1. INSTRUCTION CONCERNING THE RIGHTS AND DUTIES OF AN AGGRIEVED PARTY IN PENAL PROCEEDINGS

*Source: Regulation of the Minister of Justice of 14 September 2020 (item 1619)*

The aggrieved party is a party to the preliminary proceedings prior to bringing the case to court (Art. 299 § 1)[[1]](#footnote-1)

The aggrieved party may be a party (auxiliary prosecutor) to the proceedings at his/her own request. A declaration in this matter shall be submitted not later than by the time of commencement of the trial (Art. 53 and Art. 54 § 1). If no declaration is submitted, the aggrieved party shall not be able to exercise the powers of an auxiliary prosecutor in court proceedings. The aggrieved party may submit the declaration in writing or orally, to the record.

The representative or guardian of the aggrieved minor who is fully or partially incapacitated or incapable may exercise his/her rights (Art. 51). The closest relative or dependent of the deceased aggrieved party may exercise his/her rights (Art. 52).

If you are an aggrieved party or you exercise such party’s rights, you have the following rights:

1. Legal aid

* You have the right to use the assistance of an attorney appointed by you, who may be an attorney-at-law or a legal counsel. You may not have more than three attorneys of your choice at one time (Art. 77, Art. 87 § 1 and 2 and Art. 88).
* If you prove that you may not afford an attorney, the court may, upon your request, appoint an attorney at its own initiative, also in order to perform a specific procedural act (Art. 78 and Art. 88). You can also submit the application through the prosecutor who will forward it to the court (Art. 116 and Art. 118 § 3).
  1. Using the services of an interpreter

You have the right to free assistance of an interpreter during your interrogation or reading the evidence, if you do not speak Polish, and - if necessary - if you are deaf or mute (Article 204 § 1 and 2).

* 1. Access to the files of the case

You may request access to the files of the case, as well as to request their extracts and copies to be made, also after the completion of the preliminary proceedings (investigation or inquiry).­ In the preliminary proceedings, you may be refused access to the files due to important interests of the state or the interest of the proceedings. In the event of refusal, if you submit a relevant application, you will be informed about a possibility of gaining access to the files at a later date. The files may be made available to you in an electronic form. The prosecutor may not deny you access to the files of the case if the date of the final review of the case materials by the suspect has been set (Art. 156).

* 1. Justifying absences

In the event that you are summoned to appear in person, justification of your absence due to sickness shall only be possible upon presentation of a certificate issued by a court doctor. Another certificate or sick leave shall not be sufficient (Art. 117 § 2a).

* 1. Mediation proceedings
* You may request the case to be referred to mediation proceedings in order to reconcile with the accused and possibly agree with him/her the method of redressing the damage (Art. 23a § 1). Participation in the mediation proceedings is voluntary.
* Mediation proceedings are conducted by an appointed mediator who shall be obliged to keep the course of the mediation proceedings in confidentiality (Art. 178a).

1. Compensation

You may file a claim for redressing the damages or for compensation of the suffered harm until the closure of the trial (Art. 49a). You may file the claim in writing or orally, to the record.

1. Right to receive information

* You will be informed about the fact that the pre-trial detention applied to the suspect has been lifted or changed to another preventive measure, as well as of the fact of his/her escape from the pre-trial detention centre, unless you waive this right (Art. 253 § 3).
* You may apply to the court for notification of the charges brought against the accused and of their legal qualification. If the applications are submitted by many aggrieved parties, the information on the charges and their legal qualification may be stated in an announcement posted on the court’s website (Art. 337a).
* You will be informed of the place and date of the hearing (Art. 350 § 4).
* You will be informed about the place and date of the court hearing devoted to: discontinuation of the proceedings, conditional discontinuation of the proceedings and the issuance of a sentence without a hearing (Art. 339, Art. 341 and Art. 343).
* In preliminary proceedings, you may submit a request for being notified by the court of the outcome of the case and such information may be sent to you by ordinary post, by fax or by e-mail. You will then receive a copy of the final and enforceable judgement ending the proceedings in the case, or an extract thereof, which may be sent to you in an electronic form (Art. 299a § 2).

1. State compensation

You may submit an application for compensation to the court if you are a Polish citizen or a citizen of another Member State of the European Union, under the terms specified in the Act of 7 July 2005 on State Compensation for Victims of Certain Crimes (Journal of Laws of 2016, item 325). The application may extend to lost income or other means of subsistence, costs related to treatment and rehabilitation, and funeral expenses, if they are a result of the criminal act. You may submit the application only if you are not able to obtain funds from the perpetrator, from the insurance or social assistance funds.

1. Data anonymization

Data concerning your place of residence and workplace, e-mail address and telephone or fax numbers shall not be disclosed in the files of the case. They shall be specified in a separate appendix only for the information of the authority conducting the proceedings. They may be disclosed only in exceptional cases (Art. 148a and Art. 156a).

