 martii 2015*, Quaderni dello Studio Rotale 23 (2016), p. 133-154.

Pisa. Married life of the parties was not founded on a true marital union as Agnieszka showed absolutely no interest in having children, something that Albert desired very much. In December 1999, a year after the concerned parties entered into marriage, a disagreement occurred between the spouses and Agnieszka told her husband that she never considered the catholic faith her own and did not accept the obligations of marriage, in particular the indissolubility of marriage and openness to having children. Finally, in late February 2002, Agnieszka left the marital home<sup>2</sup>.

On 15 June 2007 Albert requested the Etruscan Tribunal to declare his marriage invalid. On 12 December of that same year, the Tribunal established the formulation of the doubt which included two grounds of nullity of marriage: exclusion by the respondent of *bonum sacramenti* and *bonum prolis* (can.1101 § 2 of the CIC).

The petitioner and four witnesses were interviewed, however Agnieszka never appeared to give her testimony and was declared absent. On 3 December 2008 the Tribunal issued a negative decision.

Following an appeal made by the petitioner to Tribunal *Flaminium*, where the evidence was supplemented, a *pro nullitate* decision was issued on both grounds.

As a result, the case was taken up by the Roman Rota, the court of the third instance, which issued a negative decision on 19 June 2012.

After the petitioner was granted *nova causae propositio* on 20 December 2013 and the case was taken up by a new turnus on 14 November 2014, the formulation of the doubt was established based on the two grounds of nullity mentioned above. To supplement the evidence, the respondent (who appeared to give her testimony) and two witnesses were interviewed. The testimony given by Agnieszka turned out to be crucial. Following the exchange of briefs between the advocate of the petitioner and the Defender of the Bond, on 6 March 2015 turnus c. M. Monier (other judges included: P.V. Pinto, dean and R.M. Sable.) issued an affirmative decision on both grounds of nullity, with a prohibition attached thereto that prohibited the respondent from entering into a new marriage without first pledging to the Ordinary of the place or his delegate that she will enter into the new marriage in a proper manner<sup>3</sup>.

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<sup>2</sup> IBID., p. 133.

<sup>3</sup> IBID., p. 134-135 i 154.

## 2. Legal motives

The *In iure* part of the sentence first refers to can. 1057 § 1 of the CIC concerning the role of matrimonial consent in establishing marriage (its efficient cause), and § 2 of the said canon (definition of marital consent), and is followed by a reference to the instruction of can. 1101 § 1-2 of the CIC. It is then stated that a partial simulation of marital consent involves the exclusion of an essential element or quality of marriage. For the consent to be effective, it must include the acceptance of the institution of marriage together with its essential elements and qualities. It was stated that according to the rules of the doctrine and the Rota case law, there was no requirement for a betrothed to take into account all elements and qualities of marriage when giving consent, it is sufficient that they are accepted by his/her will<sup>4</sup>.

In partial simulation, as stated in the decision, a person, who excludes an element or a quality of marriage, has in mind some kind of a marital union, however one that is objectively different from a true marriage.

As far as the indissolubility of marriage is concerned, the ponens notices that it may happen that the betrothed intends to enter into a dissoluble marriage only so that he/she will be able to regain freedom if married life does not go well. At the same time, the ponens explains that marriage may be invalid not only in the case of an absolute exclusion of indissolubility but also if this quality of marriage is excluded hypothetically as a result of which an individual restricts marital consent by way of a dissolving condition referring to the future<sup>5</sup>.

Next, as far as the exclusion of the good of children is concerned, the sentence states that if the betrothed excludes marital acts ordered toward the procreation of children, the marriage becomes invalid. The subject of the marital consent includes the right and obligation to perform truly marital acts, therefore if somebody negates that right or excludes a relation with a spouse defined therein or acts against the good of children, his/her consent is in consequence fully thwarted. If a betrothed person excludes offspring for an indefinite time, such a decision is tantamount to excluding offspring for good as it is not certain if and when offspring will be accepted. In this field the individual considers himself/herself the only source of law.

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<sup>4</sup> „Iuxta doctrinae et iurisprudentiae nostrae principia, non requiritur ut nubens in eliciendo consensu consideret omnia elementa et proprietates, satis est ut illae acceptentur in nubentis voluntate”. IBID., p. 136.

