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**OBLIGATION OF STATE AND LOCAL GOVERNMENT  
INSTITUTIONS TO PROVIDE ASSISTANCE  
TO AUTHORITIES CONDUCTING CRIMINAL  
PROCEEDINGS (ARTICLE 15 § 2 OF THE CODE  
OF CRIMINAL PROCEDURE)**

**Abstract**

Article 15 § 2 of the Code of Criminal Procedure (CCP) obliges state and local government institutions to provide assistance to authorities conducting criminal proceedings. Providing the assistance referred to in Article 15 § 2 CCP primarily includes the provision of services that enable the performance of procedural actions necessary in criminal proceedings. The assistance may also include the provision of information requested by the authority conducting criminal proceedings. However, choosing this form of assistance can only serve to pre-select information or verify potential sources. Article 15

§ 2 CCP cannot replace the specific procedures for securing evidence provided for in the procedural law because this would lead to the disregard of norms that protect the rights and liberties of participants in criminal proceedings. The process of obtaining evidence and introducing it into the proceedings must, therefore, take place within the framework of the procedures set forth in the CCP. Only then will the constitutionally ensured rights of the participants in criminal proceedings be respected.

### KEYWORDS

prosecuting authorities, assistance, state authorities, local government institutions

### SŁOWA KLUCZOWE

organy ścigania, pomoc, instytucje państwowe i samorządowe

## 1. INTRODUCTION

According to Article 15 § 2 of the Law of 6 June 1997, the Code of Criminal Procedure,<sup>1</sup> all state and local government institutions are obliged, within the scope of their activity, to provide assistance to authorities conducting criminal proceedings within the time limit set by these authorities. The aforementioned provision is an expression of the principle of cooperation of state bodies in combating crime, which in turn is related to the principle of mandatory prosecution.<sup>2</sup>

The prototype of Article 15 § 2 CCP can be found in the original wording of Article 8 of the Regulation of the President of the Republic of Poland of 19 March 1928 – Code of Criminal Procedure.<sup>3</sup> This provision stipulated that state civil and military authorities as well as local governments were obliged to assist courts and prosecutors (§ 1). In particular, the Police carried out the instructions of the court and the public prosecutor with regard to the prosecution of crimes (§ 2). The court or the public prosecutor could directly request armed assistance from the military authority (§ 3). By the Act of 20 July 1950 on the amendment of the

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<sup>1</sup> Hereinafter: CCP.

<sup>2</sup> In particular, see Piotr Kardas, *‘Odpowiedzialność za nadużycie władzy publicznej w przypadku niezawiadomienia o popełnieniu przestępstwa’* *Prokuratura i Prawo* 2007, No 7–8, 5–41; Stanisław Cora, *‘Zasada legalizmu ścigania a zawiadomienie o przestępstwie’*, *Państwo i Prawo* 2010, issue 10, 5–19; Czesław Kłak, *‘Niepełna opinia biegłego w polskim procesie karnym’*, *Prawo i więź* 2020, issue 2, 70–84.

<sup>3</sup> Journal of Laws of 1928, No 33, item 313; hereinafter: CCP of 1928.

rules of criminal procedure,<sup>4</sup> the above provision was moved to Article 7 CCP of 1928, where its § 1 received the following wording: State, civil and military authorities as well as state and cooperative enterprises and social organisations are obliged to provide assistance to the court and the prosecutor's office. The catalogue of entities obliged to assist the courts was, therefore, extended to state and cooperative enterprises and social organisations. The deletion of local government bodies from the list of entities obliged to provide assistance to the court and prosecutor's office should be explained by the political structure of the Polish People's Republic.<sup>5</sup>

In the original wording of the Act of 19 April 1969 Code of Criminal Procedure,<sup>6</sup> it was decided to modify the above-mentioned provisions by indicating in the content of Article 7 that the Police (officially named at that time Citizens' Militia), in the scope of criminal proceedings, executes the orders of the court and the prosecutor, and conducts preliminary proceedings under the supervision of the prosecutor (§ 1). However, pursuant to Article 7 § 2 CCP of 1969, all state and social institutions were obliged, within the scope of their activity, to assist authorities conducting criminal proceedings. Comparing the quoted content with the previous regulation, one can see not only a change in the order of the provisions of § 1 and § 2, but also, more importantly, the imposition of the obligation to provide assistance to all authorities conducting criminal proceedings – not only the court and the prosecutor's office. The material scope of the aforementioned assistance was also clarified by indicating that the obligation to assist authorities conducting criminal proceedings is limited by the scope of action of state and social institutions. The discussed provision, in its unchanged wording, was in force until the Act of 6 June 1997 CCP entered into force.

In the original version of the currently applicable CCP, the provision of Article 15 § 2 had the following wording: All state, local government and social institutions are obliged, within the scope of their activity, to provide assistance to authorities conducting criminal proceedings. This regulation was modified by the Act of 9 May 2007, amending the Act – Code of Criminal Procedure and certain other acts.<sup>7</sup> The change included: 1) removing social institutions from the list of entities obliged to provide assistance to authorities conducting criminal proceedings under § 2 and adding § 3, which regulated the issue of the obligation to provide assistance in relation to entities other than state and local government institutions,

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<sup>4</sup> Journal of Laws of 1950, No 38, item 348.

