

British Embassy
Consular Section
ul. Emilii Plater 28
00-688 Warszawa
Tel: 022 311 0000
Fax: 022 311 0250
consular@britishembassy.pl

**INFORMATION FOR BRITISH NATIONALS
IMPRISONED IN POLAND**

Prepared by **British Embassy, Consular Section, WARSAW**

Updated: **January 2007**

BRITISH NATIONALS IMPRISONED IN POLAND
Information Pack

Introduction	3
About the Embassy	3
Who will know that I have been detained?	4
Money for prison comforts	4
What the Consul can /cannot do for you	4
Can I be transferred to the UK to serve my sentence there?	5
Polish Judicial System	7
Help while you are in prison (other sources)	14
Note on bail/parole	16
Q & A	20

* * * *

Introduction

This guide aims to explain the Polish legal and prison system to British nationals who are imprisoned in Poland.

About the Embassy

We are impartial, we are not there to judge you. We aim to make sure that you are treated properly and fairly in accordance with Polish regulations, and that you are treated no less favourably than other prisoners.

We can answer questions about your welfare and about prison regulations but not questions about legal matters. You should ask your lawyer or the court these types of questions.

We cannot get you out of prison, pay fines or stand bail, or interfere in local judicial procedures to get you out of prison or secure you on earlier trial date; we cannot investigate a crime.

We have tried to make sure that this information is accurate and up to date, but the Embassy cannot accept legal responsibility for any errors or omissions in the information.

British Embassy
Consular Section
Ul. Emilii Plater 28
00-688 Warszawa
tel: 022 311 0000
fax: 022 311 0250
consular@fco.gov.uk

Please note::

A consular section of the Embassy is one of the few links for a prisoner with the outside world and gives hope and reassurance to a prisoner that they have not been forgotten.

Who will know that I have been detained?

When a British citizen is arrested and detained in Poland the Polish authorities must inform the British Embassy immediately (there may be delays during week-end). This is done in writing . For reasons of confidentiality the Embassy is not permitted to tell anyone that you have been detained or what the charges are without your permission. However, as soon as we have been notified we will try to contact a prosecutor handling your case to ask if you want anyone to be informed. If you wish your family or friends to be informed we will do it as quickly as possible via FCO. We will also apply for a visiting permit and you will be visited as soon as possible.

Money for prison comforts

Your family or friends may wish to use the Foreign and Commonwealth Office (FCO) to help to transfer money to you in Poland. They can send postal orders, bankers drafts and building society cheques (made payable to the FCO) or cash in registered envelope to:
Consular Directorate
Foreign & Commonwealth Office
Old Admiralty Building
London SW1A 2PA

Personal cheques cannot be accepted.

Please when transferring money, make sure that the full name of the prisoner/detainee is included along with the name of his/her father's name, full address of the prison (Zakład Karny)/remand centre (Areszt Sledczy) and the name of the sender. The money will be sent as quickly as possible by the FCO to the Embassy in Warsaw, who will ensure it is passed on to the prisoner/detainee in local currency.

Useful to know

It is your right to receive from the prison's authorities a booklet in English giving you all the regulations and organisation for execution of temporary arrest/imprisonment issues.

The booklet gives you information on:

- How the remand centre/prison is organised.
- Receiving of mail, parcels and visiting rules.
- Healthcare and living conditions.
- Principles of employment, education, cultural and sports activities.

Please feel free to discuss any issue with your social worker. Each remand centre/prison in Poland have got social workers (wychowawca) looking after detainees/prisoners. Copy of a booklet (Organisation and Order Regulations for Execution of Temporary Arrest/Imprisonment) is available.

What the Consul can do for you

- Contact you after being notified of your arrest by local authorities. (Insist that the British Consul be notified – it is your right). As soon as we have been notified (whether officially, by family or friends) we will apply for a visiting permit and you will be visited as soon as we receive a permit.
- Give you a list of English speaking local lawyers LINK and translators/interpreters.
- Explain about the prison system, visiting arrangements, mail and censorship, privileges, work possibilities and social and welfare services.
- Ensure that any medical problems you might have are brought to the attention of the prison doctor. The Consul may ask for independent medical advice if necessary.

