

Instructions for the aggrieved party's principal rights and duties

1. Principal rights of the aggrieved party.

- ⌘ The aggrieved party in the preparatory proceedings is the party entitled to act on his own behalf and in accordance with his/her own business (art 299 § 1 of [c.p.c.](#))
- ⌘ In case the aggrieved party is a minor or totally or partly incapacitated person, his/her rights are executed by a statutory representative or a person under whose constant care he/she remains (art 51 § 2 of [c.p.c.](#))
- ⌘ In case the aggrieved party is handicapped due to old age or poor health, his/her rights may be executed by a person under whose care he/she remains (art 51 § 3 of [c.p.c.](#))
- ⌘ In case of the aggrieved party's death the rights that he/she would be entitled to may be executed by next of kin and in their absence or lack of disclosure – a court appointed prosecutor (art. 52 of [c.p.c.](#))
- ⌘ If the aggrieved party is not a natural person the legal proceedings are performed by an organ entitled to act on his/her behalf (art. 51 § 1 of [c.p.c.](#)) The aggrieved party may, in the course of penal proceedings appoint his/her plenipotentiary (art 87 § 1 of [c.p.c.](#))
- ⌘ The aggrieved party may apply for exclusion of the judge, prosecutor, other persons conducting preparatory proceedings and other public prosecutors if there is a justified doubt about impartiality in a given case art 42 § 1 of [c.p.c.](#), art. 47 of [c.p.c.](#))
- ⌘ The aggrieved party may apply to the prosecutor (in preparatory proceedings) or the court (in court proceedings) for appointment of a court appointed plenipotentiary if he/she appropriately proves his/her inability to bear the cost associated with power of attorney without harm to indispensable maintenance of his/her family (art. 87 § 1 and 88 § 1 of [c.p.c.](#))
- ⌘ The aggrieved party or the state, self-government or social institution which reported a crime is entitled to lodge a complaint for not launching the inquiry or investigation and the parties for decision of discontinuance. Those entitled to lodging a complaint have the right to browse the acts (art. 306 § 1, 325a of [c.p.c.](#))
- ⌘ The person or institution which reported a crime is entitled to submitting a complaint to superior prosecutor or the one supervising the organ which received the report if it is not notified within 6 weeks about the start or refusal to start the inquiry or investigation (art. 306 § 3, 325a of [c.p.c.](#))
- ⌘ If the aggrieved party applies for pursuit of some perpetrators the duty to prosecute involves also other persons whose unlawful acts remain in close association with the deed of a person indicated in the application. This rule does not concern close relatives

of the person submitting the application (art. 12 § 2 of c.p.c.) The application may be withdrawn during preparatory proceedings with the prosecutor' consent and in court proceeding with the court's permission – until the beginning of court proceedings on the first main trial. This does not apply to crimes defined in art. 197 of penal code (art. 12 § 3 of c.p.c)

☞ If the aggrieved party is below 15 years of age, the proceeding with his/her participation should be, as far as it is possible, performed in the presence of a statutory representative or actual guardian, unless it is against the interest of the proceeding (art. 171 § 3 of c.p.c.)

☞ In cases concerning crimes specified in chapter XXV of the Penal Code (against sexual freedom and decency) the aggrieved party who at the time of crime is under 15 years of age should be interrogated as a witness only once, unless essential circumstances emerge which call for renewed interrogation, or the interrogation is requested by the suspect who did not have his defense lawyer during the first hearing (art. 185A § 1 of [c.p.c.](#)).

☞ If there is a justified fear of using force or unlawful threat against the aggrieved party he/she may reveal the data concerning his/her place of residence for the sole information of the court or the prosecutor. In a case like this the correspondence is delivered to the institution where the aggrieved party is employed or to another indicated address (art. 191 § 3 of [c.p.c.](#))

☞ In case a presentation of the suspected person takes place, the aggrieved party may require that this presentation be carried out in a way excluding the possibility of revealing the identity of the aggrieved party (art. 173 § 2 of [c.p.c.](#)

☞ Interrogation of the aggrieved party as a witness may be accomplished by means of technical devices that make this possible from a distance (art. 177 § 1a of [c.p.c.](#)).

☞ The aggrieved party who is not able to turn up due to illness, physical disability, or other insurmountable obstacles may be interrogated at his place of residence (art. 177 § 2 of [c.p.c.](#)).

☞ The aggrieved party may apply for conducting acts of inquiry or investigation (art. 315 § 1, 325a of [c.p.c.](#))

☞ If inquiry or investigation cannot be repeated during the trial, the aggrieved party and his/her statutory representative may be admitted to this activity unless the delay results in loss or distortion of evidence. The organ conducting the preparatory proceedings may also let the aggrieved party participate in other acts of inquiry and investigation. (art. 316 § 1, 317, 352a of [c.p.c.](#)).

