

The ceremony for the execution of the Bull *Ut sit*

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2. "Denique ad hoc omnia convenienter exequenda destinamus Nos Venerabilis Fratris Regulum Carboni, Archiepiscopum Iuliae Sidonensem et in Italia Apostolicum Nuntium, dum necessarias ei atque opportunas tribuimus facultates, etiam addelegandi ad effectum de quo agitur quolibet ritum in ecclesiastica disciplina constitutum, contra imposito ad Sacram Congre-

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2. “Denique ad hæc omnia convenienter exsequenda destinamus Nos Venerabilem Fratrem Romulum Carboni, Archiepiscopum titulo Sidoniensem et in Italia Apostolicum Nuntium, dum necessarias ei atque oportunas tribuimus facultates, etiam subdelegandi ad effectum de quo agitur quemlibet virum in ecclesiastica dignitate constitutum, onere imposito ad Sacram Congregationem pro Episcopis quam primum remittendi verum exemplar actus ita impletæ executionis. Contrariis quibusvis rebus minime obstantibus” (JOHN PAUL II, Ap. Const. *Ut sit* [Constitution of the Prelature of Opus Dei], November 28, 1982, *AAS* 75 [1983], pp. 423–425).

for ecclesiastical circumscriptions, which include the ceremony of execution once the circumscription has been established.

1. The ceremony of execution of a Bull establishing an ecclesiastical circumscription

In canon law, execution—from the Latin *exsecutio*, meaning fulfillment, accomplishment, performance—is treated as an instrumental procedure for implementing an important provision, normally one that has been issued by a public ecclesiastical authority.³

In the case of the establishment of major ecclesiastical circumscriptions—a diocese, apostolic vicariate, apostolic prefecture, territorial or personal prelature, etc.—execution, in the form of a solemn ceremony, is normally required because of the important ecclesial benefit for which the circumscription is being established; it serves to confirm the juridical integrity and validity of the main document of establishment, as well as its fittingness and true operational usefulness.⁴ It is only from the time of this solemn ceremony that the effective commencement of the establishment can be considered as fixed, since the law is careful to ensure that this be clearly determined, for evident reasons of certainty amid the great variety of possible juridical situations.

It should be noted first of all that there is no specific written regulation governing the way in which documents establishing ecclesiastical circumscriptions are to be executed. The matter is therefore governed by the general norms that are to be found above all in the canons on the

3. For a fuller exposition of these notions cf. F. D'OSTILIO, *L'istituto giuridico della esecuzione nel Diritto Canonico* (Rome, 1972); P. MONETA, "L'esecuzione dell'atto amministrativo nel progetto di revisione del Codex Iuris Canonici", *Ephemerides Iuris Canonici* 35 [1979], pp. 71–88; E. LABANDEIRA, *Trattato di diritto amministrativo canonico* (Milan, 1994), pp. 391–398, and more recently, J. MIRAS, J. CANOSA and E. BAURA, *Compendio di diritto amministrativo canonico* (Rome, 2007), pp. 190–194.

4. On the procedure for establishing ecclesiastical circumscriptions, including the execution phase, cf. J.I. ARRIETA, *Diritto dell'organizzazione ecclesiastica* (Milan, 1997), pp. 367–369; ID., *Governance Structures within the Catholic Church* (Montréal, 2000), pp. 190–193.

execution of administrative acts (cann. 37 and 40–45) and the delegation of executive power (cann. 137–142). Also relevant are certain of the articles contained in the law of the Roman Curia and the norms governing representatives of the Roman Pontiff. However, an important part of the law for this matter comes from the Roman Curia's governmental practice which has remained unchanged for over a century and which I will describe later.⁵ We know about this juridical practice partly thanks to the dispositions on execution contained in pontifical decrees reordering the ecclesiastical organization.⁶

The pontifical document whose execution we are now considering is, as we have stated, an Apostolic Constitution

5. Can. 19 of the Code of Canon Law includes the practice of the Roman Curia among the supplementary juridical sources for filling *lacunæ* where there is no law or custom to cover a particular situation; cf. J.I. ARRIETA, "Il valore giuridico della prassi della Curia Romana", *Ius Ecclesiæ* 8 [1996], pp. 97–117.

