

Submission Template

**The right to interpretation and translation and the right to
information in criminal proceedings in the EU**

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QUESTIONS

As envisaged in the section on Research Methodology, please note that some questions require consultation with organisations and/or practitioners working in relevant fields covered by the research to cross-check findings from the desk research with respect to the way in which the examined rights are applied in practice (such as judges, lawyers, interpreters and translators or civil society organisations active in the field of legal assistance in criminal proceedings).

SECTION A: The right to interpretation and translation in criminal proceedings

1.	RIGHT TO INTERPRETATION ¹	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Who has the responsibility for determining the need of interpretation at each stage of the proceedings?</p> <p>b) How it works in practice for the various stages of the proceedings to ascertain whether suspected or accused persons speak and understand the language of the proceedings?</p> <p>c) Who bears the cost of interpretation at each stage?</p> <p>d) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
1.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a) At the stage of preparatory proceedings in particular case prosecutor, police or other public body empowered to conduct preparatory proceedings (e.g. Border Guard) is responsible for determining the need of interpretation². Such regime is a consequence of Article 298 § 1 of the Code of Criminal Procedure that says: “Preparatory proceedings are conducted or supervised by the public prosecutor, and within the limits defined in the law, they are conducted by the Police. In cases provided for by the law, the rights of Police are vested in other authorities”³.</p>

¹ See in particular Articles 2 and 4 and related recitals of Directive 2010/64/EU.

² Poland, advocate and representatives of the Circle Prosecution Office in Wrocław, the Prosecution Office Białystok-Południe in Białystok and the National Police Headquarters.

³ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

b) In practice, person who conducts the proceedings interviews a suspect in order to determine the level of knowledge and understanding of Polish language. Primarily, the person conducting the proceedings bases his assessment thereof on the statement of a suspect on understanding Polish language⁴. In case of doubts as to the command of Polish by a suspect that hinders understanding of the meaning of the course of proceedings, the person conducting the proceedings is required to call an interpreter⁵. However, in the opinion of some lawyers, such mechanism does not guarantee the proper degree of realization of the defence rights of a suspect, as the responsibility for determining the need of interpretation lays on the body empowered to conduct the proceedings⁶. Such body may assess it in a wrong manner whether the interpretation is necessary or not.

The Polish Prosecutor General issued guidelines concerning the verification of understanding of Polish language by a suspect⁷. The guidelines are binding for all prosecutors in Poland⁸. Aim of the guidelines is to provide a uniform mechanism to check whether a suspect speaks Polish, understands it, and needs the assistance of an interpreter⁹. Moreover, the guidelines stress that the need to their issuance is connected with the article 2.4 of Directive 2010/64/EU. According to the guidelines:

- 1) in case of obtaining information indicating that a suspect may not have a sufficient command of Polish language - that is, in particular, in a situation where he/she is not a Polish citizen - Polish language proficiency check should be made in an interview prior to the hearing. The interview should seek to establish the circumstances in which a suspect could acquire knowledge of the Polish language, such as family relationships, personal relationships etc.;
- 2) in the initial conversation with a suspect it should be required to use the letter of rights and obligations of a suspect in the criminal proceedings, aiming to determine whether a suspect understands the content of individual instruction;

⁴ Poland, representatives of the District Prosecution Office Kraków-Krowdrza in Kraków, the National Police Headquarters and the Regional Police Command in Wrocław.

⁵ Poland, representative of the District Prosecution Office Białystok-Południe in Białystok.

⁶ Poland, representative of the Human Rights Commission of the Polish Bar Association.

⁷ Guidelines issued by the Prosecutor General addressed to all prosecutors, 7 June 2013. The HFHR obtained this document from District Prosecution Office Białystok-Południe in Białystok in written answer to questions of the HFHR, 27 March 2015.

⁸ Poland, representative of the District Prosecution Office Białystok-Południe in Białystok.

⁹ Guidelines issued by the Prosecutor General addressed to all prosecutors, 7 June 2013.

		<p>3) the statement of a suspect on knowledge and understanding of the Polish language should be recorded in interrogation protocol;</p> <p>4) if in the initial conversation with a suspect or at the later stage of preparatory proceedings arise the doubt concerning sufficient command of Polish language by a suspect, an interpreter should be summoned.</p> <p>In addition, the Prosecutor General recommended that these principles apply <i>mutatis mutandis</i> to the persons arrested on the grounds of the European Arrest Warrant proceedings.</p> <p>c) In accordance with Article 72 § 1 of the Code of Criminal Procedure¹⁰, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the suspect/accused person (Art. 619 § 3 of the Code of Criminal Procedure).</p> <p>d) If there is a need for interpretation, the interpreter is summoned to participate in the action of the proceedings with the participation of a suspect. Person conducting the proceedings summons an interpreter in the prescribed time (Art. 204 § 1 of the Code of Criminal Procedure and art. 194 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). In practice, interpreter is summoned “without delay” and for a term specified by person conducting the proceedings, because if there is need for interpretation, an action without the interpreter cannot be performed¹¹.</p>
1.1.2	<ul style="list-style-type: none"> • court hearings; 	<p>a) In accordance with article 72 § 1 of the Code of Criminal Procedure¹², a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The court as the authority conducting the court proceedings is responsible for determining the need of interpretation. The assessment of whether the accused speaks in Polish language sufficiently to understand the language of the proceedings is for the court (judge)¹³. In practice, the need to summon an interpreter is often clear from the analysis of the documents from preparatory proceedings, e.g. interrogation protocols, which show that the accused person</p>

¹⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹¹ Poland, advocate representatives of the District Prosecution Office Białystok-Południe in Białystok, the Circle Prosecution Office in Wrocław and the National Police Headquarters.

¹² Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹³ Poland, judge.

		<p>used the help of an interpreter¹⁴. In such a situation, the judge summons an interpreter to participate in the first court hearing¹⁵.</p>
		<p>b) In practice¹⁶, the judge asks the accused person if he/she understands the language of proceedings and on that basis judge decides on the need for interpretation. Sometimes the command of Polish by the accused person in the course of the hearing shows that there is no need for interpretation. In such situation an interpreter remains in the courtroom, because there may occur problems with understanding the language of the proceedings by the accused person. It often happens that the accused person understands the language of the proceedings but is unable to speak Polish. Then an interpreter always remains in the courtroom¹⁷.</p>
		<p>c) In accordance with Article 72 § 1 of the Code of Criminal Procedure¹⁸, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the suspected/accused (Art. 619 § 3 of the Code of Criminal Procedure).</p>
		<p>d) An interpreter is summoned by the court for the time of the hearing with the participation of the accused person¹⁹.</p>
	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) During interim hearings it is the role of the authority conducting the proceedings on the each stage to determine the need of interpretation. If the interrogation or any other necessary action with the participation of a suspect or accused person takes place during the preparatory proceedings, prosecutor (or Police or other public body that is empowered to conduct preparatory proceedings)</p>

¹⁴ Poland, judge.

¹⁵ Poland, judge.

¹⁶ Poland, judge.

¹⁷ Poland, judge.

¹⁸ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁹ Poland, judge.

1.1.3	<p>decides on the need of interpretation²⁰. In case of hearing concerning detention on remand the judge decides on the need of interpretation²¹.</p>
	<p>b) If the interrogation or any other necessary action with the participation of a suspect or accused person takes place during the preparatory proceedings, prosecutor (or Police or other public body that is empowered to conduct preparatory proceedings) decides on the need of interpretation²². However, due to the prior hearings with the participation of a suspect the need to summon an interpreter is already known to above-mentioned authorities.</p> <p>In case of hearing concerning detention on remand the judge decides on the need of interpretation²³. In practice²⁴, the judge asks the accused person if he/she understands the language of proceedings and on that basis judge decides on the need of interpretation. Sometimes the command of Polish by the accused person in the course of the hearing shows that there is no need for interpretation. In such situation an interpreter remains in the courtroom, because there may occur problems with understanding the language of the proceedings by the accused person. It often happens that the accused person understands the language of the proceedings but is unable to speak Polish. Then an interpreter always remains in the courtroom²⁵.</p>
	<p>c) In accordance with Article 72 § 1 of the Code of Criminal Procedure²⁶, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the accused (Art. 619 § 3 of the Code of Criminal Procedure).</p>
	<p>d) An interpreter is summoned by the person conducting the proceedings on each stage (in court proceedings - the court, and in preparatory proceedings - the prosecutor, the police or other body conducting an investigation) to participate in the interim hearing with the participation of a suspect</p>

²⁰ Poland, prosecutor.

²¹ Poland, judge.

²² Poland, prosecutor.

²³ Poland, judge.

²⁴ Poland, judge.

²⁵ Poland, judge.

²⁶ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

		<p>or accused person who does not have a sufficient command of Polish (Art. 204 § 1 of the Code of Criminal Procedure and Art. 194 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure²⁷). Interim hearing cannot take place without the participation of an interpreter²⁸.</p>
<p>1.1.4</p>	<ul style="list-style-type: none"> • any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	<p>a) In accordance with Article 72 § 1 of the Code of Criminal Procedure²⁹, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. Moreover, according to Art. 72 § 2 of the Code of Criminal Procedure, at the request of the suspected/accused person or his/her legal counsel an interpreter should be summoned to assist in communication between suspect and accused person and his/her legal counsel in connection with the action, in which the suspected/accused is entitled to participate.</p> <p>The latter provision came into force on 9 November 2013 to ensure the conformity of Polish regulations with Directive 2010/64/EU.</p> <p>Person conducting proceedings on the stage of the proceedings, when communication between a suspect and accused persons and their legal counsels takes place (during preparatory proceedings - prosecutor, police or other public body that is empowered to conduct preparatory proceedings e.g. Border Guard; judge during the court proceedings), is responsible for determining the need of interpretation.</p> <p>b) The need of interpretation is known from the earlier stages of the proceedings³⁰.</p> <p>c) In accordance with Article 72 § 1 of the Code of Criminal Procedure³¹, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the suspected/accused (Art. 619 § 3 of the Code of Criminal Procedure).</p>

²⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

²⁸ Poland, advocate, judge and representatives of the District Prosecution Office Białystok-Południe in Białystok and the Circle Prosecution Office in Wrocław.

²⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

³⁰ Poland, advocate and judge.

³¹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

		<p>d) The authority conducting the proceedings on the particular stage at the request of the suspect / accused person or his defence counsel summons an interpreter to assist in communication between suspect and accused person and his/her legal counsel in connection with the action, in which the suspected/accused is entitled to participate, before this action (Art. 72 § 2 of the Code of Criminal Procedure³²).</p>
<p>1.2</p>	<p>How do authorities ensure interpretation into rare/lesser known languages where no certified interpreters exist? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The jurisprudence indicates that when no certified interpreter (“sworn interpreter”) is available in a given language, in which a suspect or accused person speaks, authority conducting the proceedings should summon an <i>ad hoc</i> interpreter. The function of an interpreter can be performed not only by a certified interpreter but also by a person with the appropriate command of particular language³³. Person conducting the proceedings may therefore summon a person who is known, that speaks well the language of the suspected/accused person. The practice to summon <i>ad hoc</i> interpreters, when no certified interpreters exist, was confirmed by several institutions and persons that were consulted during the research³⁴.</p> <p>The provision of Art. 72 of the Code of Criminal Procedure³⁵ does not specify in which language interpretation is to be ensured. In the legal scholarship, it is claimed it must be a language that the suspected/accused person speaks in an appropriate degree to understand the course of the proceedings and is able to speak freely³⁶. It does not have to be a mother tongue of the suspected/accused, which is especially important in case of less popular languages. Therefore, if the suspected/accused person speaks other foreign language than his/her mother tongue (e.g. English), it is possible to provide an interpreter of such language. The suspected/accused person should speak this language to a degree similar to his/her mother tongue, in order to avoid violation of defence rights³⁷.</p>

³² Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

³³ Poland, judgment of the Appellate Court in Katowice, 13 September 2011, II AKa 210/11 and judgment of the Appellate Court in Kraków, 2 July 2008, II AKa 89/08.