<sup>5</sup> By the Act of 20 March 1950 on territorial bodies of a uniform state authority (Journal of Laws of 1950, No 14, item 130, as amended) associations of territorial local government were abolished and replaced by national councils, which were after all territorial bodies of a uniform state authority.

<sup>6</sup> Journal of Laws of 1969, No 13, item 96 as amended; hereinafter: CCP of 1969.

<sup>7</sup> Journal of Laws No 99, item 664; hereinafter: Act of 9 May 2007.

2) enabling authorities conducting criminal proceedings to set a deadline for the provision of assistance by state and local government institutions.

As far as the content of Article 15 § 2 CCP in its original wording constituted an ‘adaptation’ of Article 7 § 2 CCP of 1969 to the political realities that occurred after the entry into force of the Constitution of the Republic of Poland of 2 April 1997, which manifested in restoring local government bodies to the list of recipients of the request for assistance, the normative change introduced by the amendment of 9 May 2007 requires additional clarification.

As indicated in the explanatory memorandum to the government’s draft bill of the aforementioned act, the purpose of the amendment was to ‘equip procedural authorities with instruments to discipline participants in criminal proceedings’.<sup>8</sup> On the one hand, attention was drawn to the limited subjective scope of the addressees of the request for assistance. On the other hand, the shortcomings of the amended regulation were raised, including excessively narrow scope of the provision – the request could only concern assistance within the scope of activity of a given entity. Practical difficulties were also mentioned, i.a., including those relating to requests to provide access to premises necessary to conduct a procedural action in a situation where the scope of activity of a given institution did not include control over specific real estate properties.<sup>9</sup> Finally, it was noted that there is no regulation allowing for establishing a binding deadline to provide assistance to investigating authorities. The draft proponent did not justify the need to introduce a regulation allowing for establishing such a deadline.

## **2. OBLIGATION TO PROVIDE ASSISTANCE TO ENTITIES OTHER THAN AUTHORITY CONDUCTING CRIMINAL PROCEEDINGS**

The starting point for an in-depth analysis of the principle of cooperation between state authorities in combating crime should be the consideration of similar legal regulations contained in other normative acts. It should be noted that sometimes the lawmaker directly determines the permissibility of application of Article 15 § 2 CCP within a given procedure.<sup>10</sup> The above provision will also find application

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<sup>8</sup> Explanatory memorandum of the government draft bill amending the CCP and certain other acts, 5th term, Sejm press release No 483, 1.

<sup>9</sup> The above reasons, according to the draft proponent, supported, among others, the introduction of Article 15 § 3 CCP, a detailed analysis of which goes beyond the scope of this study.

<sup>10</sup> See Article 8 of the Act of 24 August 2001 Petty Offences Procedure Code, Journal of Laws of 2024, item 977 as amended.

in those proceedings in which the lawmaker refers to the application of a provision of CCP in general and at the same time does not exclude the possibility of applying Article 15 § 2 CCP.<sup>11</sup>

There are also numerous instances in the legal system where powers similar, but not identical, to those under the CCP are granted to officers of certain law enforcement agencies. An example of such a regulation is Article 15 paragraph 1 point 6 of the Act of 6 April 1990 on the Police,<sup>12</sup> according to which officers have the right to request necessary assistance from state institutions, governmental and local government bodies as well as entrepreneurs conducting public utility activities. At the same time, the aforementioned institutions and entrepreneurs are obliged, within the scope of their activity, to provide this assistance, within the scope of the applicable legislation. The above-mentioned power, under Article 14 paragraph 1 of the Police Act, may be exercised by Police officers applying secret surveillance, investigative as well as administrative measures. It is worth highlighting that the ‘assistance’ referred to in the discussed provision must be ‘indispensable’. Thus, the subsidiary nature of the right to demand assistance is apparent. In other words, the possibility of requesting assistance is triggered when the specific objective of the action performed cannot be achieved by other means which would not require the involvement of institutions or entrepreneurs. The content of Article 15 of the Police Act, with minor modifications, is reproduced in the provisions of acts shaping the powers of other agencies, such as: with regard to the Internal Security Agency and the Foreign Intelligence Agency – Article 23 paragraph 1 point 7 and Article 24 paragraph 1 point 1 of the Act of 24 May 2002 on the Internal Security Agency and the Foreign Intelligence Agency,<sup>13</sup> with regard to the State Fishing Guard – Article 23 paragraph 7 of the Act of 18 April 1985 on inland fisheries,<sup>14</sup> with regard to the State Hunting Guards – Article 39 paragraph 2 point 12 of the Act of 13 October 1995 Hunting Law<sup>15</sup> or in relation to the Forest Guard – Article 47 paragraph 2 point 10 of the Act of 28 September 1991 on forests.<sup>16</sup> The above list is not exhaustive, but serves to illustrate the claim that, in certain procedural settings, the regulation of Article 15 § 2 CCP may overlap in content with the provisions of other acts.<sup>17</sup> An example of a regulation providing

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<sup>11</sup> See Article 113 of the Act of 10 September 1999 Fiscal Penal Code; Journal of Laws of 2025, item 633.

