

WARSAW MAYOR'S POSITION REGARDING THE CHRISTIAN CROSS

Rev. Prof. Dr. habil. Mirosław Sitarz

Nicolaus Copernicus Superior School, Poland
e-mail: miroslaw.sitarz@sgmk.edu.pl; <https://orcid.org/0000-0001-7596-8508>

Abstract. The article examines the position taken by the Mayor of Warsaw, Poland's capital city, regarding the symbol of the Cross. First, the Ordinance of 8 May 2024 on the introduction of the *Standards for Equal Treatment in the Warsaw City Hall* is described. Second, the author cites relevant fragments of Sejm and Senate resolutions that informed the debate in defence of the Cross in the wake of the 2009 ruling of the European Court of Human Rights – resolutions that are still relevant given the current sociopolitical circumstances.

Keywords: religious symbols; religious freedom; Cross; Christianity.

INTRODUCTION

In this article I examine the position of the Mayor of Warsaw towards the Christian Cross (which is not merely a religious symbol), expressed in Ordinance No. 822/2024 of 8 May 2024 on the introduction of the *Standards of Equal Treatment in the Warsaw City Hall*,¹ issued on the basis of Article 33(3) in conjunction with Article 11a(3) of the Act of 8 March 1990 on municipal government.² According to the ordinance, the *Standards* (annexed thereto)³ follow from Warsaw's *Social Diversity Policy*, adopted by Resolution no. LXIII/2071/2022 of the Warsaw City Council of 7 April 2022.⁴

Standard 4 provides that “the space of the City Hall is religiously neutral.” At the same time, the Guidelines added the following to this standard.

¹ GP-OR.0050.822.2024, <https://bip.warszawa.pl/web/prezydent/-/zarzadzenie-nr-822/2024-z-2024-05-08> [accessed: 14.10.2024].

² Journal of Laws of 2023, items 40, 572, 1463, 1688.

³ See <https://bip.warszawa.pl/web/prezydent/-/zarzadzenie-nr-822/2024-z-2024-05-08> [accessed: 14.10.2024].

⁴ The resolution, annex and voting results are available in Polish at <https://bip.warszawa.pl/web/rada-warszawy/-/uchwala-nr-lxiii-2071-2022-z-2022-04-07-5977962> [accessed: 14.10.2024].

1. "In the City Hall buildings accessible to the public and during events organized by the City Hall, no symbols associated with a specific religion or denomination shall be displayed in its space (e.g., on walls or desks). This does not apply to religious symbols worn by the City Hall staff for personal use, for example, in the form of a medallion, tattoo or a wristband."
2. "Events organized by the City Hall are secular in nature, that is to say, they do not include religious elements, for example, prayers, services or ordinations."

The Mayor believes that "these standards will strengthen efforts to promote equal opportunities and access to city services and resources for all Warsaw residents" (sect. 2, para. 1).

The Mayor's Plenipotentiary for Equal Treatment, supported by the Special Group for the Standards of Equal Treatment is to be in charge of coordinating their implementation (para. 4).

Before we analyse the ordinance in question, we need to present the historical and legal context, and its position within the hierarchy of normative acts.

The discussion on the place of the Cross in the public sphere was renewed after the European Court of Human Rights in Strasbourg passed a ruling on 3 November 2009 (no. 30814/06) concerning the exposition of the Christian cross in classrooms in Italy.⁵ At the time, both chambers of the Polish Parliament, the Sejm and the Senate, joined the public debate.⁶

1. THE POSITION OF THE SEJM

The Sejm, as Poland's legislative body, passed the Resolution on the protection of religious freedom and values that are the common heritage of the peoples of Europe⁷ on 3 December 2009, in which it expressed concern about "decisions that harm religious freedom, disregard the rights and feelings of religious believers, and undermine social peace." It was also critical of "the judgement of the European Court of Human Rights questioning the legal basis for the presence of crosses in school classrooms in Italy." The Sejm also stated: "The sign of the cross is not only a religious symbol and a sign of God's love for people, but in the public sphere it reminds us of our willingness to make sacrifices for others, it expresses values building respect for the dignity of every human being." These concerns were expressed by the Sejm because it (i) declared its sensitivity to freedom of opinion, conscience and religion; (ii) recalled the freedom tradition of the First

⁵ The ruling is available at [https://etpcz.ms.gov.pl/etpccontent/\\$N/9900000000000001_I_ETPC_030814_2006_Wy_2009-11-03_001](https://etpcz.ms.gov.pl/etpccontent/$N/9900000000000001_I_ETPC_030814_2006_Wy_2009-11-03_001) [accessed: 14.10.2024].

