

**I. POUCZENIE O UPRAWNIENIACH I OBOWIĄZKACH PODEJRZANEGO
W POSTĘPOWANIU KARNYM**

**I. GUIDANCE ON THE RIGHTS AND OBLIGATIONS OF A SUSPECT IN THE
CRIMINAL PROCEDURE**

Source: J.L. 2015 item 893 (Dz. U. z 2015 r. poz. 893)

Suspect in the criminal procedure has the following rights:

1. The right to provide explanations, also in writing, the right of refusal to provide explanations or refusal to answer particular questions, it is not necessary to specify reasons for refusal (art. 175 § 1, art. 176 § 1)*. In case of notice of personal appearance, justification of non-appearance caused by sickness is possible only upon presentation of certificate issued by medical practitioner authorised by court. Other certificates are insufficient (art. 117 § 2a).

2. The right to legal aid of a defence counsel selected by a suspect. If suspect proves that he/she cannot afford a defence counsel, court may appoint public defender (art. 78 § 1). It is not permitted to have more than three defence counsels simultaneously (art. 77). In the event of conviction or conditional discontinuation of criminal procedure, expenses on public defence may be charged upon suspect (art. 627, art. 629).

3. Defence counsel may be present at suspect's interrogation upon suspect's request (art. 301).

4. If suspect's command of Polish is insufficient – the right to use assistance of translator, free of charge, also in contacts with defence counsel (art. 72 § 1).

5. The right to information about the content of allegations, supplementing or changing allegations and legal classification of alleged offence (art. 313 § 1, art. 314, art. 325a § 2 and art. 325g § 2).

6. The right to file motions for performing actions connected with investigation or inquiry, e.g. for interrogation of witness, obtaining document, admission of expert's opinion (art. 315 § 1, art. 325a § 2). If there are reasons to be afraid that it may not be possible to interrogate witness at court hearing, suspect may request interrogating him/her by court or request prosecutor to interrogate witness in such procedure (art. 316 § 3).

7. The right of access to case file, to make copies and extracts. Access to file may be refused due to important interest of the state or in the interest of proceeding (art. 156 § 5).

8. The right to file motion for examining documentation of investigation or inquiry before its completion. Suspect may be accompanied by defence counsel during such activities. (art. 321 § 1 and § 3, art. 325a § 2).

9. The right to file motion for referring case to mediation proceeding to reconcile with an aggrieved party (art. 23a). Participation in mediation proceeding is voluntary. Positive results of mediation are taken into account by court in imposing punishment (art. 53 § 3 of the Act of 6 June 1997 - Criminal Code J.L. No. 88, item 553, as amended) (art. 53 § 3 ustawy z dnia 6 czerwca 1997 r. – Kodeks karny, Dz. U. Nr 88, poz. 553, z późn. zm.).

10. If an offender, who was not previously sentenced for an intent offence involving violence, redressed damage or compensated for inflicted harm before court hearing, upon aggrieved party's motion, criminal proceeding concerning an offence which carries a punishment not exceeding 3 years of deprivation of liberty, and an offence against property which carries penalty not exceeding 5 years of deprivation of liberty and bodily injury other than severe described in art. 157 § 1 of the Criminal Code, may be discontinued (art. 59a of the Criminal Code).

11. The right to arrange with prosecutor a motion for issuing judgement and imposing agreed upon punishments or other remedies by court without examining evidence (art. 335 § 1), which may be approved by court, if not objected by an aggrieved party (art. 343 § 2). Such motion may also be filed within his/her own capacity, before delivery of notice on court hearing date (art. 338a) or at court hearing, before finishing the first hearing of all accused parties (art. 387 § 1), in such case, however, court may approve it only when prosecutor and aggrieved party do not object (art. 343 § 2, art. 343a § 2, art. 387 § 2). If court approves such motion, it may apply extraordinary mitigation of punishment (art. 60a of the Criminal Code). In case involving a crime, it may occur only when motion was filed before delivery of notice on court hearing date (art. 387 § 4). In case involving an offence which carries punishment not exceeding 5 years of deprivation of liberty, court may also resign from imposing punishment and order some other remedy (art. 60a of the Criminal Code).