6. See, for example, J.I. ARRIETA, *Il sistema dell'organizzazione ecclesiastica. Norme e documenti* (Rome, 2003), which deals with Apostolic Constitutions establishing different types of ecclesiastical circumscription (pp. 219–220, 239–242, 256, 263–264). In all these cases the author is John Paul II, and it can be seen that in the final part of the text of the constitution, there is a provision on execution which is very similar in each instance. The provisions issued by previous Popes on the execution of constitutions establishing circumscriptions are similar. Among many possible examples, mention could be made of PIUS XI, Ap. Const. *Ad gregem Dominicum* [Constitution of the Diocese of Iquique, Chile], December 20, 1929, AAS 23 [1931], pp. 361–364: "Hisce itaque ut supra dispositis ad eadem omnia exsecutioni mandanda, quem supra diximus venerabilem in Chilena republica Apostolicum Nuntium deputamus, eidem tribuimus necessarias et opportunas facultates, etiam subdelegandi ad effectum de quo agitur, quemlibet virum in ecclesiastica dignitate constitutum, atque dirimendi controversias omnes in exsecutione quomodolibet oriturus, ac onus eidem imponimus ad Sacram Congregationem Consistorialem infra sex menses, ab hisce Litteris acceptis computandos, authenticum exemplar mittendi peractæ exsecutionis"; PIUS XII, Ap. Const. *Lætatur vehementer* [Constitution of the Diocese of Huelva, Spain], October 22, 1953, AAS 46 [1954], pp. 135–137: "Ut autem ea quæ Nostris hisce Litteris iubemus efficiantur, eundem dilectum Filium Nostrum Caietanum S. R. E. Cardinalem Cicognani deligimus, vel eum qui eo tempore quo hæc decreta ad rem adducuntur, Apostolicæ in Hispania Nuntiaturæ præerit; cui vero contigerit hoc exsequendum negotium, illi necessarias ad id potestates facimus, cuilibet subdelegandas, si opus fuerit, viro, qui ecclesiastica dignitate polleat, onusque iniungimus hoc confectum negotium in acta referendi, quorum fide digna exempla ad S. Congregationem Consistorialem quam primum transmittendo"; PAUL VI, Ap. Const. *Qui volente* [Constitution of the Diocese of Créteil,

which, as a juridical instrument, is drawn up on parchment, following a partly-predetermined format. It is then signed by two Cardinals: the Secretary of State (formerly this would have been the Cardinal Chancellor, a post that no longer exists in the Roman Curia) and the Prefect of the relevant Congregation (in this case, the Congregation for Bishops).

The solemnity of the ceremony of execution is linked to the public benefit for which the establishment has been made, which, having been fully verified during the formation process,⁷ is always described in summary terms in the Bull of constitution. Execution provides certainty for all interested parties, including the author of the provision, the Roman Pontiff, and those responsible for the new portion of the People of God: the head of the ecclesiastical circumscription, the *presbyterium*, and the people; it should also guarantee the effective practical implementation of the new circumscription in the universal Church.⁸

France], October 9, 1966, AAS 59 [1967], pp. 212–214: “Ceterum, quæ per has Litteras Nostras præscripsimus, venerabilis Frater Paulus Bertoli ad exitum adducet, vel quem ipse delegaverit, factis iustis facultatibus; re vero acta, documenta exarentur, sincerisque exemplis ad Sacram Congregationem Consistorialem cito mittantur”.