If you wish, the Consul can also:

- Pass on a message to your family. Your family can also find out what is happening to you by contacting Consular Directorate at the FCO in London (tel 0207 008 1500 and ask for the Polish Operations Desk officer).
- Take up any justified complaint about ill treatment or discrimination with the police or prison authorities.

Poland is a EU country and we aim to visit you once a year, although we may visit you more often if necessary.

What the Consul cannot do for you

- Intervene in court cases.
- Get you out of prison or pay your fines.
- Give or pay for legal advice, start court proceedings on your behalf or interfere in local judicial procedures to get you out of prison.
- Investigate a crime.
- Forward parcels to you on behalf of other people.

If you have dual nationality and are imprisoned in the country of your other nationality the British Consul cannot assist you under international law.

Can I be transferred to the UK to serve my sentence there?

Yes, if all parties agree. This is possible under the “Council of Europe Convention on the Transfer of Sentenced Prisoners”.

It applies only to nationals of the United Kingdom of Great Britain and Northern Ireland

Under certain conditions, the Convention allows people who have been given a custodial sentence in a country other than their own to be transferred to their home country and to serve their sentence there.

A brief explanation of these conditions is given below. This is not an exhaustive description of the Convention.

If you would like to apply for a transfer please write to the Home Office in London or to the British Embassy in Warsaw for further information.

Who has to agree to the transfer?

A transfer requires:

1. The consent of the person concerned (detainee/prisoner) or that of your legal representative, where applicable;
2. The consent of the State where you were sentenced;
3. The consent of the country to which you wish to be transferred.

Who is eligible for a transfer to the United Kingdom?

You may be eligible if you meet the following conditions:

1. You are considered a national of the United Kingdom (UK) (for this purpose a UK national is a British citizen or any other person whose transfer the UK Government consider appropriate, having regard to any close ties which the person has with the UK);
2. If the judgement which resulted in your sentence is final;
3. If, as a general rule, there are at least six months of your sentence to be served when your transfer request is received. In exceptional circumstances this period may be less; and
4. If the offence for which you were tried is a criminal offence under the law of the relevant part* of the UK. (*England and Wales, Scotland, Northern Ireland).

THE POLISH JUDICIAL SYSTEM

Glossary of terms

accused (*oskarżony*) – a person becomes an accused when he or she is charged before the court;

accusation statement (*postanowienie o przedstawieniu zarzutów*) – in initial proceedings a statement containing details of the suspect and the crime of which he or she is accused and legal grounds is issued by the Police or the Public Prosecutors Office to the suspect (a person becomes a suspect after the accusation statement is issued);

advocate (*awdokat*) – a Polish qualified lawyer who under the Polish law is authorized to act in criminal cases;

arrested – a person who remains in custody on the grounds of a custodial order for temporary arrest issued by the court (*postanowienie o tymczasowym aresztowaniu*);

charged (*oskarżony*) – means an accused, i.e. a person against whom charges (an indictment) were formally presented at the court;

charges (*akt oskarżenia*) – an official document (an indictment setting out the charges against the accused) presented to the court by the Public Prosecutors Office containing details of the accused, the crime of which he or she is accused and the legal grounds;

detained (*zatrzymany*) – a person held in custody by the Police e.g. at a Police station, without a temporary arrest order (for a maximum of 72 hours);

district court (*sąd rejonowy*) - competent to hear cases where less serious crimes have been committed;

indictment (*akt oskarżenia*) – an official document presented to the Court by the Public Prosecutors Office which sets out the charges against the accused; for the purposes of this document an "indictment" means "charges";

offender – guilty person;

regional court (*sąd okręgowy*) - competent to hear cases at first instance where serious crimes have been committed; also hears appeals against orders issued in the district courts;

suspect (*podejrzany*) – a person to whom an accusation statement has been issued during initial proceedings.

1 Jurisdiction over British Nationals in Criminal Cases

In criminal cases a British National may generally be subject to the jurisdiction of Polish courts if he or she committed a crime in Poland.

2 Overview of criminal proceedings in Poland

2.1 Assistance of an advocate

The Polish constitution guarantees the right to defence to every individual, regardless his or her nationality. This right is exercised, among others, through the availability of legal aid.

Polish criminal law and proceedings are very complex and complicated and the assistance of a lawyer is highly recommended at every stage of the proceedings.

