

# KNOW YOUR RIGHTS INITIATIVE E.V.

## Daily Routine Check

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## KNOW YOUR RIGHTS INITIATIVE E.V.

### /BASIC RELATIONSHIP OF CITIZEN/STATE

#### **General freedom of action (Art. 2 para. 1 GG).**

Every human behavior is covered by the general freedom of action. This means that every state restriction of freedom of action, i.e., every prohibition, must be justified.

#### **Right to informational self-determination**

Principally, every person has the right to determine for himself or herself whether and which data will be disclosed to and used by government agencies.

#### **Proviso of the law**

If a state measure interferes with fundamental rights, it must be able to rely on a legal basis (authority).

#### **Police Tasks Act (PAG)**

The basis for police measures is the Police Tasks Act. Particularly frequent measures are regulated there, but also the so-called police general clause.

### /WHAT IS THE TASK OF THE POLICE?

The task of the police is to **avert danger**, whereby danger is understood to mean any event that, if it were to proceed unhindered and could be objectively expected, would appear certain to cause injury to an object of protection.

The "protected interests" are both the rights of individuals (e.g., life, health, freedom) and objective legal interests (e.g., the inviolability of the legal system, i.e., that no laws are broken).

### /WHEN MAY THE POLICE STOP ME?

#### **General duty to provide information.**

To document personal details (surname, first name, day and place of birth, residential address, nationality) the police may stop a person, if it is to be expected that they have information that is necessary for the performance of a police task. (Art. 12 Sentence 3 PAG)

The police may also stop persons for the purpose of establishing their identity if this is intended to avert a danger or if the person is in a dangerous place (= place where criminal acts are planned or committed, persons without a residence permit meet or persons engage in prostitution), in a place at risk (e.g., train stations; public transport; official buildings) or a checkpoint. Also, near the border (30 km or cross-border road/railway) or to protect private rights (e.g., traffic accident, damage to property, bodily harm).

When stopped for these reasons, one has the duty to provide the above information. This duty to stop briefly (typically max. 15 min) can also be enforced with force (so-called direct coercion), if the person in question resists.

## /WHAT INFORMATION DO I HAVE TO GIVE THE POLICE?

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### General obligation to provide information

Surname, first name, date and place of birth, residential address, nationality.

### Establishment of identity

Surname, name at birth; civil status; date and place of birth, place of residence, profession practiced, nationality. Provided that one can produce an identification document (e.g., identity card; passport; residence permit), this is sufficient, if there is no suspicion that these could be forged.

## /WHAT CAN THE POLICE DO IF I REFUSE TO PROVIDE INFORMATION?

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If information is refused, the police may search the person and things carried by him/her. Searches of persons may only be conducted by persons of the same sex or by doctors, unless there is a danger to life or limb.

If things are to be searched, the person carrying the thing may be present during the search. If information is refused and a search is also unsuccessful, the police may carry out identification measures. This includes taking fingerprints and palm prints, taking photographs, and determining special external physical features (e.g., tattoos, scars) and taking measurements (e.g., height, weight).

## /WHAT ELSE MAY HAPPEN AFTERWARDS?

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Under some circumstances, certain things can be taken away by the police (so-called "**seizure**"). This may include weapons, drugs or items that could be related to a specific crime (e.g., stolen goods).

If items are seized, the police must issue a receipt stating which items were seized and why. A **prohibition order**, i.e., the prohibition to enter a certain place, can be issued to avert a danger. This can be done, for example, to enable a police or rescue force operation or to disperse a gathering of people.

## /PRACTICAL TIPS:

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Politeness often helps a lot. The police quickly try to get an idea of who they are dealing with. Friendly first words help to prevent the situation from escalating.

If you carry an identification document with you, you can fulfill your obligation to prove your identity without major difficulties.

If the police want to take further measures, you should politely ask why.

If you are not sure whether you are obliged to tolerate a measure, you can ask directly. Here it is not permitted for the police to lie.

It generally makes little sense to oppose binding measures that the police forces order or want to carry out. Since the police may enforce their orders and measures with force in case of doubt, such a refusal, in the worst case, leads to escalation. **Unlawful measures should always be clarified in the aftermath, never in the respective situation.**



Note: The Know Your Rights Initiative e.V. is a student and non-profit association. All content published by us is carefully checked by experts, but it does not replace legal advice from a qualified lawyer.

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