⁶ More see Ożóg 2010-2011; Piotrowski 2019, 107-13; Romanko 2014, 207-26.

⁷ "Monitor Polski" No. 78, item 962.

Polish Republic, which was a model of ethnic and religious tolerance in Europe at the time; (iii) pointed out the essential and positive contribution of Christianity to the development of the rights of the human person, the culture of the peoples of Europe, and the unity of our Continent; (iv) underscored that both individuals and communities have the right to express their religious and cultural, religious and cultural identity, which is not limited to the private sphere; (v) recalled that in the past, especially during the era of Nazi and communist dictatorships, acts of hostility toward religion were linked to widespread infringements of human rights and led to discrimination; and (vi) was reminiscent of the words spoken by John Paul II in his historic address to the Polish Parliament in June 1999 that “democracy without values easily turns into outright or disguised totalitarianism.”

2. THE POSITION OF THE SENATE

The Polish Senate in the Resolution of 4 February 2010 on respect for the Cross⁸ stated: “The Cross, as the central symbol of Christianity, which gave Europe the rule of respect for the rights of the individual and principles of equality, freedom and tolerance, has accompanied Poland in all crucial moments of its history. In times of hardship, during the partitions, wars and occupations, the Catholic Church aided those in need regardless of their religion and was a place of national remembrance, with the Cross becoming a symbol not only of Christianity and its values, but also of longing for a free Homeland. [...] The Cross, which is a sign of Christianity, has become for all Poles, regardless of their religion, an enduring symbol of commonly accepted universal values, as well as of the pursuit of truth, justice and freedom of our Homeland. In view of the above, any attempt to ban the Cross from schools, hospitals, offices and public spaces in Poland must be read as harmful to our tradition, memory and national pride.”⁹

⁸ “Monitor Polski” No. 7. item 57.

⁹ The Polish Senate added in its justification of the resolution: “During the communist regime, the Catholic Church, led by the Primate of the Millennium Cardinal Stefan Wyszyński, set itself the goal of preserving national values in Polish society, in response to which the communist state fought the Church. It was thanks to and in the Church that the Polish people were able to preserve at least a semblance of freedom, honour the memory of their heroes, celebrate historic anniversaries, and, when the time came, claim their dignity, truth and freedom under the banners of Solidarity. In the dark hours of martial law, the Church – as it had always done in the past – opened its arms to welcome those seeking support and to those fighting for freedom. What mattered was not religion but people’s needs or their patriotism and commitment to the Polish Cause.”

3. THE STATUS OF THE ORDINANCE WITHIN THE HIERARCHY OF NORMATIVE ACTS

According to Article 87 of the Polish Constitution:¹⁰ “1. The sources of universally binding law of the Republic of Poland shall be: the Constitution, statutes, ratified international agreements, and regulations. 2. Enactments of local law issued by the operation of organs shall be a source of universally binding law of the Republic of Poland in the territory of the organ issuing such enactments.”¹¹

The constitutional legislator explains in Article 93: “1. Resolutions of the Council of Ministers and orders of the Prime Minister and ministers shall be of an internal character and shall bind only those organizational units subordinate to the organ which issues such act. 2. Orders shall only be issued on the basis of statute. They shall not serve as the basis for decisions taken in respect of citizens, legal persons and other subjects. 3. Resolutions and orders shall be subject to scrutiny regarding their compliance with universally binding law.” Article 94 provides that “on the basis of and within limits specified by statute, organs of local government and territorial organs of government administration shall enact local legal enactments applicable to their territorially defined areas of operation. The principles of and procedures for enacting local legal enactments shall be specified by statute” (Article 94).

