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Permanent Mission  
of the Republic of Poland  
to the United Nations Office  
at Geneva

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The Permanent Mission of the Republic of Poland to the United Nations Office at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights.

With reference to a joint communication sent by the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on freedom of religion or belief; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the Working Group on discrimination against women and girls, the Permanent Mission of the Republic of Poland has the honour to transmit to the Office of the United Nations High Commissioner for Human Rights Poland's replay to the questions of the Special Rapporteurs on posters with the image of the Virgin Mary with a rainbow halo.

The Permanent Mission of the Republic of Poland to the United Nations Office at Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 23 April 2021

**Office of the High Commissioner  
for Human Rights  
Geneva**

A replay to the questions of the Special Rapporteurs on posters with the image of the Virgin Mary with a rainbow halo.

In connection to Joint Communication from Special Procedures I hereby provide information as to the legal and factual basis for the charges brought against Ms. Podleśna, Ms. Ms. Prus and Ms. Gzyra-Iskandar, and as to the legal and factual basis of the search of Ms. Podleśna's home and her arrest on 6 May 2019. The above mentioned defendants were acquitted from the charges in the judgement of District Court in Płock on 2 March 2021.

On 29 April 2019, an officer of the Municipal Police Station in Płock initiated an investigation for an act under Article 196 of the Penal Code in connection with an incident taking place on the night of 26 to 27 April 2019 in the city of Płock in the vicinity of St. Dominic's Catholic Church, involving the pasting of images of a reworked image of the Virgin Mary in a rainbow halo on various city infrastructure devices, including but not limited to traffic signs, trash cans and a portable toilet. The investigation was initiated on the basis of a notice of suspicion of an offence filed on 27 April 2019.

On 2 May 2019, the public prosecutor of the District Public Prosecutor's Office in Płock issued in the case, pursuant to articles 219 and 220 1 and 2 of the Code of Criminal Procedure, a decision to conduct a search of the apartment and all its appurtenant premises occupied by Elżbieta Podleśna and a car used by her, in order to disclose and secure all items that may constitute evidence in the case. The search was conducted by officers from the Płock Municipal Police Station on 6 May 2019, in the presence of Elżbieta Podleśna, who did not raise any objections to the conducted operation.

The factual basis for the decision to search the premises occupied by Elżbieta Podlesna were findings made during inspection of CCTV footage from the city of Płock, which recorded the image of Elżbieta Podleśna in a manner allowing her identification and sufficiently justifying the suspicion of her committing the crime described in Article 196 of the Penal Code (offence against religious feelings), by sticking computer printouts with the image of the Virgin Mary in a rainbow halo on a portable toilet, waste garbage can and other city infrastructure devices. The above findings gave rise to a presumption that the apartment and car of Elżbieta Podleśna contained items that could constitute evidence in the case.

The evidence described above, as well as the testimony of witnesses and items secured during the search at Elżbieta Podleśna's home in the form of stickers with the image of the Virgin Mary with a halo in the colors of the rainbow, sufficiently justified the suspicion that Elżbieta Podleśna had committed the offence defined in Article 196 of the Criminal Code. For this reason, acting pursuant to the provisions of Articles 313 and 325a 2 of the Code of Criminal Procedure, an officer from the Płock City Police Station issued a decision on 6 May 2019 to present Elżbieta Podleśna with a charge of committing an offence under Article 196 of the Criminal Code, which was announced to the suspect on the same day. A defence attorney appointed by the suspect took part in foregoing actions.

The preparatory proceedings were concluded on 29 June 2020 by bringing an indictment against Elżbieta Podleśna, Anna Prus and Joanna Gzyra-Iskander to the District Court in Płock for an act under Article 196 of the Criminal Code, committed jointly and in agreement. Significantly, the act charged against the defendants, i.e. offence against religious feelings, did not consist in altering the image of the Virgin Mary by placing on it a halo in the colors of the rainbow, but in offending the religious feelings of others by publicly insulting the object of religious reverence of Catholics by placing such an altered image on elements of city infrastructure, including such elements as trash cans and on public toilets.

As to your request to provide information about the measures taken to ensure that the threeabove-mentioned individuals are guaranteed their fair trial rights, Constitution of the Republic of Poland guarantees fair trial rights to everyone. Therefore there are no special or unique measures aimed to ensure their fair trial rights. The judiciary proceedings against Elżbieta Podleśna and the other suspects were conducted in accordance with the provisions of the criminal procedure, respecting the rights of a person having the status of a suspect.

As stated above, in its judgement of 2 March 2021 The District Court in Płock, in case no. II K 296/20, acquitted Elżbieta Podleśna and the remaining defendants of the charges. In view of the content of the verdict, the public prosecutor in the District Prosecutor's Office in Płock filed a motion for preparation and delivery of a statement of reasons of the court, which has not taken place to date.

In Poland everyone is subject of all human rights, including the right of protection from violence and discrimination. Equality before the law and general prohibition of discrimination on any basis are enshrined in the Constitution of the Republic of Poland, which makes these principles pivotal in Polish legal system and is protected by way of constitutional complaint. Poland is committed to protection of the freedom of opinion and expression as crucial for the functioning of democratic societies and to ensure a lively public debate. Polish legal system guarantees that civil, political, economic, social and cultural rights are enjoyed by all, free from fear and violence.