INSTRUCTIONS ON RIGHTS AND OBLIGATIONS OF THE VICTIM IN CRIMINAL PROCEEDINGS

The injured is a natural or legal person whose property or rights have been directly violated or threatened by an offence(Article 49 § l) l} If the injured person is a minor or is incapacitated either totally or partially, his rights shall be exercised by his legal representative or by one who has custody of the injured person (Article 51). The closest person or a dependent of the deceased injured party may also exercise the rights of the deceased (Article 52).

In the course of preparatory proceedings preceding bringing an action at law, the injured party is the processing party (Article 299 § 1). In the court proceedings, it may be a party (the auxiliary prosecutor) if so requested until the start of the court proceedings (Article 53 and Article 54 § 1). Therefore, the injured person is entitled to the following rights:

1. The right to the assistance of a representative (an advocate or legal advisor) of his own choice. One cannot have more than three representatives at the same time. Depending on the outcome of the suit, the accused may be charged with the costs of hiring an attorney (proxy) (Article 627 - -629). If the injured party proves that he cannot afford attorney, the court may appoint a court-assigned attorney (Article 78 § 1, Article 87 § 1 and 2, Article 88).

2. The right to free of charge assistance of an interpreter during the interrogation or when reading the contents of an evidence, if the victim does not speak the Polish language, as well as - if necessary as well as - if he/she is deaf or mute (Article 204 § 1 and § 2).

3. The right to file a complaint against the decision not to institute or discontinue the inquiry or investigation and the complaint for failure to act if, within 6 weeks from the date of reporting the crime, he/she has not been notified about the institution or refusal to institute the investigation or inquiry (Article 306 § 1, § la i § 3, Article 325a § 2)

4. The right to apply for performing acts of inquiry or investigation, e.g. to interrogate a witness, to obtain the document, the admission of the expert's opinion (Article 315 § 1, Article 325a § 2). If there is a concern that a witness cannot be interrogated at the hearing, the victim may request an interrogation by a court. Such a request may also be reported to the prosecutor (art. 316 § 3).

5. The right to participate in the activities carried out at the request of the victim and activities that cannot be repeated at the hearing, including examination of the evidence. The attorney of the victim may also participate in such activities (Article 315 and Article 316). At the request, the victim should be allowed to participate in other activities (art. 317 § 1). In particularly justified case, it is possible to refuse to participate in the activities for the sake of the proceedings (Article 316 § 1 and 317 § 2). A victim who is called to be present can justify his absence because of sickness only by presenting a certificate issued by a medical examiner. Other exemption is insufficient (Article 117 § 2a).

6. The right to participate in the interrogation of an expert and the right to acquaint himself/herself with his opinion (Article 318).

7. The right of access to the file, including viewing files and self-preparation of their extracts and copies (Art. 156 § 1). The victim may also obtain copies and extracts from the case file (art. 156 § 2). One can deny access to the file because of the important interests of the State or the proceedings (Article 156§ 5).

8. The right to request additional inquiry or investigation. The application must be submitted within 3 days

from the date of final acquaintance of the suspect with proceedings documents (Art. 321 § 5).

9. The right to request referral to mediation proceedings in order to reconcile with the suspect or possible arrangements regarding the remedy (Article 23a). Participation in mediation is voluntary. The positive results of the mediation are taken into account by the court when sentencing (Article 53 § 3 of the Act of 6 June 1997 - Criminal Code (Journal of Laws No. 88, item 553, as amended).

10. The right to request for compensation for caused harm until the closing of the court proceedings (Article 49a). Where no other legal basis, the provisions in brackets indicate the relevant articles of the Act of 6 June 1997 - The Code of Criminal Procedure (Journal of Laws No. 88, item 555, as amended).

11. The right to receive information on the revocation of temporary detention applicable towards a suspect or his/her escape from remand centre (Article 253 § 3).

12. The right to submit a complaint against the decisions and orders in the cases stipulated by law (art. 459), and other activities that violate the law (Art. 302 § 2).

13. The right to submit an application to obtain information about the charges against the accused and the date and place of the hearing at the court, during which it may lead to closure of the procedure, a conditional discontinuance of the proceedings or sentencing the accused without a hearing (art. 337a).

14. A victim who is a Polish citizen or a citizen of another European Union member state can apply for state compensation under the terms of the Act of 7 July 2005 on state compensation for victims of certain crimes (Journal of Laws of 2016 item 325).

15. Address of residence and work of the victim is not disclosed in the file. They are published in a separate annex only for the authority conducting the proceedings. One can reveal it only occasionally (Article 148a).

16. In the case of a threat to life or health of the victim or his/her relatives, they may receive police protection during a procedural activity, and if the degree of risk is high, they may receive personal protection or assistance in respect of the change of place of residence. The request for protection shall be addressed to the commander of the provincial police through the investigating authority or the court (Article 1-17 of the Act of 28 November 2014 on protection and assistance for victims and witnesses, Journal of Laws of 2015 item 21).

17. The victim and his/her relatives can receive free medical, psychological, rehabilitation, legal and material assistance in the Network of Assistance for Victims of Crimes (Article 43 § 8 point 1 of the Act of 6 June 1997 - Executive Penal Code, Journal of Laws item 557, as amended).

18. If the offender was banned from approaching or contacting the victim, the prohibition, on request of the victim, can also be applicable in another Member State of the European Union on the basis of the European protection order (article 611wc - 611wc).

The victim is obliged to:

1) undergo a visual inspection and tests not connected with surgery or observation in medical institutions, if the offence depends on his/her medical condition (art. 192 § 1);

2) provide the address for correspondence in the country, if he/she stays abroad; otherwise a document sent to his/her last known address shall be deemed to have been served, and the action or hearing will be conducted in the absence of the victim; failing to indicate the address can also prevent the submission of an application, complaint or appeal due to the expiration of the deadline (Article 138).

3) provide the new address in case of a change of place of residence or stay; also due to imprisonment in other case (temporal arrest, imprisonment), otherwise a document sent to his last known address shall be deemed to have been served, and the action or hearing will be conducted in the absence of the victim; failing to indicate the address can also prevent the submission of an application, complaint or appeal due to the expiration of the deadline (Article 139).

I acknowledge receipt of instruction:

(date and signature)