7. For the historical-juridical stages preceding the establishment of the Prelature of Opus Dei, cf. A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS and J.L. ILLANES, *The Canonical Path of Opus Dei. The History and Defense of a Charism* (Princeton/Chicago, 1994). In the case of the formation process of the ecclesiastical circumscriptions referred to in the preceding footnote, for the Diocese of Iquique, cf. the information in <www.iglesiadeiquique.cl/bula1.htm1>; for the Diocese of Huelva (Spain), the explanation given in <www.planalfa.es/obhuelva/diocesis/historia.htm>; for the genesis of the act of establishment of the Diocese of Créteil (France), cf. C. LÉVÊQUE, *Naissance du diocèse de Créteil*, in <www.catholiques-val-de-marne.cef.fr/decouvrir-le-diocese/2000-ans-de-christianisme/1966>.
8. The function of providing maximum certainty can be seen in the various decrees of execution, such as that of Cardinal I. ANTONIUTTI, Apostolic Nuncio in Spain, *Decreto de ejecución de la Bula Fundacional de la Diócesis de Huelva*, February 11, 1954 (*Boletín Oficial de la Diócesis de Huelva*, n. 1, April 1954, pp. 7–8): “Cum nobis a Sancta Sede commissum sit ad executionem mandare omnia disposita et constituta in Bulla Apostolica *Lætatur Vehementer*, diei secundæ et vigesimæ octobris anni millesimi nongentesimi quinquagesimi tertii, qua, separata ab Hispalensi Archidiocesi tota regione quæ civilem provinciam complectitur, cui nomen apud populum ‘Huelva’, nova Diocesis Huelvensis erigitur, hanc Diocesium, ad normam et tenorem laudatæ Bullæ, a Sancta Sede declaramus erectam.”

A first practical rule for the execution of documents establishing ecclesiastical circumscriptions is that the executor is always designated by the Roman Pontiff in the principal document (Bull of establishment), and the mandate is usually given to an ecclesiastic endowed with episcopal dignity—generally the pontifical representative (Archbishop) in the place of execution.

The power to carry out the mandate includes the necessary delegated executive power, which is subject to the general rules referred to previously and the usages dictated by good government, but at the same time it contains a necessary margin of discretion which is reflected, *inter alia*, in the possibility (this is a second practical rule) that the executor may arrange for another ecclesiastic (whether or not a Papal representative) to take his place.⁹

Ensuring compliance with the conditions for execution (including receipt of the authentic document and confirmation that the dispositive content of the Apostolic Constitution has been fulfilled) requires the executor to make certain that the document of establishment is not invalid, that the new establishment can be sustained in the future, that there is no reason advising against execution, and that the requirements of the mandate and of any other instructions from the

9. This has happened in certain instances, such as that of the Diocese of Iquique, where the Nuncio delegated the Archbishop of Santiago by subdelegation: "Subdelegation.—Apostolic Nunciature of Santiago de Chile.—N. 2537.—The Most Reverend Crescente Errázuriz Valdivieso, Archbishop of Santiago. With the Bull *Ad gregem Dominicum* of December 20, 1929, the August Pontiff has kindly deigned to establish the present Apostolic Vicariate of Tarapacá as a Diocese and to appoint as first Bishop of the new See the Most Reverend Monsignor Carlos Labbé Márquez. It being a suffragan Diocese of the Metropolitan of Santiago, I am pleased to entrust you with the prescribed canonical execution of the Pontifical Document, which I have the honor of sending you, together with the suitable necessary faculties, express mention of which will be made in the Decree of Execution. At the same time I ask you to arrange for an authentic copy of said Decree be sent in due time to this Apostolic Nunciature. [...]. Héctor, Archbishop of Corinto, Apostolic Nuncio" (<www.iglesia-deiquique.cl/bula1.htm1>) [Our translation].

relevant departments of the Roman Curia have been fulfilled.¹⁰ The executor must then choose the moment and place of the ceremony, in accordance with the mandate and the lawful request of the head of the new circumscription.

In view of the ecclesial benefit involved in implementing each new circumscription, it is necessary to ensure that the act of execution is not delayed, especially in cases where execution coincides with the taking of possession of the circumscription by its first Bishop or Prelate.¹¹

The form that the public ceremony of execution takes will depend on circumstances of time and place as well as other factors. In any event, the direct link between the public benefit of the Church and the execution of the constitution makes it very fitting that the execution should be carried out with special solemnity, and that as far as possible all those

10. As it is a question of carrying out a mandate, this must be clearly shown in the corresponding document: see for example the decree of execution of Archbishop C. ERRAZURIZ VALDIVIESO of Santiago de Chile, *Auto de erección de la Diócesis de Iquique y nombramiento de obispo en favor del Ilmo. Sr. Dr. D. Carlos Labbé Márquez*, May 7, 1930 (<www.iglesiadeiquique.cl/bula1.htm1>), which was formulated in the following terms: "By virtue of the Apostolic Authority subdelegated to us, we confirm that the mandates of Our Most Holy Father Pius XI in his Apostolic Letter *Ad gregem Dominicum* have been executed and fulfilled, that the Diocese of Iquique has been established, created and constituted, that its first Bishop has been appointed and instituted in the venerable person of the Most Illustrious Dr. Carlos Labbé Márquez, who, by Apostolic disposition, is released from the Church of Bida.—We also confirm that all and each of the things specified in this document of establishment as needing to be observed have been executed and fulfilled." [Our translation].

