Warsaw, 7 June 2021

With reference to the Call for Submissions of Special Rapporteur on freedom of religion or belief to the report “Respecting, Protecting and Fulfilling the Right to Freedom of Thought” to be presented at the seventy-sixth session of the United Nations General Assembly, Poland would like to present its responses to the questionnaire below.

**1. The right to freedom of thought: scope and content**

Poland respects all human rights and fundamental freedoms in its legal order, provisions of which comply to the fullest extent with those envisaged in international documents such as International Covenant on Civil and Political Rights or in the Charter of Fundamental Rights of the European Union. Freedom of thought is thus translated into Polish internal legal order and guaranteed in The Constitution of the Republic of Poland.

Article 54 of The Constitution states:

1. The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone.
2. Preventive censorship of the means of social communication and the licensing of the press shall be prohibited. Statutes may require the receipt of a permit for the operation of a radio or television station.

Moreover, Article 53 states:

1. Freedom of conscience and religion shall be ensured to everyone.
2. Freedom of religion shall include the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing of rites or teaching. Freedom of religion shall also include possession of sanctuaries and other places of worship for the satisfaction of the needs of believers as well as the right of individuals, wherever they may be, to benefit from religious services.
3. Parents shall have the right to ensure their children a moral and religious upbringing and teaching in accordance with their convictions. The provisions of Article 48, para. 1 shall apply as appropriate.
4. The religion of a church or other legally recognized religious organization may be taught in schools, but other peoples' freedom of religion and conscience shall not be infringed thereby.
5. The freedom to publicly express religion may be limited only by means of statute and only where this is necessary for the defence of State security, public order, health, morals or the freedoms and rights of others.
6. No one shall be compelled to participate or not participate in religious practices.

Article 48 also states that: “Parents shall have the right to rear their children in accordance with their own convictions. Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions”.

**2. Freedom of thought in law**

Criminal liability for an offense motivated by hatred may be incurred by the perpetrator whose behavior fulfilled the elements of a prohibited act set out in the criminal law. For a crime to exist, all the elements of the definition of a crime must exist, such as: a human act prohibited under penalty by the statute in force at the time of its commission, unlawful, culpable, socially harmful to a degree higher than negligible.

Provisions, in which the behavior of the perpetrator is directly motivated by hatred, are stipulated in the Criminal Code in Chapter XVI - Crimes against peace, humanity, war crimes and crimes in Chapter XXXII - Crimes against public order.

The following are crimes in which the legislator has introduced a closed catalogue of protected characteristics such as: ancestry, race, nationality, religious belief, political opinion:

- Article 118 of the Penal Code: Annihilation.

- Art. 118 a of the Penal Code: Mass attack on people.

- Article 126 a of the Penal Code: Public incitement.

- Article 126 b of the Penal Code: Art. 126b. Not fulfilling a duty of proper control.

- Article 194 of the Penal Code: Restriction of the right to religion.

- Article 195 of the Penal Code: Disturbance of a religious ceremony.

- Article 196 of the Penal Code: Offending religious feelings.

- Article 261 of the Penal Code: Profaning a monument.

- Article 262 of the Penal Code: Profaning human remains, ashes or a burial site.

A hate crime may also take the form of another crime, in particular the crime of: Insult (art. 216), Breach of personal inviolability (art. 217), Punishable threat (art. 190), Force (art. 191), Bodily harm (art. 157), Fights and beatings art. 158), Preventing a legal gathering (art. 260), Extortion (art. 282), Robbery (Art. 280 Penal Code), Property damage (art.288 ) and other criminal acts.

For this category of crime, the motivation of the offender before or during the commission of the criminal act is important. It should indicate that the offender chose his/her victim on the basis
of protected characteristics. These are basic or indigenous characteristics shared by a particular social group, i.e. race, religion, ethnic origin, language, sexual orientation or gender identity.

**3. Potential infringements of freedom of thought**

Hate crime information can be obtained from sources other than law enforcement agencies, as well as being obtained in the course of official activities, and can be both procedural and non-procedural in nature.

Once the Police have been informed of a suspected hate crime, they should identify and document the victims and witnesses, if any, who have knowledge of the incident and all the circumstances
of the case. If there is a suspicion that the behaviour of the perpetrator may have been motivated
by hatred, the incident is categorized appropriately and indications pointing to these circumstances described.

A person who has come to a police unit should be questioned as a witness, at the same time being given a written instruction on the rights and obligations of a victim in criminal proceedings and/or
an instruction on the rights and obligations of a witness in criminal proceedings.

After filling a report of a hate crime and interviewing a person as a witness, the first steps should
be to establish whether the perpetrator, before, during or after committing the criminal act, manifested his/her negative attitude towards a particular group of people from which the victim originates or whether he/she assumed that he/she was associated with them.

Victims of hate crime are at greater risk of secondary victimisation. It is important to respect human dignity, human rights and take into account the barriers and cultural differences of the victim when carrying out interrogations. The interview should be devoid of any personal opinions about
the victim's behaviour, views, dress, lifestyle or culture. It should also take into account that the victim does not always identify with the group with which they are identified.

