

**N.B. AUTO-TRANSLATION OF RECOGNISED FRENCH TEXT.**

Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution and child pornography and other content showing sexual abuse of children; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: AL VAT 1/2021

April 7, 2021

Excellency

We have the honour to address you in our capacity as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution and child pornography and other content showing sexual abuse of children; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in accordance with Human Rights Council resolutions 45/10, 44/10, 43/22 and 43/20.

In this context, we would like to draw the attention of the Government of Your Excellency to information we have received concerning the numerous allegations in the world of sexual abuse and violence committed by members of the Catholic Church against children and the measures adopted by the Catholic Church to protect the alleged perpetrators of abuse, conceal the crimes, hinder the accountability of alleged aggressors, and evade reparations to victims.

We would like to recall the communication AL VAT1/2019 sent on 2 April 2019 by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, juvenile pornographic and other material for the sexual exploitation of children. The communication addressed the many cases of sexual abuse and exploitation committed by members of the Catholic Church clergy worldwide in recent decades, and referred to relevant reports of such practices in Australia, Poland, Ireland, the Netherlands and the United States. It also noted the failure of church authorities to report victims' complaints to the civil authorities or to dismiss alleged perpetrators, preferring to transfer them to other institutions of the Catholic Church. With regard to the sale of children, the communication also deals with illegal adoptions reported in Spain, Ireland, the United Kingdom of Great Britain and Northern Ireland, Australia and Belgium in institutions run or involving the Catholic Church.

On 19 December 2019, the Special Rapporteur on the sale and sexual exploitation of children issued a press release welcoming Pope Francis' decision to abolish the Roman Catholic Church's policy of secrecy in cases of child sexual abuse, which prevented victims from obtaining justice and reparation,

and observing that now that transparency within church hierarchies has been achieved, the path of secular civil and criminal liability for these abuses is open. The Special Rapporteur called on the Vatican to take all necessary measures to ensure that justice and reparation are rendered to victims throughout the world through prompt and thorough investigations subject to public scrutiny, the prosecution of the alleged perpetrators and the application of the obligation to report for all members of the clergy and staff who have knowledge of these despicable acts.

Without wishing to go back over the detailed content of Communication AL VAT 1/2019 and the press release of 19 December 2019, we wish to reiterate our deep concern about the allegations contained therein, and to add additional information that has been brought to our attention. In addition, we would like to express our concern at the lack of response from Your Excellency's government to this communication.

According to the information received:

In Germany, in September 2018, the public became aware of the results of a report commissioned by the German Episcopal Conference to assess the extent of abuse among Catholic clergy after several cases were discovered in 2010. The report estimated the existence of 1,670 abuses committed by the clergy and 3,677 victims, and noted the practice of transferring accused priests from parish to parish and the destruction of evidence concerning the abuses. The study was conducted by three German universities on the basis of more than 38,000 documents and testimonies.

In Belgium, more than a thousand cases of abuse have been verified by the Catholic and Belgian authorities.

In France, the French Episcopal Conference has set up an independent commission on sexual abuse in the Church. A preliminary report indicated that 4,000 victims and 1,500 alleged assailants had been identified and that 500 files had been referred to the court.

In Canada, in 2006, the Indian Residential Schools Settlement Agreement was signed between the Indigenous peoples of Canada, the federal government and the churches that operated schools where Indigenous children, forcibly separated from their families, were institutionalized. The schools were funded by the government and run by churches, many of which were Catholic. The agreement established the Truth and Reconciliation Commission, which held hearings across the country between 2008 and 2015. The Commission found that of the 150,000 children who attended residential schools in its 120-year history, approximately 3,200 children died in residential schools, and 31,970 were victims of sexual assault resolved by the independent assessment process. In addition, 5,995 cases of sexual assault were still pending at the time of publication of the report. In March 2019, five Canadian dioceses indicated that they would also launch surveys to quantify non-residential school sexual abuse.

In Chile, 344 allegations were discovered against clerics accused of sexually assaulting children, 220 of which were investigated by the Public Prosecutor's Office.

