

FOREWORD

As the author mentions in the Introduction, I had the task of guiding and accompanying his research work that culminated into the doctoral thesis presented in 2011.

It was a fascinating adventure, with a somewhat dramatic end because, when it was about to be finished, an *ictus* — which I hope was not related to the impeccable performance of the then doctoral student — obliged me to a prolonged hospital stay.

Thanks to God, in a few months I recovered completely, but by then, with the generous intervention of Prof. Zalbidea and other colleagues from the Faculty of Canon Law, which again I thank profoundly, the dissertation was finished and defended successfully.

At the request of the author, I am very happy to have now the opportunity and the honor to write the foreword of this book, which contains substantially that work, with certain updates and improvements that enhance its already excellent initial quality.

This book is a study that, together with other recently published ones, is called to provide a good contribution to the knowledge and, especially, to the practice of canonical administrative procedure.

It is very likely that those who read these words already know very well that what I have just written does not intend to postulate a perfected increment to the bureaucracy of the various curias, which should be limited to the essential. It refers rather to the criterion that allows us to discern what, why and to what extent it should be considered essential, in every action of the ecclesiastical authority.

Undoubtedly, this discernment must point to the correct decision-making. *Correct*, in this sense, is the decision that contains and reflects the canonical *rationality* in its various aspects: opportunity, legality, justice, adequate consideration of the legitimate juridical situations of the faithful and of the public good of the Church, prudence to ponder the circumstances and assets at stake, manner of proceeding, the diligence to consider everything necessary to decide well, fairness to those affected by the action, etc.

An illustration will help explain what I want to say. It is already topical to point out, as one of the features that can be clearly perceived in the currents of ecclesial life, the shift from the judicial process for imposition of penal sanctions towards the so-called *via administrativa*, which concludes with the issuance of an administrative act that contains the final decision.

Further on the frequent preference of the ordinaries for such *via*, according to c. 1718 §1, 3^o of the CIC, special administrative procedures are also coming out in extra-codal legislation for various important cases of imposition of penal sanctions in the Church.

All of them presupposes the common administrative procedure, which must provide the framework of the general *logic* of the administrative action to guide a manner of proceeding capable of supplementing the possible *lacuna* or lack of special rules.

For that purpose, a praxis consistent with the principles of ecclesiastical good governance which the CIC intended to protect and to direct with the administrative norms it contains has to be forged. And not only in those special penal procedures, but also in the most diverse procedures, simple or complex, that are carried out daily in the life of the Church: appointments, transfers, permits, licenses, dispensations, resolution of petitions...

However, for different reasons, that *logic of good governance* is not expressed in an orderly, unified and complete manner in the CIC. It is not enough, therefore, an exegetical analysis of the common norms on administrative acts to eviscerate it. It is rather the logic of the system, of what we can call the canonical system of administrative law, and it requires to be approached with a systematic perspective.

This is what, in my opinion, Dr. Achacoso brilliantly offers in his book. In the first two chapters he develops some preliminary questions and, in particular, indicates the main elements of the canonical juridic expe-

rience that he takes into account for the systematic vision he proposes. Furthermore, in an admirably concise and orderly manner, he dedicates respective chapters to deal in detail with the three general phases of the procedure in which he divides his exposition: Initiation, Substantiation and Conclusion.

The outline is clear and basic, however I think the reader will not find a simple treatment but rather a true canonical reconstruction of the standards and manners of proceeding, not only of indubitable academic quality but also illustrated in concrete and useful way to guide the practice, the good practices, in the curias.

I have no doubt that, with such qualified and pertinent guidelines as those contained in this volume, those practices of good governance will also favor that the administrative activity of the pastors may faithfully reflect the face of the Church.

Jorge Miras
Pamplona, June 2018