Under Polish law only lawyers qualified as advocates (*adwokat*) or trainee advocates (*aplikant adwokacki*) (as opposed to *radca prawny* or trainee *radca prawny*) can represent a person in criminal cases.

A person has the right to an advocate, from the time he or she becomes a suspect.

If a person shows that he or she cannot afford an advocate (i.e. the court must be convinced that the person has no financial means to retain an advocate and can request specific evidence to that effect, such as statements of earnings) but nevertheless would wish to be represented by a lawyer, the court, on an application, will appoint an advocate for him or her.

An appointed lawyer is obligated to act until legally valid conclusion of proceedings, which means until issue of a first instance court decision. In the event of an unfavourable judgement, an appointed lawyer must file an appeal and defend it before a second instance court.

A change of appointed lawyer may be sought in particularly justified situations.

In the case of a selected attorney, selection and establishment of defence counsel is privately initiated by the accused on the basis of knowledge, advice and information obtained (see the attached list of English-speaking lawyers).

Representation by a lawyer is not compulsory. There are however, circumstances when the participation of an advocate is obligatory and the court (during initial proceedings and the trial) is under a duty to appoint an advocate if the person or his or her family has not appointed one. This applies to the following:

- juvenile (under 17 years of age);
- mute, deaf or blind person;
- person of questionable mental health ;

- person facing a trial in a regional court, as the court of first instance and is either charged with a serious crime (*zbrodnia*) or remains in custody (e.g. is temporarily arrested or imprisoned for a different crime).

In addition, when none of the above circumstances occur, a court can recognize that the presence of an advocate is indispensable, because of the complexity of the matter before the court and appoint an advocate on this basis

It should be noted that in the situation of temporary arrest for a specified period of time contact between the accused and lawyer may be limited by authorities conducting proceedings.

2.2 Criminal proceedings are divided into three stages:

investigative stage (initial proceedings);

trial before court;

the sentence.

2.3 Investigative stage (initial proceedings)

The investigative stage is conducted by the Police under the supervision of the Public Prosecutors Office (*Prokuratura*) or by the Public Prosecutors Office itself, and it generates a two-stage enquiry:

- (a) initial investigation in a case (proceedings *ad rem*); during this stage the Police establish whether in fact a crime has been committed at all and identifies likely suspects, gathers evidence;
- (b) initial investigation against a person (proceedings *ad personam*); if sufficient evidence to justify the suspicion that a crime was committed by a particular person is collected then criminal proceedings against such a person are instigated by the Police or Public Prosecutors Office issuing **an accusation statement** to that person (*postanowienie o przedstawieniu zarzutów*); the accusation statement contains a detailed description of the offence with which that person may be charged in court.

2.4 Trial before court

In Poland there is no jury trial as in England. In principle, cases at first instance are heard by a bench consisting of a professional judge and 2 lay people. More complicated cases, however, can be heard by 3 or even 5 judges without the presence of lay people.

The trial stage commences when charges (an indictment) are filed against the suspect in court. Charges (an indictment) are filed by the Public Prosecutors Office.

Crimes are categorized by seriousness. All serious crimes like murder, manslaughter or forgery are heard by regional courts (*Sąd Okręgowy*), those less serious like theft or drink driving by district courts (*Sąd Rejonowy*).

The main purpose of the trial is to determine whether or not the person charged is guilty of committing the crime for which he or she is charged.

2.5 The sentence

If the court finds the accused guilty of committing a crime it will pass a sentence. Depending on the law, gravity of the crime committed, previous criminal records of the offender and other circumstances such as the behaviour of the accused during the trial or his or her position towards the victim, the court will pass an appropriate sentence e.g. imprisonment, fine, community service order.

3 From initial proceedings to trial - in a nut-shell

3.1 Detention

Grounds for detention

Police can detain a person if they strongly suspect that the person may have committed a crime **and** that:

- such person may flee or hide; or
- proceeds of the crime may be removed; or,
- the identity of a person cannot be established.

Rights of a detained person

As soon as someone is detained he or she must be informed about the grounds for detention. The detained person has the right to contact an advocate or anybody else.

An advocate representing the detained or the detained person himself or herself can appeal immediately to a competent district court against the detention. If the court decides that there were no grounds for detention, it orders an immediate release.