In Mexico, the Congregation of the Legionaries of Christ admitted that 33 members of the order abused 175 minors, that 11 of the perpetrators had been raped by the founder of the congregation and later became abusers themselves, and that the founder had abused more than 60 children. The Holy See, through the Nuncio of Mexico, has publicly acknowledged that in the last ten years, 426 clerics have been investigated for pederasty, 217 of whom have resigned.

In Colombia, the Cardinal Archbishop of Bogotá reported in March 2019 that 12 cases of sexual abuse in his archdiocese have been reported before Colombian courts, and that more than a hundred cases have been reported nationally, without providing an official figure.

In Argentina, criminal complaints have been filed against the authorities of the Institute < "Antonio Provolo", a Catholic educational institution for persons with hearing disabilities, located in the province of Mendoza. The complaints of the victims and the subsequent judicial investigations revealed systematic acts of physical, psychological and sexual violence perpetrated for at least 12 years by two priests, lay employees and nuns against children housed in the institute. The two priests were sentenced to 45 years and 42 years in prison respectively, and a lay staff member to 18 years in prison. Eight other people, including nuns, have been charged and are awaiting trial. One of the two convicted priests had already been the subject of similar charges at the Provolo institutes in Verona, Italy, and La Plata, Argentina, where he had been transferred to escape prosecution. As part of the criminal investigation, the Public Prosecutor's Office asked Vatican emissaries to provide the files of the canonical investigations into the case, which they refused, citing the concordat signed between the Holy See and Argentina in 1966 (declared unconstitutional by the Supreme Court of Mendoza). Numerous civil lawsuits have been brought against the Church, calling for the adoption of measures of satisfaction and non-repetition in order to obtain full reparation. However, the Catholic Church has adopted dilatory and obstructionist strategies, including claiming the principle of prescription and adopting measures to protect Church property from seizure.

While some investigations have been launched by the Vatican or by local or national dioceses, reports point to persistent attempts by the Catholic Church to protect alleged aggressors from secular justice by obstructing judicial proceedings, denying access to Church records documenting claims against aggressors, and welcoming aggressors to the Vatican from where extradition is denied, or by transferring aggressors out of countries where they can be prosecuted. The Church has also openly campaigned against improving national legal frameworks for the investigation, prosecution and reparation of victims of sexual abuse, including advocating for the retention of statutes of limitations for sexual crimes.

In 2014, the Committee on the Rights of the Child found that the Holy See had failed to recognize the extent of crimes committed by clergy and had not taken the necessary steps to address them. It also noted the adoption of policies and practices that have allowed for the continuation of sexual abuse by clerics and the impunity of perpetrators, such as the transfer of well-known sexual abuse of children; the reluctance or refusal to cooperate with judicial authorities and national commissions of inquiry; the continued use of the code of silence on pain of excommunication — which prevents crimes from being reported to law enforcement authorities; and the failure to make such reports mandatory. The Committee also noted that in cases where sexual abuse of children had been dealt with by the Holy See, it had been subject to confidential procedures and disciplinary measures, which allowed perpetrators and concealers to escape national judicial proceedings (CRC/C/VAT/CO/2).

The Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also observed in 2014 that concordats and other agreements negotiated by the Holy See with other States impede the prosecution of alleged offenders because they limit the ability of civil authorities to question, compel the production of documents or prosecute persons associated with the Catholic Church. It further noted that while many dioceses and religious orders have concluded financial agreements with victims of abuse, many alleged victims cannot obtain redress and noted in this regard the measures taken by some Church officials to protect property from seizure by civil authorities in order to provide reparation to victims (CAT/C/VAT/CO/1).

In response to calls for change, in February 2019, the Pontiff convened a summit meeting of Church leaders to address the sexual abuse crisis, which ended with a call "for a total fight against the abuse of the 'minors'". A few weeks later, the Pontiff issued a new canonical law requiring Church officials to report cases of abuse to Vatican prosecutors. It also issued a rule requiring all Church officials to report allegations of abuse as well as attempts at concealment to their superiors.

