

INFORMATION SHEET FOR DETAINEES

You have been detained by law enforcement personnel on suspicion of having committed a punishable criminal offence. This fact sheet is aimed at informing you about your rights and your present situation. You have already been told on what grounds you have been arrested and what offence you have been charged with. Within 24 hours of arrest a court order authorising your detention or, alternatively, a written statement of charges and grounds from the CID must be handed over to you.

1. Duration of detention

Within 48 hours of arrest you must either be released from custody or be taken to the penal institution of the court authorizing your detention or, in case of illness, be taken to a hospital. The CID is obligated to keep your detention as short as possible. The duration of your detention will depend on if and how soon evidence can be gathered indicating that the grounds for detention are no longer met or exonerating you of the charges at all.

2. Notification of a person of trust and of a defending counsel

You have the right to immediately notify or have notified a person of your trust of your arrest, i.e. a relative, a friend, your employer, or your probation officer. However, individuals who are suspected of being linked to the punishable offences you have committed, are not eligible as persons of trust. Furthermore, you may immediately notify or have notified a defending counsel of your arrest. You are allowed to communicate with these persons while you are detained.

If the person to be contacted can be reached by telephone, you will be allowed to notify him or her personally. An officer will establish the telephone link on the basis of your indications and will then hand over the receiver to you. A police officer will be present while you are speaking. In your telephone conversation you must stick to the essentials, that is the fact that you have been arrested, the place where you are detained and the nature of the offence you have been charged with. If you wish to speak to a counsel, but do not yet know any specific person, you may ask the person of trust to contact one on your behalf. Alternatively, you can contact the permanent duty team of the bar association, who will arrange for an initial conversation with a defending counsel, which is free of charge. For details ask the officers responsible for your detention.

Furthermore, you may inform the person of trust of particularly urgent personal matters that absolutely need to be settled in your absence. However, you must not comment on the circumstances of your arrest, otherwise the officer will interrupt the conversation.

If the person to be contacted does not speak German and the conversation needs, therefore, to be held in another language, you are requested to mention this beforehand. If the officer present does not understand this foreign language, he will call in an interpreter. Should you use a foreign language without any prior notice, the officer will hang up.

For juveniles:

If you have not yet reached the age of 18 and are not immediately released again, your detention must be notified to a person having parental custody or a relative living in the same household with you, to the Child and Youth Advisory and Support Service, where applicable, to the probation officer assigned to you, and to the respective youth welfare institution. You cannot refuse these notifications unless you can produce convincing (and justified) reasons.

3. Representation by the defending counsel

You have the right to contact a counsel and you may appoint him/her to represent you. If you wish to be visited by your defending counsel as soon as possible, say so. Contacts include meetings, correspondence, telephone conversations and other modes of communication.

Also, you have the right to talk to the counsel undisturbed and in private even before your interrogation. The contacts with your counsel must not be kept under surveillance. However, police officers may restrict them to giving the counsel the power of representation and to obtaining legal advice of a general nature, if they consider it imperative to interrogate you immediately or urgently conduct inquiries in order to ensure that the collection of evidence and further investigative steps are not substantially jeopardised.

You may request that the law court dealing with the case appoint a counsel for the defence to represent you free of costs. However, you will have to bear all costs relating to the legal counselling until the court has granted legal aid in your case.

You may waive this right if you do not want or need a counsel for the defence. Your waiver will be recorded by a police officer. You may revoke such a waiver at any time.

4. Interrogation and presence of a defending counsel

You have the right to refuse to give information in respect of the charges against you. You should, however, consider that a statement from you might help to clarify your position and to dispel suspicions. When you refuse to give evidence you deprive yourself of the possibility to provide your version of the facts, to identify possible errors or false allegations and to help reduce the duration of your detention. Should your statement contribute to establishing the truth, this will be considered an extenuating circumstance in the judicial proceedings.

You have the right to have a counsel present during your interrogation and to confer with him prior to it – in particular about your right to remain silent. Police must not begin your interrogation before the counsel is present, unless this would result in an undue prolongation of your detention. The counsel is not allowed not participate in the interrogation in any way, yet has the right to ask you additional questions and to make statements at the end of the interrogation or after each section of the interrogation covering one issue. While being interrogated you are not allowed to not consult the counsel about how to answer the questions that you have been asked.

The presence of a counsel may be refused, if there are circumstances to suggest that you have to be interrogated immediately or urgent inquiries need to be conducted so as not to substantially compromise the ongoing investigations and the collection of evidence. In such a case you will be given a written police statement of grounds within 24 hours.

For juveniles and young adults:

If you have not attained the age of 21 yet and are not represented by a counsel, you may request that a person of trust be present during your interrogation. This may be your legal representative, a person having parental custody, a family member, a teacher, a tutor, a representative of the youth welfare institution or the Child and Youth Advisory and Support Service, or a probation officer.

If your counsel or a person of trust is called in on your request, the interrogation must not start before the arrival of the counsel or person of trust unless there is an urgent need to interrogate you immediately with a view not to disproportionately prolong the duration of your detention. Any person suspected of having aided and abetted a punishable offence or being party to the proceedings can be barred from acting as a person of trust.

5. Communication assistance

If physical impairments or language barriers prevent you from understanding the instructions about the legal remedies available or from participating in the interrogation, you have the right to request the assistance of an interpreter. In such a case you will be given the information sheet in a language you understand.

6. Consular representation

If you are a foreign national, you have the right to request that the consular representation of your native country is immediately notified of your arrest.

7. Medical care

Should you regard it necessary you will be subjected to a medical examination. You may call in a medical practitioner of your choice, provided you bear the costs and this does not considerably delay the examination. Should you urgently need to take a medicine (e.g. an anti-diabetic drug), make sure you ask the officers for it in time.

8. Judicial remedies

You have the right to request to be released from custody at any time.

You also have the right to challenge the judicial authorisation of your arrest. The detailed procedure is described in the written information on legal remedies, which is attached to the judicial authorisation.

If the CID arrested you without prior authorisation from the public prosecution service or the law court, the following legal remedy is available to you:

You may file a request challenging the lawfulness of your arrest with the Regional Administrative Court ("Landesverwaltungsgericht") within six weeks from the date of arrest. If the arrest or detention has precluded you from availing yourself of your right to legal remedy, the time limit begins to run from the date when the precluding circumstance no longer exists.