<sup>5</sup> IBID., p. 137.

The ponens states that the exclusion of the good of children is very often closely connected with the exclusion of indissolubility.

The decision then includes a statement according to which exclusion is made through a positive act of will. It should be an act made consciously and voluntarily and should not be revoked, *explicitus* or *implicitus*, valid or at least virtual, through which the betrothed eliminates the indissolubility or the good of children from the formal subject of the marital consent<sup>6</sup>.

As for establishing partial simulation, the editor of the Rota decision refers to traditional criteria adopted in Rota judicature: *confessio simulantis* (judicial, and above all extra-judicial, confirmed by credible witnesses at a „neutral” time); serious and proportional cause of the simulation: remote and proximate i.e. specific, significantly different from the reason for contracting marriage; circumstances (previous, underlying and from the period after the marriage was contracted which make the simulation not only possible but also credible)<sup>7</sup>. He reminds that it is also necessary to examine the nature, habits, the aspect of faith, mental condition and perspective of the person who allegedly simulated marital consent<sup>8</sup>.

The ponens then refers to the speech that Pope Francis made to the Roman Rota on 23 January 2015 in which he expressly mentions the faithful who are in irregular situations. „Indeed, the Holy Father said, the lack of knowledge of the contents of the faith might lead to what the Code calls determinant error of the will (cf. can. 1099). This circumstance can no longer be considered exceptional as in the past, given the frequent prevalence of worldly thinking imposed on the magisterium of the Church. Such error threatens not only the stability of marriage, its exclusivity and fruitfulness, but also the ordering of marriage to the good of the other, the conjugal love that is the „vital principle” of consent, the mutual giving in order to build a lifetime of consortium”<sup>9</sup>. The ponens reminds that Pope Francis also refers to his Apostolic exhortation *Evangelii gaudium* saying that marriage now tends to be viewed as a form of mere emotional satisfaction that can be constructed in any way or modified at will<sup>10</sup> and which pushes the betrothed into a kind of mental reservation regarding the very

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<sup>6</sup> IBID., p. 137-138.

<sup>7</sup> IBID., p. 139.

<sup>8</sup> IBID., p. 139-140.

<sup>9</sup> FRANCESCO, *Alolocuzione alla Rota Romana*, 23.01.2015, AAS 107 (2015), p. 182-183.

<sup>10</sup> FRANCISCUS, *Adhortatio apostolica „Evangelii gaudium”*, 24.11.2013, AAS 105 (2013), p. 1089.

permanence of their union, its exclusivity, which is undermined whenever the loved one no longer sees his or her own expectations of emotional well-being fulfilled<sup>11</sup>.

### 3. Actual motives

In the application of legal principles to the case in question, the ponens first refers to the remarks of the defender of the bond who stated that no new or strong evidence was presented in the testimony of the respondent or another interview of the two witnesses who already testified in the first instance, and that the acts of the case do not include elements that could revoke the negative decision of the Rota (third instance) of 19 June 2013. The ponens states however that the court testimony of the respondent does in fact solve all problems and dispels doubts regarding the settlement of the case. The judges of the previous turnus underlined in their judgment that the failure on the part of the respondent to appear in court makes it impossible to obtain her testimony<sup>12</sup>.

The decision then put emphasis on the obvious credibility of the petitioner confirmed by priests who knew him before marriage and afterwards and who claim that in their opinion Albert was a Christian of deep faith<sup>13</sup>.

Moving on to the presentation of evidence regarding the exclusion by the respondent of indissolubility and offspring, Monier refers to the petitioner's account who at the time of contracting the marriage definitely considered the respondent to be a person who in her youth abandoned the Christian faith in favor of her own way of thinking. The petitioner intended to enter into marriage with Agnieszka only if she shared the principles and values that were important to him at that time. It was then that he was informed that his fiancée accepts principles of Christian teaching, in particular those referring to marriage. However, the respondent never in fact changed her way of thinking and revealed her true point of view only in December 1999, a year after entering into marriage. It was then that she told the petitioner „Until today I have played the role that I do not intend to play any more as it is not good for my mental health”, and then she added that „she was always surprised that I never saw through her behavior which she no longer wished to hide”<sup>14</sup>.

