

**WORKING PAPER  
CONCERNING A REVIEW  
OF VOTES 47-50 OF THE 2014 GENERAL CHAPTER  
ON THE AGE LIMIT OF 75  
FOR THE EXERCISE OF THE ABBATIAL FUNCTION**

*(Working paper requested of the Law Commission by the Central Commission – Roscrea 2016, votes 31-34, p. 23).*

The USA and CAN Regional Meetings requested a review of the votes taken at the 2014 Chapter:

USA Regional Meeting, 2016:

- We recommend a review of the votes 47-50 of the 2014 General Chapter (vote 19).
- In the review of votes 47-50 we recommend that if a person is postulated who is over 75 years of age that he/she automatically be given a three year term (vote 20).

CAN Regional Meeting, 2016:

- We wish to reconsider the decisions made at the 2014 General Chapter on the question of the postulation of a person over 75 years of age as abbot or abbess (vote 4).

These two Regions are referring to the following votes:

ELECTION OF THE ABBOT/ABBESS

**Vote 47:**

A monk or nun having attained 75 years of age can neither be elected nor postulated.  
WE APPROVE STATUTE 39.3.A: YES 69, NO 76, ABS 9. Proposition rejected.

**Vote 48:**

The candidate must be at least thirty-five years of age and less than 75 years of age.  
WE APPROVE THE COMPLETED STATUTE 39.3.A: YES 128, NO 28, ABS 8. **Proposition accepted.**

RESIGNATION OF THE ABBOT/ABBESS

**Vote 49:**

The abbot/abbess having been postulated at an age beyond 75 and whose postulation has been confirmed shall spontaneously offer his/her resignation at the next General Chapter :  
WE APPROVE STATUTE 40.A bis: YES 146, NO 9, ABS 10. **Proposition accepted.**

**Vote 50:**

The abbot/abbess whose resignation at age 75 had not been accepted will present it again at the next General Chapter:  
WE APPROVE THE NEW STATUTE 40.A ter: YES 155, NO 4, ABS 6. **Proposition Accepted.**

In the document it prepared for the 2014 General Chapter, the Law Commission gave a state of the question. No new elements have emerged since then.

Since the 2014 Chapter, two abbots, having reached the age of 75, were postulated according to the possibility offered by ST 39.3.A, modified by vote 48 of the 2014 Chapter.

In order for the 2017 Chapter to reflect on this question again following the Central Commission's vote 30 (*We wish to place on the agenda of the General Chapter 2017 the revision of votes 47-50 taken during the General Chapter of 2014. Yes 15, No 2, Abs 6*), and either confirm or modify the votes taken in 2014, the working paper drawn up for the 2014 Chapter is here repeated, with the addition of the USA Region's vote 20.

The first questions to ask, therefore, are the following:

- 1) Do we want to re-take votes 47-50 of the 2014 General Chapter?
- 2) Do we want to study the possibility offered by vote 4 presented below (which is a limitation of option B)?

#### **STATE OF THE QUESTION (FROM THE WORKING PAPER FOR THE 2014 CHAPTER):**

According to the current legislation, an abbot or an abbess must spontaneously offer his/her resignation when he/she reaches the age of 75. But what happens if a person who has reached that age is elected?

There is no doubt that, according to the current legislation, a person who is over 75 years of age can be validly elected as abbot or abbess (titular prior or prioress). In fact, the conditions for being elected include a minimum age but do not include a maximum age.

However, if a person who is over 75 years of age is elected, some questions, not foreseen by our legislation, present themselves.

Can the Abbot General refuse to confirm such an election?

If the election has been carried out according to all the canonical norms, we cannot see how he could refuse to confirm it. To refuse because of the age of the person elected would be to prefer his own judgment to that of the community, which with full knowledge of the situation, elected a person over 75 years of age.

Is the person elected obliged to resign as soon as he is elected?

