

Working document - GC 2025

MINIMUM NUMBER TO FORM A CONVENTUAL CHAPTER

Votes of the Central Commission 2024

Vote 70: We place on the agenda of the General Chapter of 2025 the topic of the minimum number of solemn professed required to constitute a conventual chapter (Cst 37).

PLACET 21 ; NON PLACET 2; ABSTENTIO 0. **Proposition accepted.**

Vote 71: We ask the Law Commission to draw up a working paper on this topic.

PLACET 21; NON PLACET 1; ABSTENTIO 1. **Proposition accepted.**

I Initial considerations

1. Our Constitutions do not establish the minimum number of members (solemnly professed) of a monastery that are needed to constitute a conventual chapter, despite the fact that CIC c. 632 requires that proper law determine precisely its composition.
2. Some references from our proper law can be taken as a guideline:
 - a. The Statute on Foundations determines the minimum number of members for a foundation to be able to acquire autonomy (cf. n. 15).
 - b. The constitution of the conventual chapter is the principal manifestation of the autonomy of the monastery (cf. C. 37).
 - c. When the number of solemnly professed members goes down to five, the community loses the right to elect a superior (cf. St 39.2.C). This norm has its source in the universal legislation for the nuns (Cf. Cor Orans, n° 45). The right to elect a superior is one of the principal collegial acts of the conventual chapter in a monastery.

II A look at the common norms of canon law

1. The Code of Canon Law (CIC) of 1983 in Book II, Title II, “Religious Institutes” (cc. 607-709) does not establish the minimum number of members of a monastery in order to constitute a conventual chapter.
2. Subsidiarily, one must have recourse to CIC, Book I, “General Norms”, Chapter II “On Juridical Persons”, (cc. 113-123).
 - a) Canon 115 establishes that in the Church juridical persons are either aggregates of persons (“universitates personarum”, community of persons) or aggregates of things (“universitas rerum”, mass of goods).

“**Can.115 §1.** Juridic persons in the Church are either aggregates of persons or aggregates of things.

§2. An aggregate of persons, which can be constituted only with at least three persons, is collegial if the members determine its action through participation in rendering decisions, whether by equal right or not, according to the norm of law and the statutes; otherwise, it is non-collegial.

§ 3. An aggregate of things, or an autonomous foundation, consists of goods or things, whether spiritual or material, and either one or more physical persons or a college directs it according to the norm of law and the statutes.”

- b) From this it can be deduced that according to c. 115 § 2, the conventual chapter is an aggregate of persons, a collegial juridical person,¹ for whose constitution a minimum of three members is required.²

III Some conclusions

From the juridical point of view the conventual chapter cannot be constituted with less than three members:

1. This is a minimum established in the general norms of canon law that guarantees truly collegial decision-making.
2. Since the collegial will is formed by the vote of its members, the solemnly professed who form the conventual chapter must have not only juridical capacity (determined by their status as solemnly professed with stability in the community, with the right to vote) but also the capacity to act (sufficient cognitive capacity to make decisions).³
3. In our proper law, if so decided, we could establish a minimum number to be able to constitute the conventual chapter that would be greater than the three members required by universal law, for example, a minimum of five or six solemnly professed:

¹ Cf. DE PAOLIS, V. *La vida consagrada en la Iglesia*, Madrid 2011, pp.249-253.

² Canon law took this rule from an ancient principle of Roman law, the purpose of which was to ensure a majority when making decisions.

³ The possibility of limiting the capacity to act of persons is not a foreign option to legal systems, however, the legislator is repugnant to any rule that may restrict the free exercise of rights (odious matter). In this sense, the Code of Canon Law is no exception, which could explain the absence of a rule aimed precisely at such a limitation in situations where, either because of mental illness or advanced age, the person is unable to perform certain functions, or is not even capable of undergoing an adequate psychological process to make a decision about this by means of the corresponding discernment. In these circumstances, the limitation of the capacity to act may arise from necessity. (Cf. MAGDALENA MIGUEL, Laura, *Limitación de la capacidad de obrar en miembros de institutos de Vida Consagrada*, *Revista Española de Derecho Canónico*, Vol 77, n. 189, 2020, pp. 909-935.)

- Advantage:

- It would constitute a larger college to make collegial deliberations and decisions.

- Disadvantage:

- Vital communities which seem to have a future but with only three solemnly professed with voting rights would lose the right to form a conventual chapter and, therefore, would lose the exercise of their autonomy. (For example: admission to profession or change of stability, acts of extraordinary administration, etc.).

IV. Proposal for new Statutes to be included in our proper law

1. We propose a new statute, ST 37.D, which establishes the minimum number of members for a community to have a conventual chapter:

ST 37.D

A minimum of three members including the major superior of the community is required to constitute the conventual chapter.

2. We propose a new statute, ST 36.2.A. ter, which, taking up the general norm of universal law in canon 119 CIC and what is regulated in ST 37.D, establishes the quorum necessary in order to proceed to a vote of the conventual chapter:

ST 36.2.A. ter

For a conventual chapter vote to be valid, **there must be present a majority of those who must be convoked⁴ and a minimum of three capitulars.⁵**

⁴ Cf. CIC c. 119, 1^o and c.119 2^o: “praesente quidem maiore parte eorum qui convocari debent”.

⁵ Cf. CIC c. 115 § 2 and ST 37.D “Universitatis personarum, quae quidem nonnisi ex tribus saltem personis constitui potest”.