11. As, for example, in the decree of the Coadjutor Archbishop of Paris, P. VEUILLOT, *De capta possessione Sedis Christoliensis a primo Episcopo in Ecclesia S. Ludovici apud "Choisy-le-Roy"*, December 4, 1966—kindly sent to me by the Chancellor of the Diocese of Créteil (France)—in which the following formula was used: "Nos, Petrus Veuillot, archiepiscopus titularis Constantiensis in Thracia, Coadjutor cum jure successionis Em.mi Archiepiscopi Parisiensis, vi facultatum a Sancta Sede tributarum, quas Rev.mus Nuntius Apostolicus in Gallia nobis benigne communicavit, juxta litteras *Sacrosanctum Œcumenicum Sanctissimi Pauli VI*, diei 9 oct. 1966, in testimonium erectionis Diocesis Christoliensis et captæ possessionis a Rev.mo D. Roberto de Provençères, primo episcopo, præsentis documenti exemplaria coram clero et populo firmavimus."

directly interested or their representatives should take part. The document will be in the form of a singular Decree, the administrative act that expresses most directly the relationship with the common good. Even though the Decree of execution itself follows the structure of the more important administrative acts (heading, preamble, reasons, dispositions, date and place, signature of executor), the documentation of the ceremony of execution is not necessarily restricted to this Decree alone, as there may often be other documents connected with the execution.¹²

In accordance with usual practice for Apostolic Constitutions of establishment, the executor must send the competent Congregation a copy of the Decree of execution. The Secretary of State, who will have been involved in the preparation of the Bull and also, through the Papal representative, in its execution, sees to it that the Bull of constitution is published in *Acta Apostolicæ Sedis*, once it has been executed.

2. Execution of the Bull *Ut sit*

In view of the various elements examined up to now, as well as the juridical context of the execution of the Bull *Ut sit* on March 19, 1983, we can conclude that the ceremony that took place was in accordance with normal practice, even though this particular legislative provision has its own special importance (as witnessed by the authoritative interventions at this Study Day).

In the case of the Prelature of Opus Dei, just as with the Church's other hierarchical structures, execution—which is a

12. For example, for the Diocese of Iquique, the first Bishop, Carlos Labbé, wrote the following note on the day of the taking of possession of the diocese, June 8, 1930: "Today at 5 p.m., before His Excellency José María Caro Rodríguez, Bishop of La Serena, with the solemnities of the law, observing the prescriptions of the pontifical Bulls, I have taken possession of the Diocese of Iquique, in the presence of the clergy, the authorities and numerous people in the Cathedral Church. † Carlos Bishop of Iquique." (cf. <www.iglesiadeiquique.cl/bula1.htm1>). [Our translation]

sort of meeting-point between juridical provision and real life—involved a material operation (a *traditio* or handing over of the original Bull written on parchment, together with the Decree of execution) incorporated into a public ceremony. In the Church's law it is perfectly fitting, and therefore quite frequent, that such ceremonies should have a religious character, as in fact happened with the ceremony of execution of the Bull *Ut sit* which took place within the Holy Mass, the center of the life of the People of God. With proper regard for the liturgical rubrics, there took place a series of acts of significant public juridical value: the reading of the Bull, the reading of the Decree of execution, the handing over by the Nuncio of the Bull and the Decree to the Prelate, and, once Mass had finished, the reading and signing of the record of execution by the principal parties—the Prelate, the executor, the Prefect of the Congregation for Bishops, and other personalities.¹³

The principal celebrant at the Holy Mass was the Prelate of Opus Dei, Msgr. Alvaro del Portillo, who in his homily highlighted the significance and importance of the ceremony of execution.¹⁴

The executor, Archbishop Carboni, who received the pontifical mandate through the Congregation for Bishops,¹⁵ was able to boast thirty years' experience as executor of ecclesiastical circumscriptions.¹⁶ He personally gave effect to the

13. The texts of the Bull, Decree of execution and record of the ceremony of execution are given in the appendix to A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS and J.L. ILLANES, *The Canonical Path of Opus Dei*, pp. 604–609. (See also the Appendices at the end of this book.)

