

Agreement Between the Italian Republic and the Holy See

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Agreement Between the Italian Republic and the Holy See
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Taking into account the process of political and social change that has occurred in Italy over the last decades and the developments which have taken place in the Church since the Second Vatican Council;

Bearing in mind, on the part of the Italian Republic, the principles proclaimed in its Constitution and, on the part of the Holy See, the Second Vatican Ecumenical Council's declarations on religious freedom and on the relations between the Church and the polity, as well as the new codification of canon law;

Considering further that, in accordance with Article 7, paragraph (2) of the Constitution of the Italian Republic, the relations between the State and the Catholic Church are governed by the Lateran Pacts, which, however, can be modified by common agreement of the two Parties without requiring any procedure of Constitutional revision;

Have recognized the opportunity of entering into the following mutually agreed amendments to the Lateran Concordat:

Article 1

The Italian Republic and the Holy See reaffirm that the State and the Catholic Church are, each in its own order, independent and sovereign and commit themselves to the full respect of this principle in their mutual relations and to reciprocal collaboration for the promotion of man and the common good of the Country.

Article 2

1. The Italian Republic shall recognize the full freedom of the Church to develop its pastoral, educational, and charitable mission, of evangelization and sanctification. In particular, the Church shall be assured the freedom of organization, of public exercise of worship, of exercise of its magisterium and spiritual ministry as well as of exercise of jurisdiction in ecclesiastical matters.

2. It shall be equally assured the reciprocal freedom of communication and correspondence between the Holy See, the Italian Bishops Conference, the Regional Bishops Conferences, the bishops, the clergy and the faithful, as well as the freedom of printing and circulating acts and documents concerning the mission of the Church.
3. Catholics and their associations and organizations shall be granted the full freedom of assembly and of expression of their thoughts by oral, written, or any other means of publication.
4. The Italian Republic acknowledges the particular significance that Rome, the Episcopal See of the Supreme Pontiff, has to Catholicism.

Article 3

1. The boundaries of the dioceses and of the parishes shall be freely determined by the ecclesiastical authority. The Holy See commits itself not to include any part of the Italian territory into a diocese whose Episcopal See is in the territory of another State.
2. Appointments to ecclesiastical offices shall be freely made by the ecclesiastical authority. The ecclesiastical authority shall communicate to the competent civil authorities the appointments of the Archbishops and diocesan bishops, of the coadjutors, the abbots and prelates with territorial jurisdiction as well as of the parish priests and the appointments to the other ecclesiastical offices relevant for the State legal order.
3. Except for the diocese of Rome and for the suburban ones, ecclesiastics who are not Italian citizens shall not be appointed to the offices hereof.

Article 4

1. The priests, the deacons, and the members of the religious orders who have taken vows shall have the right to obtain, at their own request, an exemption from the military service or to be assigned to the substitutive Civil Service.
2. In the event of general mobilization, the ecclesiastics who have not been assigned to the care of souls shall be called to exercise their religious office among the troops or, subordinately, they shall be assigned to the medical service.
3. Students of theology, those in the last two years of their theological preparation for ordination and novices of religious institutes and societies for apostolic life may take advantage of the same postponements of military service which are granted to the students of Italian Universities.
4. Ecclesiastics shall not be required to provide to magistrates or other authorities any information regarding persons or matters known to them by reason of their ministry.

Article 5

1. Buildings open to worship shall not be requisitioned, occupied, expropriated or demolished except for grave reasons and pursuant to a previous agreement with the competent ecclesiastical authority.
2. Except in cases of urgent necessity, the police force shall not enter buildings open to worship for the purpose of carrying out its duties without first advising the ecclesiastical authority thereof.
3. The civil authority shall take into account the religious needs of the people, as presented to it by the competent ecclesiastical authority, in connection with the construction of new buildings for Catholic worship and of the pertinent parish structures.

Article 6

The Italian Republic shall recognize as public holidays every Sunday and all the other religious feasts determined by agreement between the Parties.

Article 7

1. The Italian Republic, in accordance with the principle enunciated in Article 20 of its Constitution, reaffirms that the ecclesiastical character and the religious or worship purpose of an association or institution shall not be the motive of special legislative limitations or of special tax exemptions with regard to its constitution, legal capacity, or any other form of activity.