12. In an accelerated procedure, in the event of ensuring suspect's participation in procedure by means of a videoconference, Police deliver him/her motion for examining the case (art. 517b § 2a, art. 517e § 1a). He/she may file motions and make statements and carry out procedural actions only orally, to be recorded in a report. Statements of case, which could have not been delivered to court, may be read out at court hearing

(art. 517ea § 1 and § 2). Defence counsel's and translator's participation in a procedure may be ensured in the same manner (art. 517b § 2c-2d). In accelerated procedure motion for reasons for judgement may be filed orally to be recorded in a report or submitted in writing within 3 days from judgement announcement date; deadline for filing an appeal is 7 days (art. 517h § 1 and § 3).

Suspect is not obliged to prove his/her innocence or obliged to provide evidence to his/her detriment (art. 74 § 1). He/she is, however, obliged to submit to:

1. body inspection and examination not combined with violation of bodily integrity, taking fingerprints, photographing and presentation to other persons (art. 74 § 2 cl. 1);

2. psychological and psychiatric examinations and examinations combined with procedures applied to body, except for surgical, on condition that it is not hazardous to health, if carrying out such examinations is necessary (in particular taking blood, hair or biofluid samples; e.g. saliva): examination should be carried out by an authorised employee of health services (art. 74 § 2 cl. 2);

3. taking by Policeman samples from buccal mucosa, if it is necessary and is not hazardous to health (art. 74 § 2 cl. 3).

Failure to fulfil these obligations may lead to detention and bringing suspect involuntarily, as well as lead to using against him/her physical force or technical means for subduing, to the extent necessary (art. 74 cl. 3a).

Suspect is also obliged to:

1. appear upon each notice and notify authority which conducts procedure about each change of a place of residence for a period exceeding 7 days, also resulting from deprivation of liberty in any other case; in the event of failure to appear, suspect may be detained and brought involuntarily (art. 75 § 1 and § 2);

2. specify the address where communication should be sent (art. 132 § 1 and § 2); otherwise an action or court hearing will be carried out in suspect's default of appearance; failure to specify the address may also render it impossible to file a motion, complaint or appeal due to expiration of deadlines (art. 133 § 2);

3. specify the address for services in the state, when he/she stays abroad; otherwise any letter sent to the previously known address in the state will be considered as effectively delivered, and an action or court hearing will be carried out in suspect's default of appearance; failure to specify the address may also render it impossible to file a motion, complaint or appeal due to expiration of deadlines (art. 138);

4. specify a new address in the event of changing the place or residence or stay, also resulting from deprivation of liberty in any other case; otherwise any letter sent to

previously known address will be considered as effectively delivered, and an action or court hearing will be carried out in suspect's default of appearance; failure to specify the address may also render it impossible to file a motion, complaint or appeal due to expiration of deadlines (art. 139).

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(date, signature)

* If no other legal basis was specified, the regulations in brackets refer to proper articles of the Act of 6 June 1997 – the Code of Criminal Procedure (J.L. No. 89, item. 555, as amended (Dz. U. Nr 89, poz. 555, z późn. zm.)).

II. POUCZENIE O UPRAWNIENIACH ZATRZYMANEGO NA PODSTAWIE EUROPEJSKIEGO NAKAZU ARESZTOWANIA

II. GUIDANCE ON THE RIGHTS OF A PERSON DETAINED UNDER EUROPEAN ARREST WARRANT

Source J.L. 2015 item 874 (Dz. U. z 2015 r. poz. 874)

Person detained under the European Arrest Warrant has the following rights:

1. The right to information about the reasons for detention and to be listened to (art. 244 § 2)*.

2. The right to provide explanations, refuse to provide explanations or refuse to answer particular questions, it is not necessary specify reasons for refusal (art. 175 § 1) and the right to make or refuse to make a statement in his/her case (art. 244 § 3).