14. Cf. A. DEL PORTILLO, Prelate of Opus Dei, "Omelia durante la Santa Messa del 19 marzo 1983 nella Basilica di Sant'Eugenio in Valle Giulia", *Studi Cattolici* 27 [1983], pp. 373–381.

15. Cf. Cardinal S. BAGGIO, Prefect of the Congregation for Bishops, Letter to Msgr. Alvaro del Portillo regarding the Papal Bull erecting the Prelature and its execution, in A. DE FUENMAYOR, V. GÓMEZ-IGLESIAS and J.L. ILLANES, *The Canonical Path of Opus Dei*, p. 603, which announces this mandate.

16. On Archbishop Carboni's activity as Nuncio, cf. A.G. FILIPAZZI, *Rappresentanze e rappresentanti pontifici dalla seconda metà del XX secolo* (Vatican City, 2006),

execution, declining to exercise the faculty which the Bull allowed him of appointing a substitute. The executive activity carried out by him, apart from the preparatory aspects, consisted of the issuing of the Decree, the explanatory discourse during the ceremony, the presentation of the Bull, and the approval and signature of the official record of the solemn ceremony; afterwards he was responsible for sending the Congregation for Bishops the necessary information regarding the execution.

The numerous presences of Cardinals and Bishops, priests and lay faithful of the Prelature, representatives of the diplomatic Corps, as well as the media, was proportionate to the importance of the ceremony. It should be remembered that this is a personal prelature present in many dioceses across the five continents. The place chosen for the execution, the Basilica of Saint Eugene in Valle Giulia, Rome, was suitable not only on account of practical considerations of availability (it is a parish church entrusted to priests of the Prelature of Opus Dei) and size, but also because every Basilica is a particular expression of union with the Holy See.

The date of execution—three months and twenty days after the establishment—allowed time for the physical drawing up of the Bull. No further time was requested since what was involved was an executive provision relating to an institutional reality already in existence at the moment of establishment: hence the dispositions contained in the Apostolic Constitution were either already operational, or else could be fulfilled within a very short space of time. The actual date chosen, March 19, the solemnity of Saint Joseph, helped provide a harmonious link between the juridical and supernatural elements, bearing in mind

pp. 124, 213, 243 and 293. Prior to being Nuncio in Italy (1969–1986), Archbishop Carboni had been Apostolic Nuncio in Australia, New Zealand and Oceania, from 1953 to 1959, and Peru, from 1959 to 1969. Cf., among other examples of mandates entrusted to him for the execution of ecclesiastical circumscriptions, AAS 47 [1955], p. 198; AAS 51 [1959], p. 98; AAS 52 [1960], p. 74; AAS 54 [1962], p. 698; AAS 59 [1967], p. 1106; AAS 60 [1968], p. 559.

the important place that the holy Patriarch holds in the history and life of Opus Dei.¹⁷

Apart from the aspects of certainty and consolidation that characterize any executive provision, the full juridical effects arising from the moment of execution included, in the case of *Ut sit*, another important feature, which was commented on by a number of authors: it was the first application (and hence the first interpretation) of the figure of the personal prelature in the Code of Canon Law promulgated two months prior to the execution, on January 25, 1983.¹⁸

Finally, the publication of the Ap. Const. *Ut sit in Acta Apostolicæ Sedis* on May 2, 1983 conferred further juridical certainty on this provision by which the personal prelature was established.

17. This was in fact mentioned during the actual ceremony of execution: cf. A. DEL PORTILLO, Prelate of Opus Dei, "Omelia durante la Santa Messa del 19 marzo 1983".

18. Cf., for example, G. LO CASTRO, *Le prelature personali. Profili giuridici*, 2nd ed. (Milan, 1999), p. 105.