<sup>12</sup> Journal of Laws of 2025, item 636; hereinafter: Police Act.

<sup>13</sup> Journal of Laws of 2024, item 812 as amended.

<sup>14</sup> Journal of Laws of 2022, item 883.

<sup>15</sup> Journal of Laws of 2025, item 539.

<sup>16</sup> Journal of Laws of 2025, item 567.

<sup>17</sup> See Andrzej Jezusek, ‘Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne’, *Palestra* 2016, No 6, 41.

for a slightly different way of defining the discussed obligation is Article 14 § 1 of the Act of 21 January 1999 on the Sejm inquiry committee<sup>18</sup> which does not use the general formula of the obligation to provide assistance, but clearly indicates its forms, stipulating that the organs of public authorities and the organs of other legal persons and organisational entities without legal personality shall, at the request of the committee, provide written explanations or present documents at their disposal or the files of any case conducted by them.

The regulations presented above confirm that there are quite a number of cases in which legal norms grant public institutions the power to request assistance from certain entities, the ratio of which is based on the need to facilitate and often accelerate the actions and proceedings conducted by these institutions. Although these are often institutions that can perform procedural actions, the lawmaker considered it appropriate to separately regulate the issue of assistance within the framework of ongoing criminal proceedings. The above undoubtedly confirms the vital importance that the lawmaker attaches to the creation of conditions for the timely and efficient conduct of criminal proceedings.

### **3. THE SUBJECTIVE SCOPE AND NATURE OF THE OBLIGATION TO PROVIDE ASSISTANCE**

From the subjective perspective, the obligation to provide assistance to authorities conducting criminal proceedings has been defined relatively broadly. Article 15 § 2 CCP contains a categorical obligation of state and local government institutions to provide assistance. In the case of other entities (Article 15 § 3 CCP), the provision of assistance is conditional on the finding that, without such assistance, the performance of the procedural action is impossible or significantly hindered. The justification for such a dichotomy can be found in the relationship between the obliged entity and the authority conducting criminal proceedings. The obligation of entities within the structure of a state, whose duty is, among other things, to prosecute and detect perpetrators of crimes, should be perceived differently from that of entities outside of this structure, which may include both organisational units of the private sector and natural persons. For guarantee reasons, even the indirect implementation of state obligations by private entities, especially in areas such as combating crime, should always be an exception limited to a minimum.

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<sup>18</sup> Journal of Laws of 2016, item 1024.

The obligation referred to in Article 15 § 2 CCP is not dependent on additional conditions, provided that these activities are undertaken within the scope of the entity's designated responsibilities. The situation is, therefore, different from the case of the relative obligation to provide assistance, as its imposition is permissible only when, without such assistance, carrying out a procedural action is impossible or significantly more difficult (Article 15 § 3 CCP). The authority conducting criminal proceedings is responsible for the assessment of this premise. This applies to cases when the assistance of a non-procedural entity is necessary to perform a given procedural action.

In Article 15 § 2 CCP, the lawmaker used very broad generic categories, assuming that the obligation to provide assistance rests with state and local government institutions. It applies *verba legis* to all state and local government institutions, regardless of their organizational form, structure or location. The wording of the provision, therefore, reflects the desire to encompass the subjective scope of the legal regulation in question as broadly as possible. However, this obligation to provide assistance does not apply to social organisations. If the lawmaker wants to grant specific rights or impose specific obligations on social organisations, it does so directly in the content of the legal act, often indicating them alongside state and local government institutions (see, e.g., Article 19 § 1 CCP and Article 21 § 1 CCP). However, social institutions fall within the scope of Article 15 § 3 CCP.

An institution (Latin *institutio*) is an organizationally separate unit of a public character, operating in a given field, dealing with a specific range of matters, and being an independent, legal and permanent structure.<sup>19</sup> A state institution is an organisational structure financed from public funds, established by the state to perform public tasks and provide services to the public. Its task is to meet the needs of individuals or groups and to ensure the efficient functioning of the community as a whole, and the persons comprising it are authorised to perform the defined activities publicly and impersonally. These are offices or other state structures that perform public tasks.<sup>20</sup> Local government bodies are institutions of local government, which are formed by communities of residents living in specific units of the territorial division of the state, as well as professional and economic local government. *Lege non destituende* – this is not just about local government. If the lawmaker wanted to limit the meaning of local government only to a specific type, he would probably do it explicitly, as, e.g., in the content

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<sup>19</sup> Halina Zgólkowa (ed), *Praktyczny słownik współczesnej polszczyzny*, Vol 14, Poznań 1998, 288, see also Piotr Hofmański, Elżbieta Sadzik, Kazimierz Zgrzyzek (eds), *Kodeks postępowania karnego. Komentarz*, Vol 1, Warsaw 2011, 377.