Period of detention

The detention can last up to 48 hours, but if the Public Prosecutor files a motion to the court for temporary arrest, it can last up to 72 hours.

Upon lapse of 72 hours, the detained person has to be either released or, where the custodial order is issued, arrested.

3.2 Accusation statement

A person becomes a **suspect** in proceedings when an accusation statement against the person is issued either by the Police or the Public Prosecutors Office. An accusation statement must provide details of the suspect, accurate description of the offence that the suspect is alleged to have committed, grounds for issuing the accusation statement and the relevant criminal law provisions which were violated.

The suspect will be interviewed by the Police, but before that, he or she must be instructed in writing of his or her rights. These are e.g. the right to legal representation by an advocate, right to refuse to reply to questions asked. Nevertheless, the Police or the Public Prosecutors Office can require the suspect to undergo a medical, psychiatric or psychological examination and the suspect has to comply with that.

The suspect will be asked to sign a document containing information on the suspect's rights, which becomes proof that he or she has been appropriately notified of those rights.

After the interview the suspect will be asked to sign his statements given thereat.

3.3 Temporary arrest (*tymczasowe aresztowanie*)

General information

Temporary arrest is the most severe means of protecting the course of action and should be applied when other remedies such as bail, supervision by Police, etc. are insufficient. Temporary arrest may be imposed after the accusation statement is issued during initial proceedings and also during trial in court.

Temporary arrest is applied only by the court, where there is a danger that proceedings will be disrupted by the suspect or accused by, for example, tampering with the evidence or attempting to influence witnesses. During the initial proceedings stage the court on a motion by the Public Prosecutors Office decides whether or not the suspect will be remanded in custody i.e. will be temporarily arrested. During the trial, however, the court has absolute discretion to reconsider its previous decision and e.g. to bail a previously arrested suspect or to revoke bail if a suspect has been previously released on bail. If a suspect or accused is not subject to temporary arrest, for example is released on bail, he or she is obliged to comply with bail conditions.

Grounds for temporary arrest

The basic grounds for temporary arrest is a strong suspicion, based on evidence, that an offence has been committed by the suspect or accused. Additionally, however, at least, one of the following must be present:

- suspicion that the suspect or accused may escape;
- the suspect or accused does not have a place of permanent residence;
- personal data of the suspect or accused are unknown;
- suspicion that the suspect or accused will tamper with the evidence, or attempt to influence witnesses, or prejudice the proceedings in some other way;
- the suspect or accused is charged with a serious crime and the penalty for such a crime is at least 3 years imprisonment;
- suspicion that the suspect or accused will commit another serious crime.

Decision on temporary arrest

The order of the court must contain details of the suspect or accused, accurate description of the offence that the person is suspected of committing, the applicable provision(s) of criminal law, period of arrest, and the first and the last day of temporary arrest.

Period of temporary arrest

During initial proceedings, temporary arrest should not be longer than **3 months**, but that can be **extended to 2 years**, including period of arrest during trial.

After 2 years of temporary arrest, only an appellate court can extend the detention. Temporary arrest can last up to the beginning of a prison term or till the end of the 2 year of the term.

If a person, who was subject to temporary arrest, is sentenced to imprisonment, the period of temporary arrest counts towards the sentence . If however, after the lapse of the term of the temporary arrest the suspect has not been sentenced to imprisonment the suspect or offender is free to go.

Appeal against custodial orders

An arrested person, or his or her advocate, can at any time file a motion to the court to reverse or change a custodial order, and a court can impose bail instead, for example.

An arrested person, or his or her advocate can appeal against every decision concerning temporary arrest. He or she should appeal within 7 days from the announcement of a decision (if he or she is present in court), or from the date of being served with a copy of the decision (if he or she is in custody).

Other rights

The court is obliged to inform the family, or other appointed person, of an arrest, and ensure that his or her children and property are properly protected.

An arrested person can inform any person or institution about his or her arrest and whereabouts. This also applies to the consulate and embassy.

During the arrest, an arrested person can have visitors, with the consent of the Public Prosecutors Office or court.

4 Trial in court

After closing the investigation stage, if the evidence collected confirms the fact that the suspect may have committed a crime, the Public Prosecutors Office files charges (an indictment) at court (the suspect becomes **an accused** from the moment charges are filed at court against him or her). When the charges (an indictment) are filed, an accused can file a written response to the charges prior to commencement of the hearing.

