

# Letter of Rights and Obligations of the Victim

You have received this Letter because you are a victim.

As a victim, you have the right to know what your rights and obligations are.

Read this Letter carefully.

You are required to sign a statement acknowledging that you have received this Letter.

In addition to the information provided here, you will find the legal provisions from which these rights and obligations arise.

Unless stated otherwise, these are provisions of the Code of Criminal Procedure [*Kodeks Postępowania Karnego*] (Act of 6 June 1997 – Code of Criminal Procedure).

## A victim, referred to as an "aggrieved party" in formal legal language:

**1) is a party to** pre-trial proceedings.

Pre-trial proceedings are the stage of criminal proceedings that precedes the subsequent referral of a case to court (Article 299 § 1).

**2) may be a party** (an auxiliary prosecutor) to court proceedings if they so request.

If you wish to be an auxiliary prosecutor during the proceedings before the court, you must make a declaration. In this declaration, you should state that you are the aggrieved party and that you wish to act as an auxiliary prosecutor before the court. You must do this no later than the start of the trial, that is,

until the moment the charges are brought by the prosecution at a hearing the date of which will be notified to you (Articles 53, 54 § 1 and 350 § 4).

You can do this either:

- 1) orally, meaning you can simply state it, and it will be recorded in the minutes;
- 2) in the written form, i.e. by submitting a letter.

If you do not declare your intention to be an auxiliary prosecutor within the prescribed time limit, you will not be able to become one. This means that you will not be able to exercise the rights available to an auxiliary prosecutor in court proceedings, which are not available to the aggrieved party.

### Representation of the aggrieved party

Procedural acts are carried out on behalf of an aggrieved party who is not a natural person by a body authorised to act on their behalf.

If the aggrieved party is a person who is fully or partially incapacitated, their rights shall be exercised by their legal representative (a guardian) or the person under whose permanent custody the aggrieved party remains.

If the aggrieved party is a person who is particularly vulnerable, in particular because of age or health, their rights may be exercised by the person in whose custody the aggrieved party remains (Article 51).

In the event of the aggrieved party's death, the rights to which they would have been entitled may be exercised by their next of kin or dependants (Article 52).

### **Your rights and obligations as an aggrieved party in criminal proceedings**

#### **1. The right to legal aid**

You can appoint a legal representative—an advocate or an attorney-at-law.

Your legal representative will represent you in ongoing criminal proceedings (Article 87 § 1).

Your legal representative may represent you throughout the proceedings or during a specific procedural act.

### Legal representative of your choice

You can appoint a legal representative yourself. In such a case, you pay for their services yourself. You may appoint no more than three legal representatives to represent you during the criminal proceedings (Articles 77 and 88).

### Court-appointed legal representative

If you demonstrate that you cannot afford to pay for legal representation (you are unable to bear the costs of the services of a legal representative without jeopardising your and your family's indispensable maintenance), the court may appoint a legal representative for the entire proceedings or for a specific procedural act (Article 78 § 1 and 1a and Article 88).

**Remember:** when applying for a court-appointed legal representative, always include evidence to prove that you are unable to pay the legal representative yourself (e.g. a salary certificate, a family living expenses certificate, a housing expenses certificate).

In the course of the pre-trial proceedings, you can make such a request to the prosecuting authority, which will forward it to the court, or directly to the court. Always indicate the case in question.

## 2. The right to be assisted by an interpreter or a translator

You have the right to be assisted by an interpreter or a translator if:

- 1) you do not speak Polish;
- 2) you are a deaf person or a mute person, and it is not enough to communicate with you in writing;
- 3) it is necessary to translate a letter written in a foreign language into Polish or a letter written in Polish into a foreign language;
- 4) you need to review the content of the evidence to be taken and, for example, it is in a language you do not speak (Article 204).

## 3. The right to participate in a procedural act

If a procedural act is to be carried out in which you have the right to take part, you will be notified of the time and place of this act.

The act shall not be carried out:

- 1) if you fail to appear and there is no evidence that you have been notified of the date of the act;
- 2) if there is a reasonable presumption that you have failed to appear due to natural obstacles **or other exceptional reasons** (e.g. an accident);
- 3) when you have provided a valid excuse for your non-appearance and requested that the action not be carried out without your presence, unless the law permits it (Article 117 § 1 and 2).

#### **4. Presence of a person indicated by the aggrieved party**

During pre-trial proceedings, you may designate a trusted person and inform the prosecuting authority that you want this person to be present during acts involving your participation. This person will be allowed to attend, provided their presence does not interfere with or significantly hinder the proceedings (Article 299a § 1).

#### **5. The right to protection of the aggrieved party's personal data**

Your home address, work address, telephone number, fax number, and email address are not included in the case file. These are included in a separate annex which can be accessed by the authority conducting the proceedings.

The court or the authority conducting the pre-trial proceedings may disclose this data only in exceptional circumstances (Articles 148a and 156a).