<sup>20</sup> Ryszard A Stefański, *Prawo karne materialne. Część szczególna*, Warsaw 2008, 349.

of Article 156 a CCP – in relation to local government *sensu stricto* or in Article 21 point 2 CCP – in relation to professional self-government.

State and local government institutions include, for example, state offices, local government units (municipal, district, voivodeship), inspections (e.g. Trade Inspection, Sanitary Inspection, National Labour Inspectorate or National Inspectorate for Environmental Protection), guards (e.g. State Fire Service, City Guard, Municipal Guard, forest guards, national park guards), institutions: supervisory (e.g. The Supreme Audit Office and its delegations or regional audit chambers), health services (e.g. hospitals, clinics), social insurance (ZUS, KRUS), public utilities (e.g. public transport facilities) or cultural and educational facilities (e.g. museums, theatres, cultural centres, schools and universities), unless they are private entities.<sup>21</sup>

#### **4. MATERIAL SCOPE OF THE OBLIGATION INCUMBENT ON STATE AND LOCAL GOVERNMENT INSTITUTIONS**

Article 15 § 2 CCP uses a very general expression regarding the nature of the obligation incumbent on state and local government institutions. It indicates that they are obliged to provide assistance to authorities conducting criminal proceedings. This applies not only to the court or the prosecutor's office, but also to the Police and other bodies authorized to carry out procedural actions. However, this obligation is limited by the scope of activity of a given institution. Assistance should be provided within the time limit set by the authority conducting criminal proceedings. CCP does not prescribe the form of the request for assistance. It may, therefore, be a written or oral summons. It is important that its content is communicated in a clear and understandable way. For these reasons, a written summons should be preferred as it offers greater certainty in this respect. In cases of urgency, however, an oral summons is sufficient. Moving on to the analysis of the key wording used in the provision of Article 15 § 2 CCP, namely 'providing assistance to authorities conducting criminal proceedings', it should be noted that – as already indicated – similar regulations were already provided for in CCP of 1928 and 1969. In the post-war doctrine, based on CCP of 1928, it was assumed that the obligation to provide assistance covers 'a request submitted in the course of criminal proceedings to provide any information and present documents in order to establish the actual factual circumstances within the framework

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<sup>21</sup> Tomasz Grzegorzczak in Tomasz Grzegorzczak (ed), *Kodeks wykroczeń. Komentarz*, Warsaw 2013, 202.

of existing suspicions that a crime has been committed'.<sup>22</sup> An identical view was expressed on the basis of the provisions of Article 7 § 2 CCP of 1969.<sup>23</sup> Moreover, in case law based on the 1969 codification, this obligation was understood as including the issuance of documents that were to constitute evidence in ongoing proceedings.<sup>24</sup>

Under the CCP of 1997, the way in which the phrase 'providing assistance to authorities conducting criminal proceedings' is understood, with a few exceptions, has not been the subject of extensive doctrinal reflection. It is worth noting that even the vast majority of scholars commenting on the provisions of CCP do not directly address this issue.<sup>25</sup> The above issue was analysed in more detail by Dorota Kaczorkiewicz, who points out that the lawmaker does not specify how the assistance referred to in Article 15 § 2 CCP should be understood. However, since the authority conducting criminal proceedings requests such assistance in the context of ongoing proceedings, this refers to activities that enable the performance of a specific procedural action. The author, therefore, claims that assistance under Article 15 § 2 CCP may consist in lending a means of communication as part of a pursuit, making premises available for the purpose of, for example, an on-site inspection or carrying out a planned secret surveillance measure, enabling the interrogation of a person staying, for example, in a closed hospital facility, enabling special remote interrogation (Article 172 CCP), using equipment that would require installation in premises that do not belong to authorities conducting criminal proceedings, providing necessary devices required for secret surveillance measures or carrying out an experiment by the authority conducting criminal proceedings.<sup>26</sup> However, with regard to obtaining information, Dorota Kaczorkiewicz indicates that it is possible to provide assistance in the process of

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<sup>22</sup> Stefan Kalinowski, Mieczysław Siewierski, *Kodeks postępowania karnego. Komentarz*, Warsaw 1960, 39.

<sup>23</sup> Mieczysław Siewierski in M Mazur (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 1971, 38.

<sup>24</sup> Judgment of the Supreme Court of 30 September 1982, I KR 228/82, OSNPG 1983, No 4, item 47. The Supreme Court stated in the above judgment that 'since the hospital management did not even send documents regarding all the stays of the accused in the psychiatric hospital and did not even provide a specific answer to the Court's repeated requests, the matter should have been referred to the authorities to which the hospital is subordinated, and even to the Ministry of Health, as provided for by Article 7 § 2 CCP. It is impossible to dispense with evidence that the court hearing the case deemed necessary for its proper resolution solely on the grounds that a state institution does not want to disclose documents in its possession that were not covered by state secrecy'.