At the same time, Article 53 provides with respect to religious freedom:

“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

¹⁰ The Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended.

¹¹ More see Haczkowska 2014, 218-24.

shall be compelled to participate or not participate in religious practices. 7. No one may be compelled by organs of public authority to disclose his philosophy of life, religious convictions or belief.”¹²

Further, Article 233 of the Constitution provides as follows:

“1. The statute specifying the scope of limitation of the freedoms and rights of persons and citizens in times of martial law and states of emergency shall not limit the freedoms and rights specified in Article 30 (the dignity of the person), Article 34 and Article 36 (citizenship), Article 38 (protection of life), Article 39, Article 40 and Article 41, para. 4 (humane treatment), Article 42 (ascription of criminal responsibility), Article 45 (access to a court), Article 47 (personal rights), Article 53 (conscience and religion), Article 63 (petitions), as well as Article 48 and Article 72 (family and children). 2. Limitation of the freedoms and rights of persons and citizens only by reason of race, gender, language, faith or lack of it, social origin, ancestry or property shall be prohibited. 3. The statute specifying the scope of limitations of the freedoms and rights of persons and citizens during states of natural disasters may limit the freedoms and rights specified in Article 22 (freedom of economic activity), Article 41, paras. 1, 3 and 5 (personal freedom), Article 50 (inviolability of the home), Article 52, para. 1 (freedom of movement and sojourn on the territory of the Republic of Poland), Article 59, para. 3 (the right to strike), Article 64 (the right of ownership), Article 65, para. 1 (freedom to work), Article 66, para. 1 (the right to safe and hygienic conditions of work) as well as Article 66, para. 2 (the right to rest).”

CONCLUSIONS

Summing up our considerations above, the following can be stated follows:

- 1) The prohibition to display religious symbols associated with a particular religion or denomination on, for example, walls or desks, issued by the Mayor of Warsaw on 8 May 2024, infringes the basic right of every person to manifest his or her religious beliefs, which he or she has, whether they are baptised or not, whether they are believers or non-believers. This ban should be considered a usurpation of authority, at odds with normative acts of a higher order, and as illegal and not applicable. Religious freedom and the right to express one's beliefs in public life is a different category, higher than, for example, economic freedom. In a democratic state, it must never be infringed by a normative act of internal law such as an ordinance. This is confirmed by Article 31(3) of the Constitution: “Any limitation upon the exercise of constitutional

¹² More see Krukowski 2013.

freedoms and rights may be imposed only by statute, and only when necessary in a democratic state for the protection of its security or public order, or to protect the natural environment, health or public morals, or the freedoms and rights of other persons. Such limitations shall not violate the essence of freedoms and rights.”

2) The ordinance that was supposed to introduce standards of equal treatment in the Warsaw City Hall, which is a set of rules and guidelines related to equal treatment, achieved the opposite effect: it has proven discriminatory against people who do not share the leftist idea of how offices should operate, Catholics, Jews, Muslims, or anyone “who, like the authors of the Polish Constitution, are grateful to their ancestors for the culture rooted in the Nation’s Christian heritage and universal human values (as enshrined in the Preamble to the Constitution).”¹³

3) The appeals made by the Parliament in the following statements in resolutions still hold relevance:

– “We urge you to keep your distance from the judgement of the European Court of Human Rights in Strasbourg and to respect the Cross” (Senate resolution);

– “The Sejm of the Republic of Poland asks the parliaments of the member states of the Council of Europe to reflect jointly on ways to protect religious freedom in order to foster values that are the common heritage of the peoples of Europe” (Sejm resolution).

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¹³ See the model complaint drafted by the Ordo Iuris Institute for Legal Culture: <https://ordoiuris.pl/wolnosc-i-obywatelskie/rafal-trzaskowski-chce-zdejmowac-krzyze-zloz-skarge> [accessed: 14.10.2024].