³⁴ Poland, advocate, judge and representatives of the District Prosecution Office Kraków-Krowodrza in Kraków, the National Police Headquarters, the Regional Police Command in Wrocław and the Circle Prosecution Office in Wrocław.

³⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

³⁶ Poland, T. Grzegorzczak, Commentary on Art. 72 of the Code of Criminal Procedure, LEX 2014.

³⁷ Poland, T. Grzegorzczak, Commentary on Art. 72 of the Code of Criminal Procedure, LEX 2014.

		<p>A judge interviewed during the research claimed that there had never been a problem with ensuring the interpretation³⁸. When the certified interpreter is not available, there is established practice, especially in academic cities, to summon scientific staff from philological faculties of the universities³⁹. Also the prosecution offices indicate that in practice there are no problems to provide interpretation into lesser known languages⁴⁰. In case of rare languages, prosecutors, basing on their own developed database and contacts, are able to ensure the participation of competent interpreter⁴¹. The advocate that was interviewed during research claimed that in one proceedings, in which he was a defence counsel, the foreign student studying in Poland, who came from the state of the accused person, served as an interpreter⁴².</p>
<p>1.3</p>	<p>Please describe procedures in place, if any, to ensure that suspects or accused persons have the right to challenge the decision that no interpretation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>In preparatory proceedings the decision of a person conducting the proceedings that no interpretation is needed, can be challenged in an interlocutory appeal. According to Art. 302 § 2 of the Code of Criminal Procedure, a suspect may appeal against procedures other than decisions and orders, if such procedures violate his/her rights. Such interlocutory appeals are considered by a directly superior prosecutor (Art. 302 § 3 of the Code of Criminal Procedure). The advocate, who was interviewed during the research, stressed that this measure is illusory – a directly superior prosecutor incidentally changes the decision⁴³. Also a prosecutor interviewed during the research assessed that interlocutory appeal regulated in Art. 302 § 2 of the Code of Criminal Procedure is a dead letter⁴⁴.</p> <p>The provisions of the Code of Criminal Procedure do not provide for any interlocutory appeal in the course of the court proceedings that could be lodged by the accused person when the court decides that no interpretation is needed⁴⁵. However, the denial of interpretation, when it is necessary as the accused does not have a sufficient command of Polish, can be raised by the accused person in the appeal – lodged after the first-instance judgment is rendered. Such denial can be recognized as a violation of defence rights of the accused, including the right to the</p>

³⁸ Poland, judge.

³⁹ Poland, judge.

⁴⁰ Poland, representatives of the District Prosecution Office Białystok-Południe in Białystok and the District Prosecution Office Warszawa-Praga Południe in Warszawa.

⁴¹ Poland, prosecutor.

⁴² Poland, advocate.

⁴³ Poland, advocate.

⁴⁴ Poland, prosecutor.

⁴⁵ Poland, judge.

		gratuitous help of an interpreter ⁴⁶ . In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination ⁴⁷ .
1.4	With regard to remote interpretation via communication technologies:	
	a) Can communication technologies for the purpose of remote interpretation be used? If so, at what stage(s) of the proceedings?	There is possibility to use communication technologies for the purpose of remote interpretation both in preparatory proceedings and court proceedings (Article 177 § 1a, Article 390 § 3 and Article 517b of the Code of Criminal Procedure ⁴⁸), but the research revealed that it is not used in practice ⁴⁹ . Practitioners interviewed during the research pointed out that lack of popularity of using the communication technologies for the purpose of remote interpretation stems from the principle of immediacy of the proceedings ⁵⁰ . It is favourable from the viewpoint of protection of the suspect/accused person's defence rights when the interpreter assists the suspected/accused the same place he/she is being heard ⁵¹ .
	b) Which technologies are used, if any (videoconference, telephone, internet, etc.)	All Appellate Prosecution Offices (<i>Prokuratury Apelacyjne</i>), all Circle Prosecution Offices (<i>Prokuratury Okręgowe</i>) and chosen District Prosecution Offices (<i>Prokuratury Rejonowe</i>) are equipped with videoconferencing equipment ⁵² . The majority of courts are equipped with the same equipment. However, as indicated above, in practice videoconferencing equipment is not used for the purpose of remote interpretation. The videoconferencing equipment is commonly used for the purpose of examination of a witness or an expert.

⁴⁶ Poland, judge.

⁴⁷ Poland, judge and advocate.

⁴⁸ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

⁴⁹ Poland, advocate, judge, prosecutor and representatives of the District Prosecution Office Białystok-Południe in Białystok, the District Prosecution Office Warszawa-Praga Południe in Warszawa, the District Prosecution Office Kraków-Krowodrza in Kraków, the Circle Prosecution Office in Wrocław and the Circle Prosecution Office in Poznań.

⁵⁰ Poland, judge and prosecutor.

⁵¹ Poland, judge and prosecutor.

⁵² Poland, representative of the District Prosecution Office Białystok-Południe in Białystok.

<p>c) Do competent authorities rely on the tools developed in the context of European e-Justice (e.g. information on courts with videoconferencing equipment provided on the European E-justice Portal)? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>No information gathered in this field. European E-justice Portal does not contain information on Polish courts with videoconferencing equipment.</p>		
<p>TRAINING⁵³</p>	<p>Yes</p>	<p>No</p>	<p>Brief Description</p>
<p>1.5 Are providers of judicial training requested to pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication? If yes, briefly provide details.</p>		<p>no</p>	<p>In Poland, the training of judges and prosecutors is provided by the National School of Judges and Prosecutors (<i>Krajowa Szkoła Sądownictwa i Prokuratury</i>), based in Kraków. According to information provided by the National School of Judges and Prosecutors, between 27 October 2013 and 24 March 2015, there were not organized any trainings in the field of the particularities of communicating with the assistance of an interpreter. The National School of Judges and Prosecutors informed that the issue was considered in the conceptual work related to the creation of training activities in 2014, but due to insufficient funds for training it was not completed⁵⁴. Information was confirmed by the Ministry of Justice⁵⁵.</p>

⁵³ See in particular Article 6 and relevant recitals of Directive 2010/64/EU.

⁵⁴ Poland, representative of the National School of Judges and Prosecutors.

⁵⁵ Poland, representative of the Ministry of Justice.

2.	RIGHT TO TRANSLATION OF DOCUMENTS ⁵⁶	Brief Description
2.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) Which documents (according to national law or established practice) are considered essential to translate in order to safeguard the fairness of the proceedings?</p> <p>b) Who bears the cost of translation at each stage?</p> <p>c) What is the timeframe (deadline) for the translation of documents at each stage of the proceedings?</p> <p>Please cross-check findings from the desk-research by consulting relevant organisations and/or practitioners.</p>
2.1.1	<ul style="list-style-type: none"> • police questioning; 	<p>a) The Code of Criminal Procedure provides a minimum range of documents to be served upon a suspect with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure⁵⁷, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which ends the proceedings must be served with a translation upon a suspect who does not have a sufficient command of Polish. Indicated documents are served upon a suspect <i>ex officio</i>. However, with the consent of a suspect, it is sufficient to announce the translated judgment, which terminates the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure).</p> <p>The translation of other documents than above-mentioned depends on the request of a suspect and the decision of person conducting the preparatory proceedings as to the impact of this document on ensuring the fairness of the proceedings and the right to defence⁵⁸. However, in practice of the interviewed prosecutor, suspects do not request to translate other documents than these indicated in Art. 72 § 3 of the Code of Criminal Procedure⁵⁹.</p>

⁵⁶ See in particular Articles 3 and 4 and relevant recitals of Directive 2010/64/EU.

⁵⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

⁵⁸ Poland, advocate and representative of the District Prosecution Office Kraków-Krowodrza in Kraków.

⁵⁹ Poland, prosecutor.

		<p>b) In accordance with Article 72 § 1 of the Code of Criminal Procedure⁶⁰, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the suspected/accused person (Art. 619 § 3 of the Code of Criminal Procedure).</p> <p>c) Provisions of the Code of Criminal Procedure do not provide for binding deadlines for translations of documents in the preparatory proceedings. Deadline for completion of translation of documents is indicated by the person conducting the preparatory proceedings in decision to appoint a translator⁶¹. The deadline depends on such factors as: the length and complexity of the material to be translated, the availability of a translator, a possibility to choose another translator⁶². It is emphasized, however, that the translation should be completed “without delay”⁶³.</p>
<p>2.1.2</p>	<ul style="list-style-type: none"> • court hearings; 	<p>a) The Code of Criminal Procedure provides a minimum range of documents to be served upon the accused person with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure⁶⁴, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which ends the proceedings must be served with a translation upon the accused person who does not have a sufficient command of Polish. Indicated documents are served upon a suspect <i>ex officio</i>. However, with the consent a suspect, it is sufficient to announce the translated judgment, which terminates the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure).</p> <p>The translation of other documents than above-mentioned depends on the request of the accused person and the decision of judge as to the impact of requested document on ensuring the fairness of the proceedings and the right to defence. The judge interviewed during research pointed that in her practice the accused persons did not request translation of other documents than these</p>

⁶⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

⁶¹ Poland, representatives of the District Prosecution Office Białystok-Południe in Białystok, the District Prosecution Office Warszawa-Praga Południe in Warszawa, the Circle Prosecution Office in Wrocław and the Provincial Police Command in Wrocław.

⁶² Poland, representatives of the District Prosecution Office Białystok-Południe in Białystok, the District Prosecution Office Warszawa-Praga Południe in Warszawa, the Circle Prosecution Office in Wrocław and the Provincial Police Command in Wrocław.

⁶³ Poland, prosecutor.

⁶⁴ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

		<p>indicated in Art. 72 § 3 of the Code of Criminal Procedure⁶⁵. Documents from the case files are interpreted orally at the court hearing⁶⁶. The advocate interviewed during research claimed that in practice it sometimes happens that at the request of defence counsel the judge decides on translation of e.g. interrogation protocols or expert opinions from case files relying on the Directive 2010/64/EU⁶⁷.</p>
		<p>b) In accordance with Article 72 § 1 of the Code of Criminal Procedure⁶⁸, a suspect or accused person who does not have a sufficient command of Polish, is entitled to the gratuitous help of an interpreter. The State Treasury bears also the costs related to the participation in the proceedings of an interpreter to the extent necessary to guarantee the right to a defence of the suspected/accused person (Art. 619 § 3 of the Code of Criminal Procedure).</p>
		<p>c) Provisions of the Code of Criminal Procedure do not provide for binding deadlines for translations of documents in the court proceedings. The judge deciding on the need of translation indicates the deadline to provide translation of a document⁶⁹.</p>
<p>2.1.3</p>	<ul style="list-style-type: none"> • any necessary interim hearings; 	<p>a) There is no need for translation of documents on this stage.</p> <p>b) There is no need for translation of documents on this stage.</p> <p>c) There is no need for translation of documents on this stage.</p>

⁶⁵ Poland, judge.

⁶⁶ Poland, judge.

⁶⁷ Poland, advocate.

⁶⁸ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

⁶⁹ Poland, judge.