This is very doubtful. A restrictive law must be interpreted in a restrictive way. The law states what a person in office must do when he/she reaches 75. In itself, this law does not apply to a person elected at a more advanced age. It can be said that it would all the same be "normal" to resign in this case; but it can just as well be said that it would hardly be "logical" to resign immediately after having been validly elected and confirmed.

In view of this ensemble of complex and somewhat confused situations, the Central Commission of 2013 (vote 38) requested that our legislation on this point be more clearly "defined". What is requested is not an "interpretation" of the law, but its adaptation to situations not foreseen by the legislator.

A very simple solution would be to modify the conditions for a valid election by stating, in Statute 39.3.A, that to be validly elected a person must be “at least 35 years of age and must not have reached 75 years of age”.

However, we should be aware that, as someone can be postulated before attaining 35 years of age, someone who has attained 75 years of age could also be postulated, unless we prohibit this possibility in our legislation (cf. CIC 180.1). In fact, we cannot exclude that a community, whose abbot/abbess has offered his/her resignation upon reaching 75 years of age, would want to postulate him/her so that he/she can continue his/her service, nor that it would want to postulate someone who is more than 75 years of age.

We can, in a statute, stipulate that a person who has attained the age of 75 can neither be elected nor postulated. If, on the other hand, we accept the possibility of a postulation, we could stipulate that the person over 75 years of age, who would have been postulated and confirmed, must offer his/her resignation at the next General Chapter, or that the person over 75 who has been postulated serve for a three-year mandate.

This obligation that a person over 75 years of age would have to present his/her resignation at the next General Chapter could be extended to the abbot or abbess who had presented his/her resignation at the age of 75 and whose resignation had not been accepted.

We therefore have a choice between three options :

- either we reject any possibility of election or postulation for an abbot or abbess who is over 75 years of age (**option A**);

- or we accept the possibility of postulation (**option B**), with or without the obligation of a resignation at the next General Chapter

- or we accept the possibility of a postulation for a three-year mandate

A vote could be added regarding the obligation to resign at the next General Chapter for an abbot or abbess whose resignation, offered at the age of 75, had not been accepted.

### **Vote 1 (option A)**

☞ A new statute is added to C. 39.3 (ST 39.3.A remains unchanged)

**St 39.3.A bis:**

*A monk or nun having attained 75 years of age can neither be elected nor postulated*

***We approve Statute 39.3.A bis.***

**YES – NO -- ABS**

If this vote is accepted we do not take vote 2

## Vote 2 (option B)

☞ **ST 39.3.A** is completed leaving the possibility of the postulation of a candidate over 75 years of age:

*The candidate must be at least thirty-five years of age and less than 75 years of age.*

**We approve the completed Statute 39.3.A**

**YES – NO -- ABS**

If this vote is accepted, we take vote 3

## Vote 3 (limitation of option B)

☞ The following Statute is added to C.40

### **ST 40.A bis**

*The abbot/abbess having been postulated at an age beyond 75 and whose postulation has been confirmed shall spontaneously offer his/her resignation at the next General Chapter.*

**We approve Statute 40.A bis.**

**YES – NO – ABS**

If this vote is accepted, we do not take vote 4.

## Vote 4 (limitation of Option B)

**NEW:** this proposal was not part of the votes taken at the 2014 Chapter

### **ST 40.A bis:**

*The candidate having been postulated at an age beyond 75 and whose postulation has been confirmed, serves a three-year term.*

**We approve Statute 40.A bis.**

**YES – NO – ABS**

If this vote is not accepted, the postulated abbot/abbess remains in charge for the duration of his/her mandate, whether for a fixed term or for an indefinite term, according to the option taken by the community, and that he/she will present his/her resignation at each Chapter.

## Vote 5 (related question)

☞ A new **ST 40.A ter** (or 40.A.bis, if the result of vote 3 was negative) is added, introducing into the Constitutions what has been up to now the general practice.

### **ST 40.A ter (or 40.A bis).**

*The abbot/abbess whose resignation at age 75 had not been accepted will present it again at the next General Chapter.*

**We approve the new Statute 40.A ter (or 40.A bis).**

**YES – NO – ABS**