During the trial, the court verifies collected evidence to establish whether the accused is guilty or not of committing the crime.

The trial ends with a sentence.

5 Appeal procedure

The accused can appeal against the sentence to a court of higher instance.

6. Additional information

If a suspect or accused does not have a good command of Polish, he or she is entitled to the assistance of a translator free of charge.

Moreover, a suspect or accused has the right to examine all the files prepared in his or her case, and make copies of them.

At the end of the investigation stage, a suspect has the right to inspect the files and file a motion to have the investigation supplemented, for example, by having other witnesses interviewed.

7 Compensation, Extradition, Serving Penalty, Legal Aid

A person who was wrongly arrested or detained may claim compensation

Polish law permits the detention and extradition of a person who is wanted by the law of another country, also penalty ordered by the Polish court can be served in another country.

The Helsinki Foundation for Human Rights in Warsaw (address: ul. Zgoda 11, 00-018 Warsaw, tel. +48 22 556 44 40, +48 22 828 10 08) provides legal aid to detained and arrested persons, whose rights have been violated.

8. Help while you are in prison (other sources)

Prisoners Abroad

For more than twenty years the charity Prisoners Abroad has offered practical support and advice to Britons imprisoned overseas. It is the only UK charity providing this service and it is available to all, whether guilty or innocent, convicted or not. PA is concerned with your health and welfare, both during your imprisonment and also on your return to the UK, through their 'aftercare' service. They can also provide support and advice to your family during your imprisonment, if you wish.

On seeking help from PA, you will be assigned a named caseworker who will be your point of contact for advice and information. The type of assistance they can offer will vary from country to country, but generally they can provide you with information, in English on,

- the criminal justice system of the country, legal aid and court proceedings
- finding a lawyer
- prison conditions and your rights as a prisoner
- funding for courses
- obtaining magazines or books
- finding a penpal
- providing a grant for essential medicines and toiletries

Prisoners Abroad
 89 – 93 Fonthill Road
 London N4 3JH
 England

Telephone 00 44 (0)20 7561 6821
 (Mondays to Fridays 9.30 am to 5.30 pm)
 Email: info@prisonersabroad.org.uk
 Website: www.prisonersabroad.org.uk

Prison Fellowship International

Prison Fellowship is a Christian organisation that gives support and help to people of all religions and those with none. It has members in 88 countries; they can visit or write to prisoners. If you obtain a transfer back to a UK prison, PF can help with transport so your family can visit. They also work with ex-prisoners and their families through their local group network.

Prison Fellowship, England and Wales
 PO Box 945
 Maldon
 Essex CM9 4EW

Tel: 0044 (0) 1621 843 232
 Fax: 0044 (0) 1621 843 303
 Email: prisonfellowship@dial.pipex.com

Prison Fellowship, Scotland
 110 St James Road
 Glasgow G4 0PS

Tel/fax: 0044 (0)141 552 1288
 Email: pfscotland@cqm.co.uk

Prison Fellowship, Northern Ireland
 39 University Street

Belfast BT7 1FY

Tel/fax: 0044 (0)2890 243 691

Email: info@pfni.org

The Salvation Army

They can arrange to visit prisoners overseas through their international service.

The Salvation Army International HQ

101 Queen Victoria Street

London EC4P 4EP

Tel: 0044(0)20 7332 0101

Fax: 0044(0)20 7329 6970

9. Note on bail/parole

What is the average time spent on bail? What proportion of their sentences do prisoners usually spend on parole?

It is not possible to specify the average time spent on bail by a person who has been freed by a Court on the basis of a financial guarantee (bail). This is an individual matter, dependent on the kind and manner of conducting of each specific case. According to our knowledge, there is no current statistical research relating to this specific issue.

It should be borne in mind that the financial guarantee is a measure having as its purpose the securing of the proper course of proceedings before issue of a verdict by the Court. The regulations of the Penal Procedure Code do not envisage time restrictions on the application of a financial guarantee. This means that the accused will remain at liberty and the financial guarantee will remain in force up until the moment of issue of a verdict by a court of I instance. This is thus solely and exclusively dependent on the duration of preparatory and court proceedings, which may last for a long time.