<sup>25</sup> See commentaries edited by Piotr Hofmański, Jerzy Skorupka, Dariusz Świecki, Jarosław Zagrodnik, Katarzyna Dudka and Andrzej Sakowicz.

<sup>26</sup> Dorota Kaczorkiewicz, 'Udzielenie pomocy organom postępowania karnego', *Przegląd Prawno-Ekonomiczny* 2009, No 9, 9.

obtaining certain information if the authority is unable to access it on its own. However, the acquisition of information itself must be based on a separate legal basis that allows the authority conducting criminal proceedings to obtain it.<sup>27</sup> It is also emphasised in the legal doctrine, among other things, that ‘assistance may consist in performing specific actions, providing access to a specific item or premises. *Lege non distinguente* – within the framework of assistance, it is also possible to provide certain information’.<sup>28</sup> Moreover it is argued that Article 15 § 2 CCP allows authorities conducting criminal proceedings to ‘demand, for example, access to premises owned by a natural person in order to inspect the crime scene or conduct an experiment, or to request information relevant to criminal proceedings, e.g. from a hospital director about the fact and date of hospitalisation of a given person’.<sup>29</sup>

Within the framework of doctrinal views, it is also worth paying attention to those that indirectly refer to the nature of activities that may come into play in the event of fulfilling the obligation to provide assistance. Andrzej Sakowicz assumes that ‘the purpose of assistance is not to replace a procedural action with an action performed through the assistance provided, but only to obtain assistance in order to carry it out’.<sup>30</sup> It is also very important to point out that Article 15 § 2 CCP ‘cannot (...) in any way replace actions for which the lawmaker has provided an appropriate form, procedure or provides its participants with specific procedural guarantees. Therefore, it will be inadmissible, for example, to request privileged information, replace expert opinions with the “assistance” of a given entity, or request information from a person who has the right to refuse to testify. Obviously, the provision in question cannot constitute a basis for demanding unlawful conduct’.<sup>31</sup> Sławomir Steinborn also argues that ‘the action taken in the “assistance” procedure provided for in Article 15 § 2, if it reveals significant circumstances that may constitute the basis for factual findings, should be an impulse for the

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<sup>27</sup> Dorota Kaczorkiewicz, ‘Udzielenie pomocy organom postępowania karnego’, *Przegląd Prawno-Ekonomiczny* 2009, No 9, 8–9.

<sup>28</sup> Jacek Kosonoga in Ryszard A Stefański, Stanisław Zabłocki (ed), *Kodeks postępowania karnego. Vol I. Komentarz do art. 1-166*, Warsaw 2017, 227.

<sup>29</sup> Wincenty Grzeszczyk, *Komentarz do art. 15, thesis 4 in Kodeks postępowania karnego. Komentarz*, Lex/el 2014.

<sup>30</sup> Andrzej Sakowicz in Andrzej Sakowicz (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 2025, 104.

<sup>31</sup> Jacek Kosonoga in Ryszard A Stefański, Stanisław Zabłocki (ed), *Kodeks postępowania karnego. Volume 1. Komentarz do art. 1-166*, Warsaw 2017, 227. This view was accepted by Piotr Gensikowski, *Komentarz do art. 15, thesis II.1* in Dariusz Drajewicz (ed), *Kodeks postępowania karnego. Vol I. Komentarz. Article 1–424*, Legalis.

authority conducting criminal proceedings to take action to secure it and transform it into evidentiary material in the form required by law'.<sup>32</sup>

Analysis of the obligation to provide assistance under Article 15 § 2 CCP also requires an insight into how the obligation set out in Article 15 § 3 CCP, which is identical in nature, is understood. The latter provision, despite differences in relation to the obligation imposed on entities mentioned in § 2, uses the same wording 'providing assistance'. The analysis of doctrinal views indicates that they are consistent with those formulated on the basis of Article 15 § 2 CCP. First of all, it should be noted that 'the body may only demand from the requested entity conduct that does not violate other provisions of law, and only such conduct may constitute the subject of the obligation'.<sup>33</sup> As far as the forms of such assistance are concerned, for example Andrzej Sakowicz states that the regulation of Article 15 § 3 CCP 'is intended – in accordance with the will of the lawmaker – to allow the authority conducting criminal proceedings, among other things, to effectively request information relevant to criminal proceedings, e.g. from the hospital director about the fact and date of hospitalisation of a given person'.<sup>34</sup> Michał Kurowski points out that 'it should be considered possible, for example, to ask a corporation providing transport services whether it performed a specific service on a given day, however, this will be of informative nature and it will then be necessary to apply an appropriate procedure for obtaining evidence, e.g., hearing a witness'.<sup>35</sup> In the case law, it is stated that pursuant to Article 15 § 3 CCP, during disciplinary proceedings, it is possible to request information from the educational institution about the dates on which a judge conducted teaching classes there.<sup>36</sup>

Understanding of the obligation to provide assistance was discussed in-depth by Andrzej Jezusek, who referred to the content of sub-statutory legal acts developing the regulation of the discussed obligation in respect to law enforcement agencies (e.g., Article 15 § 1 point 6 of the Police Act). This author rightly indicates as a point of reference § 29 paragraph 2 of the no longer applicable regulation of the Minister of National Defence of 14 December 2001 regarding the detailed manner

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<sup>32</sup> Sławomir Steinborn, *Komentarz do art. 15, thesis 9* in Jan Grajewski, Piotr Rogoziński, Sławomir Steinborn (ed), *Kodeks postępowania karnego. Komentarz do wybranych przepisów*, LEX/el. 2016.