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<sup>11</sup> *R.P.D. Mauritio Monier, Pisana ...*, sentence cit., p. 140-141.

<sup>12</sup> *IBID.*, p. 142.

<sup>13</sup> *IBID.*

<sup>14</sup> „«Io fino ad oggi ho recitato una parte che non intendo più recitare perché ne va della mia salute psichica», adiungens «che aveva sempre finito e si meravigliava che io non avessi mai scoperto questo suo modo di comportarsi e che ora non voleva più nascondersi»”. *IBID.*, p. 143.

In her court testimony, the respondent confirmed her declarations addressed to the tribunals in the previous instances concerning her behavior and attitude towards Christian faith and principles of Christian teaching. She said, among others, that she never changed her attitude, neither before nor after entering into marriage. She also confirmed that her mentality and ideological point of view differed from that of Albert, particularly regarding religion<sup>15</sup>.

In view of the petitioner's testimony, the ponens asks whether the case in question is not about an error regarding a quality of the respondent intended by the petitioner directly and fundamentally. Since Albert, as he said himself, intended to enter into marriage only if the woman would share the principles and values that he followed in his life. Monier leaves this question unanswered<sup>16</sup>.

As for testimonies of witnesses brought in by the petitioner, the ponens underlines that they confirm that the respondent never followed principles of faith and never confessed that to the petitioner so that he would not give up the relationship. Witness J. testified that Albert entered into the marriage with a conviction that the respondent accepts his ideas; unfortunately, afterwards he realized that the acceptance never happened. It was only about her external behavior without the true sharing of the petitioner's beliefs, and at the same time hiding her own. Witness A. gave a similar testimony. Whereas Fr. A., who prepared the parties for marriage, said a lot about the woman's faith and her intention regarding the institution of marriage. He testified: „It was not about the true [marriage - W.G] path, it was only an external formality. Agnieszka did not in fact change her perspective in any way, and the preparation for the marriage did not change her intention or her attitude towards marriage”<sup>17</sup>.

The decision then stated that in December 1999 the respondent revealed her beliefs regarding the religious dimension of a sacramental marriage which she did not accept at all. In fact, she told the petitioner that she never intended to pursue in her relationship the essential elements of marriage and added that she considered marriage a mere experiment<sup>18</sup>.

At that time, the decision states, Agnieszka told the petitioner that she only entered into a contract „without any sacramental value and subject to termination in its entirety if

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<sup>15</sup> IBID., p. 144.

<sup>16</sup> IBID.

<sup>17</sup> „Non si era trattato di un vero cammino, ma solo di una formalità esteriore [...] Veramente Agnese non aveva cambiato nulla del suo modo di pensare e la preparazione al matrimonio non aveva cambiato le sue intenzioni e il suo modo di pensare riguardo al matrimonio”. IBID., p. 145.

<sup>18</sup> IBID., p. 146.

things do not „go well”, and obviously until a positive resolution also children should be excluded absolutely”<sup>19</sup>.

In her court testimony filed to the court, where the case was heard by *turnus c. Monier*, the respondent not only confirmed the briefs addressed to the tribunals but she also clearly stated that she excluded the indissolubility of marriage and offspring since she clearly said that „when entering into marriage, she was well convinced that she was not uniting indissolubly with Albert for life, on the contrary, she took into account the possibility of separation or divorce if the attempt at married life fails”<sup>20</sup>. Agnieszka also added that she considered marriage to be a mere experiment. As the petitioner's advocate rightly pointed out, the *ponens* adds, it was not a purely mental belief but a true positive act of will<sup>21</sup>.

The exclusion of the indissolubility of marriage by the respondent was also linked to her exclusion of children since she said „I excluded the possibility of having children. As I had no certainty regarding the relationship with Albert, I was set on excluding the possibility of having children”<sup>22</sup>.

The *ponens* then points out that the witnesses brought in by the petitioner were instructed by him (about Agnieszka's attitude) while he was considered credible by the *turnus*. The witnesses tell the court what they heard from the petitioner. The fact that they obtained the knowledge after the marriage had been contracted does not pose any serious problem. The witnesses fully confirm that the respondent entered into the marriage with a strong resolution to exclude indissolubility and offspring. Witness A., whose information came from Agnieszka herself, stated „she clearly implied that, for her, marriage was in fact a contract that could always be cancelled, and having children was unacceptable to her because it would seriously deteriorate her physical appearance which she was strongly attached to”<sup>23</sup>. Witness in the process and Fr. B. mention the same elements regarding the true intention of the woman to *turnus c. Monier*.