In January 2020, new Vatican rules came into force, abolishing papal secrecy in cases of sexual abuse, which allowed - but not made it mandatory for church members to share reports, testimonies and documents with the secular authorities of the countries concerned, at their request. The new guidelines specify that "confidentiality does not prevent the fulfilment of obligations under civil law in all places, including any reporting obligations, and the enforcement of enforceable claims by civil judicial authorities". However, it was not clear whether the new policy would be applied retroactively.

The Pontiff also made changes to the canon law against child pornography to make it stricter. In October 2020, the first trial against two clerics for sexual abuse and concealment began before the Vatican Criminal Court. In November 2020, the Pontiff pledged to rid the Catholic Church of sexual abuse, the day after the Vatican published a detailed report on decades of church cover-up of sexual abuse by a cardinal in the United States.

We reiterate our utmost concern at the numerous allegations of sexual violence committed by members of the Catholic Church against children around the world, as well as the measures adopted by the Catholic Church to protect alleged perpetrators of abuse, conceal crimes and hinder accountability, which has led to impunity for the crimes committed, the recurrence of violations over the decades and the growing number of victims, as well as the lack of reparation and support for victims. We urge your Excellency's Government to take all necessary measures to put an end to the alleged violations and prevent their recurrence and to guarantee and facilitate the accountability of anyone responsible for the alleged violations, as well as the reparation due to the victims.

We welcome the new rules established by the Holy See to abolish papal secrecy in cases of sexual abuse, to require that such abuse be reported and concealed to superior clergy and Vatican prosecutors, and to allow such cases to be reported and documents to be presented to the civil authorities of the relevant jurisdictions. We regret, however, that the request to report crimes to the civilian authorities is not yet mandatory and we urge your Excellency's government to consider making this request mandatory as soon as possible. We also welcome reports of the first prosecutions before the Vatican Criminal Court for sexual abuse and concealment at a seminar at the Vatican and urge your Excellency's Government to criminally prosecute all alleged cases of child sexual abuse and/or concealment, thereby sending a clear signal to all members of the Catholic Church that these violations will never again be tolerated.

We further express our concern at the continued attempts by members of the Catholic Church to undermine legislative efforts to improve the justiciability of sexual violence against children in national jurisdictions, as well as at the concomitant lobbying by members of the Church to retain the statute of limitations for such crimes, thereby preventing victims from reaching adulthood - a time when they are better able to report to a court of law. the harm they have suffered- to report these crimes. We urge members of the Catholic Church to refrain from implementing practices aimed at reducing victims' access to justice for violations suffered.

In addition, we are gravely concerned about the persistent allegations of obstruction and lack of cooperation by the Catholic Church with domestic judicial proceedings, in order to prevent the accountability of aggressors and the granting of reparations to victims. We are also concerned about the concordats and other agreements negotiated by the Holy See with States, which limit the ability of civil authorities to interrogate, compel the production of documents or prosecute persons associated with the Catholic Church. We urge your Excellency's Government to refrain from obstructionist practices and to cooperate fully with the civilian and police judicial authorities of the countries concerned, as well as to refrain from signing or using existing agreements to evade accountability of church members accused of abuses.

In view of the alleged decades of such violations and their concealment in many countries of the world, as well as the tens of thousands of alleged victims, we note with great concern the apparent spread of cases of sexual abuse of children and the apparently systematic practice of concealing and obstructing the accountability of alleged perpetrators belonging to the Catholic Church. In this regard, we remind you of the obligation of states, as indicated in international human rights

standards, to take measures of justice, truth, reparations and guarantees of non-repetition to respond to serious human rights violations.

In connection with the facts alleged above, please refer to the attached annex, which sets out the texts relating to the legal instruments and other standards established in the field of human rights.