<sup>33</sup> Andrzej Jezusek, 'Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne', *Palestra* 2016, No 6, 44.

<sup>34</sup> Andrzej Sakowicz in Andrzej Sakowicz (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 2025, 104.

<sup>35</sup> Michał Kurowski, 'Komentarz do art. 15', Vol 4 in Dariusz Świecki (ed), *Kodeks postępowania karnego. Vol 1. Komentarz aktualizowany*, LEX/el. 2025.

<sup>36</sup> Judgment of the Supreme Court of 26 September 2016, SNO 31/16, LEX No 2135819.

of exercising certain powers by soldiers of the Military Police,<sup>37</sup> which lists as forms of providing assistance, for example: providing premises or its parts for a specified period, lending means of transport or communication or other items, or enabling the operation of technical devices.<sup>38</sup> These examples illustrate well the essence of the assistance in question. Andrzej Jezusek also adds that another form of assistance may be ‘providing relevant information or providing specific data’.<sup>39</sup> Of course, it should be borne in mind that the context of the above statement is the general performance of the statutory duties of the Military Police, and not only the performance of actions within the scope of criminal proceedings. However, this does not affect the validity of the above view. Similarly to Article 15 § 2 CCP in relation to Article 15 § 3 CCP, it is also emphasized that information provided as part of assistance by state and local government institutions does not serve as a substitute for activities aimed at collecting and securing evidence. Sławomir Steinborn states that ‘the institution of “providing assistance” cannot be used to waive the need for an expert opinion when, in order to establish the facts, it is necessary to examine important circumstances, the confirmation or exclusion of which requires special knowledge’ (Article 193 CCP). It is obvious that the institution of ‘providing assistance’ should not be identified with seeking the opinion of a scientific or specialist institution (Article 193 § 2 CCP).<sup>40</sup> Andrzej Jezusek draws the same conclusion with regard to the acquisition of property, arguing that in this case not the general norm of Article 15 § 3 CCP but the provisions on search and seizure should be applied.<sup>41</sup>

In the context of considerations on the obligation under Article 15 § 3 CCP, attention should also be paid to the observation made by Andrzej Jezusek, who points out that this provision allows for interference with the rights and freedoms of the entity to which a state body turns for help. Therefore, this is not a regulation that provides a legal basis for interference with the rights of third parties. Such interference requires a separate legal basis (e.g., for a transfer of data relating to

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<sup>37</sup> Journal of Laws of 2001, No 157, item 1851.

<sup>38</sup> Andrzej Jezusek, ‘Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne’, *Palestra* 2016, No 6, 44.

<sup>39</sup> Andrzej Jezusek, ‘Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne’, *Palestra* 2016, No 6, 44.

<sup>40</sup> Stanisław Steinborn, ‘Komentarz do art. 15’, Vol 11 in Jan Grajewski, Piotr Rogoziński, Sławomir Steinborn (ed), *Kodeks postępowania karnego. Komentarz do wybranych przepisów*, LEX/el. 2016. Similarly, in relation to substituting witness testimony with the content of written information provided pursuant to Article 15 § 3 CCP – Michał Kurowski, ‘Komentarz do art. 15’, thesis 4 in Dariusz Świecki, *Kodeks postępowania karnego. Vol I. Komentarz aktualizowany*, LEX/el. 2025.

<sup>41</sup> Andrzej Jezusek, ‘Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne’, *Palestra* 2016, No 6, 48.

a given person).<sup>42</sup> It is worth adding that in the latter case, relevant regulations may be limited not only to separately regulated premises justifying the performance of a given action. The procedure for obtaining specific information may also be an issue regulated by the lawmaker, taking into account legal remedies, such as the possibility of challenging the performance of a given action.

The analysis of the doctrinal and jurisprudential views presented above leads to three main conclusions.

Firstly, it should be assumed that the provision of assistance referred to in Article 15 § 2 CCP primarily includes the provision of services that enable the performance of procedural actions necessary in criminal proceedings. This may concern, as already indicated above, the provision of specific material resources necessary to perform procedural actions.