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<sup>19</sup> „Eo tempore eadem viro confessa est se tantum contractum fecisse «senza alcun valore sacramentale e passibile di risoluzione completa qualora le cose non fossero andate e naturalmente fino ad una risoluzione positiva anche i figli dovevano essere esclusi in maniera assoluta». IBID.

<sup>20</sup> „Nostro in gardu in sua iudiciali depositione mulier non tantum confirmat litteras aa tribunalia missas, sed etiam clare fassa est se exclusisse bona sacramenti et prolis. Nam mulier expressis verbis declaravit, che sposandosi era ben convinta che non si stava legando indissolubilmente per tutta la vita ad Alberto e che anzi metteva in conto la possibilità di ricorrere a separazione o divorzio se il tentativo di vita coniugale non fosse andato bene”. IBID., p. 146-147.

<sup>21</sup> IBID., p. 147.

<sup>22</sup> „Avevo escluso la possibilità di avere figli. Non essendo sicura del rapporto con Alberto, ero indotta ad escludere la generazione dei figli”. IBID.

<sup>23</sup> „Facilmente faceva capie che per lei il matrimonio, in fondo, era un contratto che poteva sempre essere disdetto e la presenza dei figli per lei era una cosa non accettabile perché essi avrebbero nuociuto molto al suo aspetto fisico a cui era legata moltissimo”. IBID, p. 148.

As far as the reason for the simulation regarding indissolubility is concerned, the ponens states that acts of the case clearly indicate that the woman's ideology was totally against the teaching of the Church. She herself stated before the tribunal that she excluded marriage as a true sacrament that creates an indissoluble bond between spouses. The reason is fully confirmed by the petitioner and the witnesses.

As rightly pointed by the petitioner's advocate in his *Restrictus iuris et facti*, the ponens states, there is a proximate reason for the exclusion of indissolubility by the respondent: her doubts or uncertainty regarding the result of the marital life. Agnieszka testified at the instance c. Monier „I was not certain of my relation with Albert”<sup>24</sup>. In her letter addressed to the Tribunal she expressed her uncertainty: „When I contracted the marriage I felt uncertain about the future of our relationship”<sup>25</sup>.

Shortly after contracting the marriage, as we read in the decision, the respondent informed her husband about her state of mind and stated that she might have been mistaken about her marriage to him and that she does not feel particularly fit to be a wife and a mother. On the other hand, the petitioner mentioned Agnieszka's behavior before the marriage and testified that she mentioned the excuses she made for a year not to accept his proposal to make their relationship official and take it towards marriage.

The woman's uncertainty in the period before marriage was fully confirmed by witnesses (J. and A.)<sup>26</sup>.

As for the cause of simulation regarding offspring, the ponens accepts that it is clearly closely connected with *causa simulationis* regarding exclusion of indissolubility. The respondent confirmed the existence of the proximate cause for the exclusion of *bonum prolis* by stating before the court: „As I was not certain of my relationship with Albert, I was set on excluding offspring”<sup>27</sup>. The petitioner also reveals the respondent's concept of life which was totally negative as she believed that „the world is too dangerous, there are too many people and there is not enough food for everybody while the Church egoistically encourages procreation and does not set any limits and therefore she would not contribute to the deterioration of the world situation”<sup>28</sup>.

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<sup>24</sup> „Non ero sicura del mio rapporto con Alberto”. IBID., p. 149.

<sup>25</sup> „Quando mi sono sposata provavo dentro di me incertezze dul futuro della nostra unione”. IBID.

<sup>26</sup> IBID., p. 150.

<sup>27</sup> „Non essendo sicura del rapporto con Alberto, ero indotta ad escludere la generazione dei figli”. IBID.

<sup>28</sup> „Nam mulier censebat «che nel mondo ci sono tanti pericoli, che siamo in troppi e non c'è da mangiare per tutti, che la Chiesa in modo egoistico invita alla procreazione e non pone limiti, e che lei avrebbe dunque dovuto dare un contributo a non aggravare la situazione mondiale»”. IBID., p. 151.