<p>2.1.4</p>	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	<p>a) There is no need for translation of documents on this stage.</p> <p>b) There is no need for translation of documents on this stage.</p> <p>c) There is no need for translation of documents on this stage.</p>
<p>2.2</p>	<p>How do the competent authorities ascertain whether oral translation or oral summary of essential documents may be provided instead of a written translation? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>In accordance with Art. 72 § 3 of the Code of Criminal Procedure⁷⁰, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which ends the proceedings must be served with a translation upon the suspected/accused person who does not have a sufficient command of Polish. With the consent of the accused person, it is sufficient to announce the translated judgment terminating the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure). In other words, oral announcement is possible only in case of judgment terminating the proceedings, if an appeal against it is not admissible and only when there is a consent of suspected/accused person.</p>
<p>2.3</p>	<p>Please describe procedures in place, if</p>	<p>In preparatory proceedings the decision of a person conducting the proceedings that no translation is needed can be challenged in an interlocutory appeal. According to Art. 302 § 2 of the</p>

⁷⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

	<p>any, to ensure that suspects or accused persons have the right to challenge the decision that no translation is needed? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>Code of Criminal Procedure, a suspect may appeal against procedures other than decisions and orders, if such procedures violate his/her rights. Such interlocutory appeals are considered by a directly superior prosecutor (Art. 302 § 3 of the Code of Criminal Procedure). The advocate interviewed during the research stressed that this measure is illusory - directly superior prosecutor incidentally changes the decision⁷¹. Also the interviewed prosecutor assessed that interlocutory appeal regulated in Art. 302 § 2 of the Code of Criminal Procedure is a dead letter⁷².</p> <p>The provisions of the Code of Criminal Procedure do not provide for any interlocutory appeal in the course of the court proceedings that could be lodged by the accused person when the court decides that no translation is needed⁷³. However, the denial of translation when it is necessary because the accused does not have a sufficient command of Polish, can be raised by the accused person in an appeal – lodged after the first-instance judgment is rendered. Such a denial can be recognized as a violation of the defence rights of the accused, including the right to the gratuitous help of an interpreter and the right to translation of documents indicated in Art. 72 § 3 of the Code of Criminal Procedure⁷⁴. In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination⁷⁵.</p>		
		Yes	No	Brief Description
2.4	Do all documents that the suspected or accused person has to sign during the proceedings have to be translated?		no	As it was indicated above, the Code of Criminal Procedure provides a minimum range of documents to be served upon the suspected/accused person with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure ⁷⁶ , the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which terminates the proceedings must be served with a translation upon the suspected/accused person who does not have a sufficient command of Polish. Indicated documents are served upon the suspected/accused person <i>ex officio</i> . With the consent of the suspected/accused

⁷¹ Poland, advocate.

⁷² Poland, prosecutor.

⁷³ Poland, judge.

⁷⁴ Poland, judge.

⁷⁵ Poland, judge and advocate.

⁷⁶ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

			<p>person, it is sufficient to announce the translated judgment ending the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure).</p> <p>In the course of the criminal proceedings the suspect/accused persons are required to sign documents outside this range, for instance interrogation protocol or the letter of rights and obligations of a suspect in criminal proceedings. There are no provisions of the Code of Criminal Procedure regulating the issue whether the above-mentioned documents must be translated in writing prior to the signing them by the suspect/accused person, or it is sufficient to interpret them orally before signing.</p> <p>In practice, most often the instructions or protocols that suspected/accused person is required to sign are translated orally in the course of each action⁷⁷. In such situation a person conducting the proceedings notes in the interrogation protocol that oral translation was provided and interpreter signs the protocol in order to confirm this circumstance⁷⁸. As a result it is possible that suspected/accused person signs document written in language that he/she does not understand.</p>
2.5	Is it possible to waive the right to translation of documents and if so, what form can it have and under which conditions can it be accepted?		<p>As it was indicated above, the Code of Criminal Procedure provides a minimum range of documents to be served upon the suspected/accused person with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure⁷⁹, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which terminates the proceedings must be served with a translation upon the suspected/accused person who does not have a sufficient command of Polish. With the consent of the suspected/accused person, it is sufficient to announce the translated judgment ending the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure). In practice, the suspected/accused person may issue his/her consent in written statement or orally⁸⁰.</p> <p>The suspected/accused person cannot waive the right to translation of the decision presenting, supplementing or changing charges, an indictment, as well as a judgment</p>

⁷⁷ Poland, advocate, prosecutor and representatives of the District Prosecution Office Białystok-Południe in Białystok.

⁷⁸ Poland, prosecutor.

⁷⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

⁸⁰ Poland, representatives of the Circle Prosecution Office in Poznan and the District Prosecution Office Kraków-Krowdrza in Kraków.

				which may be subject to an appeal or which ends the proceedings ⁸¹ . Indicated documents are served upon the suspected/accused person <i>ex officio</i> .
3.	RIGHTS CONCERNING BOTH INTERPRETATION AND TRANSLATION⁸²			
3.1	With regard to use of registers of interpreters and translators in EU Member States:	Yes	No	Brief Description
	a) Do national databases or registers exist for legal translators and interpreters?	yes		In Poland a register for sworn translators and interpreters is kept by the Minister of Justice. However, it does not distinguish between different specializations and therefore there is no information on whether an interpreter or a translator specialises in legal interpretations or translations. It should be also noted that in Polish law there is no distinction between sworn translators and interpreters. One term “tłumacz przysięgły” (“sworn translator”) is used to describe both of these professions. According to the Act on the Profession of Sworn Translator ⁸³ , a sworn translator (pol. “tłumacz przysięgły”) is entitled to perform both translations (pol. “tłumaczenia pisemne”) and interpretations (pol. “tłumaczenia ustne”). The register is available on the website of Ministry of Justice (http://ms.gov.pl/pl/lista-tlumaczy-przysieglych/).
	b) Do translators and interpreters have to be listed in databases/registers for	yes		Sworn translators and interpreters are allowed to fulfil their duties after they had sworn an oath and had been enrolled in a register kept by the Minister of Justice (Art. 6.1 and 6.2 of the Act on the Profession of Sworn Translator ⁸⁴). In other words,

⁸¹ Poland, prosecutor, judge and representative of the National Police Headquarters.

⁸² See in particular Article 5 and relevant recitals of Directive 2010/64/EU.

⁸³ Poland, The Act on the Profession of Sworn Translator (*Ustawa z dnia 25 listopada 2004 r. o zawodzie tłumacza przysięgłego*), 25 November 2004.

⁸⁴ Poland, The Act on the Profession of Sworn Translator (*Ustawa z dnia 25 listopada 2004 r. o zawodzie tłumacza przysięgłego*), 25 November 2004.

	<p>their services to be used? In other words, is membership/registration mandatory?</p>			<p>in order to work as a sworn interpreter and translator one needs to be listed in the register.</p> <p>However, persons conducting criminal proceedings are not obliged to use the services of sworn translators and interpreters. They can use services of <i>ad hoc</i> ones. Not only sworn translators and interpreters are allowed to perform translations and interpretation during the criminal proceedings, but also those with an adequate knowledge of the language of the interrogated person⁸⁵. However, in such situation, the authority calling in an ad hoc translator or interpreter is obliged to assess his or her foreign language skills by taking into account the difficulty of the interrogation⁸⁶.</p>
	<p>c) Who has access to these databases?</p>	<p>Brief Description:</p> <p>The register is available on-line and anyone is granted access to it. It is also free of charge (http://ms.gov.pl/pl/lista-tlumaczy-przysieglych/). Moreover, according to Art. 9.2 of The Act on the Profession of Sworn Translator⁸⁷, Province Governors (pol. <i>Wojewodowie</i>) make the registers of sworn translators and interpreters publicly available (in the Province Office and in office hours) and free of charge. The registers are also published in the Official Journal of the Ministry of Justice (Art. 9.1 of The Act the on the Profession of Sworn Translator).</p>		
	<p>d) Which professional qualifications are needed by:</p> <ul style="list-style-type: none"> • translators and • interpreters 	<p>Brief Description:</p> <p>As it was mentioned above, in the Polish legal system there is no distinction between sworn translators and sworn interpreters. The term “tłumacz przysięgły” covers both professions. In order to become one, several conditions need to be met. Sworn interpreters and translators are natural persons, which according to Art. 2.1 of the Act on the Profession of Sworn Translator⁸⁸:</p>		

⁸⁵ Poland, judgment of the Appellate Court in Katowice, 13 September 2011, II AKa 210/11 and judgment of the Appellate Court in Kraków, 2 July 2008, II AKa 89/08.

⁸⁶ Poland, decision of the Supreme Court, 10 December 2003, V KK 115/03.

⁸⁷ Poland, The Act on the Profession of Sworn Translator (*Ustawa z dnia 25 listopada 2004 r. o zawodzie tłumacza przysięgłego*), 25 November 2004.

⁸⁸ Poland, The Act on the Profession of Sworn Translator (*Ustawa z dnia 25 listopada 2004 r. o zawodzie tłumacza przysięgłego*), 25 November 2004.

	in order to be registered in the database?	<p>1) have Polish citizenship, a citizenship of one of the member states of either the European Union or EFTA, citizenship of parties to the European Economic Area, the Swiss Confederation or citizenship of other state under the reciprocity principle;</p> <p>2) know Polish language;</p> <p>3) have a full legal capacity;</p> <p>4) were not punished for an intentional offence, fiscal offence, or an unintentional offence against economic circulation safety;</p> <p>5) was granted a master's degree or an equal one in one of the states discussed in point 1;</p> <p>6) positively passed an exam in translating and interpreting from Polish to other language and vice versa.</p> <p>According to Art. 5.1, Art. 6.1 and 6.2 of the Act on the Profession of Sworn Translator, in order to become a sworn translator and interpreter one must pass an exam, swear an oath and be enrolled in a register.</p>	
	e) Are there any requirements in place to ensure the independence of interpreters and translators? If yes, provide a brief overview (for both translators and interpreters).	Yes	<p>As it was already mentioned, there is no distinction between translators and interpreters and Polish term “tłumacz przysięgły” is allowed to both translate and interpret.</p> <p>In Poland there are numerous regulations ensuring the independence of sworn translators and interpreters. Sworn translators and interpreters are obliged to fulfil their duties with special care and impartiality and in compliance with legal principles as well as to keep confidential facts and circumstances, which they became aware of due to translation or interpretation (Art. 14.1 of the Act on the Profession of Sworn Translator⁸⁹).</p> <p>Sworn translators and interpreters cannot refuse to perform a translation or an interpretation requested by court and prosecutor, police or a public administration authority during a proceeding carried out under legal acts, unless there are important reasons justifying the refuse (Art. 15 of the Act on the Profession of Sworn Translator).</p>

⁸⁹ Poland, The Act on the Profession of Sworn Translator (*Ustawa z dnia 25 listopada 2004 r. o zawodzie tłumacza przysięgłego*), 25 November 2004.

			<p>Sworn translators and interpreters, who do not meet the above mentioned criteria might be held liable pursuant to professional liability regulations, which includes disqualification from the exercise of the profession (Art. 21.1 and 21.2 of the Act on the Profession of Sworn Translator).</p> <p>It should be also noted the Code of Criminal Procedure⁹⁰ specifies situations when an interpreter or a translator can be disqualified from participation in a case. One cannot be a translator and interpreter if he/she:</p> <ul style="list-style-type: none"> a) was a witness to the act or in the same case acted as a witness; b) participated in the case as a prosecutor, legal representative to a party or person conducting preparatory proceedings; c) the case concerns him or her personally or he is a spouse, relative by blood or by marriage to either party or his or her legal representative, or he or she is in cohabitation with party or legal representative; d) as a witness might refuse to give testimony or be released from obligation to testify (Art. 196 § 1 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). <p>Furthermore, one cannot be a translator and interpreter if information undermining confidence in his or her impartiality or other significant information is revealed (Art. 196 § 3 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). In that case, new translator or interpreter should be appointed (Art. 196 § 2 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure).</p>
	f) Is access to existing databases provided through the European e-Justice portal ? ⁹¹ How is this register available to legal counsel and relevant authorities?	Yes	Yes, the access is provided through the European e-Justice portal (see: https://e-justice.europa.eu/content_find_a_legal_translator_or_an_interpreter-116-pl-en.do?member=1). The Polish translators' database is available online for everybody (including legal counsels and relevant authorities), free of charge.