3. The right to immediately contact an attorney or legal counsel and talk directly to him/her (art. 245 § 1).

4. The right to legal aid of defence counsel selected by him/her. If detained person proves that he/she cannot afford a defence counsel, court may appoint a public defender (art. 78 § 1).

5. If detained person's command of Polish is insufficient – the right to use assistance of translator, free of charge (art. 72 § 1).

6. The right to receive a copy of a detention report and examine the case file within the scope referring to the reasons for detention (art. 244 § 3).

7. The right to inform about detention the closest person or other specified person, as well as an employer, school, university, commander and any person managing

detained person's enterprise, or an enterprise for which he/she is responsible (art. 245 § 2, art. 261 § 1, § 2 and § 3). Police notifies about detention an authority which conducts proceeding against detained person in any other case, if they are aware of such case (art. 261 § 2a).

8. If detained person is not a Polish citizen – the right to contact consular office or diplomatic mission of the state of which he/she is a citizen. If he/she is not a citizen of any state – the right to contact with representative of the state of detained person's habitual residence (art. 612 § 2). In the event of temporary detention consular office or diplomatic mission of the state of which temporarily detained person is a citizen is notified (art. 612 § 1). If a consular agreement between Poland and the state of which temporarily arrested person is a citizen includes provisions to such effect, competent consular office or diplomatic mission should be informed about detention, also without his/her request.

9. The right to file to court complaint against detention within 7 days from detention date. Examination of relevance, legality and correctness of detention may be demanded in such a complaint (art. 246 § 1).

10. The right to immediate release, if reasons for detention ceased to exist, or after expiry of 48 hours from detention, unless detained person is brought within this period to court with a motion for temporary arrest. If detained person is brought to court, he/she will be released, if an order for temporary arrest is not delivered to him/her within 24 hours from bringing to court. (art. 248 § 1 and § 2).

11. The right to information about the content of European Arrest Warrant (art. 607k § 2) and to receive its copy together with translation and notice of court session in the matter of transferring and temporary arrest. If due to special circumstances translation was not issued, court orders issuing it or informs about the content of European Arrest Warrant (art. 607l § 1a).

12. The right to make statement in the matter of transferring and the right to grant consent for transfer and consent for prosecuting for other offences than included in the motion for transfer, and also consent for execution of a punishment consisting in deprivation of liberty or remedies consisting in deprivation of liberty for such offences (art. 607l § 2). Consent may not be revoked. The effect of consent is acceleration of proceeding in the matter of European Arrest Warrant (art. 607k § 2, art. 607l § 2, 607m § 1 and § 1a, art. 607n § 1).

13. The right to file a complaint against transfer within 3 days from the order announcement date, and in the event if detained person is not brought to court session – from the order delivery date. (art. 607l § 3).

14. Access to any necessary medical aid.

Upon a motion of the state which issued European Arrest Warrant, it is possible to apply temporary arrest for a period not exceeding 7 days, before receipt of European Arrest Warrant and then for a period necessary for transfer, however not exceeding 100 days (art. 607k § 3 and 3a).

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III. POUCZENIE O UPRAWNIENIACH ZATRZYMANEGO W POSTĘPOWANIU KARNYM

III. GUIDANCE ON THE RIGHTS OF A PERSON DETAINED IN THE CRIMINAL PROCEDURE

Source J.L. 2015 item 835 (Dz. U. z 2015 r. poz. 835)

Person detained in the criminal procedure has the following rights:

1. The right to information about the reasons for detention and to be listened to (art. 244 § 2)*.

2. The right to make or refuse to make statement in his/her case (art. 244 § 3).

3. The right to immediately contact an attorney or legal counsel and talk directly to him/her (art. 245 § 1).

4. If detained person's command of Polish is insufficient – the right to use assistance of translator, free of charge (art. 72 § 1).