The decision states that the witnesses (A. and I.), indicate the respondent's fear that pregnancy would change her physical appearance which she cared for very much<sup>29</sup>.

As for *causa contrahendi*, the ponens indicates, the Rota judges deemed it very weak, considering in particular the woman's uncertainty regarding the result of the marital life which she saw as a mere experiment<sup>30</sup>.

As far as circumstances are concerned, Monier states that the marital life fully confirms the woman's simulation intent, in particular the conversation between the parties in December 1999 when Agnieszka revealed her negative attitude towards indissolubility of marriage and the good of children, a position that she never changed. During the period of marital life she always used contraceptives to avoid conceiving a child as stated by the petitioner in his testimony where he revealed that for a certain period they had to avoid pregnancy in a systematic way providing absolute certainty, including the use of contraceptives. One evening, a year after entering into marriage, Albert tried to have a sexual intercourse with his wife without „protection”, she gave in to him very angry, saying that he offended her as a person and as a woman. The editor of the sentence underlines that this clearly shows that the woman permanently excluded having children<sup>31</sup>.

The ponens notes that the short period of marriage, which lasted four years, is also a characteristic circumstance<sup>32</sup>.

Considering legal and factual motives, Monier concludes, turnus auditors confirmed that the invalidity of the marriage between the parties on the ground of exclusion by the respondent of both indissolubility and offspring was proven. The decision includes the aforementioned clause that prohibits the respondent from entering into a new marriage without the consent of the Ordinary of the place or his delegate, provided that she pledges to enter into the new marriage in a proper manner<sup>33</sup>.

#### 4. Final conclusions

The presented decision of Rota turnus c. Monier (recently appointed pro-dean of the Roman Rota by Pope Francis) on *nullitatis matrimonii* case brought by the petitioner on two grounds of nullity (*exclusio boni sacramenti* and *exclusio boni prolis* on the part of the

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<sup>29</sup> IBID.

<sup>30</sup> IBID., p. 152.

<sup>31</sup> IBID., p. 153.

<sup>32</sup> IBID.

<sup>33</sup> IBID., p. 154.

respondent), heard after the petitioner obtained *nova causae propositio*, is an interesting example of a thorough assessment of the collected evidence which made it possible to declare the marriage invalid.

Even though the decision in the second instance was affirmative (on both grounds of nullity), surprise must be expressed at the fact that the Tribunal made this decision despite the fact that the respondent, allegedly guilty of simulation, failed to appear at the hearing. It was the Rota turnus at the third instance that stated clearly that the lack of *confessio simulantis iudicialis* makes it impossible to support the simulation. Undoubtedly, the respondent's appearance at hearings at the higher instance made it possible for turnus c. Monier to issue an affirmative sentence<sup>34</sup>.

The ultimate, fourth sentence in *causa Pisana* is characterized by extreme conciseness. Arguments presented by the ponens both in the *In iure* and *the In facto* part focus on the essence of both grounds of nullity and emphasize what is most important. However the case itself did not seem to present any particular difficulty in recognizing the true intentions of the woman entering into marriage. The characteristic thing is that both simulations (regarding indissolubility and offspring), as it often happens, went, so to speak, hand-in-hand, exclusion of indissolubility may in a lot of cases induce the betrothed to exclude offspring at the same time (based on the following reasoning „since I absolutely or hypothetically exclude the indissolubility of marriage, I do not want to have children of this marriage whose fate could be unfortunate, and who could at the same time cause me a lot of problems”).

As for the exclusion of both indissolubility and offspring, the respondent took a positive act of will and thus an act of categorical wanting<sup>35</sup>. In the case of indissolubility, the act was not taken *explicite* (will focused directly against indissolubility), but *implicite* (will focused directly against the object that includes the exclusion of indissolubility; the object in question was marriage as a dissolvable relation)<sup>36</sup>. Whereas the exclusion of offspring, as it may seem, had the nature of an act taken *explicite* (will was focused directly against marital acts that could result in having children). The affirmative character of the act of will excluding consent regarding both indissolubility and offspring was expressed in a determined focus of the woman on her own vision of marriage (as a dissolvable relationship), and

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<sup>34</sup> As clearly supported by the following part of the decision: „Attamen nostro in casu censemus iudicalem mulieris confessionem omnes difficultates vel dubia auferre ad solutionem ferendam. Revera uti scripserunt Patres de Turno in praecedenti sententia rotali diei 19 iunii 2012 absentia mulieris conventae a iudicio «impossibile facit confessionis acquisitionem»”. IBID., p. 142.