2. The legal personality previously granted to ecclesiastical bodies shall be retained and the Italian Republic, upon request of the ecclesiastical authority or with its consent, shall continue to recognize the legal personality of the ecclesiastical bodies whose See is in Italy, who are constituted or approved according to the norms of canon law and have a religious or worship purpose. A similar procedure shall be followed in order to recognize civil effects to any substantial change of the same bodies.

3. With respect to taxation, ecclesiastical bodies having a religious or devotional purpose, as well as activities directed to that same scope shall be treated in the same manner as those having a beneficent or educational purpose.

The activities carried out by ecclesiastical bodies that are not for religious or devotional purposes shall be subject, in accordance with the structure and purpose of such bodies, to the laws of the State concerning such activities and to the tax burden provided for the same.

4. The buildings open to worship, the publications of acts, the posting of notices in the interior or at the outside doors of the worship or ecclesiastical buildings, and the collections made in the aforesaid buildings shall continue to be subject to the regulations presently in force.

5. The administration of the property owned by ecclesiastical bodies shall be subject to the controls provided by canon law. The acquisitions made by these bodies shall also be subject, however, to the controls provided for in the Italian laws on acquisition by legal persons.

6. On the occasion of the signing of the present agreement, the Parties shall appoint a joint Commission to formulate norms, that will be subsequently submitted for their approval, for the regulation of the whole matter of ecclesiastical bodies and properties and for the revision of the financial obligations of the Italian State and of its intervention into the patrimonial management of ecclesiastical bodies.

Upon a temporary basis and until the entry into force of the new regulation, Articles 17, paragraph (3), 18, 27, 29 and 30 of the previous text of the Concordat shall remain applicable.

Article 8

1. Civil effects shall be recognized for marriages contracted according to the norms of canon law, provided that the act of marriage be entered in the registers of the vital statistics, and the notices of marriage have been previously published at the communal offices. Immediately after the ceremony, the parish priest or his delegate shall explain the civil effects of the marriage to the parties, by reading the Articles of the Civil Code concerning the rights and duties of married people and he shall thereafter draw up, in original duplicate, the certificate of marriage, in which the spouses' declarations permitted by civil law may be inserted.

The Holy See acknowledges that the registration shall not take place:

(A) When the spouses do not meet the requirements of age determined by civil law for celebration;

(B) When an impediment from which, according to civil law, no derogation is permitted, exists between the spouses.

However, registration is permitted when, according to civil law, an action for nullity or annulment can no longer be maintained.

The request for registration shall be made, in writing and within five days from the celebration, by the parish priest of the place where the marriage has been celebrated. If the conditions for registration are satisfied, the vital statistics officer shall record it within 24 hours from the receipt of the act and shall give notice thereof to the parish priest.

The marriage shall have civil effects from the moment of the celebration, even if the vital statistics officer has, for any reason, made the registration after the prescribed term.

The registration can also be made subsequently upon request of the two spouses, or of one of them with the knowledge and without the opposition of the other, provided that both have retained single status without interruption from the moment of the celebration to the request for registration and the rights legally acquired by third parties are not prejudiced.

2. The judgments of nullity of marriage pronounced by ecclesiastical tribunals, together with the decree of execution issued by the superior controlling ecclesiastical authority, shall be declared, at the request of the parties or of one of them, effective within the Italian Republic by judgment of the competent Court of Appeal, upon verifying:

(A) that the ecclesiastical judge was the competent judge to adjudicate the action, the marriage having been celebrated in accordance with the present Article;

(B) that in the proceedings before the ecclesiastical tribunals the right to sue and to defend in Court has been assured to the parties in a way not dissimilar from what is required by the fundamental principles of the Italian legal system;

(C) that the other conditions required by the Italian legislation for the declaration of efficacy of foreign judgments are present.

The Court of Appeal may, with the judgment that recognizes a canonical judgment, take temporary economical measures in favor of one of the two spouses whose marriage has been declared null, referring the parties to the competent judge for a final decision on the matter.

