



Rechtsbelehrung für beschuldigte Personen

ENGLISCH

Extract from the Swiss Criminal Proceedings Order (StPO)

Art. 104 Parties

¹ Parties are:

- a. the accused person;
- b. the private prosecutor;
- c. the Public Prosecutor in trial and appeal proceedings.

² The Federation and Cantons may grant the right to appear as a party in proceedings fully or with restrictions, to further authorities whose duty is to safeguard public interests.

Art. 107 Right to a fair hearing

¹ The parties have the right to a fair hearing; they have in particular the right:

- a. to inspect files;
- b. to participate in proceedings;
- c. to engage a legal adviser;
- d. comment on the case and the proceedings;
- e. present a motion to hear evidence.

² The prosecuting authorities shall draw the attention of persons not versed in the law to their rights.

Art. 101 (1) Inspection of files in pending proceedings

The parties may inspect the files relating to the trial at the latest after the initial interrogation of the accused person and collection by the Public Prosecutor of the most important remaining evidence; Article 108 remains reserved.

Art. 109 Submissions

¹ The parties may make submissions to the person conducting the proceedings at any time; special provisions contained in this law remain reserved.

² The person conducting the proceedings shall consider the submissions and afford the other parties the opportunity to respond.

Art. 110 Form

¹ Submissions may be presented in writing or be placed on record verbally. Written submissions are to be dated and signed.

² The submission must be accompanied by a recognised electronic signature in the event of electronic communication. The Federal Council shall determine the format of the communication. The prosecuting authority may demand that the submission be subsequently filed in paper form.

³ Otherwise, procedure is not bound by any provisions as to form unless this law shall provide otherwise.

⁴ The person conducting the proceedings may reject submissions which are illegible, incomprehensible, improper or verbose. He shall set a period for revision and make known that the submission shall remain unheeded if it is not revised.

Art. 111 Definitions

¹ The person who in an information, in a charge, or in proceedings is suspected by a prosecuting authority of, accused of, or charged with a criminal offence, is deemed to be the accused person.

² The rights and duties of an accused person apply also to persons whose proceedings are to be re-opened after a stay or a verdict within the meaning of Article 323 or Articles 410-415.

Art. 113 Status

¹ The accused person shall not be required to incriminate himself. He has in particular the right to refuse to make a statement and to co-operate. He is however required to accept coercive measures provided by the law.

² Proceedings shall nevertheless be continued if the accused person shall refuse his co-operation.

Art. 127 Legal advice. Basic principles

¹ The accused person, the private prosecutor and other persons participating in the proceedings may appoint a legal adviser to safeguard their interests.

² The parties may engage two or more persons as legal representatives unless the proceedings shall thereby be unduly delayed. In this event, they shall designate one of them as leading counsel who shall be instructed as representative in the proceedings before the court and whose address shall apply as sole address for service.

³ The legal representative may protect the interests in the same proceedings of more than one person participating in those proceedings, within the limits provided by the law and professional rules.

⁴ The parties may appoint any authorised, reputable and trustworthy person as legal adviser subject to the restrictions contained in the law relating to legal attorneys.

⁵ The defence of the accused person is reserved for legal attorneys qualified to represent parties before judicial authorities according to the law relating to legal attorneys dated the 23rd June 2005. Provisions of cantons to the contrary for defence counsel in proceedings concerning misdemeanours remain reserved.

Art. 129 Defence by counsel of one's own choice

¹ The accused person may in all criminal proceedings and at every stage of the proceedings entrust a legal attorney within the meaning of Article 127 (5) with his defence (defence by counsel of one's own choice), or to defend himself subject to the provisions of Article 130.

² Exercise of the right of defence by counsel of one's own choice shall require a written power of attorney or a declaration on record by the accused person.

Art. 147 Rights of participation on the hearing of evidence. Generally

¹ The parties have the right to be present at the hearing of evidence by the Public Prosecutor and the courts and to question persons being interrogated. Presence of the defence on police interrogation depends on Article 159.

² Whoever claims his right to be present may not derive from it any claim to postponement of the hearing of evidence.

³ The party or his legal attorney may demand a repeat of the hearing of evidence if the legal attorney or the party without legal representation was prevented from participating for compelling reasons. A repartition may be refused if it would involve excessive expenditure and the claim of the party to a fair hearing, in particular the right to ask questions, may be allowed for in another manner.