⁹⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

⁹¹ <https://e-justice.europa.eu/home.do?plang=en&action=home>

	g) Are criminal justice institutions required to use interpreters and translators listed in these registers?		no	<p>The obligation of criminal justice institution to use the services of sworn translators and interpreters is not regulated under Polish law. Authorities conducting proceedings (the police, prosecutor, court) are not obliged to use the services of sworn translators and interpreters. They can instead use the services of <i>ad hoc</i> translators and interpreters. The function of an interpreter can be performed not only by a certified interpreter but also by a person with the appropriate command of particular language⁹². However, in that situation, the authority calling in such ad hoc translator or interpreter is obliged to assess his or her foreign language skills, by taking into account the difficulty of the interrogation⁹³.</p> <p>In practice, in majority of cases authorities conducting the proceedings use the services of sworn translators and interpreters listed in the register kept by Minister of Justice⁹⁴.</p>
3.2	With regard to other mechanisms/procedures:	Yes	No	Brief Description
	a) Are there other mechanisms or procedures in place to ensure the quality and independence of interpretation and translation during the course of the proceedings? Are there any quality checks? Who is	yes		<p>There are two procedures in place to ensure the quality and independence of interpretation and translation during the course of the criminal proceedings.</p> <p>Firstly, it is possible to appoint another translator or interpreter in the case when the quality of interpretation or translation is insufficient. In accordance with the Art. 201 of the Code of Criminal Procedure⁹⁵, if the opinion is incomplete, unclear or contradictory or if there are contradictions between different opinions issued in the same case, the court may summon the same experts again or appoint new ones. This provision applies also to translators and interpreters (Art. 201 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). Moreover, if information undermining confidence in the interpreter's or translator's knowledge is revealed, an authority conducting the proceedings is obliged to appoint a new interpreter or</p>

⁹² Poland, judgment of the Appellate Court in Katowice, 13 September 2011, II AKa 210/11 and judgment of the Appellate Court in Kraków, 2 July 2008, II AKa 89/08.

⁹³ Poland, decision of the Supreme Court, 10 December 2003, V KK 115/03.

⁹⁴ Poland, judges and representative of the Ministry of Justice.

⁹⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

	responsible for carrying them out?		<p>translator (Art. 196 § 3 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). In other words, if the quality of interpretation or translation raises doubts, the authority conducting the proceedings should appoint another translator or interpreter. The suspected/accused person may submit proposals in this regard.</p> <p>Secondly, the Code of Criminal Procedure provides several mechanisms that allow to exclude translator or interpreter from particular case. One cannot be a translator and interpreter if he/she:</p> <ul style="list-style-type: none"> a) was a witness to the act or in the same case acted as a witness; b) participated in the case as a prosecutor, legal representative to a party or person conducting preparatory proceedings; c) the case concerns him or her personally or he is a spouse, relative by blood or by marriage to either party or his or her legal representative, or he or she is in cohabitation with party or legal representative; d) as a witness might refuse to give testimony or be released from obligation to testify (Art. 196 § 1 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). <p>Moreover, if information is revealed that undermines confidence in the translator's or interpreter's impartiality or other important information, the authority conducting the proceedings is obliged to appoint a new interpreter or translator (Art. 196 § 3 in conjunction with art. 204 § 3 of the Code of Criminal Procedure). The interpretation or translation performed by excluded interpreter or translator does not constitute evidence (Art. 196 § 2 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure).</p>
	b) Is there any procedure in place to ensure that suspects or accused persons have the possibility, when	yes	<p>The suspected/accused persons may submit proposals to the person conducting the proceedings to exclude a translator or interpreter and to appoint another one, due to the lack of knowledge or lack of impartiality. If the person conducting the proceedings shares these findings he/she should appoint a new interpreter or translator (Art. 196 § 3 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). In the case of lack of acceptance of such proposal by the court, the</p>

	<p>interpretation and translation has been provided, to complain about the quality and independence of the interpretation and translation?</p>		<p>suspected/accused person may lodge an appeal claiming that his/her defence rights were violated during the proceedings due to the lack of exclusion of translator or interpreter despite justified reasons.</p>
	<p>c) Are there any mechanisms in place that allow for the replacement of the appointed interpreter or a new translation when the quality of the interpretation or the independence of the interpreter is considered insufficient? If yes, briefly provide information.</p>	<p>yes</p>	<p>There are two procedures in place to ensure the quality and independence of interpretation and translation during the course of the criminal proceedings.</p> <p>Firstly, it is possible to appoint another translator or interpreter in the case when the quality of interpretation or translation is insufficient. In accordance with the Art. 201 of the Code of Criminal Procedure, If the opinion is incomplete, unclear or contradictory or if there are contradictions between different opinions issued in the same case, the court may summon the same experts again or appoint new ones. This provision is applied also to translators and interpreters (Art. 201 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). Moreover, if information undermining confidence in the interpreter's or translator's knowledge is revealed, authority conducting the proceedings is obliged to appoint a new interpreter or translator (Art. 196 § 3 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). In other words, if the quality of interpretation or translation raises doubts, the authority conducting the proceedings should appoint another translator or interpreter. The suspected/accused person may submit proposals in this regard.</p> <p>Secondly, the Code of Criminal Procedure provides several mechanisms that allow to exclude translator or interpreter from particular case. One cannot be a translator and interpreter if he/she:</p> <ul style="list-style-type: none"> a) was a witness to the act or in the same case acted as a witness; b) participated in the case as a prosecutor, legal representative to a party or person conducting preparatory proceedings;

				<p>c) the case concerns him or her personally or he is a spouse, relative by blood or by marriage to either party or his or her legal representative, or he or she is in cohabitation with party or legal representative;</p> <p>d) as a witness might refuse to give testimony or be released from obligation to testify (Art. 196 § 1 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure).</p> <p>Moreover, if information undermining confidence in the translator's or interpreter's impartiality or other important information is revealed, the authority conducting the proceedings is obliged to appoint a new interpreter or translator (Art. 196 § 3 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure). The interpretation or translation performed by excluded interpreter or translator does not constitute evidence (Art. 196 § 2 in conjunction with Art. 204 § 3 of the Code of Criminal Procedure).</p>
3.3	<p>Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons which affect their ability to communicate effectively?⁹⁶</p> <p>If yes, briefly provide information on those mechanisms considering the following vulnerable groups:</p>			
	<p>a) suspect or accused persons with physical impairment or disability;</p>		no	<p>In general, a suspect or accused persons with physical impairment or disability are subjects to the right to gratuitous help of an interpreter on general rules. There are no special procedures designed to take into account the special needs of a suspect</p>

⁹⁶ See in particular recital 27 of Directive 2010/64/EU.

			<p>or accused persons with physical impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure⁹⁷, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings⁹⁸. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way⁹⁹.</p>
	b) suspect or accused persons with intellectual impairment or disability;	no	<p>In general, suspects or accused persons with intellectual impairment or disability are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of suspects or accused persons with intellectual impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspected/accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁰⁰, in the criminal proceedings (both on</p>

⁹⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

⁹⁸ Poland, representative of the Ministry of Justice.

⁹⁹ Poland, representative of the Ministry of Justice.

¹⁰⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

			<p>preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁰¹. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁰².</p>
	<p>c) i) children who are suspects/defendants, and/or ii) holders of parental responsibility (please distinguish between the two).</p>	no	<p>In general, children who are suspects/defendants and holders of parental responsibility are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of children who are suspects/defendants, and holders of parental responsibility in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁰³, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind,

¹⁰¹ Poland, representative of the Ministry of Justice.

¹⁰² Poland, representative of the Ministry of Justice.

¹⁰³ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

			<p>3) there is a reasonable doubt as to his/her sanity.</p> <p>4) the court deems it necessary due to circumstances impeding the defence.</p> <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁰⁴. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁰⁵.</p>
3.4	Is there any recording procedure to note that interpretation and translation have occurred and in which form? ¹⁰⁶ If yes, briefly provide information on how this procedure is organised in practice.	yes	<p>All actions that take place with the assistance of the interpreter in the course of the criminal proceedings are recorded in protocols made during those actions (e.g. interrogation protocol, inspection protocol, court hearing protocol). Apart from person conducting the proceedings and the suspected/accused person, an interpreter shall sign the protocol with note that interpretation was provided as well¹⁰⁷.</p> <p>Documents translated during the proceedings are kept in case files together with original ones¹⁰⁸.</p>

¹⁰⁴ Poland, representative of the Ministry of Justice.

¹⁰⁵ Poland, representative of the Ministry of Justice.

¹⁰⁶ See in particular Article 7 and relevant recitals of Directive 2010/64/EU.

¹⁰⁷ Poland, prosecutor.

¹⁰⁸ Poland, prosecutor and judge.

SECTION B: RIGHT TO INFORMATION IN CRIMINAL PROCEEDINGS

1.	PROVISION OF INFORMATION ON THE PROCEDURAL RIGHTS ¹⁰⁹	Brief Description
1.1		<p>Please provide answers to the following for each stage of proceedings as indicated below:</p> <p>a) What information is provided?</p> <p>b) How is it provided (e.g. orally or in writing)?</p> <p>c) What is the timeframe (deadline) for providing interpretation at each stage of the proceedings?</p> <p>Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>
	<ul style="list-style-type: none"> • police questioning; 	<p>a) In preparatory proceedings a suspect is a person, with regard to whom a decision presenting charges was issued, or who, without the issuance of such a decision, was informed about the charges in connection with his interrogation in the capacity of a suspect (Art. 71 § 1 of the Code of Criminal Procedure¹¹⁰). It should be also noted that distinction between a suspect and a person that is examined by the relevant authorities as a witness, but actually these authorities regard such person as suspected of committing a crime, is a serious problem in Poland. Such witnesses that act as “suspected persons” do not have to be given a letter of rights or be informed of their right to remain silent¹¹¹.</p> <p>In order to adjust Polish regulations to the provisions of Directive 2012/13/EU, amended provisions of the Code of Criminal Procedure obliged the Minister of Justice to issue a regulation concerning the model of instruction on procedural rights of a suspect (Art. 300 § 3 of the Code of Criminal Procedure). The model instruction is an annex to the regulation of the Minister of Justice on the</p>

¹⁰⁹ See in particular Article 3 and relevant recitals of Directive 2012/13/EU.

¹¹⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹¹¹ E. Cape, Z. Namoradze, R. Smith, T. Spronken, *Effective Criminal Defence in Europe. Executive Summary and Recommendations*, Antwerp – Oxford – Portland, 2010, available online: <http://www.opensocietyfoundations.org/sites/default/files/criminal-defence-europe-summary.pdf>.

model instruction of rights and obligations of a suspect in criminal proceedings¹¹². According to its provisions, the suspect in the criminal proceedings is entitled to the following rights:

1. The right to provide explanations (also in writing), to refuse to provide explanations or to refuse to answer certain questions without giving reasons (Art. 175 § 1, Art. 176 § 2 of the Code of Criminal Procedure).
2. The right to assistance of a defence counsel of his or her own choice. If the suspect can duly prove that he or she is unable to bear the costs of defence counsel, the court may appoint the defence counsel *ex officio* (Art. 78 § 1 of the Code of Criminal Procedure). The suspect may not have more than three defence counsels at one time (Art. 77 of the Code of Criminal Procedure). In the event of a conviction or a conditional discontinuation of proceedings, the suspect may be awarded costs of the *ex officio* defence counsel (Art. 627, 629 of the Code of Criminal Procedure).
3. At the request of the suspect, the interrogation may be conducted with the participation of the appointed defence counsel (Art. 301 of the Code of Criminal Procedure).
4. If the suspect does not have a sufficient command of Polish – the right to gratuitous help of an interpreter, as well as during communication with defence counsel (Art. 72 § 1 of the Code of Criminal Procedure).
5. The right to be informed of the content of charges, its complement, change and legal qualification of the offence with which he/she is charged (Art. 313 § 1, 314, 325a § 2, 325g § 2 of the Code of Criminal Procedure).
6. The right to submit requests that certain procedures of the investigation be conducted, for instance an examination of a witness, obtaining documents, admitting an expert opinion (Art. 315 of the Code of Criminal Procedure).
7. The right to access to files and to make copies thereof. The access may be denied due to an important public interest or the interest of the procedure (Art. 156 § 5 of the Code of Criminal Procedure).