- ☞ The aggrieved party, in the course of inquiry or investigation may approach the court with a demand that a witness be interrogated, if there is a danger the witness could not be interrogated during the trial (art. 316 § 3 of [c.p.c.](#))
- ☞ The organ conducting preparatory proceedings is obliged to deliver a copy of decision accepting evidence from legal experts, scientific or specialist institutions and give permission to participate in the interrogation of the expert, and to get acquainted with the opinion, if it was submitted in the written form (art. 318 of [c.p.c.](#)).
- ☞ The aggrieved party who participates in the proceedings, may while signing the record, raise objections to its content (art. 150 § 2 of [c.p.c.](#)).
- ☞ The aggrieved party has the right to prepare a copy of the record of proceedings in which he/she participated or was entitled to participate, as well as the documents coming from him/her or prepared with his participation (art 157 § 3 of [c.p.c.](#)).
- ☞ The aggrieved party has the right to obtain at his/her own expense one copy of audio or video recording of legal proceedings (art. 147 § 4 of [c.p.c.](#))
- ☞ The aggrieved party with the consent of the person conducting the proceedings, may during the preparatory proceedings look through the records and make copies, and also he/she may submit a complaint if the records of the proceedings are made unavailable (art. 156 § 1, 159 of [c.p.c.](#)).
- ☞ The aggrieved party may apply, at his/her own expense, for photocopies of the records and with the consent of the person conducting the preparatory proceedings he/she may obtain certified copies or photocopies (art. 156 § 2 and 5 of [c.p.c.](#))
- ☞ The aggrieved party may complain about acts other than decisions and regulations violating his rights (art. 302 § 2 of [c.p.c.](#))
- ☞ The aggrieved party may apply for, or express agreement to the accused person's application for directing the case to a trustworthy institution or person to conduct mediation (art. 23A § 1 of [c.p.c.](#))
- ☞ The aggrieved party may press charges of offence prosecuted by the public prosecutor in case of repeated refusal to commence or discontinuation of legal proceedings. The deadline for pressing charges is one month from the date of notifying the aggrieved party about the decision. The indictment should be prepared and signed by a lawyer (art. 55 § 1 and 2 of [c.p.c.](#)).
- ☞ The aggrieved party after the charges have been pressed by the public prosecutor may until the trial begins submit a statement that he/she wishes to act as an auxiliary prosecutor (art. 53 and 544 of [c.p.c.](#)) or civil plaintiff (art. 62 of [c.p.c.](#)) If he/she comes with civil action during the preparatory proceeding he/she may require a warranty (art.

69 § 2 and 3 of [c.p.c.](#))

☞ In case of discontinuance or suspension of preparatory proceedings in which civil action was announced, the aggrieved party within 30 days after the decision was delivered may demand the case be transferred to the court proper for examining civil cases (art. 69 § 4 of [c.p.c.](#)).

☞ The aggrieved party as an auxiliary prosecutor has the right to submit motions as to evidence, be present during the entire trial, direct questions to persons under interrogation, and launch an appeal. If the sentence was pronounced by the district court – the appeal must be prepared and signed by a lawyer (art. 446 of [c.p.c.](#)).

☞ If the civil action was not brought forward, the aggrieved party may, until the end of his/her first interrogation at the main hearing, apply for pronouncing the obligation to repair the inflicted damages completely or partially. The aggrieved party (or another authorized person) has the right to come with the same motion to court in case the perpetrator was sentenced for the act defined in art 46 § 1 of Penal Code. (art 49a of [c.p.c.](#))

3. Basic duties of the aggrieved party :

☞ The aggrieved party is obliged to turn up at each summons of the organ conducting the proceedings (art. 177 § 1 of [c.p.c.](#)). The aggrieved party who without justification failed to turn up in response to the summons issued by the organ conducting the proceedings or without the permission of the aforementioned organ left the place before termination of the proceedings may be subject to a fine of 3000 PLN. Furthermore he/she may be detained and brought along by force (art. 285 § 1 and 2 of [c.p.c.](#))

☞ If penalty depends upon the aggrieved party's health he/she has no right to object to medical examinations and tests not connected with surgery, or observations in a medical center (art. 192 § 1 and 3 of [c.p.c.](#)) In case of doubts as to the psychic state of the aggrieved party, his/her mental development, power of observation or ability to reconstruct events, the court or the prosecutor may order his/her interrogation with the presence of a physician or psychologist (art. 192 § 2 of [c.p.c.](#)).

☞ In order to reduce the number of suspected people or to determine the evidence value of revealed traces, it is possible to take from the aggrieved party: fingerprints, mouth smears, samples of hair, saliva, writing, and scent. It is also legal to take a photograph and record voice samples (art. 192A § 1 of [c.p.c.](#)).

The aggrieved party living abroad is obliged to indicate an address in Poland so that

correspondence may be delivered. If the aggrieved party fails to do so, the last letter sent to the last known address, or if the address does not exist the letter attached to the records is considered to be delivered (art. 138 of [c.p.c.](#)).

If the aggrieved party fails to provide a new address, changes the place of residence or sojourn under the indicated address, the letter is considered to have been delivered (art. 139 § 1 of [c.p.c.](#)).

I hereby declare that I have acquainted myself with the above rights and duties and acknowledge receipt of the copy.

Day Month Year

Signature