3. In entering into the present regulation of matrimonial matters the Holy See herein reaffirms the unchangeable validity of the Catholic teaching on marriage and the concern of the Church for the dignity and values of the family, foundation of the society.

Article 9

1. The Italian Republic, in conformity with the principle of freedom of schools and teaching and according to the terms provided for in its Constitution, shall guarantee to the Catholic Church the right to freely establish schools of every order and grade and educational institutes.

Full freedom shall be assured to private schools officially recognized by the State and it shall also be assured to their pupils school treatment equivalent to that applied to the pupils of schools run by the State or by the other territorial entities, also with regards to the State exam.

2. The Italian Republic, recognizing the value of the religious culture and considering that the principles of the Catholic Church are part of the historical heritage of the Italian people, shall continue to assure, within the framework of the scope of the schools, the teaching of Catholic religion in the public schools of every order and grade except for Universities.

With respect for the freedom of conscience and educational responsibility of the parents, everyone shall be granted the right to choose whether or not to receive religious instruction. When they enroll, the students or their parents shall exercise this right at the request of the school authority and their choice shall not give rise to any form of discrimination.

Article 10

1. The Universities, seminaries, academies, colleges, and other institutions for ecclesiastics and members of religious orders or for the training in the ecclesiastical disciplines, established according to canon law, shall continue to be subordinate to the ecclesiastical authority alone.

2. The academic degrees in theology and in the other ecclesiastical disciplines, determined by the agreement of the contracting Parties and granted by the faculties approved by the Holy See, shall be recognized by the State. The diplomas of Paleography, Diplomacy, Custody of Historical Documents, and Library Sciences obtained at Vatican schools shall likewise be recognized.

3. The appointment of professors to the Catholic University of the Sacred Heart and the subordinate institutes shall be subject to the approval of the candidates' religious profile by the competent ecclesiastical authority.

Article 11

1. The Italian Republic assures that service in the army, in the police or in any other similar service, time spent in hospitals, in sanatoria or in houses of public assistance and confinement to the institutes for prevention and punishment shall not impede the exercise of religious freedom and the fulfillment of the practices of Catholic worship.

2. The spiritual assistance to the same shall be assured by ecclesiastics appointed by the competent Italian authorities upon designation by the ecclesiastical authority and in accordance with the legal status, the personnel and the formalities determined by common agreement of these authorities.

Article 12

1. The Holy See and the Italian Republic, each in its proper order, shall collaborate for the protection of the historical and artistic heritage.

In order to harmonize the application of Italian law with the religious needs, the competent authorities of the two Parties shall agree upon appropriate provisions for the protection, appraisal, and enjoyment of cultural property of religious interest that belongs to ecclesiastical bodies or institutions.

The preservation and consultation of archives of historical interest and of the libraries of the same bodies and institutions shall be favoured and facilitated on the basis of understandings between the competent authorities of the two Parties.

2. The Holy See shall retain the power to dispose of the Christian catacombs that exist underground at Rome and other parts of the Italian territory, bearing the consequent responsibility for their custody, maintenance and preservation, but it shall waive the power to dispose of the other catacombs.

Subject to the laws of the State and to any rights of third parties, the Holy See shall be at liberty to proceed with any necessary excavation and removal of sacred relics.

Article 13

1. The preceding provisions shall be amendments to the Lateran Concordat accepted by the two Parties and shall enter into force on the exchange of the instruments of ratification. Except for what is provided in Article 7, paragraph (6), the provisions of the Concordat not reproduced in the present text are herein repealed.
2. Additional matters for which a need of collaboration between the Catholic Church and the State might arise, shall be governed by further agreements between the two Parties or by understandings between the competent authorities of the State and of the Italian Bishops Conference.

Article 14

If, in the future, any difficulties should arise with regard to the interpretation or application of the preceding provisions, the Holy See and the Italian Republic shall entrust the search for an amicable settlement to a joint Commission appointed by them.