As it is our responsibility, under the mandates entrusted to us by the Human Rights Council, to seek your cooperation in clarifying the cases that have been brought to our attention, we would be grateful if the Government of your Excellency could comment on the following points:

1. Please provide us with any additional and updated information or comments in relation to the above-mentioned allegations.
2. Please provide details and, if applicable, the results of any recent investigations, including judicial or other investigations, and prosecutions in connection with sexual abuse of children (including adolescents) by members of the clergy of the Catholic Church.
3. Please indicate whether any regulations have been adopted to establish the obligation to notify the civil authorities, without fear of reprisals, of all cases of alleged sexual abuse perpetrated by members of the Catholic Church, as well as of collaboration or concealment of its crimes. Please indicate whether any regulations have been adopted to establish the obligation to cooperate with the civil authorities and to provide the necessary documentation related to alleged cases of sexual abuse.
4. Please inform whether the Government of Your Excellency has taken any steps to repeal the rules of concordats or bilateral agreements that prevent civil authorities from conducting effective investigations into ecclesiastical sexual abuse.
5. Please indicate whether any measures have been adopted to prohibit the practice of transferring members of the Catholic Church accused of committing abuses to other dioceses or ecclesiastical institutions.
6. Please provide information on the measures taken to detect, respond to and remedy all forms of violence and abuse of children by members of the clergy of the Catholic Church. In particular, please indicate whether there is an independent complaints mechanism for cases of child abuse; systematic monitoring of the behaviour of members of the clergy in contact with children; and to facilitate victims' access to justice and remedies, including free legal aid.
7. Please provide details of the measures taken to ensure that the above-mentioned facts are not repeated.
8. Please provide information on the concrete measures taken to ensure rigorous selection and background checks procedures for members of the clergy of the Catholic Church who come into contact with children.
9. Please inform whether the Government of Your Excellency has issued a public apology to the thousands of victims of sexual abuse by members of the Catholic Church.
10. Please provide information on the measures taken to ensure that any person convicted of involvement in sexual abuse is removed from the church hierarchy.

We would appreciate an answer from you to these questions within 60 days. After this period, this communication, as well as any response received from your Excellency's Government, will be made

public on the website reporting the communications. They will also be available later in the regular report to the Human Rights Council.

Pending a response from you, we request your Excellency's Government to take all necessary measures to put an end to the alleged violations and prevent their recurrence and, in the event that investigations confirm or suggest that the allegations are accurate, to ensure and facilitate the accountability of anyone responsible for the alleged violations, and to make reparations to victims. We would also like to urge your Excellency's Government to urgently establish an investigative mechanism to clarify and establish the truth about all allegations of sexual violence against children, and their concealment, by clerics of the Catholic Church in various countries of the world, and to provide reparations due to the victims. Such a mechanism must be independent, autonomous from ecclesiastical authorities, and in accordance with international standards.

Please note that a copy of this letter has also been sent to the Governments of the above-mentioned countries.

Please accept, Excellency, the assurance of our highest consideration.

Fabian Salvioli

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition

Gerard Quinn

Special Rapporteur on the rights of persons with disabilities

Mama Fatima Singhatch

Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other content showing sexual abuse of children

Nils Melzer

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## Annex

### References to legal instruments and other established human rights standards

In relation to the above facts and concerns, and without prejudging the accuracy of these allegations, we wish to draw the attention of your Excellency's Government to the relevant international norms and standards.

We remind you that the Holy See has been a party to the Convention on the Rights of the Child since 20 April 1990. Under article 19 of the Convention, States parties undertake to protect the child from all forms of physical or mental violence, injury or abuse, maltreatment and exploitation, including sexual abuse. Such protective measures shall include effective procedures for prevention, identification, reporting, referral, investigation, treatment and follow-up in cases of child abuse described above, and shall also include, as appropriate, procedures for judicial intervention.

We would also like to draw the attention of your Excellency's Government to article 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by the Holy See on 26 June 2002, which obliges the competent authorities to undertake a prompt and impartial investigation when there are reasonable grounds to believe that torture has been committed. , as well as Article 7, which requires States Parties to prosecute alleged perpetrators of acts of torture. The Committee's General Comment No. 2 recalls that States are internationally responsible for the acts and omissions of their officials and other persons acting in an official capacity or on behalf of the State, in liaison with the State, under its direction or control, or otherwise under cover of law. This responsibility extends to the acts and omissions of officials of a State party deployed in operations abroad.