A detailed assessment of the evidence, including the content of the victim/witness interviews, as well as other secured evidence and familiarisation of the existing court rulings, is in many cases sufficient to unequivocally prove the connection of the perpetrator's actions with prohibited ideologies or with incitement to hatred on the grounds of national, racial or religious differences.

The majority of offences specified in the Polish Criminal Code are *ex officio* prosecutable offences. However, it should be taken into consideration that in the case of acts covered by the private prosecution procedure, an oral or written complaint about a privately prosecuted offence should
be accepted at the request of the victim. The aim should be to obtain information about the person accused, the nature of the act and to indicate the evidence on which the accusation is based. Evidence of the offence should be secured and then sent to the competent court together with
the evidence gathered.

An important element of the pre-trial investigation, which enables the determination of the course
of the event, is the visual examination of the scene or a person. During this activity one should strive to reveal and secure traces which may be related to the crime and which may serve as sources
of evidence in the course of proceedings. Special attention should be paid to finding and securing traces and objects necessary to prove that the perpetrator was motivated by hatred.

It should be mentioned that each criminal proceeding has an individual character and course, which determines the ongoing assessment of the situation and taking specific actions depending
on the event.

**4. Practices to promote freedom of thought**

According to the Police Act of 6 April 1990, police officers are obliged to respect human dignity and observe and protect human rights in the course of their duties. In practice, this also means
an absolute obligation to respect religious freedoms and other people's beliefs.

On the basis of the Act in question, in 2003 the Chief Commander of the Police issued Ordinance
No. 805 - Principles of professional ethics of a police officer. The principles of professional ethics
of a police officer result from general values and moral standards taking into account the specific nature of the profession of a police officer, and it is the duty of a police officer to observe the principles of professional ethics. According to this provision, the conduct of a police officer
in contacts with people should be characterised by kindness and impartiality excluding racial, national, religious, political, ideological or other prejudices. While performing official tasks, a police officer should adapt his/her behaviour to the situation and characteristics of persons participating
in the event, in particular their age, sex, nationality and religion, and take into account the legitimate needs of such persons.

In 2004, a mechanism unique on an international scale, called the Network of Police Plenipotentiaries for the Protection of Human Rights, was established in the Police. This is a team of people located
in the Police Headquarters, provincial police units and police schools, whose task is, inter alia, education in broadly understood human rights and freedoms, including in the area of freedom
of religion and the right to one's own beliefs.

Their tasks include: implementing standards of principled policing, especially concerning respect for human dignity and fundamental rights and freedoms, inspecting police units, carrying out research on policing and human rights issues and writing reports about findings and cooperating with NGO’s and public institutions. They offer consultation and advisory services, and organise training opportunities and conduct trainings within the police force on respecting human rights. They are also acting as the liaison officers between the representatives of minorities, NGOs and government bodies dealing with minorities and the Police. They monitor current actions of the Police, suggesting solutions which aim to maintain high standards of the protection of human rights. On a regular basis, action plans for the plenipotentiaries are developed and adopted.

In the Polish Police main activities and goals in the field of fundamental rights were introduced in a document “**Plan on the education and information activities on the protection of human rights and freedom, implementation of the principles of equal treatment, as well as compliance with professional ethics in the police for 2019-2020**”. It provides one main aim, such as improving internal, as well as external educational and informational activities affecting the professionalization of activities performed by the Police in the aspect of respecting human rights and freedoms, professional ethics and equal treatment. It provides, inter alia, continuation of educational and informational activities intended to raise the sensitivity of Police operatives and law enforcement employees to the problems of human rights, equal treatment and professional ethics as well as refugees, humanitarian approach, diversity, tolerance, anti-discriminatory action, as well as hate crimes and incidents. It is worth mentioning that educational trainings are complemented by a police publications, seminars, conferences, meetings with society. Their primary aim is to improve awareness and sensitivity in relation to issues of respecting human dignity by police officers.

Prejudice motivated crimes are specific type of crime. The aim is not only to harm a specific person, but also to intimidate the entire group to which the victim belongs. Hate crimes might be one of the factors that affect freedom of thought. The Ministry of the Interior and Administration in cooperation with the National Police Headquarters conducts monitoring of prejudice motivated crimes. The scope of this monitoring includes information on preparatory proceedings for hate crimes cases throughout the country (data provided by the Police). The data is supplemented by the Ministry of Interior and Administration with the information on judgments passed in individual proceedings.

The educational offer for police officers is very diverse. The flagship educational project in the Police is a 10-day training course on combating and preventing hate crimes. The network of police plenipotentiaries also cooperates with representatives of churches and religious associations, fulfilling the role of quasi contact officers, as well as with numerous social minorities. Cooperation with representatives of Christianity, Judaism and Islam, among others, is strongly developed.

Sacred and educational facilities, religious and cultural centres or multifunctional museums are used for educational activities. An example is the implementation by the Police of an educational agreement with the Museum of the History of Polish Jews Polin in Warsaw. Faith, religion and related practices are not a negative premise for joining the Police, but in practice a police officer
in the course of his duty is obliged to refrain from religious declarations and is ordered to respect other human beings, regardless of their faith, religion or views.