¹¹² Poland, Regulation of the Minister of Justice on the model instruction of rights and obligations of a suspect in criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 30 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach i obowiązkach podejrzanego w postępowaniu karnym*), 30 May 2014.

8. The right to review the material of the proceedings before the closure of the investigation. The defence counsel may participate in this procedure (Art. 321 § 1 and 3, 325a § 2 of the Code of Criminal Procedure).
9. The right to submit a motion for conducting the mediation for the purpose of settlement (Art. 23a of the Code of Criminal Procedure). The positive results of the mediation are taken by court into account when passing a sentence (Art. 53 § 3 of the Criminal Code).
10. During the accelerated proceedings, if the suspect participates by the use of videoconference, he or she may submit motions, makes statements and undertake other actions in the proceedings exclusively orally to the records of the case (Art. 517ea § 1 of the Code of Criminal Procedure). The same applies to the participation of the defence counsel, translator and interpreter (Art. 517b § 2c and 2d of the Code of Criminal Procedure). A motion for the statement of reasons may be made orally to the records of the case or submitted in writing within three days of the announcement of the judgement. The time to submit an appeal is 7 days (Art. 517h § 1 of the Code of Criminal Procedure).

The suspect does not have to prove his innocence or provide evidence against himself or herself (Art. 74 § 1 of the Code of Criminal Procedure). The suspect is however obliged to submit to:

1. an external examination of the body and other tests not infringing his or her bodily integrity, taking fingerprints, photographing and presenting him or her to other persons for the purpose of identification (Art. 74 § 2 point 1 of the Code of Criminal Procedure);
2. psychological and psychiatric tests and bodily examinations involving treatment, with the exception of surgical procedures, provided that they are not associated with the risk to the health and such examinations are considered necessary (this includes in particular the collection of blood, hair and bodily secretions for instance saliva). The examinations should be carried out by an authorised health service employee (Art. 74 § 2 point 2 of the Code of Criminal Procedure);
3. collection of a buccal mucosa smear, if it is indispensable and does not pose threat to the health (art. 74 § 2 point 3 of the Code of Criminal Procedure).

In case of failing to fulfil these obligations the suspect may be arrested and brought by force as well as he or she may be to the necessary extent subject to physical force and other technical measures of incapacitation (Art. 74 § 3a of the Code of Criminal Procedure).

		<p>The suspect is also obliged to:</p> <ol style="list-style-type: none">1. appear when summoned during the course of proceedings and inform the authority conducting the proceedings of every change of his/her residence or stay lasting longer than 7 days. In the event of an unjustified absence, the suspect may be arrested and brought by force (Art. 75 § 1 and 2 of the Code of Criminal Procedure);2. indicate an address for service. If he/she fails to do so, procedures or trial are conducted in his or her absence. Failing to provide an address may also render submitting a motion, interlocutory appeal or appeal impossible due to expiry of time limits (Art. 133 § 2 of the Code of Criminal Procedure);3. indicate a service address in Poland, if he or she resides abroad. If he or she fails to do so, a writ sent to the last known address in Poland is deemed to have been served and procedures or court hearing are conducted in the suspect's absence. Failing to provide new address may also render submitting a motion, interlocutory appeal or appeal impossible due to expiry of the time limits (Art. 138 of the Code of Criminal Procedure);4. give a new address in the event of changing the place of residence. Otherwise, any correspondence sent to the original address is deemed to have been served and the procedure or court hearing will be carried out in the absence of the suspect. Failing to provide new address may also render submitting a motion, interlocutory appeal or appeal impossible due to expiry of the time limits (Art. 139 of the Code of Criminal Procedure). <p>b) In accordance with the Art. 300 § 1 of the Code of Criminal Procedure, prior to the first interrogation, a suspect should be instructed of his rights; instruction should be given to him/her in writing, who acknowledges receipt with his/her signature. The prosecutor interviewed during research pointed out that in case of doubts whether a suspect is able to understand the content of written instructions (e.g. due to age, physical or mental condition, the low level of intellectual development, poor education, poor literacy skills, poor eyesight), they are in addition verbally</p>
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		discussed with a suspect ¹¹³ . Moreover, the most important rights of a suspect are presented orally to him/her ¹¹⁴ .
		c) In accordance with Art. 300 § 1 of the Code of Criminal Procedure, prior to the first interrogation, the suspect should be instructed of his rights; instruction should be given to the suspect in writing, who acknowledges receipt with his/her signature.
	• court hearings;	<p>a) In court proceedings an accused is a person, against whom an indictment was submitted to a court (Art. 71 § 1 of the Code of Criminal Procedure¹¹⁵). According to Art. 386 § 1 of the Code of Criminal Procedure, after the indictment was read, the presiding judge instructs the accused of his/her right to give explanations, to refuse to give explanations or answer questions, and subsequently asks whether the accused pleads guilty to the offence and whether he/she wishes to provide explanations and, if so, what explanations.</p> <p>After having examined the accused, the presiding judge instructs him/her of his/her right to question examined persons and provide explanations with regard to each piece of evidence introduced at the trial (Art. 386 § 2 of the Code of Criminal Procedure).</p>
		b) Information is provided only orally ¹¹⁶ .
		c) According to Art. 386 § 1 of the Code of Criminal Procedure, the accused should be instructed after the indictment was read, so in the very beginning of court proceedings. Judicial process begins with the reading of the indictment by the public prosecutor (Art. 385 § 1 of the Code of Criminal Procedure).
	• any necessary interim hearings;	a) There are no instructions/information on procedural rights provided on this stage of the proceedings.

¹¹³ Poland, prosecutor.

¹¹⁴ Poland, prosecutor and advocate.

¹¹⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹¹⁶ Poland, judge.

		b) There are no instructions/information on procedural rights provided on this stage of the proceedings.
		c) There are no instructions/information on procedural rights provided on this stage of the proceedings.
	<ul style="list-style-type: none"> any communication between suspects and accused persons and their legal counsel in direct connection with any questioning or hearing during the proceedings? 	a) There are no instructions/information on procedural rights provided on this stage of the proceedings.
		b) There are no instructions/information on procedural rights provided on this stage of the proceedings.
		c) There are no instructions/information on procedural rights provided on this stage of the proceedings.
1.2	Do authorities provide information about any other procedural rights (apart from those established in Article 3 of the Directive)? If yes, briefly provide information.	<p>Yes, the relevant authorities provide information about other procedural rights, for example:</p> <ul style="list-style-type: none"> - The right to submit requests that certain procedures of the investigation be conducted, for instance an examination of a witness, obtaining documents, admitting an expert opinion (Art. 315 of the Code of Criminal Procedure). - The right to access to files and to make copies thereof. The access may be denied due to an important public interest or the interest of the procedure (Art. 156 § 5 of the Code of Criminal Procedure). - The right to submit a motion for conducting the mediation for the purpose of settlement (Art. 23a of the Code of Criminal Procedure)¹¹⁷.

¹¹⁷ Poland, Regulation of the Minister of Justice on the model instruction of rights and obligations of a suspect in criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 30 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach i obowiązkach podejrzanego w postępowaniu karnym*), 30 May 2014.

2.	LETTER OF RIGHTS ¹¹⁸	Brief Description
2.1	<p>What rights does the letter of rights provide information about? What information is included in the letter of rights when children are arrested or detained?</p>	<p>In the Polish criminal procedure there are 3 separate letters of rights, which are dependent on the status of a person deprived of liberty at a given stage of the proceedings. Separate instructions should be directed to the arrested persons, separate to the arrested juveniles, and separate to the persons detained on remand.</p> <p>A person may be arrested by the Police if there are justified grounds to suspect that this person committed an offence and it is feared that he/she might escape, go into hiding, conceal traces of the offence or his identity cannot be established or the conditions are fulfilled to order accelerated procedure with regard to this person (Art. 244 § 1 of the Code of Criminal Procedure¹¹⁹). According to the Art. 248 § 1 of the Code of Criminal Procedure, the arrested person is released immediately if the reasons for his arrest cease to exist and also if, within 48 hours from the arrest by the authorised agency, the arrested person was not surrendered to the jurisdiction of the court with a motion to order detention on remand. The arrested person is also released upon the order of the court or the public prosecutor. Moreover, the arrested person is released if, within 24 hours of being surrendered to the jurisdiction of the court, the motion to order detention on remand was not granted (Art. 248 § 2 of the Code of Criminal Procedure). In order to adjust Polish regulations to the provisions of Directive 2012/13/EU, amended provisions of the Code of Criminal Procedure obliged the Minister of Justice to issue a regulation concerning the model letter of rights of the arrested person in the criminal proceedings (Art. 244 § 5 of the Code of Criminal Procedure). The model letter of rights is an annex to the Regulation of the Minister of Justice on the model letter of rights of the arrested person in the criminal proceedings¹²⁰. According to its provisions, the arrested person in criminal proceedings is entitled to the following rights:</p> <ol style="list-style-type: none"> 1. The right to be informed of the reasons of the arrest and to give explanations (Art. 244 § 2 of the Code of Criminal Procedure).

¹¹⁸ See in particular Article 4 and relevant recitals of Directive 2012/13/EU.

¹¹⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹²⁰ Poland, Regulation of the Minister of Justice on the model letter of rights of the arrested person in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach zatrzymanego w postępowaniu karnym*), 27 May 2014.

		<ol style="list-style-type: none">2. The right to give a statement as well as the right to refuse to give a statement (Art. 244 § 3 of the Code of Criminal Procedure).3. The right to immediate contact with a defence counsel and the right to direct conversation with him or her (Art. 245 § 1 of the Code of Criminal Procedure).4. If the arrested person does not have a sufficient command of Polish, he or she has a right to the gratuitous help of an interpreter (Art. 72 § 1 of the Code of Criminal Procedure).5. The right to receive the copy of the protocol on the arrest (Art. 244 § 3 of the Code of Criminal Procedure).6. The right to notify of the arrest the next of kin of the arrested person as well as his or her employer, school or another higher educational establishment, commanding officer, manager of the enterprise, for which he/she is responsible (Art. 245 § 2 and 261 § 1 and 3 of the Code of Criminal Procedure).7. If the arrested person is not a Polish citizen – the right to contact a consular office or diplomatic mission of the State he or she is a citizen of. In the case he or she is a stateless person – the right to contact a diplomatic mission of a State, where he or she permanently resides (Art. 612 § 2 of the Code of Criminal Procedure). The consular agreement between Poland and the State of the arrested person might provide for notification even without his or her request.8. The right to interlocutory appeal to the court within 7 days of the arrest. In the interlocutory appeal one may demand that the grounds, legality and propriety of the arrest be examined (Art. 246 § 1 of the Code of Criminal Procedure).9. The right to immediate release, if the reasons for the arrest cease to exist or after the period of 48 hours from the moment of the arrest, provided that the arrested person was not surrendered to the jurisdiction of the court with a motion to order detention on remand. The arrested person is released if, within 24 hours of being surrendered to the jurisdiction of the court, the motion to order detention on remand was not granted (Art. 248 § 1 and 2 of the Code of Criminal Procedure).10. Access to indispensable medical assistance.
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		<p>Another letter of rights is used when a juvenile is arrested. The issues of the juvenile's arrest are regulated in the Act on Juvenile Justice¹²¹. In Polish law, a juvenile is a person who committed the offence at the age of 13 but before the age of 17 (Art. 1 § 1 pt. 2 of the Act on Juvenile Justice). In accordance with the Art. 32g § 1 of the Act on Juvenile Justice, a juvenile can be arrested and placed at a police remand home for children if the placement is necessary for any of the following circumstances:</p> <ol style="list-style-type: none"> 1. There is a reasonable suspicion that a juvenile in question has committed a punishable act; and 2. There is a reasonable risk that the juvenile will hide or destroy the evidence; or 3. The juvenile's identity cannot be identified. <p>According to the Art. 32g § 3 of the Act on Juvenile Justice, the arrested juvenile shall be informed immediately of the reasons for the arrest and of his rights, including the right to legal representation, the right to decline to answer questions or to specific questions and the right to file a complaint against actions that violate his/her rights. However, the Act on Juvenile Justice does not regulate the issue whether above-mentioned information is to be provided orally or in writing.</p> <p>There is also a different letter of rights provided for persons that are detained on remand. In the circumstances described in the Code of Criminal Procedure a suspect or accused person may be detained on remand by a court. In order to adjust Polish regulations to the provisions of Directive 2012/13/EU, amended provisions of the Code of Criminal Procedure obliged the Minister of Justice to issue a regulation concerning the model letter of rights of the person detained on remand in the criminal proceedings (Art. 263 § 8 of the Code of Criminal Procedure). The model letter of rights is an annex to the regulation of the Minister of Justice on the model letter of rights of the person detained on remand in the criminal proceedings¹²². According to its provisions, the person detained on remand in criminal proceedings is entitled to the following rights:</p> <ol style="list-style-type: none"> 1. The right to provide explanations, to refuse to provide explanations or to refuse to answer certain questions - without giving reasons (Art. 175 § 1 of the Code of Criminal Procedure).
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¹²¹ Poland, the Act on Juvenile Justice (*ustawa z dnia 26 października 1982 r. o postępowaniu w sprawach nieletnich*), 26 October 1982.