5. The right to receive a copy of a detention report (art. 244 § 3).

7. The right to inform about detention the closest person or other specified person, as well as an employer, school, university, commander and any person managing detained person's enterprise, or an enterprise for which he/she is responsible (art. 245 § 2, art. 261 § 1, § 2 and § 3). Police notifies about detention an authority which conducts proceeding against detained person in any other case, if they are aware of such case (art. 261 § 2a).

7. If arrested person is not a Polish citizen – the right to contact consular office or diplomatic mission of the state of which he/she is a citizen. If he/she is not a citizen of

any state – the right to contact with representative of the state of detained person's habitual residence (art. 612 § 2). If a consular agreement between Poland and the state of which temporarily arrested person is a citizen includes provisions to such effect, competent consular office or diplomatic mission should be informed about detention also without his/her request.

8. The right to file to court a complaint against detention within 7 days from detention date. Examination of relevance, legality and correctness of detention may be demanded in such a complaint (art. 246 § 1).

9. The right to immediate release, if reasons for detention ceased to exist, or after expiry of 48 hours from detention, unless suspect is brought within this period to court with a motion for temporary arrest. If detained person is brought to court, he/she will be released if an order for temporary arrest is not delivered to him/her within 24 hours from bringing to court. (art. 248 § 1 and § 2).

10. Access to any necessary medical aid.

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* If no other legal basis was specified, the regulations in brackets refer to proper articles of the Act of 6 June 1997 – the Code of Criminal Procedure (J.L. No. 89, item. 555, as amended (Dz. U. Nr 89, poz. 555, z późn. zm.)).

IV. POUCZENIE O UPRAWNIENIACH TYMCZASOWO ARESZTOWANEGO W POSTĘPOWANIU KARNYM

IV. GUIDANCE ON THE RIGHTS OF A PERSON TEMPORARILY ARRESTED IN THE CRIMINAL PROCEDURE

Source: J.L. 2015 item 885 (Dz. U. z 2015 r. poz. 885)

Temporarily arrested person has the following rights:

1. The right to provide explanations, refusal to provide explanations or refusal to answer particular questions, it is not necessary to specify reasons for refusal (art. 175 § 1)*.

2. The right to legal aid of a defence counsel selected by him/her. If temporarily arrested person proves that he/she cannot afford a defence counsel, court may appoint a public defender (art. 78 § 1). Upon request of temporarily arrested person, who does not have a defence counsel, and regardless his/her financial situation, court appoints a public defender to participate in court hearing concerning extension of temporary arrest and

considering a complaint against application or extension of application of such remedy (art. 294 § 5). In the event of conviction or conditional discontinuation of criminal procedure, expenses on public defence may be charged upon temporarily arrested person (art. 627, art. 629).

3. If temporarily arrested person's command of Polish is insufficient – the right to use assistance of translator, free of charge (art. 72 § 1).

4. The right to inform about arrest the closest person or other specified person, as well as an employer, school, university, commander and any person managing arrested person's enterprise, or an enterprise for which he/she is responsible (art. 261 § 1, § 2 and § 3). Court notifies about temporary arrest an authority which conducts proceeding against arrested person in any other case, if it is aware of such case (art. 261 § 2a).

5. If temporarily arrested person is not a Polish citizen – the right to contact consular office or diplomatic mission of the state of which he/she is a citizen (art. 612 § 1). If a consular agreement between Poland and the state of which temporarily arrested person is a citizen includes provisions to such effect, competent consular office or diplomatic mission should be informed about arrest also without his/her request.

6. The right to information about the content of allegations, supplementing or changing allegations and legal classification of alleged offence (art. 313 § 1, art. 314, art. 325a § 2 and art. 325g § 2).

7. The right to examine the case file in the part including evidence specified in a motion for application or extension of temporary arrest (art. 156 § 5a).

8. The right to file to court complaint against temporary arrest within 7 days from the date of receipt of a copy of an order for application or extension of temporary arrest (art. 252).