The principles for application of parole on serving a sentence provide that a convicted person should serve at least a half of the penalty handed down to him, but not less than 6 months. In the case of recidivists, as also for the severest penalties, this period is longer.

The period of serving of sentence remaining essentially cannot be shorter than two years and longer than 5 years. This constitutes the probation period, during which a person conditionally released should adhere to the legal order.

Available statistics regarding parole from serving of sentences indicate that around 80% of applications for parole are admitted.

We would draw attention that in points c, d and e below we describe the Polish regulations - internal law, but that we do not touch on issues of European Union law, which is common to British and Polish citizens.

Can British nationals on bail or parole work in Poland?

Yes, but nonetheless attention should be drawn to a number of significant issues. The situation of a person in relation to whom a financial guarantee has been applied is diametrically different to that of person freed on parole from having to serve the rest of a sentence. The first has not yet been sentenced, while the second is sentenced on a legally binding basis.

A person in relation to whom a financial guarantee has been applied cannot face any difficulties in respect of this, but nonetheless, in practice, the obligation to participate in proceedings in progress may hinder the performance of remunerated employment.

Employment of citizens of Great Britain in Poland is as to principle not subject to any restrictions (restrictions may transpire for instance from special regulations introducing a prohibition on the holding of certain posts by foreigners). It is thus not necessary to obtain a work permit for work to be undertaken by such persons. The employer and employee also do not have an obligation to notify this fact to any entity, albeit of course with an exception in the obligation to fulfil all normal duties associated with employment of employees (e.g. notification for social welfare insurance).

The same principles are applied in the case of persons on parole from serving sentences of imprisonment as apply in the case of Polish citizens. There is no hindrance to such a person being employed in Poland so long as the holding of a given post does not involve the presentation of a declaration of lack of criminal record. On the other hand, the legalization of stay in Poland of a person freed on parole from serving a sentence of imprisonment is a separate issue. This may constitute a hindrance in obtaining the appropriate permission to stay in the country issued by respective bodies.

Are they eligible for any financial support/housing/other assistance from the host government? What other ways have British nationals in this situation supported themselves?

Again, it is necessary to differentiate the situation of a person in relation to whom a financial guarantee has been applied and the situation of a person who has been convicted. A person in relation to whom a financial guarantee has been applied is innocent in the light of the law and thus there are no terms upon which to grant this person assistance on the part of the justice system. It is only appropriate to draw attention that participation in penal proceedings and acts of legal procedure does constitute a justified cause for absence from work.

Convicted persons who may take advantage of the benefits of parole from serving the rest of their sentences are entitled to obtain assistance from the bodies of the justice system and the state administration. British citizens serving their sentences in a Polish penal establishment take advantage of the same entitlements as Polish citizens.

They may undertake activities for the purpose of preparing for life at liberty over a period of 6 months before an envisaged release on parole. During this period, in so far as possible, they should be in the penal establishment that is situated closest to their future place of residence.

During this period a convicted person may obtain 14 days of release to search for a place of residence and work. Respective permission is granted by the governor of the penal establishment. For the purpose of preparing the period at liberty, the convicted person should keep in contact with the probation officer who will supervise him, this officer being an important source of information on the subject of employment opportunities and housing, on which more below.

At the moment of release from the penal establishment, the person can count on day-to-day assistance, as follows:

- in acquisition of comprehensive information from the penal establishment governor concerning so-called post-penitential assistance, for instance on who provides this and where, what benefits can be counted upon, etc.;
- in obtaining proper medical assistance corresponding to his state of health;
- in obtaining assistance in arranging personal identity documents, etc.;
- if he does not have available sufficient own resources and does not have sufficient resources assured to live once at liberty, in obtaining monetary benefits granted by the penal establishment governor, in an amount of 1/3 of the average monthly remuneration for employees or its equivalent; in the framework of the said equivalent, the convicted person may obtain clothing appropriate to the time of year, a travel ticket, etc.

If the convicted person himself applies (to a Penitentiary Court, which concerns itself with **those** who have been convicted) for supervision by a professional parole officer during the parole period, and fulfils the obligations placed upon him, he should

more readily obtain temporary accommodation and assistance in obtaining employment in places and institutions indicated by the court-appointed custodian.