<sup>35</sup> Cf. A. STANKIEWICZ, *Concretizzazione del fatto simulatorio nel „positivus voluntatis actus”*, Periodica 87 (1998), p. 284-285.

<sup>36</sup> See DEC. C. STAFFA of 21 May 1948, SRRD 40 (1948), p. 186.

consistent avoidance of having children. While the exclusion of indissolubility was not absolute but hypothetical (depending on the future of the marriage), the exclusion of children seemed to be absolute. There is no doubt that the affirmative (virtual) act of will consciously taken by Agnieszka was not revoked by her before the marriage was contracted.

The statement included in the decision according to which, the exclusion of children for an indefinite time is an exclusion for ever, is accurate. What is also characteristic, is the emphasis that by excluding *generatio prolis*, the party seems to make herself the only source of law.

While recalling in the *In iure* part of the decision the main proofs to be sought which are generally accepted in Rota judicature (*confessio simulantis: iudicialis et extraiudicialis; caua simulationis: remota et proxima; circumstantiae: antecedentes, concomitantes et subsequentes*), in his reference to two announcements of Pope Francis, the ponens wished to underline the impact of contemporary views on marriage – far from the teaching of the Church – on questioning the indissolubility of this union and its objectives.

The c. Monier sentence convincingly demonstrates the fact of the simulation of marital consent in both its aspects: exclusion of indissolubility and exclusion of offspring. What was also of significance in this case was the fact that the petitioner, of whom the witnesses hold an impeccable opinion, was considered fully reliable<sup>37</sup>.

As for *exclusio boni sacramenti*, the testimony of the respondent - the court and out-of-court (in particular the statement made to the petitioner in December 1999 i.e. a year after contracting the marriage), proved to be of prime importance. The turnus identified the reason for the *bonum sacramenti* exclusion without any difficulty: the remote cause was the opinion Agnieszka had on marriage, in particular her ideology that was fully opposed to the teaching of the Church; whereas the proximate cause, as deemed by the turnus, were her doubts or lack of certainty regarding the future of the contracted marriage<sup>38</sup>.

As for *exclusio boni prolis*, it was not difficult either to indicate both *causa ramota* and *causa proxima* thereof. The first, closely related to the remote cause of the exclusion of indissolubility was the unusual attitude of the woman towards procreation (threat of human overpopulation accompanied by food shortage), whereas the second one was her excessive

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<sup>37</sup> This is stressed by ponens when he states: „Absque dubio notanda est quoque tota viri credibilitas quae confirmata est a declarationibus sacerdotum qui Actorem cognoverunt tam ante quam post nuptias et asseveraverunt eius firmam fidem christianam”. *R.P.D. Mauritio Monier, Pisana ...*, sentence cit., p. 142.

<sup>38</sup> A sentence from the respondent's letter addressed to the Tribunal quoted in the decision (cf. note 25): „Quando mi sono sposata [...]” [notes – W.G.] indicates the period after the marriage was contracted, still it does not in any way weaken arguments of the ponens regarding *causa proxima* simulationis as he also quotes her statement made in a period prior to the marriage which was confirmed by witnesses (IBID. p. 150).

concern for her physical appearance which – as she believed – could deteriorate (and become less attractive) if she gave birth to a child.

The decision also presented circumstances confirming the simulation of both types of marital consent on the part of Agnieszka.

The reference made by the ponens to the unjustified statement of the defender of the bond regarding the lack of arguments that would revoke the negative decision of the turnus which adjudicated in the third instance should be convincing<sup>39</sup>.

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<sup>39</sup> The defender of bond stated: „Neque in actis novissime collectis [in the instance of c. Monier – W.G.] exstant indicia quae infirmare possint sententiam diei 19 iunii 2012”. IBID., p. 142.