9. The right to file a motion for cancellation or change of temporary arrest to other remedy, not consisting in deprivation of liberty. Such remedy may include Police supervision or supervision of his/her superior in a military service, collateral bail bond or personal guarantee, order forbidding to leave the country, obligation to leave residential premises occupied together with an aggrieved party, suspension in professional duties or practicing profession, abstaining from certain activity or driving vehicles. Motion will be decided within 3 days by prosecutor or court. Temporarily arrested person may file a complaint against prosecutor's or court's decision only when application was filed after expiration of at least 3 months from issuing a previous decision concerning temporary arrest (art. 254 § 1 and § 2).

10. The right to ensure necessary medical aid.

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V. POUCZENIE O UPRAWNIENIACH I OBOWIĄZKACH POKRZYWDZONEGO W POSTĘPOWANIU KARNYM

V. GUIDANCE ON THE RIGHTS AND OBLIGATIONS OF AN AGGRIEVED PARTY IN THE CRIMINAL PROCEDURE

Source: J.L. 2015 item 848 (Dz. U. z 2015 r. poz. 848)

Natural or legal person, whose personal interests were directly infringed or threatened by an offence, is an aggrieved party in a criminal procedure (art. 49 § 1)*. Representative or guardian of underage, totally or partially incapacitated or incapable aggrieved party may exercise his/her rights (art. 51). The closest person or a dependent of a deceased aggrieved party may exercise his/her rights (art. 52).

An aggrieved party is a party in a procedure during a preparatory proceeding which precedes filing a case to court (art. 299 § 1). In court proceedings it may be a party (subsidiary prosecutor), if he/she requests it before commencement of court proceedings (art. 53 and art. 54 § 1). Therefore, an aggrieved party has the following rights:

1. The right to use legal aid of a legal representative selected by him/her, it may be an attorney or legal counsel. It is not permitted to have more than three legal representatives simultaneously. The expenses on hiring legal representative may be charged upon accused person, depending on the result of a court suit (art. 627 – 629). If an aggrieved party proves that he/she cannot afford legal representative, court may appoint a public legal representative (art. 78 § 1, art. 87 § 1 and § 2, art. 88). In a court suit, upon request of an aggrieved party, and regardless of his/her financial situation, court appoints for him/her a public legal representative; expenses on appointing such legal representative may be charged upon an aggrieved party, depending on the result of court suit (art. 87a).

2. The right to free of charge assistance of translator, during interrogation or examining the evidence, if aggrieved party does not speak Polish, and also – if necessary – if he/she is deaf or incapable of speaking (art. 204 § 1 and § 2).

3. The right to file complaint against an order on refusal to commence or discontinuation of investigation or inquiry and inactivity complaint, if he/she was not notified about commencement or refusal to commence investigation or inquiry within 6 weeks from filing a criminal complaint by an aggrieved party (art. 306 § 1 – § 1a, § 3, art. 325a § 2).

4. The right to file motions for performing actions connected with investigation or inquiry, e.g. for interrogation of witness, obtaining document, admission of expert's opinion (art. 315 § 1, art. 325a § 2). If there are reasons to be afraid that it may not be possible to interrogate witness at court hearing, aggrieved party may request interrogating him/her by court or request prosecutor to interrogate witness in such procedure (art. 316 § 3).

5. The right to participate in lawsuit activities carried out upon aggrieved party's motion and in procedural activities, which may not be repeated at court hearing, including also presentation of evidence. Aggrieved party's legal representative may also participate in such procedural activities (art. 315 – art. 316). In a particularly justified case, participation of an aggrieved party and legal representative in such procedural activities may be refused due the interest of proceeding (art. 317 § 2). Aggrieved party has the right to reimbursement of expenses incurred as a result of appearance upon notice (art. 618a – art. 618e and art. 618j). In case of notice of personal appearance, justification of non-appearance caused by sickness is possible only upon presentation of certificate issued by a medical practitioner authorised by court. Other certificates are insufficient (art. 117 § 2a).

6. The right to participate in expert's interrogation and the right to examine his/her written opinion (art. 318).

7. The right of access to the case file, to make copies and extracts. Access to file may be refused due to important interest of the state or in the interest of proceeding (art. 156 § 5).