A general obligation exists, resting on the government administration, local government and court-appointed custodians, for assistance to be granted to persons released from penal establishments in re-adapting to life at liberty: material and medical help, assistance in finding employment and accommodation; this also applies to the obligation to grant legal advice.

In practice, this assistance is granted above all by penal establishments, the professional court-appointed custodians collaborating with them and by non-governmental organizations, which are in part financed from public resources (the Post-Penitential Assistance Fund, the administrator of which is the Minister of Justice).

The sources of information about opportunities of obtaining assistance in specific situations are: the penal establishment and parole officers, who possess knowledge about the activity of local non-governmental organizations (funding associations) that provide assistance to persons who have been released.

The benefits that can be obtained are:

- legal advice;
- professional courses, qualifying examinations associated with gaining a trade;
- covering of costs of temporary accommodation, rent subsidies;
- material assistance: food vouchers, clothing, medications, psychological assistance, dependency therapy;
- financing costs of obtaining documents, specialist tests, journeys by public transport, etc.

Is it compulsory to spend time on parole, or can prisoners opt to remain in prison?

Parole can be granted at the initiative of the convicted person himself or else of the penal establishment governor or the professional parole officer. The will of the convicted person is not a legal prerequisite in order to obtain release, but it is not possible to imagine that a Penitentiary Court granting release would not take this fact into account, considering it in the light of the prerequisite concerning "*attitude, attributes and personal circumstances of the accused*" and "*behaviour after perpetration of the offence*".

Nonetheless, the convicted person has no choice - if the Penitentiary Court grants parole there is no legal basis to stay on in a penal establishment, so seen from this perspective parole is compulsory in character.

There is also no possibility of return to the penal establishment from parole on the initiative of the convicted person unless there is a repeated violation by him of the legal order, which may result in recall from parole by the Penitentiary Court.

9 Q&A

- Can I be a suspect or accused and not arrested?

Yes, for example if a crime you are charged of committing is not serious, and there are no grounds for temporary arrest.

- When do I become a suspect?

When an accusation statement is issued and announced to you.

- Can I be detained and not arrested?

Yes, detention can last up to 48 or 72 hours if a motion is filed with the court for a temporary arrest. Where the court does not issue an order for a temporary arrest the suspect has to be released from detention.

- When can I be detained?

*A person can be detained if the Police strongly suspects that the person may have committed a crime **and** that:*

- *such person may flee or hide; or*
- *proceeds of the crime may be removed; or,*
- *the identity of a person cannot be established.*

- When can I be arrested?

When an accusation statement is issued against you and the court has given an order for temporary arrest.

- How can I find an advocate?

You can ask the Police, Public Prosecutor Office or the court for a list of advocates. Advocates in Poland cannot advertise their services.

- How can I contact my advocate?

If you are in Police custody, the Police will let you telephone the advocate who will come to see you. Other forms of communication with advocates are possible.

- When do initial proceedings end?

When the charges (an indictment) against an accused are filed at court.

- Can I be interviewed before an accusation statement is issued?

Yes, in emergency situations. It is left at the Police discretion to decide whether or not a particular situation constitutes an "emergency situation". In practice you will be told by the Police of the basis for the accusation statement which will be issued subsequently.

- What is the difference between an accusation statement and charges (an indictment)?

An accusation statement is issued during the initial proceedings by the Police or the Public prosecutors Office to the suspect. From that moment criminal proceedings against the suspect officially begin.

Charges (an indictment) are filed with the court and begin the trial stage.

- What does it mean to be charged?

It means that you are an accused of committing a crime (charged) and that the trial before court against you has begun.

- If I have a prison sentence can I be transferred to the UK to serve the sentence there?

There is a special procedure under which foreign nationals serving prison sentences in Poland may be transferred to their home country to serve the sentence. There are two routes: (i) the Polish Ministry of Justice (after obtaining an appropriate decision from the regional court allowing a transfer) may apply to the UK for the offender to be taken to the UK to serve the sentence there; or (ii) the UK may apply to the Polish Ministry of Justice for the offender to be transferred to the UK, the Polish Ministry of Justice before acquiescing to the request will seek a decision of the regional court as to whether or not such a transfer is permissible.