Rome, February 18, 1984
Signed on February 18, 1984

On the occasion of the signing of the Agreement that modifies the Lateran Concordat, the Holy See and the Italian Republic, desiring to assure, by means of appropriate specifications, the best application of the Lateran Pacts and the agreed upon amendments, and willing to avoid any difficulties of interpretation thereof, herein jointly declare:

1. In relation to Article 1

The principle of the Catholic religion as the sole religion of the Italian State, originally referred to by the Lateran Pacts, shall be considered to be no longer in force.

2. In relation to Article 4

(a) With reference to Paragraph (2), the ordinaries, parish priests, parish vicars, rectors of churches open to worship and priests permanently assigned to the services of spiritual assistance referred to in Article 11 shall be considered to be in cure of souls.

(b) The Italian Republic assures that the judicial authority shall inform the ecclesiastical authority with territorial competence of any criminal proceedings against ecclesiastics.

(c) The Holy See takes advantage of the amendments to the Lateran Concordat to declare its agreement, without prejudice to the canon legal system, with the interpretation given by the Italian State to Article 23, paragraph (2) of the Lateran Treaty, according to which the civil effects of the judgments and final orders pronounced by ecclesiastical authorities and provided by this Article shall be understood in accordance with the rights of Italian citizens which are constitutionally recognized.

3. In relation to Article 7

(a) The Italian Republic assures that no obligation to proceed with the conversion of real property shall exist upon ecclesiastical bodies, unless contrary agreements are concluded from time to time between the competent governmental and ecclesiastical authorities when special reasons are present.

(b) The joint Commission referred to in Paragraph (6) shall terminate its work within and no later than six months from the signing of the present agreement.

4. In relation to Article 8

(a) In view of the application of Paragraph (1) (B), the following shall be understood to be impediments from which, according to civil law, no derogation is permitted:

- (1) the fact that one of the contracting parties is interdicted for mental infirmity;
- (2) the existence, between the spouses, of a previous marriage which is valid for civil purposes;
- (3) the impediments which derive from crime of affinity in a direct line.

(b) With reference to Paragraph (2), in view of the application of Articles 796 and 797 of the Italian Code of Civil Procedure, the specificity of the canon legal system, that governs the bond of matrimony which had its origin therein, shall be taken into account. In particular:

- (1) it shall be taken into consideration that the references made by Italian law to the law of the place where the judicial proceedings have taken place shall be understood as relating to canon law;
- (2) final judgment shall be considered to be a judgment that is enforceable according to canon law;
- (3) it is understood that, in any case, the merits shall not be re-examined.

(c) The provisions of Paragraph (2) shall also be applied to marriages celebrated, before the entry into force of the present agreement, in conformity with the norms of Article 34 of the Lateran Concordat and of the law No. 847 of May 27, 1929 and for which a proceeding before the civil judicial authority, as provided by the same norms, has not been initiated.

5. In relation to Article 9

(a) The teaching of Catholic religion in the schools indicated at Paragraph (2) shall be given — in conformity with the doctrine of the Church and with respect for the freedom of conscience of the pupils — by the teachers who are recognized by the ecclesiastical authority as being qualified thereto and who are appointed, in agreement therewith, by the school authority.

In infant and elementary schools, this teaching may be given by the class teacher, if recognized by the ecclesiastical authority as being qualified thereto and if willing to do it.

(b) By means of a subsequent understanding between the competent school authorities and the Italian Bishops Conference, it shall be determined:

- (1) the teaching prospectus of Catholic religion in public schools of every order and grade;

(2) the organization of this teaching, also with respect to its position in the school time table;

(3) the criteria for selecting the textbooks;

(4) the requirements of professional qualification for the teachers.

(c) The provisions of this Article shall not prejudice the regulations presently in force in the regions on the borders of the Country, in which the matter is governed by special norms.

6. In relation to Article 10

The Italian Republic, in interpreting Paragraph (3) -- that does not change Article 38 of the Concordat signed on February 11, 1929 -- shall follow the judgment of the Constitutional Court, No. 195/1972, concerning the same Article.

7. In relation to Article 13, Paragraph (1)

The Parties shall initiate appropriate consultations with a view of the implement, each within its proper order, the provisions of the present agreement.

The present Additional Protocol is an integral part fo the Agreement that modifies the Lateran Concordat and that was contextually signed by the Holy See and the Italian Republic.

Rome, February 18, 1984