¹²² Poland, regulation of the Minister of Justice on the model letter of rights of the person detained on remand in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach tymczasowo aresztowanego w postępowaniu karnym*), 27 May 2014.

		<ol style="list-style-type: none"> 2. The right to assistance of a defence counsel of his or her own choice. If the detainee can duly prove that he or she is unable to bear the costs of defence, the court may appoint defence counsel <i>ex officio</i> (Art. 78 § 1 of the Code of Criminal Procedure). In the event of conviction or conditional discontinuation of proceedings the detainee may be awarded costs of the <i>ex officio</i> defence counsel (Art. 627 and art. 629 of the Code of Criminal Procedure). 3. If the detainee does not have a sufficient command of Polish, he or she has a right to the gratuitous help of an interpreter (Art. 72 § 1 of the Code of Criminal Procedure). 4. The right to notify the next of kin of the detainee of the detention on remand (Art. 261 § 1 and 2 of the Code of Criminal Procedure). 5. If the detainee is not a Polish citizen – the right to contact a consular office or diplomatic mission of the State he or she is a citizen of (Art. 612 § 1 of the Code of Criminal Procedure). The consular agreement between Poland and the State of the detainee may provide for notification even without the request of the detainee. 6. The right to information of the charges, the extension and change of the charges and the legal qualification of the offence (Art. 313 § 1, art. 314, art. 325a § 2 and art. 325g § 2 of the Code of Criminal Procedure). 7. The right to access to case files in the part containing evidence indicated in the prosecutor's request for applying or extending the detention on remand (Art. 156 § 5a of the Code of Criminal Proceedings). 8. The right to interlocutory appeal within 7 days of the delivery of the copy of the decision to apply or extend the detention on remand (Art. 252 of the Code of Criminal Proceedings). 9. The right to request to annul or change the detention on remand if a different preventive measure is sufficient. Such preventive measures may be police supervision, bail, guarantee of a trustworthy person, prohibition to leave the country, order to leave premises occupied together with the aggrieved party, suspension in the execution of official or professional duties or order to refrain from a certain activity or from driving vehicles of a certain type. The request is considered within three days by the public prosecutor or by the court. The decision concerning the request may be appealed by the detainee if the request was filed after at least five months from the last decision ordering the detention on remand (Art. 254 § 1 and § 2 of the Code of Criminal Procedure).
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		10. Access to indispensable medical assistance.
2.2	At what stage of the proceedings is the letter of rights provided? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.	<p>According to the Art. 244 § 2 of the Code of Criminal Procedure the arrested person is immediately informed about the reasons for the arrest and about his/her rights¹²³. The arrested person acknowledges receiving the letter of rights of the arrested person in the criminal proceedings by signing it¹²⁴. In the legal scholarship it is indicated that the arrested person shall be informed on his/her rights in the moment when he/she is in actually arrested¹²⁵. However the advocates interviewed during the research pointed out that the structure of the provisions of the Code of Criminal Procedure and practice do not ensure that the letter of rights is given to the arrested person in the moment he/she is actually arrested¹²⁶. It happens that the arrested person is given letter of rights on the way to the police station or even at the police station after the conversation with policemen about the crime he/she is suspected to commit¹²⁷. The structure of the protocol on the arrest makes it impossible to obtain detailed information about the exact time when the arrested person has received the letter of rights¹²⁸.</p> <p>With respect to the letter of rights of the person detained on remand in the criminal proceedings, provisions of the Code of Criminal Procedure do not provide information, when such a letter of rights shall be provided to the person detained on remand. In practice person arrested on remand receives the letter of rights after the decision on the arrest is issued¹²⁹. The person detained on remand acknowledges receiving the letter of rights by signing it¹³⁰.</p>

¹²³ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹²⁴ Poland, Regulation of the Minister of Justice on the model letter of rights of the arrested person in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach zatrzymanego w postępowaniu karnym*), 27 May 2014.

¹²⁵ Poland, T. Grzegorzcyk, Commentary on Art. 244 of the Code of Criminal Procedure, LEX 2014 and also L. Paprzycki, Commentary on Art. 244 of the Code of Criminal Procedure, LEX 2015.

¹²⁶ Poland, advocates.

¹²⁷ Poland, advocates.

¹²⁸ Poland, advocates.

¹²⁹ Poland, advocate.

¹³⁰ Poland, regulation of the Minister of Justice on the model letter of rights of the person detained on remand in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach tymczasowo aresztowanego w postępowaniu karnym*), 27 May 2014.

<p>2.3</p>	<p>Is the letter of rights drafted in simple and accessible language? How do competent authorities verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language? Please cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>The letters of rights existing in Poland generally are not drafted in simple and accessible language. Generally, the letters of rights repeat the provisions of the Code of Criminal Procedures formulating particular rights of arrested persons and rights of persons detained on remand. The degree of their accessibility for an arrested person or a person detained on remand depends on such factors as physical or mental condition, the degree of intellectual development, level of education, legal knowledge. In the opinion of advocates interviewed during research the language of letters of rights existing in Poland is not accessible to an average arrested person or a person detained on remand¹³¹. In their opinion, the authorities conducting the criminal proceedings rarely verify whether the language is simple and accessible enough for the suspects or accused persons and/or that the suspects or accused persons understand the language¹³².</p>
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¹³¹ Poland, advocates.

¹³² Poland, advocates.

3.	RIGHT TO INFORMATION ABOUT THE ACCUSATION ¹³³	Brief Description
3.1	<p>What information is provided to the suspects or accused persons regarding what they have been accused of and how is it provided (e.g. orally or in writing)</p>	<p>In the course of the preparatory proceedings, the suspect is informed about charges by means of the decision to bring charges. In accordance with the Art. 313 § 1 of the Code of Criminal Procedure, if information existing at the moment of initiating the investigation or collected during the course, sufficiently justifies the suspicion that the offence was committed by a specific individual, the decision to bring charges is drawn up¹³⁴. The decision to bring charges should be announced immediately to the suspect (Art. 313 § 1 of the Code of Criminal Procedure). In the next step, a person conducting the proceedings informs the suspect on his/her rights in criminal proceeding (including giving him/her written model instruction of rights and obligations of a suspect in criminal proceedings). Afterwards, the suspect is interrogated (Art. 313 § 1 of the Code of Criminal Procedure).</p> <p>In accordance with Art. 313 § 2 of the Code of Criminal Procedure, the decision to bring charges indicates the suspect, an exact description of the offence with which he/she is charged and its legal qualification. It is provided in writing.</p> <p>Moreover, according to the Art. 313 § 3 of the Code of Criminal Procedure the suspect may, until such time that he/she is notified of the date to examine files gathered during the investigation, demand that the grounds for the charges be explained to him/her verbally and the statement of reasons be drawn up in writing. The suspect should be advised of these rights (Art. 313 § 3 of the Code of Criminal Procedure). The statement of reasons is served upon the suspect and the appointed defence counsel within 14 days (Art. 313 § 3 of the Code of Criminal Procedure). In accordance with the Art. 313 § 4 of the Code of Criminal Procedure, the statement of reasons should clarify in particular on what facts and evidence the charges are based.</p> <p>Polish criminal procedure also provides for so-called final review of the materials of the proceedings. In accordance with the Art. 321 § 1 of the Code of Criminal Procedure, if there are grounds to close an investigation, at the request of the suspect and his/her defence counsel to be allowed to review the material of the proceedings, a person conducting the proceedings informs the</p>

¹³³ See in particular Article 6 and relevant recitals of Directive 2012/13/EU.

¹³⁴ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

		<p>suspect and the defence counsel of the date on which they may review the said material. They are also instructed that prior to reviewing the material of the proceedings, they may review the case files within the time limit set forth by the agency conducting the proceedings, adequate to the importance and complexity of the case (Art. 321 § 1 of the Code of Criminal Procedure). Within three days of reviewing the material of the investigation, the parties may submit requests for the investigation to be supplemented (Art. 321 § 5 of the Code of Criminal Procedure). In accordance with the Art. 321 § 6 of the Code of Criminal Procedure, if there is no need for the investigation to be supplemented, the decision on its closure is issued and announced, or its content is communicated, to the suspect and his/her defence counsel.</p> <p>After issuing the decision on closure of the preparatory proceedings, a person conducting the proceedings submits indictment to the court (Art. 331 § 1 of the Code of Criminal Procedure). From that moment the suspect becomes the accused (Art. 71 § 2 of the Code of Criminal Procedure). In accordance with the Art. 332 § 1 of the Code of Criminal Procedure, the indictment should contain (inter alia):</p> <ul style="list-style-type: none"> – the name of the accused, his other personal details and information concerning preventive measures applied, – an exact description of the offence with which the accused is charged, including the time, place, method and circumstances of its perpetration, as well as its consequences, in particular the extent of the damage caused, – indication of those provisions of criminal laws, which were applied to the offence in question, – statement of reasons for the accusation. <p>A statement of reasons should quote those facts and evidence, on which the accusation is based and, if needed, explain legal grounds for the accusation, as well as describe circumstances indicated by the accused in his/her defence (Art. 332 § 2 of the Code of Criminal Procedure).</p> <p>The copy of the indictment should be sent to the accused person (Art. 334 § 1 of the Code of Criminal Procedure).</p>
3.2	<p>At which stage of the proceedings is the information provided? Please cross-check findings from the</p>	<p>In the course of the preparatory proceedings, the suspect is informed about charges in the decision to bring charges. In accordance with the Art. 313 § 1 of the Code of Criminal Procedure, if information existing at the moment of initiating the investigation or collected during the course, sufficiently justifies the suspicion that the offence was committed by a specific individual, the</p>

	desk research by consulting relevant organisations and/or practitioners.	decision to bring charges is drawn up ¹³⁵ . The decision to bring charges should be announced immediately to the suspect (Art. 313 § 1 of the Code of Criminal Procedure). The information was confirmed by the advocate interviewed during the research ¹³⁶ .
3.3	How are suspects or accused persons informed when, in the course of the criminal proceedings, the details of the accusation change?	In accordance with the Art. 314 of the Code of Criminal Procedure ¹³⁷ , if in course of the investigation it transpires that the suspect should be charged with an offence not included in the decision to bring charges already issued, with an offence in the significantly changed form or that the offence should be qualified under a more severe provision, a new decision to bring charges should be issued immediately, announced to the suspect and the suspect should be interrogated. Moreover, according to the Art. 313 § 3 of the Code of Criminal Procedure the suspect may, until such time that he/she is notified of the date to examine files gathered during the investigation, demand that the grounds for the charges be explained to him/her verbally and the statement of reasons be drawn up in writing. The suspect should be advised of these rights (Art. 313 § 3 of the Code of Criminal Procedure). The statement of reasons is served upon the suspect and the appointed defence counsel within 14 days (Art. 313 § 3 of the Code of Criminal Procedure). In accordance with the Art. 313 § 4 of the Code of Criminal Procedure, the statement of reasons should clarify in particular on what facts and evidence the charges are based.
4.	RIGHT OF ACCESS TO CASE MATERIALS¹³⁸	Brief Description
4.1	What material evidence can be accessed by suspected or accused persons (e.g. documents,	In the course of the preparatory proceedings, unless the person conducting the proceedings denied the access to case files, the suspect and his/her defence counsel can have an access to case files and can make copies thereof (Art. 156 § 5 of the Code of Criminal Procedure ¹³⁹). The refusal to

¹³⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹³⁶ Poland, advocate.