Secondly, the assistance provided may also include the provision of information requested by the authority conducting criminal proceedings. Nowadays, this may involve the use of various technologies (especially IT technologies). It should be noted, however, that the provision of information as a form of assistance may only serve the purpose of preliminary selection of information or verification of potential sources. The legal doctrine rightly emphasises that Article 15 § 2 CCP cannot replace the forms of securing evidence provided for in the CCP. Therefore, if it is necessary to question a witness or obtain an expert opinion, relevant information must be collected as part of these procedural actions. Similarly, if it is necessary to obtain documents, the appropriate procedure is specified in the provisions of Chapter 25 CCP. The provision of assistance is intended to enable the conduct of procedural actions, including evidentiary proceedings, and not to replace them. Therefore, such an action must be performed on a legal basis other than Article 15 § 2 CCP.

Thirdly, it should be emphasised that the recourse to specific information collection regimes rather than a general norm obliging public institutions to provide assistance is motivated not only by systemic correctness, but above all by the necessity to protect the rights of individuals. The provisions concerning interrogations, obtaining an expert opinion, seizing property and conducting searches contain various procedural guarantees that are intended to protect the rights of the participants in the proceedings. It cannot be argued that in the case of state and local government institutions this issue is irrelevant. In most cases, these institutions provide information not about themselves, but about third parties. In

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<sup>42</sup> Andrzej Jezusek, 'Niektóre aspekty powszechnego obowiązku udzielenia pomocy organom prowadzącym postępowanie karne', *Palestra* 2016, No 6, 46.

this respect, it is necessary to comply with procedural requirements that protect against abuse of power also in relations between public institutions. The doctrine emphasizes correctly, as it has already been mentioned, that the provision of Article 15 § 2 CCP does not provide grounds for interference with the rights of third parties. Such interference requires a separate and much more precise legal basis, specifying the conditions and procedure for permissible interference. Moreover, it should not be forgotten that some public authorities, although they cooperate with other institutions within the state structure, must enjoy autonomy or independence (e.g., local government units, courts, the National Bank of Poland, Supreme Audit Office). This clearly contradicts the simplifying assumption that the flow of information between public authority institutions can consist in the unlimited transfer of information requested by another institution based solely on a general regulation creating an obligation to provide assistance.

The provision of Article 15 § 2 CCP, in addition to introducing the obligation for state and local government institutions to provide assistance to authorities conducting criminal proceedings, indicates that this should be done within the time limit set by the body conducting the criminal proceedings and within the scope of activity of the given institution. With regard to the first of the above issues, it should be noted that the assistance is limited solely to the scope of the criminal proceedings conducted.<sup>43</sup> Although the lawmaker does not formulate this reservation directly in relation to the scope of the obligation, but in the wording concerning the body requesting assistance, there can be no doubt that it concerns assistance not in any scope, but only within the scope of the given criminal proceedings. Therefore, assistance that would serve to perform activities of a different nature, e.g., secret surveillance measures, is excluded from the mandatory scope of assistance.<sup>44</sup> The stage of the proceedings at which the authority requests assistance is irrelevant. This may occur both during preliminary proceedings and at trial.<sup>45</sup> Moreover, the obligation to provide assistance also comes into effect when the authority performs the so-called preliminary verification<sup>46</sup> (Article 307 CCP).<sup>47</sup> Although these activities do not fall within the scope of criminal proceed-

<sup>43</sup> Andrzej Sakowicz in Andrzej Sakowicz (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 2025, 104.

<sup>44</sup> Jerzy Skorupka in Jerzy Skorupka (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 2023, 68 and the literature cited therein.

<sup>45</sup> Michał Kurowski, 'Komentarz do art. 15', Vol 3 in Dariusz Świecki, *Kodeks postępowania karnego. Vol I. Updated commentary*, LEX/el. 2025.

<sup>46</sup> For more on the concept of preliminary verification see Wojciech Jasiński, Karolina Kremens, *Criminal law in Poland*, WoltersKluwer 2019, 216.

<sup>47</sup> Sławomir Steinborn, 'Komentarz do art. 15', Vol 8 in Jan Grajewski, Piotr Rogoziński, Sławomir Steinborn (ed), *Kodeks postępowania karnego. Komentarz do wybranych przepisów*, LEX/el. 2016.

ings, it is reasonable to assume that in the case in question, Article 15 § 2 CCP should be understood functionally and exclude preliminary verification within the scope of application of this regulation. There are clearly pragmatic reasons for this approach. Preliminary verification is aimed at clarifying whether there are grounds to initiate proceedings and, therefore, it pursues the same verification purpose as in the case of actions undertaken during the criminal proceedings aimed at verifying whether a prohibited act has been committed and whether it is possible to hold a specific person criminally liable for it.

The obligation to provide assistance as provided for in Article 15 § 2 CCP is limited by the scope of activity of a given state and local government institution. This scope should be understood as all tasks (obligations and powers) performed by a given institution. It is sometimes claimed in the legal literature that state and local government institutions should also, if possible, provide assistance beyond this scope.<sup>48</sup> However, this position seems to be too far-reaching. This is because the express provision of Article 15 § 2 CCP limits the legal obligation imposed on a given institution only to the framework of its activity. This issue is particularly important in the case of local government institutions. Local government has constitutionally guaranteed independence, the negative aspect of which is ‘freedom from arbitrary interference by other public authorities’.<sup>49</sup> This means that ‘all forms of interference in the sphere of activity of local government units must be consistent with the Constitution, defined by statute and justified by the need to ensure the protection of constitutional values’.<sup>50</sup> Therefore, it should be assumed that if the aid was outside the scope of the institution concerned, it would not be obliged to provide it. However, this does not change the fact that, within the framework of cooperation between state and local government institutions, such assistance should be provided if it is possible and will not lead to the disruption of the proper functioning of the entity in question.

