

**Stanisław Edelweiss**

# **Polish Criminal Procedure**



Main features

July, 2021

# Sources:

## Books:

1. Tadeusz Bojarski, *Źródła prawa karnego, System Prawa Karnego*, C.H. Beck, Polska 2011

## Legal acts:

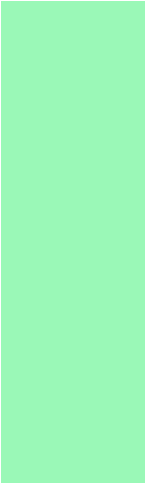
1. U S T A W A z dnia 6 czerwca 1997 r., *Kodeks postępowania karnego*, Dz. U. 1997 Nr 89 poz. 555

## Online Sources:

1. <https://www.socium.pl/czym-jest-prawo-karne-pojecia-podzial-funkcje-zrodla-prawa.html>, date of access: 01.07
2. <https://www.britannica.com/event/Partitions-of-Poland>, date of access 01.07
3. <https://prawo.uni.wroc.pl/sites/default/files/studentsresources/Zasady%2520i%2520funkcje%2520prawa%2520karnego.pptx+%26amp;cd=3%26amp;hl=pl%26amp;ct=clnk%26amp;gl=fi>, date of access 01.07
4. <https://www.russellbedford.pl/aktualnosci/zmiany-w-prawie/item/1671-naduzywanie-aresztu-tymczasowego-to-problem-systemowy.html>, date of access 01.07

## 1 History

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How did the polish criminal procedure emerge?

## 2 Main Features

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How is it organized?

In which way is it divided?

Other main features

## 3 Additional Information

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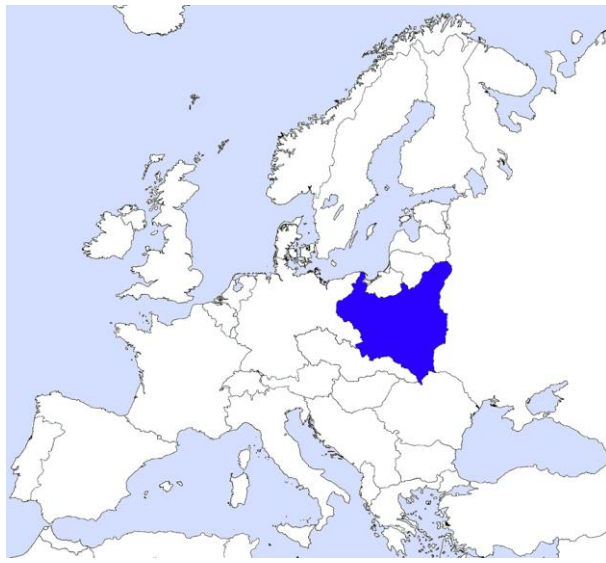
What is special about polish system?

# How did it emerge?



Source: [https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.inyourpocket.com%2Fwarsaw%2Fthe-polish-partitions-explained\\_78064f&psig=AOvVaw0LQ2qYbaoh7WGMfZOM\\_7Ll&ust=1625942144408000&source=images&cd=vfe&ved=0CAoQjRqFwoTCOC-gNLQ1VECFQAAAAAABAD](https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.inyourpocket.com%2Fwarsaw%2Fthe-polish-partitions-explained_78064f&psig=AOvVaw0LQ2qYbaoh7WGMfZOM_7Ll&ust=1625942144408000&source=images&cd=vfe&ved=0CAoQjRqFwoTCOC-gNLQ1VECFQAAAAAABAD)

Since 1795 the law of the partitioned states has been introduced on the territories of the three partitions, which ended with a complete liquidation of the previous legal order;



Source: [https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.reddit.com%2F%2FMapPorn%2Fcomments%2Fgnvhuu%2Fborder\\_changes\\_of\\_poland\\_after\\_world\\_war\\_ii\\_gi%2F&psig=AOvVaw0LQ2qYbaoh7WGMfZOM\\_7Ll&ust=1625942144408000&source=images&cd=vfe&ved=0CAoQjRqFwoTCOC-gNLQ1VECFQAAAAAABAL](https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.reddit.com%2F%2FMapPorn%2Fcomments%2Fgnvhuu%2Fborder_changes_of_poland_after_world_war_ii_gi%2F&psig=AOvVaw0LQ2qYbaoh7WGMfZOM_7Ll&ust=1625942144408000&source=images&cd=vfe&ved=0CAoQjRqFwoTCOC-gNLQ1VECFQAAAAAABAL)

After Poland regained independence in 1918, four criminal procedure laws were in force on the territory of the emerging Polish state