¹³⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹³⁸ See in particular Article 7 and relevant recitals of Directive 2012/13/EU.

¹³⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

	<p>photographs, audio, video, summaries...)?</p>	<p>access to case materials may, however, refer to both whole of the case files or only to the individual evidence contained in case materials such as interrogation protocols or inspection protocols¹⁴⁰.</p> <p>Polish criminal procedure also provides for so-called final review of the materials of the proceedings. In accordance with the Art. 321 § 1 of the Code of Criminal Procedure, if there are grounds to close an investigation, at the request of the suspect and his/her defence counsel to be allowed to review the material of the proceedings, a person conducting the proceedings informs the suspect and the defence counsel of the date on which they may review the said material. They shall also be instructed that prior to reviewing the material of the proceedings, they may review the case files within the time limit set forth by the agency conducting the proceedings, adequate to the importance and complexity of the case (Art. 321 § 1 of the Code of Criminal Procedure). Within three days of reviewing the material of the investigation, the parties may submit requests for the investigation to be supplemented (Art. 321 § 5 of the Code of Criminal Procedure). In accordance with the Art. 321 § 6 of the Code of Criminal Procedure, if there is no need for the investigation to be supplemented, the decision on its closure is issued and announced, or its content is communicated, to the suspect and his/her defence counsel.</p> <p>Moreover, in case of prosecutor's request for applying or extending the detention on remand, the suspect and his/her defence counsel are entitled to access to case files in the part containing evidence indicated in such request (Art. 156 § 5a of the Code of Criminal Procedure). The consent of the prosecutor is not necessary in such situation. The right granted to the suspect and his/her defence counsel applies not only to access the files, but also to the materials attached to the files (e.g. hard drive, compact disc, DVD), if they are indicated in prosecutor's request for applying or extending the detention on remand¹⁴¹.</p> <p>In accordance with the Art. 156 § 1 of the Code of Criminal Procedure, in the course of court proceedings, the accused persons are granted the access to all materials contained in the case files and the possibility to make copies thereof.</p>
<p>4.2</p>	<p>At what stage of the proceedings is access to case materials granted? Please</p>	<p>The access to case materials is granted to the suspect in the course of the preparatory proceedings as well as to the accused in the course of the court proceedings.</p>

¹⁴⁰ Poland, S. Steinborn, *Commentary on Art. 156 of the Code of Criminal Procedure*, LEX 2015; interview with advocate Artur Pietryka, 27 April 2015.

¹⁴¹ Poland, S. Steinborn, *Commentary on Art. 156 of the Code of Criminal Procedure*, LEX 2015.

<p>cross-check findings from the desk research by consulting relevant organisations and/or practitioners.</p>	<p>In the course of the preparatory proceedings, the access of a suspect and his/her defence counsel to case materials depends on the consent of the authority conducting the proceedings. In accordance with the Art. 156 § 5 of the Code of Criminal Procedure, the suspect and his/her defence counsel can access the case materials unless there is a need to protect important state interest or the proper course of the proceedings¹⁴². Advocates interviewed during the research stressed that persons conducting the preparatory proceedings rarely permit to access to case materials relying on a need to protect the proper course of the proceedings¹⁴³.</p> <p>Polish criminal procedure also provides for so-called final review of the materials of the proceedings. In accordance with the Art. 321 § 1 of the Code of Criminal Procedure, if there are grounds to close an investigation, at the request of the suspect and his defence counsel to be allowed to review the material of the proceedings, the person conducting the proceedings informs the suspect and the defence counsel of the date on which they may review the said material. They are also be instructed that prior to reviewing the material of the proceedings, they may review the case files within the time limit set forth by the agency conducting the proceedings, adequate to the importance and complexity of the case (Art. 321 § 1 of the Code of Criminal Procedure). Within three days of reviewing the material of the investigation, the parties may submit requests for the investigation to be supplemented (Art. 321 § 5 of the Code of Criminal Procedure). In accordance with the Art. 321 § 6 of the Code of Criminal Procedure, if there is no need for the investigation to be supplemented, the decision on its closure is issued and announced, or its content is communicated, to the suspect and his defence counsel.</p> <p>Moreover, in case of prosecutor's request for applying or extending the detention on remand, the suspect and his/her defence counsel are entitled to access to case files in the part containing evidence indicated in such request (Art. 156 § 5a of the Code of Criminal Procedure). The consent of the prosecutor is not necessary in such situation. The right granted to the suspect and his/her defence counsel applies not only to access the files, but also to the materials attached to the files (e.g. hard drive, compact disc, DVD), if they are indicated in prosecutor's request for applying or extending the detention on remand¹⁴⁴.</p> <p>In accordance with the Art. 156 § 1 of the Code of Criminal Procedure, in the course of court proceedings, the accused persons are granted the access to all materials contained in the case files and the possibility to make copies thereof. The access to case files during the course of the court</p>
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¹⁴² Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁴³ Poland, advocates.

¹⁴⁴ Poland, S. Steinborn, *Commentary on Art. 156 of the Code of Criminal Procedure*, LEX 2015.

		<p>proceedings cannot be refused¹⁴⁵. The case file may be provided by employee of the registry of the court. The only situation when the access to case materials may be temporarily refused is when the case files were sent to another court (for example due to interlocutory appeal) or a judge familiarizes with the case materials¹⁴⁶.</p>
<p>4.3</p>	<p>Under what circumstances is access to material refused? Who takes the decision of refusal?</p>	<p>As it has been already mentioned, the refusal to access to case files may take place only in the course of the preparatory proceedings. The decision to refuse the access to case materials is taken by the person conducting the preparatory proceedings - prosecutor, police or other public body that is empowered to conduct preparatory proceedings (e.g. Border Guard). After the amendment of the Code of Criminal Procedure, which came into force on 2 June 2014, there are specified grounds for refusal of access of the suspect and his/her defence counsel to the case files. The rule is that the access to the case files is granted to the suspect and his/her defence counsel. In accordance with the Art. 156 § 5 of the Code of Criminal Procedure¹⁴⁷, the person conducting the proceedings may refuse the access to case materials during the preparatory proceedings when:</p> <ol style="list-style-type: none"> 1) there is a need to protect important state interest or 2) there is a need to protect the proper course of the proceedings. <p>The refusal to access to case materials, may however refer to both whole of the case files or only to the individual evidence contained in case materials such as for example interrogation protocols or inspection protocols¹⁴⁸. In accordance with the Article 159 of the Code of Criminal Procedure¹⁴⁹, the suspect or the accused who was denied access to the case files of preparatory proceedings may appeal against this decision. Interlocutory appeal against the decision of a public prosecutor is submitted to his direct superior. Therefore, such a refusal decision is not subject to a judicial review.</p>

¹⁴⁵ Poland, judge.

¹⁴⁶ Poland, S. Steinborn, *Commentary on Art. 156 of the Code of Criminal Procedure*, LEX 2015.

¹⁴⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁴⁸ Poland, S. Steinborn, *Commentary on Art. 156 of the Code of Criminal Procedure*, LEX 2015; interview with advocate Artur Pietryka, 27 April 2015.

¹⁴⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

5.	CROSS-CUTTING ISSUES: LANGUAGES, COMPLAINT MECHANISMS, RECORDING & SPECIAL MEASURES¹⁵⁰	Brief Description
5.1	<p>In which languages can information be provided for the following?</p> <p>a) information on procedural rights</p>	<p>As it has been already mentioned, the Code of Criminal Procedure provides a minimum range of documents to be served upon a suspect with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure¹⁵¹, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which terminates the proceedings must be served with a translation upon a suspect who does not have a sufficient command of Polish. Indicated documents are served upon a suspect <i>ex officio</i>. With the consent of a suspect, it is sufficient to announce the translated judgment terminating the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure). The list of above-mentioned documents does not contain the instruction of rights and obligations of a suspect in criminal proceedings, which receipt should be acknowledged by the suspect with his/her signature. There are no provisions of the Code of Criminal Procedure regulating the issue whether the instruction of rights and obligations of a suspect in criminal proceedings must be translated in writing prior to the signing it by the suspect or it is sufficient to interpret it orally before signing.</p> <p>In practice, most often the instructions or protocols that suspected/accused person is required to sign are translated orally in the course of each action¹⁵². In such situation person conducting the</p>

¹⁵⁰ See in particular Articles 3 - 8 and relevant recitals of Directive 2012/13/EU.

¹⁵¹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁵² Poland, advocate, prosecutor and representative of the District Prosecution Office Białystok-Południe in Białystok.

	<p>proceedings notes in the interrogation protocol that oral translation was provided and interpreter signs the protocol in order to confirm this circumstance¹⁵³.</p> <p>However, sometimes the authorities conducting the preparatory proceedings possess the instruction of rights and obligations of a suspect in criminal proceedings in different language versions. Such situation takes place for example at Border Guard facility located at Warsaw-Modlin international airport. This facility translated the instruction of rights and obligations of a suspect in criminal proceedings into 19 different languages¹⁵⁴. This should be regarded as a good practice.</p>
b) letter of rights	<p>As it has been already mentioned, the Code of Criminal Procedure provides a minimum range of documents to be served upon a suspect with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure¹⁵⁵, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which terminates the proceedings must be served with a translation upon a suspect who does not have a sufficient command of Polish. Indicated documents are served upon a suspect <i>ex officio</i>. With the consent of a suspect, it is sufficient to announce the translated judgment terminating the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure). The list of above-mentioned documents does not contain the letter of rights of the person detained on remand in the criminal proceedings, as well as the letter of rights of the arrested person in the criminal proceedings, whose receipt should be acknowledged by the suspect with his/her signature. There are no provisions of the Code of Criminal Procedure regulating the issue whether the above-mentioned letters of rights must be translated in writing prior to the signing them by the suspect or it is sufficient to interpret them orally before signing.</p> <p>In practice, most often the instructions or protocols that suspected/accused person is required to sign are translated orally in the course of each action¹⁵⁶. In such situation person conducting the proceedings notes in the interrogation protocol that oral translation was provided and interpreter signs the protocol in order to confirm this circumstance¹⁵⁷.</p>

¹⁵³ Poland, prosecutor.

¹⁵⁴ Poland, prosecutor.

¹⁵⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁵⁶ Poland, advocate, prosecutor and representative of the District Prosecution Office Białystok-Południe in Białystok.

¹⁵⁷ Poland, prosecutor.

		<p>However, sometimes the authorities conducting the preparatory proceedings possess the letter of rights of the person detained on remand in the criminal proceedings, as well as the letter of rights of the arrested person in the criminal proceedings in different language versions. Such situation takes place for example at Border Guard facility located at Warsaw-Modlin international airport. This facility translated the letter of rights of the arrested person in the criminal proceedings into 22 different languages¹⁵⁸. This should be regarded as a good practice.</p>		
	c) information about the accusation	<p>In accordance with Art. 72 § 3 of the Code of Criminal Procedure¹⁵⁹, the decision presenting, supplementing or changing charges as well as an indictment must be served with a translation upon a suspect who does not have a sufficient command of Polish.</p>		
	d) case materials	<p>The case materials, as a rule, are in Polish. As it has been already mentioned, the Code of Criminal Procedure provides a minimum range of documents to be served upon a suspect with a translation. In accordance with Art. 72 § 3 of the Code of Criminal Procedure¹⁶⁰, the decision presenting, supplementing or changing charges, an indictment, as well as a judgment which may be subject to an appeal or which terminates the proceedings must be served with a translation upon a suspect who does not have a sufficient command of Polish. Indicated documents are served upon a suspect <i>ex officio</i>. With the consent of a suspect, it is sufficient to announce the translated judgment terminating the proceedings, if an appeal against it is not admissible (Art. 72 § 3 of the Code of Criminal Procedure). The translation of other documents contained in the case materials than above-mentioned depends on the request of a suspect and the decision of person conducting the preparatory proceedings as to the impact of this document on ensuring the fairness of the proceedings and the right to defence¹⁶¹.</p>		
		Yes	No	Brief Description
5.2	Is there any procedure to ensure that			

¹⁵⁸ Poland, prosecutor.

