

Replying to the alert published on 25th February 2019 on the Platform to promote the protection of journalism and safety of journalists, the Republic of Poland would like to point out that the Regional Prosecutor's Office in Warsaw is analysing the presented materials – within a preliminary investigation – and has not taken a decision yet in regard of the case. Taking this into account, the published alert seems to be premature. According to Art. 45(1) of the Constitution of the Republic of Poland everyone has the right to a fair and public hearing of his or her case, without undue delay, before a competent, impartial and independent court. The said regulation is fully compliant with the Convention for the Protection of Human Rights and Fundamental Freedoms. Under this right, everyone is entitled to file a suit to the court or to inform the competent prosecutor's office about a reasonable suspicion of a crime having been committed to his or her detriment. A preliminary investigation is conducted subsequently; within its framework, the notification on the suspicion of a criminal offence having been committed is subject to a thorough analysis. Afterwards, a competent authority (court or prosecutor's office) takes a procedural decision based on regulations that are applicable to the case. Therefore, it seems unfounded to post an alert on the Platform at a time when a person – after having received information on a reasonable suspicion of a journalist or a media outlet committing a criminal offence - brought the case to a competent authority. Denying to an individual the possibility to take such an action may be perceived as a restriction of citizens' rights.

Moreover, Art. 212(1) and Art. 212(2) of the Polish Criminal Code were found to be compliant with Art. 14 and Art. 54(1) in connection with Art. 31(3) of the Polish Constitution by the Polish Constitutional Court in its sentence No. P10/06 of 30th October 2006.