Questions put to you during questioning cannot be aimed at revealing your place of residence or place of work. This is only permitted if it is relevant to the outcome of the case (Article 191 § 1b).

## 6. Access to the case file

You can request access to the case file at any time during the investigation, even after it has been closed. You may also request copies or certified copies of the file to be made for you for a fee, or make copies yourself (e.g. photocopies). The investigator in charge of the investigation may deny you access to the case file on the grounds of an important state interest or the interest of the proceedings. The file may be made available in electronic form.

If you are denied access to the case file by a public prosecutor, they must inform you that the file can be made available to you at a later date.

However, you will be notified only if you submit a relevant request.

The prosecutor cannot deny you access to the case files, the right to make copies or certified copies, or the issuance of copies or certified copies, starting from the moment the suspect is notified of a date which has been set for the final review of the case materials by the suspect (Article 156 § 5).

Once the case has been referred to court, if you are a party (an auxiliary prosecutor), you can have full access to the case file and can obtain copies and certified copies of the requested documents or make them yourself (e.g. photocopies). If technically possible, information on the case file may also be made available by means of an ICT system (Article 156 § 1).

## 7. Requesting the case to be referred to mediation proceedings

At any stage, you can request the case to be referred to mediation proceedings. Its purpose is, among other things, to try to reach an agreement between the aggrieved parties and the defendant on how to redress the damage. Participation in mediation proceedings is voluntary (Article 23a § 1).

The mediation proceedings are conducted by an appointed mediator, who is obligated to keep the mediation proceedings confidential (Article 178a).

## 8. The right to information

### Information about the court's ruling

During the pre-trial proceedings, you can file a request “for the future” to be informed about how the case is resolved by the court.

This can be done by regular mail, fax, or email.

On the basis of this pre-trial request, the court will send you a copy of the final ruling that concludes the proceedings in the case, or an extract of this ruling.

These may be sent in electronic form (Article 299a § 2).

### Information on pre-trial detention

Either the court or the public prosecutor (depending on the stage of the proceedings) will notify you if:

- 1) the precautionary measure of pre-trial detention applied to the suspect has been revoked, **or**
- 2) the preventive measure of pre-trial detention applied to the suspect has been changed to another preventive measure (e.g. police supervision, bail – resulting in the release of the suspect from pre-trial detention), **or**
- 3) the suspect has escaped from custody.

If you waive this right and declare that you do not wish to be notified, you will not receive this information (Article 253 § 3).

### Information about the charges

You can apply to the court to be informed about the charges brought against the defendant and their legal classification.

If applications are submitted by a number of aggrieved parties, information about the charges and their legal classification may be presented in a notice on the court's website (Article 337a). Then you will not receive information addressed to you specifically.

### Court session date

You will be informed of the place and date of the court session for discontinuance of the case, conditional discontinuance of the case, and sentencing without a hearing (Articles 339, 341 and 343).

### 9. The rights relating to procedural acts

If you have reported a crime, you may receive an acknowledgement of the filing of this report but you must apply for receipt of such an acknowledgement (Article 304b).

You may request that the investigator carry out an act, such as interviewing a witness, obtaining a document, or admitting an expert's opinion (Article 315 § 1)—this is known as a **motion for evidence**.

The person conducting the proceedings may disregard your motion for evidence if:

- 1) the evidence is inadmissible;
- 2) the circumstance to be proven is irrelevant to the outcome of the case or has already been proven as claimed by the applicant;
- 3) the evidence is unsuitable for establishing the circumstance in question;
- 4) the evidence cannot be taken;
- 5) the motion for evidence is clearly intended to prolong the proceedings;
- 6) the motion for evidence was filed after the deadline set by the procedural authority, of which the requesting party had been notified (Article 170 § 1).

In the course of pre-trial proceedings, the person conducting the proceedings may not refuse to allow you to participate in a procedural act if you have filed a

motion for the performance of this act and you want to take part in it (Article 315 § 2).

If you request to participate in other procedural acts during the investigation, the prosecutor may refuse. This may happen in a particularly justified case due to the important interests of the proceedings (Article 317).

If a procedural act cannot be repeated at the hearing, you may take part in it, unless its delay would result in the loss or distortion of evidence (Article 316 § 1).

If there is a concern that a witness cannot testify during the hearing, you may request that the witness be questioned by the court, or request the public prosecutor to cause the witness to be questioned in this manner (Article 316 § 3).

If expert evidence has been admitted in the proceedings, you may read the expert's written opinion and take part in the expert's questioning (Article 318).

You may request to be heard if this step has been waived during the investigation. Your request will not be granted if it would lead to delays in the proceedings (Article 315a).

You may file a request to supplement the investigation. The request must be made within 3 days from the date of the act known as the final review of the materials of the proceedings by the suspect (Article 321 § 5).