¹⁵⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁶⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁶¹ Poland, prosecutor and representative of the District Prosecution Office Kraków-Krowodrza in Kraków.

	<p>suspects or accused persons have the right to challenge the failure or refusal to provide information on the following?</p> <p>If yes, briefly describe the procedure where relevant.</p>			
	a) information on procedural rights	Yes		All deficiencies connected with the failure or refusal to provide information on procedural rights can be recognized as a violation of defence rights of the suspected/accused persons that may be indicated in an appeal. In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination ¹⁶² .
	b) letter of rights	Yes		All deficiencies connected with the failure or refusal to provide letters of rights can be recognized as a violation of defence rights of the suspected/accused persons that may be indicated in an appeal. In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination ¹⁶³ .
	c) information about the accusation	Yes		All deficiencies connected with the failure or refusal to provide information about accusation can be recognized as a violation of defence rights of the suspected/accused persons that may be indicated in an appeal. In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination ¹⁶⁴ .

¹⁶² Poland, advocate and judge.

¹⁶³ Poland, advocate and judge.

¹⁶⁴ Poland, advocate and judge.

	d) access to case materials	yes		<p>In accordance with the Art. 159 of the Code of Criminal Procedure¹⁶⁵, the suspect or the accused who was denied access to the case files of preparatory proceedings may appeal against this decision. Interlocutory appeal against the decision of a public prosecutor is submitted to his direct superior.</p> <p>In accordance with the Art. 156 § 1 of the Code of Criminal Procedure, in the course of court proceedings, the accused persons are granted the access to all materials contained in the case files and the possibility to make copies thereof. All deficiencies connected with the denial of access to case materials can be recognized as a violation of defence rights of the accused that can be indicated in an appeal. In case of recognizing such violations the appellate court reverses the judgment and refers the case to the court of first instance for the purpose of re-examination¹⁶⁶.</p>
5.3	<p>Is any official record kept to note the provision of information about the following?</p> <p>If yes, briefly describe where relevant.</p>			
	a) information on procedural rights	yes		<p>The suspect acknowledges the receipt of the instruction of rights and obligations of a suspect in criminal proceedings with his/her signature¹⁶⁷. One of the copies shall be attached to the case files.</p>

¹⁶⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁶⁶ Poland, advocate and judge.

¹⁶⁷ Poland, Regulation of the Minister of Justice on the model instruction of rights and obligations of a suspect in criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 30 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach i obowiązkach podejrzanego w postępowaniu karnym*), 30 May 2014.

	b) letter of rights	yes	<p>The arrested person acknowledges the receipt of the letter of rights of the arrested person in the criminal proceedings with his/her signature¹⁶⁸. One of the copies shall be attached to the case files.</p> <p>The person detained on remand acknowledges the receipt of the letter of rights of the person detained on remand in the criminal proceedings with his/her signature¹⁶⁹. One of the copies shall be attached to the case files.</p>
	c) information about the accusation	yes	<p>In the course of the preparatory proceedings, the decision presenting, supplementing or changing charges is served upon the suspect person in writing. One of the copies shall be attached to the case files.</p> <p>The copy of the indictment is served upon the accused (art. 334 § 1 of the Code of Criminal Procedure). It is also contained in the case files.</p>
	d) access to case materials	yes	<p>Potential decisions of the authorities conducting the proceedings to refuse the access to case materials are included in the case files. In general, every person who has access to the case file has to sign a signature sheet that is attached to the case file.</p>
5.4	Are there special procedures designed to take into account the special needs of vulnerable suspects or vulnerable accused persons (e.g. because of any physical impairments which		

¹⁶⁸ Poland, Regulation of the Minister of Justice on the model letter of rights of the arrested person in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach zatrzymanego w postępowaniu karnym*), 27 May 2014.

¹⁶⁹ Poland, Regulation of the Minister of Justice on the model letter of rights of the person detained on remand in the criminal proceedings (*rozporządzenie Ministra Sprawiedliwości z dnia 27 maja 2014 r. w sprawie określenia wzoru pouczenia o uprawnieniach tymczasowo aresztowanego w postępowaniu karnym*), 27 May 2014.

<p>affect their ability to communicate effectively (persons with hearing, sight or speech impediments), intellectual disabilities or in case of children and the holder of parental responsibility) in relation to:</p> <p>a) suspect or accused persons with physical impairment or disability;</p> <p>b) suspect or accused persons intellectual impairment or disability;</p> <p>c) suspect or accused children who are suspects/defendants and/or the holder of parental responsibility.</p> <p>If yes, briefly provide information on those mechanisms in relation to each of</p>			
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	<p>the listed vulnerable groups. Is this information in simple and accessible language?</p>			
	<ul style="list-style-type: none"> • information on procedural rights 	a)	no	<p>In general, suspects or accused persons with physical impairment or disability are subjects to the right to gratuitous help of an interpreter on general rules. There are no special procedures designed to take into account the special needs of suspects or accused persons with physical impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁷⁰, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁷¹. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁷².</p>

¹⁷⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁷¹ Poland, representative of the Ministry of Justice.

¹⁷² Poland, representative of the Ministry of Justice.

			no	<p>In general, suspects or accused persons with intellectual impairment or disability are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of suspects or accused persons with intellectual impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspected/accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁷³, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁷⁴. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁷⁵.</p>
			no	<p>In general, children who are suspects/defendants and holders of parental responsibility are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of children who are suspects/defendants, and holders of parental responsibility in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to mandatory defence. In accordance with Art. 79 § 1 and</p>

¹⁷³ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁷⁴ Poland, representative of the Ministry of Justice.

¹⁷⁵ Poland, representative of the Ministry of Justice.

			<p>§ 2 of the Code of Criminal Procedure¹⁷⁶, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁷⁷. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁷⁸.</p>
	<ul style="list-style-type: none"> • letter of rights 	a)	<p>no</p> <p>In general, suspects or accused persons with physical impairment or disability are subjects to the right to gratuitous help of an interpreter on general rules. There are no special procedures designed to take into account the special needs of suspects or accused persons with physical impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁷⁹, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind,

¹⁷⁶ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁷⁷ Poland, representative of the Ministry of Justice.

¹⁷⁸ Poland, representative of the Ministry of Justice.

¹⁷⁹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

			<p>3) there is a reasonable doubt as to his/her sanity.</p> <p>4) the court deems it necessary due to circumstances impeding the defence.</p> <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁸⁰. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁸¹.</p>
	b)	no	<p>In general, suspects or accused persons with intellectual impairment or disability are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of suspects or accused persons with intellectual impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspected/accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁸², in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <p>1) he/she is a juvenile,</p> <p>2) he/she is deaf, mute or blind,</p> <p>3) there is a reasonable doubt as to his/her sanity.</p> <p>4) the court deems it necessary due to circumstances impeding the defence.</p> <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁸³. In this regard, a defence counsel is obliged to make sure that the</p>

¹⁸⁰ Poland, representative of the Ministry of Justice.

¹⁸¹ Poland, representative of the Ministry of Justice.

¹⁸² Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁸³ Poland, representative of the Ministry of Justice.

			suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way ¹⁸⁴ .
	c)	no	<p>In general, children who are suspects/defendants and holders of parental responsibility are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of children who are suspects/defendants, and holders of parental responsibility in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁸⁵, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁸⁶. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁸⁷.</p>
	a)	no	In general, suspects or accused persons with physical impairment or disability are subjects to the right to gratuitous help of an interpreter on general rules. There are no

¹⁸⁴ Poland, representative of the Ministry of Justice.

¹⁸⁵ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

¹⁸⁶ Poland, representative of the Ministry of Justice.

¹⁸⁷ Poland, representative of the Ministry of Justice.

	<ul style="list-style-type: none"> information about the accusation 			<p>special procedures designed to take into account the special needs of suspects or accused persons with physical impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁸⁸, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁸⁹. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁹⁰.</p>
		b)	no	<p>In general, suspects or accused persons with intellectual impairment or disability are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of suspects or accused persons with intellectual impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspected/accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁹¹, in the criminal proceedings (both on</p>

¹⁸⁸ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁸⁹ Poland, representative of the Ministry of Justice.

¹⁹⁰ Poland, representative of the Ministry of Justice.

¹⁹¹ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

			<p>preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁹². In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁹³.</p>
	c)	no	<p>In general, children who are suspects/defendants and holders of parental responsibility are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of children who are suspects/defendants, and holders of parental responsibility in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁹⁴, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity.

¹⁹² Poland, representative of the Ministry of Justice.

¹⁹³ Poland, representative of the Ministry of Justice.

¹⁹⁴ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego*), 6 June 1997.

				<p>4) the court deems it necessary due to circumstances impeding the defence.</p> <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁹⁵. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁹⁶.</p>
	<ul style="list-style-type: none"> access to case materials 	a)	no	<p>In general, suspects or accused persons with physical impairment or disability are subjects to the right to gratuitous help of an interpreter on general rules. There are no special procedures designed to take into account the special needs of suspects or accused persons with physical impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure¹⁹⁷, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings¹⁹⁸. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way¹⁹⁹.</p>

¹⁹⁵ Poland, representative of the Ministry of Justice.

¹⁹⁶ Poland, representative of the Ministry of Justice.

¹⁹⁷ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

¹⁹⁸ Poland, representative of the Ministry of Justice.

¹⁹⁹ Poland, representative of the Ministry of Justice.

			no	<p>In general, suspects or accused persons with intellectual impairment or disability are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of suspects or accused persons with intellectual impairment or disability in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspected/accused persons is generally a subject to a mandatory defence. In accordance with Art. 79 § 1 and § 2 of the Code of Criminal Procedure²⁰⁰, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings²⁰¹. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way²⁰².</p>
			no	<p>In general, children who are suspects/defendants and holders of parental responsibility are subjects to the right to gratuitous help of an interpreter on general principles. There are no special procedures designed to take into account the special needs of children who are suspects/defendants, and holders of parental responsibility in effective communication.</p> <p>However, it is important to mention that this vulnerable group of suspects or accused persons is generally a subject to mandatory defence. In accordance with Art. 79 § 1 and</p>

²⁰⁰ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

²⁰¹ Poland, representative of the Ministry of Justice.

²⁰² Poland, representative of the Ministry of Justice.

			<p>§ 2 of the Code of Criminal Procedure²⁰³, in the criminal proceedings (both on preparatory and court stage), the suspected/accused person must be assisted by a defence counsel if:</p> <ol style="list-style-type: none"> 1) he/she is a juvenile, 2) he/she is deaf, mute or blind, 3) there is a reasonable doubt as to his/her sanity. 4) the court deems it necessary due to circumstances impeding the defence. <p>Mandatory defence provided for this vulnerable group of suspected/accused persons should, inter alia, take into account the special needs of such persons in criminal proceedings²⁰⁴. In this regard, a defence counsel is obliged to make sure that the suspected/accused person understands actions or messages addressed to him/her by the authorities and is able to present his/her views in understandable way²⁰⁵.</p>
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²⁰³ Poland, The Code of Criminal Procedure (*ustawa z dnia 6 czerwca 1997 r.– Kodeks postępowania karnego*), 6 June 1997.

²⁰⁴ Poland, representative of the Ministry of Justice.

²⁰⁵ Poland, representative of the Ministry of Justice.