We would like to refer to the obligation to investigate and punish gross violations of human rights and to provide redress to the victims. Article 8 of the Universal Declaration of Human Rights stipulates that everyone has the right to an effective remedy before the competent national courts against acts violating the fundamental rights recognized to him by the Constitution or by law. As established by the Human Rights Committee in its general comment No. 31, States have an obligation to investigate and punish serious human rights violations. Failure to investigate and prosecute these violations is in itself a violation of human rights treaty standards (paragraph 18). Impunity for violations can be an important element contributing to the recurrence of violations.

In this regard, the updated Set of Principles for the protection and promotion of human rights through action to combat impunity of February 2005 (principle 2) recalls the duty of States to undertake prompt, thorough, independent and impartial investigations into violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted. , tried and duly punished (principle 19).

As noted by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition, we wish to emphasize that, from a human rights perspective, the obligation to investigate and prosecute derives from the right to an effective remedy. It is also part of the right of the victim, the members of his immediate family and, in some cases, society as a whole, to know the truth. The administration of justice in the face of serious human rights violations is a central element in preventing the recurrence of such violations. The promotion of a culture of impunity contributes to the vicious circle of violence.

In addition, we would like to refer to the inalienable right to know the truth about past events concerning the commission of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the commission of such crimes, as set out in the updated Set of Principles for the Protection and Promotion of Human Rights through action to combat impunity of February 2005 (principle 2). The full and effective exercise of the right to the truth is also an essential safeguard against the repetition of violations (principle 5). In addition, principle 12 emphasizes that when establishing a commission of inquiry into past human rights violations, the government should commit to taking due account of the commission's recommendations.

We would also like to recall the right of victims of human rights violations to receive full compensation for the harm suffered. The updated Set of Principles (articles 31-34) recalls the duty of States to make reparation for the damage suffered by victims. Similarly, the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law establish the right of victims to receive adequate, effective and prompt reparation for the harm suffered, and to have access to relevant information on redress mechanisms. Reparation must be proportionate to the gravity of the violations and the harm suffered. Victims should receive full and effective reparation, which includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (paragraphs 10, 11, 15 and 18).

We would like to take this opportunity to recall the recommendations on the above-mentioned issues contained in the concluding observations on the Holy See, adopted in 2014 by the Committee on the Rights of the Child (CRC/C/VAT/CO/2) and the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/VAT/CO/1), as already noted in detail in the aforementioned AL VATI/2019 allegations.

We would also like to draw the attention of your Excellency's Government to the provisions of the Convention on the Rights of Persons with Disabilities (CRPD) that would apply in this case. In particular, article 16 affirms the obligation of States to protect persons with disabilities from all forms of exploitation, violence and abuse. It imposes an obligation on states to prevent all forms of abuse by ensuring independent oversight of all institutions and programmes for persons with disabilities, and calls for thorough investigations into allegations of serious human rights violations.

In addition, article 16(4) of the CRPD states that States shall take all appropriate measures to facilitate the physical, cognitive and psychological recovery, recovery and social reintegration of

persons with disabilities who have been victims of exploitation, violence or abuse in all conditions. This provision should be read in conjunction with article 7 of the CRPD, which states that children with disabilities enjoy all human rights and fundamental freedoms on an equal basis with other children, and article 17, which provides that every person with a disability has a right to respect for their physical and mental integrity on an equal basis with others.

While we note that the Holy See is not a party to the CRPD, we wish to emphasize that it was adopted as a resolution by the General Assembly and enjoys near-universal ratification. It is considered the most progressive interpretation of all existing human rights as they apply to persons with disabilities. These rights are also guaranteed by all other human rights treaties. We would also like to emphasize that the delegation of the Government of your Excellency actively participated in the process of drafting the Convention, and therefore recommend that the Holy See ratify the CRPD and its Optional Protocol as soon as possible.