**You can file a complaint about:**

- 1) inaction on the part of an authority if, within 6 weeks of having filed a notification of a criminal offence, you are not notified of the initiation or refusal to initiate pre-trial proceedings—an investigation (Article 306 § 3);
- 2) a decision refusing to initiate or discontinuing pre-trial proceedings—an investigation (Article 306 § 1 and 1a). You must do this within 7 days from



the date of service of the decision. For the purpose of filing a complaint, you have the right to inspect the case file, which the prosecutor may also make available to you in electronic form (Article 306 § 1b);

- 3) decisions and orders closing the way to judgment and sentencing (unless otherwise provided by law), regarding the application of protective measures and in other cases provided for by law (Article 459);
- 4) actions infringing your rights (Article 302 § 2).

### **10. The right to compensation or reparation**

Until the conclusion of the trial (i.e. when the court is satisfied that all the evidence has been taken and announces this), you have the right to apply for the court to rule against the defendant and in your favour regarding:

- 1) an obligation to redress the damage caused to you by the offence, either in whole or in part;
- 2) compensation for damages (Article 49a § 1).

### **11. Reimbursement of costs incurred in connection with the criminal proceedings**

You can apply to the court for reimbursement of the expenses you have incurred in connection with the criminal proceedings. You can also claim expenses for the appointment of legal representation or for appearing in court (Articles 618j and 627).

### **12. Obligation to excuse absences**

If you have been summoned to appear and cannot attend due to illness, you must provide an excuse for your absence. To do this, you must go to see a court doctor, as only a court doctor can issue a certificate that is recognised as a medical excuse note. No other certificate or document will be recognised as a medical excuse note. You will find a list of court doctors on the court's website (Article 117 § 2a).

### **13. Obligations of the aggrieved party**

You may not object to undergoing an inspection and examination that is not combined with a surgical procedure or observation in a medical facility if the determination of the criminality of the act depends on your health (Article 192 § 1).

If you are not staying in Poland or in another Member State of the European Union, you must designate an addressee (a person or an institution) for service in Poland or in another Member State of the European Union (Article 138).

If you change your place of residence or stay, including a change resulting from being detained or imprisoned in another case, or if you change your post office box address, you must provide the new address (Article 139).

If you do not inform the person conducting the proceedings of an addressee for service, of a change in your address of residence or stay, or post office box, any letter sent to your current address will be deemed to have been served. As a result, you may not receive important information.

### **14. The right to obtain protection**

If there is a threat to your life or health, or that of your loved ones, you can obtain protection of the Police for the duration of the procedural act to which you have been summoned.

If the threat level is high, you and your loved ones can obtain personal protection or assistance to relocate.

In order to obtain protection, an application must be **addressed** to the Provincial Commander [*Komendant Wojewódzki*] (or Capital City Commander [*Komendant Stołeczny*]) of the Police.

NOTE: The application shall be submitted **through the authority conducting the proceedings or the court** (Article 1–17 of the Act of 28 November 2014 on the Protection of and Assistance to Victims and Witnesses).

This means that you must indicate two addressees in your application (letter):

- 1) the authority conducting the pre-trial proceedings, or the court, and
- 2) the Provincial Commander (or Capital City Commander) of the Police.

**Provincial (or Capital City) Commander of the Police**

through

**the authority conducting the proceedings**

You must submit the request to the authority conducting the pre-trial proceedings or to the court. The authority that has received the request will forward this request to the relevant Commander.

You can apply for the enforcement of a restraining order issued in Poland to prevent the offender from approaching you or contacting you also in another European Union Member State. This is known as the European Protection Order (Article 611w–611wc).

**15. The right to obtain assistance**

You and your loved ones can receive free medical, psychological, rehabilitation, legal, and financial assistance from the Network for Assistance for Victims of Crimes [*Sieć Pomocy dla Osób Pokrzywdzonych Przestępstwem*] (Article 43 § 8

item 1 of the Act of 6 June 1997 – Executive Criminal Code [*Kodeks Karny Wykonawczy*], Journal of Laws of 2024, item 706).

**For detailed information on this assistance, please visit:**

<https://www.gov.pl/web/sprawiedliwosc/fundusz-sprawiedliwosci> or call **+48 222 309 900**.

## **16. The right to apply for state compensation**

If you have a permanent residence in the territory of the Republic of Poland or in the territory of another Member State of the European Union, you can apply to the court for state compensation.

This right derives from the Act of 7 July 2005 on State Compensation to Victims of Certain Criminal Acts.

Compensation may be granted in an amount covering only:

- 1) lost income or other means of livelihood,
- 2) costs related to treatment and rehabilitation,
- 3) funeral expenses

- resulting from a criminal act as a result of which a natural person:

- 1) died,
- 2) suffered grievous bodily harm, impairment of bodily functions or a medical condition – lasting longer than 7 days.

You can only make an application if you cannot obtain funds from the offender, from insurance, or from social assistance.

**If anything is unclear to you or you need more details, you can always ask the person conducting the proceedings in your case. The person conducting the proceedings must provide you with a full and clear explanation of your rights and obligations.**