1. Protection, assistance and support

* In the event of a threat to your or your relatives’ life or health, you may submit an application for protection of the Police for the duration of the proceedings, and if the degree of risk is high - for personal protection or assistance in changing your place of stay. A request for protection should be addressed to the Head of the Provincial Police Force through the authority conducting the proceedings or through the court (Arts. 1-17 of the Act of 28 November 2014 on Protection and Assistance for an Aggrieved Party and a Witness (Journal of Laws of 2015, item 21)).
* You shall have the right to receive free medical, psychological, rehabilitation, legal and financial assistance from the Network of Assistance for Victims of Crime (Art. 43 § 8 point 1 of the Act of 6 June 1997 - the Executive Penal Code (Journal of Laws of 2020, items 523 and 568)). This right shall also be vested in your closest relatives. Detailed information can be obtained on the website https://www.funduszsprawiedliwosci.gov.pl or by calling: +48 222 309 900.
* You may indicate a person to be present during the activities conducted with your participation in the preliminary proceedings, as long as this does not interfere or significantly impede the proceedings (Art. 299a § 1).
* You may apply for the enforcement of the restraining order or contact restraining order in another Member State of the European Union on the basis of the European Protection Order (Art. 611w-611wc).

1. Reimbursement of costs incurred in connection with penal proceedings

You may apply to the court for reimbursement of expenses you have incurred in connection with the penal proceedings, including expenses relating to the appointment of a representative or appearance in court (Art. 618j and Art. 627).

12. Procedural rights

* If you have filed a notification of an offence, a confirmation of the notification is issued on your request (Art. 304b).
* You may submit a request for actions to be taken in the pending proceedings, e.g. for hearing a witness, obtaining a document, admitting an expert’s opinion (Art. 315 § 1).
* Your application shall not be admitted if (Art. 170 § 1):
* acceptance of evidence is inadmissible,
* the circumstances to be proven are irrelevant for the outcome of the case or is already proven according to your claim,
* the evidence is not useful to establish the given circumstances,
* the evidence may not be taken,
* the application for the performance of a certain procedure is obviously aimed at the extension of the proceedings or is files after the deadline set by the person conducting the proceedings, as notified to you.
* The person conducting the proceedings may not refuse you to participate in the procedure, if you have filed an application for the conduct thereof (Art. 315 § 2).
* You may request admission to participate in other activities of the proceedings. The prosecutor may refuse your participation in such activities in particularly justified cases due to the important interest of the proceedings (Art. 317).
* If a given activity of the proceeding may not be repeated, you may take part therein, unless there is a risk of loss or distortion of evidence in the event of delay (Art. 316 § 1).
* If there is a concern that a witness will not be able to be heard at the hearing, you may request the hearing of a witness by the court or you may apply to the prosecutor to have the witness heard as part of this procedure (Art. 316 § 3).
* If evidence from an expert’s opinion is admitted in the proceedings, you may take part in the hearing of the expert and review his/her opinion if it is submitted in writing (Art. 318).
* You may request to be questioned if your questioning has been waived during the inquiry or investigation. Your request shall not be taken into account if this leads to excessive lengthening of the proceedings (Art. 315a).
* You may lodge a complaint against the decision not to initiate or to discontinue proceedings (investigation or inquiry) (Art. 306 § 1 and 1a) within 7 days of the date of receipt of the decision. In this situation, you shall have the right to review the files of the case which the prosecutor may also make available to you in an electronic form (Art. 306 § 1b).
* You may file a complaint about the inactivity of the authority if you are not notified of the initiation or refusal to initiate an investigation or an inquiry within 6 weeks of the notification of the crime (Art. 306 § 3).
* You may submit a request to supplement the investigation or inquiry. The request must be submitted within 3 days of the date of final review by the suspect of the materials of the proceedings (Art. 321 § 5).
* You may lodge a complaint against decisions and orders blocking the way to the issue of a judgement (unless the law provides otherwise) with regard to a preventive measure and if this is allowed under the law (Art. 459). In addition to the complaints against such decisions and orders, you may also file a complaint against actions which violate your rights (Art. 302 § 2).

Remember that you are obliged to:

* undergo visual inspection and examination not involving a surgical procedure or observation in a medical institution, if the punishment imposed for the act depends on the condition of your health (Art. 192 § 1),
* indicate the addressee (i.e. a person or institution, providing his/her/its address details) for the service of notice in Poland or in another Member State of the European Union, if you are not residing there; if you fail to do so, the notice shall be sent to the last known address and shall be deemed effectively served (Art. 138),
* provide a new address if you have changed your place of domicile or residence, including due to deprivation of liberty in another case (pre-trial detention, imprisonment in order to serve a sentence); if you fail to do so, the notice shall be sent to the current address (including the address of the indicated P.O. box) and shall be deemed effectively served (Art. 139).

Questioning by the consul

If you reside abroad, you may be questioned by a consul. The questioning may only take place if you give your consent thereto. In this case, the provisions regarding the obligation to appear and the related consequences thereof or the provisions admitting a hearing by means of a videoconference, provisions on the protection of the aggrieved party, provisions on participation in the hearing of other persons, such as an expert doctor or a psychologist (Art. 26 section 1 point 2 of the Act of 25 June 2015 - the Consular Law (Journal of Laws of 2020, items 195 and 1086)) shall not apply.

Remember that if the presented instruction seems unclear or incomplete to you, you may request the person conducting the proceedings to provide you with additional, detailed information about your rights and obligations.

You shall be required to submit a statement confirming the receipt of this instruction to the files of the case.

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|  | I confirm the receipt of the instruction |
|  | ........................................................................ |
|  | (date, signature) |

1. Unless another legal basis has been indicated, the provisions specified in brackets mean the relevant Articles of the Act of 6 June 1997 - the Code of Penal Procedure (Journal of Laws of 2020, items 30, 413, 568, 1086 and 1458). [↑](#footnote-ref-1)