8. The right to file motion for examining documentation of investigation or inquiry before its completion. Aggrieved party may be accompanied by a legal representative during such activities. (art. 321 § 1 and § 3, art. 325a § 2).

9. The right to file motion for referring case to mediation proceeding to reconcile with the suspect (art. 23a). Participation in mediation proceeding is voluntary. Positive results of mediation are taken into account by court in imposing punishment (art. 53 § 3 of the Act of 6 June 1997 - the Criminal Code, J.L. No. 88, item 553, as amended) (art. 53 § 3 ustawy z dnia 6 czerwca 1997 r. – Kodeks karny, Dz. U. Nr 88, poz. 553, z późn. zm.).

10. The right to file a motion for redressing damage or compensating for an inflicted harm until completion of a court suit (art. 49a).

11. The right to file a motion for discontinuation of criminal proceeding concerning an offence which carries a punishment not exceeding 3 years of deprivation of liberty, an offence against property which carries penalty not exceeding 5 years of deprivation of liberty and bodily injury other than severe described in art. 157 § 1 of the Criminal Code, may be discontinued, if an offender, who was not previously sentenced for an intent offence involving violence, redressed damage or compensated for inflicted harm before court hearing (art. 59a of the Criminal Code).

12. The right to be informed about revoking temporary arrest applied against suspect or about his/her escape from the place of pretrial detention (art. 253 § 3).

13. The right to file a complaint against every procedural activity which infringes aggrieved party's rights (art. 302 § 2, art. 459).

14. Aggrieved party being a Polish citizen or citizen of any other European Union member state may claim state compensation, based on the rules defined in the Act on State Compensation for Victims of Certain Offences of 7 July 2005 (J.L. 2005 No. 169, item 1415) (Dz. U. z 2005 r Nr 169, poz. 1415).

15. Aggrieved party's address of residence and address of work are not disclosed in the case file. They may be disclosed only exceptionally (art. 148 § 2a – § 2c).

16. In the event of any threat to life or health of an aggrieved party or his/her closest persons, Police protection may be granted to them for the period of procedural action, and if a degree of threat is significant, they may be granted personal protection or assistance in changing their place of residence. Motion for granting protection should be submitted to the Provincial Police Commandant via the authority which conducts procedure or court (art. 1–17 of the Act on Protection and Assistance for Aggrieved Party and Witness of 28 November 2014, J.L. 2015, item 21) (art. 1–17 ustawy z dnia 28 listopada 2014 r. o ochronie i pomocy dla pokrzywdzonego i świadka, Dz. U. z 2015 r., poz. 21).

17. Aggrieved party and his/her closest persons may obtain medical, psychological, legal and material assistance in the Network of Assistance for Persons Aggrieved by Offences (art. 43 § 8 cl. 1 of the Act of 6 June 1997 – the Executive Criminal Code J.L. No. 90, item 557, as amended) (art. 43 § 8 pkt 1 ustawy z dnia 6 czerwca 1997 r. – Kodeks karny wykonawczy, Dz. U. Nr 90, poz. 557, z późn. zm.).

18. If restraining order was issued for an offender which forbids to approach or contact aggrieved party, such order, upon aggrieved party's motion, may be executed

also in other European Union member state, based on European Protection Order (art. 611w – art. 611wc).

Aggrieved party is obliged to:

1. specify the address for services in the state, when he/she stays abroad; otherwise any letter sent to the previously known address in the state will be considered as effectively delivered, and an action or court hearing will be carried out in aggrieved party's default of appearance; failure to specify the address may also render it impossible to file a motion, complaint or appeal due to expiration of deadlines (art. 138);

2. specify the new address in the event of changing the place or residence or stay, also resulting from deprivation of liberty in any other case; otherwise any letter sent to previously known address will be considered as effectively delivered, and an action or court hearing will be carried out in aggrieved party's default of appearance; failure to specify the address may also render it impossible to file a motion, complaint or appeal due to expiration of deadlines (art. 139).

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