# How did it emerge?

Source: [https://www.google.com/url?sa=i&url=https%3A%2F%2Fpl.wikipedia.org%2Fwiki%2F%25C4%2585d\\_ignacego\\_Jana\\_Paderewskiego&psig=AOvVaw261QWzpjXbF\\_d72p1d26ku&ust=1625942304984000&source=images&cd=vfe&ved=0CAoQjRkqFwoTCNw2KH1vECFQAAAAAdAAAAABAD](https://www.google.com/url?sa=i&url=https%3A%2F%2Fpl.wikipedia.org%2Fwiki%2F%25C4%2585d_ignacego_Jana_Paderewskiego&psig=AOvVaw261QWzpjXbF_d72p1d26ku&ust=1625942304984000&source=images&cd=vfe&ved=0CAoQjRkqFwoTCNw2KH1vECFQAAAAAdAAAAABAD)



1919



Source: <https://a.allegroimg.com/s1024/0ca569/4e85fb8f42dcbbd2cc8e965a0506>



1929

Source: [https://www.google.com/search?q=zdj%C4%99cia+pr+komisja&tbn=isch&ved=ZahUKewj-oti30dbxhUK\\_SoKHSGWDP4Q2-cCegQIABAA&oeq=zdj%C4%99cia+pr+komisja&gs\\_lcp=CgNpbWcQazoECAAQHjoGCAAQBRaeOgYIABAIEB5QywwNysQ5gwA9oAHAAeCAAyKIAZfkgEBOZgBAKABAAoBC2d3cy13aXotaW1nwAEB&scient=img&ei=Z1foYP7WCYr6qGhLLwDw&bih=937&biw=1920&safe=active&ssui=on](https://www.google.com/search?q=zdj%C4%99cia+pr+komisja&tbn=isch&ved=ZahUKewj-oti30dbxhUK_SoKHSGWDP4Q2-cCegQIABAA&oeq=zdj%C4%99cia+pr+komisja&gs_lcp=CgNpbWcQazoECAAQHjoGCAAQBRaeOgYIABAIEB5QywwNysQ5gwA9oAHAAeCAAyKIAZfkgEBOZgBAKABAAoBC2d3cy13aXotaW1nwAEB&scient=img&ei=Z1foYP7WCYr6qGhLLwDw&bih=937&biw=1920&safe=active&ssui=on)



1956



Source: <https://www.lehmanns.de/media/85572698>



1969

# How is it organized?



The Code of Criminal Procedure consists of:

- 15 sections
- 75 chapters
- 682 articles

Source:  
<https://www.księgarnia.beck.pl/media/catalog/product/cache/1/image/9df78eab33525d0806e5fb8d27136e95/1/9/19457-kpk-kodeks-postepowania-karnego-2d.png>



1997

Kodeks Postępowania Karnego (Code of Criminal Procedure) - the basic legal act regulating Polish criminal proceedings (Act of 6 June 1997 Code of Criminal Procedure in force since 1 September 1998).

The norms of criminal procedure define the rights and obligations of the procedural bodies, parties and other participants in these proceedings, as well as the conditions and forms of their actions, which must have a certain form contained in the framework defined by the law.

### Functions of criminal procedure rules:

1 praxeological (instrumental)

2 regulatory (ordering)

3 guarantee (the aim is to protect fundamental supreme values and individual rights in the process)

4

substantive-legal (influences the application of substantive criminal law, for example through rules on refusal to testify).

# Guiding principles in the polish criminal proceedings

- 1 Material (objective) truth
- 2 Free evaluation of evidence
- 3 Objectivity
- 4 Directness
- 5 Complaint
- 6 Adversarialism

- 7 Legalism
- 8 Opportunism
- 9 Presumption of innocence
- 10 Publicity
- 11 In dubio pro reo
- 12 Right to defence
- 13 Speed of proceedings



# Types of criminal trial

**According to the criterion of the type of legal responsibility, the trial is divided into:**

- Substantive trial
- Civil action

**Can be distinguished:**

- General criminal trial
- Special criminal trial



**With respect to the mode of prosecution, a distinction is made between:**

- proceedings by public prosecution:
  - unconditional
  - conditional
- proceedings from private prosecution.



**With respect to the person of the accused, a distinction is made:**

- adult proceedings
- Juvenile proceedings
- proceedings for military persons

# Abuse of pretrial detention as a systemic problem

**Pre-trial detention** (commonly known as arrest) - the most severe of the preventive measures used against a suspect or defendant in the course of criminal proceedings, consisting of incarceration in a fixed place (detention center), in isolation from the outside world.

Temporary arrest is ordered by the court at the prosecutor's request, based on the need to ensure the proper course of proceedings. During the pre-trial stage, the pre-trial detention may be repealed or changed to a milder preventive measure also by the prosecutor



2019



90% of prosecutorial requests for pretrial detention were granted

**Thank you**

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