⁴ Evidence which shall have been taken in breach of the provisions contained in this Article may not be cited to the disadvantage of the party who was not present.

Art. 158 Notification on the initial interrogation

¹ The police or Public Prosecutor's Office shall advise the accused person at the beginning of the initial interrogation in a language comprehensible to them, that:

- a. preliminary proceedings have been instituted against them and which criminal offences form the subject matter of the proceedings;
- b. they may refuse to make a statement and to co-operate;
- c. they are entitled to appoint a defence counsel or if necessary, to apply for counsel to be assigned by the court;
- d. they may demand a translator.

² The results of interrogation without this notification may not be used.

Art. 159 Police interrogation in preliminary investigation proceedings

¹ The accused person has the right on questioning by the police for his defence counsel to be present and to ask questions.

² A person provisionally apprehended has the additional right on questioning by the police to speak privately with his defence counsel.

³ Enforcement of these rights provide no claim to postponement of the interrogation.

Art. 168 Right to refuse to give evidence by reason of personal relationship (analogous)

¹ The following may refuse to give evidence:

- a. the husband or wife of the accused person or whoever maintains in material respects a long-term relationship;
- b. whoever has natural children from the accused person;
- c. those related in direct line or by marriage to the accused person;
- d. brothers and sisters and step brothers and step sisters of the accused person as well as the husband or wife of a brother or sister or a step brother or step sister;
- e. brothers and sisters and step brothers and step sisters of a person connected to the accused person by marriage as well as the husband or wife of a brother or sister or step brother or step sister;
- f. foster-parents, foster-children and foster-brothers and sisters of the accused person;
- g. the person appointed as guardian, financial protector or adviser to the accused person.

² The right to refuse to give evidence according to paragraph 1 a. and f. continues if the marriage is dissolved or if the foster relationship no longer exists with a foster family.

³ A registered personal partnership is given equal treatment to marriage.

⁴ The right to refuse to give evidence does not apply if:

- a. the criminal proceedings relate to a crime pursuant to Articles 111-113, 122, 140, 184, 185, 187, 189, 190 or 191 StGB; and

b. the crime is committed against a person to whom the witness is related according to paragraphs 1-3.

Art. 169 Right to refuse to give evidence for the protection of oneself or the protection of a connected person (analogous)

¹ A person may refuse to give evidence if he or she would so incriminate themselves with their statement that they:

a. could be made liable under criminal law;

b. could be made liable under civil law and if the interest in protection outweighs the interest in criminal prosecution

² The right to refuse to give evidence also exists if the person would incriminate with their statement a person connected to them within the meaning of Article 168 paragraphs 1-3; Article 168 paragraph 4 remains reserved.

³ A person may refuse to give evidence if through their statement a substantial risk to life and health or another serious disadvantage threatens to him or her or a person connected to them within the meaning of Article 168 paragraphs 1-3 which may not be prevented with protective measures.

⁴ A victim of a crime against sexual integrity may in all cases refuse to make a statement which concerns his or her privacy.

Extract from the Swiss Penal Code (StGB)

Art. 303 False accusation

1. Whosoever shall accuse an innocent person before the Administration of a felony or misdemeanour contrary to better judgement with the intent to bring about a criminal prosecution against him,

whosoever shall in another manner make malicious arrangements with the intent to bring about a criminal prosecution against an innocent person,

shall be punished by imprisonment or a fine.

2. The punishment shall be a term of imprisonment of up to three years or a fine if the false accusation shall concern a misdemeanour.

Art. 304 Misguidance of the administration of justice

1. Whosoever contrary to better judgement shall report to the Administration that a criminal act has been committed,

whosoever shall himself falsely admit commission of an offence to the Administration,

shall be punished by imprisonment of up to three years or a fine.

2. The judge may circumvent a punishment in particularly trivial cases.

Art. 305 Aiding and abetting

¹ Whosoever shall assist another in evading prosecution, execution of sentence or execution of the measures provided for in Articles 59-61, 63 and 64, shall be punished by imprisonment of up to three years or a fine.

^{1bis} Whoever shall assist another who is being prosecuted or shall have been sentenced abroad on account of a crime pursuant to Article 101 in evading prosecution there, or implementation of a custodial sentence there, or a measure within the meaning of Articles 59-61, 63 or 64, shall likewise be punished.

² The judge may circumvent a punishment if the offender shall be so closely in a relationship to the accomplice that his conduct shall be pardonable.