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DICASTERY FOR LEGISLATIVE TEXTS

N. 18316/2024

Vatican City, 5 September 2024

Most Reverend Monsignor,

I hereby reply to the letter of 3 July last, in which you asked this Dicastery for an opinion on the question of *bona fama defuncti* (“good reputation of the deceased”) in the current canonical conception. After a careful examination of the delicate question, having requested the opinion of two esteemed canonists who are experts in the matter, I take care to communicate to you the following observations.

Canon 220 establishes a principle of a general nature that prohibits slander and defamation (see also nos. 2477-2479 CCC), declaring that “it is not lawful for anyone to harm illegitimately the reputation that one enjoys.” This means that in some cases the harm of good reputation can be legitimized, for example to avoid any danger or threat to individuals or to the community; consequently, it would not be legitimate at all when such a risk is reasonably to be excluded, as in the case of presumed deceased criminals, where there can be neither a legitimate nor proportionate reason for the damage to their reputation. It does not therefore seem admissible to motivate the publication of such news for presumed reasons of transparency or reparation (unless the subject consents and therefore once again excluding deceased persons). The legal problem is not, however, reduced to the impossibility of defending oneself from accusations by a deceased, but concerns at least two universally accepted principles of law:

- 1) the principle of *presumed innocence* of anyone, until proven – judicially – to the contrary and definitive (see also can. 1321 §1);
- 2) the principle of *non-retroactivity of the crime*, according to which one cannot be judged – and consequently not even accused – for conduct that at the time of its possible commission did not constitute a crime from a formal point of view. The penal norms are valid only *for the future* (see canons 9; 18; 1313) and cannot be applied to acts and conduct that at the time of their commission did not constitute an illicit act, a crime, or a crime; for example, with regard to the so-called omissions of the general duties of supervision.

Such principles, of structural scope, cannot reasonably be overridden by a generic “right to information” that makes any kind of news public domain, however *credibly*, to the concrete detriment and existential damage of those personally involved, especially if

inaccurate, or even unfounded or false, or completely useless as in what concerns deceased persons. Furthermore, the determination of whether an accusation is “founded” often rests on a non-canonical foundation and requires a relatively low *standard* of proof, involving the publication of the name of a person simply accused, but of an unproven accusation, without the benefit of any exercise of the right to defense. In conclusion, having as an indispensable legal basis the statement of the Supreme Pontiff Francis according to which «it is necessary to avoid the publication of the lists of the accused, even by the Dioceses, before the preliminary investigation and the definitive conviction» (Footnote 1), the answer can only be negative with respect to the disclosure of hidden information concerning anyone, even more so when it concerns deceased persons.

In the hope of having provided a useful opinion, I take this opportunity to send you my warmest regards,

in Domino,

✠ FILIPPO IANNONE O.C.
Prefect

✠ JUAN IGNACIO ARRIETA
Secretary

Footnote 1: Pope Francis, Meeting “The protection of minors in the Church,” Points for reflection, 21 February 2019, in URL:
https://www.vatican.va/resources/resources_puntidiriflessione-protezioneminori_20190221_it.html