

Notice of rights and entitlements – Arrest without warrant

(Warrantless arrest pursuant to ss 127, 127b of the German Code of Criminal Procedure (*StPO*))

Office and case number

Family and given names of the person under arrest

Date, place of birth and nationality of the person under arrest

You have been arrested. These are your rights:

1. You have the right to be told what offence you are suspected of and the grounds for your arrest.
2. You must be brought before a magistrate without undue delay, but in no event later than on the day after your arrest. The magistrate must question you and decide whether you will be kept in custody, that is, if you have not already been released by then.
3. The law allows you to decide for yourself whether to make a statement about the case and the accusation. You are, however obliged to truthfully answer questions about your name, address and date of birth. Failure to give, when requested, your personal details may result in a fine under section 111 of the Administrative Offences Act (*OWiG*).
4. You have the right to apply for evidence to be taken in your defence.
5. You may consult a defence lawyer of your choice at any time at your own cost, even before you are questioned. If you wish, you will be given information that makes it easier to get in touch with a lawyer or the duty solicitor (*Verteidigernotdienst*). This is irrespective of whether you wish to hire your own lawyer or use the services of an assigned counsel (*Pflichtverteidiger*).
6. If you do not yet have a defence lawyer, you may, at any time during the investigation, ask for counsel to be assigned, provided that the doctrine of 'mandatory defence' applies. This happens especially if you are suspected of a serious crime or if you are brought before a magistrate who decides on pre-trial detention or if you have been remanded in custody.
Defence is deemed to be mandatory as soon as it is decided that you will not be released but brought before a court for a decision on remand or involuntary commitment.
If, in such a case, you do not hire a defence lawyer, the Court – or, if there is urgency, the Public Prosecution Service – must automatically assign counsel (i.e. appoint a *Pflichtverteidiger*), typically before you are questioned or a confrontation or police line-up ('identity parade') is conducted. Irrespective of that, you may at any time ask police or prosecutors to assign counsel.
If your case is allocated to the fast track (*beschleunigtes Verfahren*) - i.e. the main trial is likely to be held within a week of your arrest, with the detention order accordingly limited to a week – counsel will only be assigned if you specifically ask for it.
If you make such an application, it has to be decided without delay and ahead of the interview, confrontation or line-up. Before the indictment is filed, the request to assign counsel must be made by writing or speaking to police or prosecutors. If the doctrine of 'mandatory defence' applies, the court will invite you to make a statement. You can then suggest a defence lawyer of your choice, who will be assigned to you by the court. Please note that you will have to bear the costs if you are convicted or a corrective action order is imposed.
7. You can request to be examined by a doctor of your choice. You might then be asked to pick up the costs.
8. You may notify a friend or family member of your arrest, as long as this does not significantly harm the investigation.
9. Your lawyer is entitled to view the case file and scrutinise evidence held by police or prosecutors. If you do not have counsel, you can request to view, but not remove, the files and any evidence, provided that

this or any other investigation is not jeopardised and that there are no overriding legitimate third-party interests standing in the way. If the files are not computerised, hard copies can be provided to you.

10. If the court decides to keep you in custody, you can appeal or ask for a review of the detention order and request a hearing. You can also request judicial review of any restrictions or other decisions and measures imposed on you during pre-trial detention, provided that no judicial decision against those is in force where avenues of appeal are still open.

If you are a foreign national, you can also demand that your country's consulate be notified, if this has not been done automatically on the strength of international legal obligations, even without or against your will. You are free to communicate with the consulate.

If your German is not good enough, you may request the assistance of someone who interprets or translates for you throughout the proceedings. If you have a hearing or speech impediment, you are free to opt for other forms of verbal or written communication, or communicate through an interlocutor. Assistive technology will be provided as required. If you do not have a defence lawyer, you will typically be provided with written translations of detention orders, charge sheets, summary judgments or verdicts. This will come at no cost to you, unless you have incurred the resulting expenses due to culpable neglect or culpable and unnecessary actions

I have today been handed a sheet containing the above notice.

() I have also been verbally informed.

() I have understood the notice.

(Place, date, time)

(Signature of the detained person or legal representative, if applicable)

() Refused to sign.

(Name, official title of the person delivering the notice)

(Signature of the person delivering the notice)