Referring to the issue of the deadline set by the authority conducting criminal proceedings, one should agree with the view expressed in the doctrine that it must be realistic, possible to meet and cannot paralyze the activity of a given institution or its organizational units.<sup>51</sup> The deadline for fulfilling the obligation should

<sup>48</sup> Piotr Hofmański, Elżbieta Sadzik, Kazimierz Zgryzek in Piotr Hofmański (ed) *Kodeks postępowania karnego. Vol 1. Komentarz do art. 1–296*, Warsaw 2011, 163.

<sup>49</sup> Judgment of the Constitutional Tribunal of 29 October 2009, K 32/08, OTK-A 2009, No 9, item 139.

<sup>50</sup> Judgment of the Constitutional Tribunal of 29 October 2009, K 32/08, OTK-A 2009, No 9, item 139.

<sup>51</sup> Sławomir Steinborn, ‘Komentarz do art. 15’, Vol 9 in Jan Grajewski, Piotr Rogoziński, Sławomir Steinborn (ed), *Kodeks postępowania karnego. Komentarz do wybranych przepisów*, LEX/el. 2016.

be set in specific units of time. Therefore, the use of phrases such as ‘immediately’ or ‘as soon as possible’ should be avoided. Their evaluative nature makes it impossible to verify whether the deadline has been exceeded. Moreover, the deadline should be realistic, i.e., set in such a way that it creates a real possibility of meeting it. In turn, lack of a specified deadline should be interpreted as the necessity to fulfill the obligation within a reasonable, customary timeframe left to the relevant entity’s own assessment. It should also be noted that the CCP does not specify in what circumstances an authority conducting criminal proceedings may request assistance. It is sometimes claimed that this may happen when performing a procedural action is impossible or significantly difficult.<sup>52</sup> However, taking into account the content of Article 15 § 3 CCP, which expressly articulates such a condition in relation to institutions other than state and local government institutions, this interpretation does not seem correct. It should, therefore, be assumed that in any situation in which it is difficult to independently perform a certain action, it is possible to resort to the provisions of Article 15 § 2 CCP. Obviously, the latter provision does not constitute a prerogative to burden other public institutions with obligations that can be successfully performed by authorities conducting criminal proceedings themselves. On the other hand, however, there are no grounds to assume that only difficulties of a certain degree (as defined in Article 15 § 3 CCP) justify seeking assistance from a state or local government institution.

## **5. CONSEQUENCES OF FAILURE TO PROVIDE ASSISTANCE TO AUTHORITIES CONDUCTING CRIMINAL PROCEEDINGS**

The provision of Article 15 § 2 CCP does not determine the procedural consequences of failing to provide assistance to the authority conducting criminal proceedings. This does not mean, however, that it constitutes *lex imperfecta*. The basis for imposing a disciplinary penalty in this case is Article 287 § 1 CCP, according to which a fine of up to PLN 3,000 may be imposed, among others, on a representative or manager of an institution, legal person or organisational unit without legal personality obliged to provide assistance to the body conducting criminal proceedings, who unjustifiably fails to provide it within the specified time limit. In the case of a collegial body, the responsibilities of a specific entity related to the provision of assistance will be determined by the organizational structure and division of competences adopted in a given unit. This may result from an act or an internal legal document, e.g., a statute or rules and regulations.

<sup>52</sup> For example, Andrzej Sakowicz in Andrzej Sakowicz (ed), *Kodeks postępowania karnego. Komentarz*, Warsaw 2025, 104.

For obvious reasons, liability is individualized in the sense that the sanction is imposed on a specific person who is responsible for providing assistance, even if he or she does not act individually. This could include, for example, a department director, a company director, or a company president. Their responsibility is to supervise the correct and timely execution of assigned activities. It is rightly pointed out in the case law that it is impermissible to impose a disciplinary penalty on an institution as such (e.g., a bank). The sanction under Article 287 § 1 CCP may only be imposed on a representative or manager of an institution, legal person or organizational unit and, therefore, not on an institution, legal person or organizational unit.<sup>53</sup>

The decision to impose a disciplinary penalty is subject to appeal (Article 290 § 2 CCP). In an appeal, both the scope of the request and the fulfillment of the conditions for its filing may be questioned. The allegation of imposing an unrealistic deadline for fulfilling the obligation may also be raised. It is also conceivable that the performance of the duty to provide assistance conflicts with the scope of the powers and obligations of the entity concerned. Hence, as is rightly assumed in case law, resorting to a financial penalty is justified only when there are no doubts as to whether the entity called upon to execute the order is actually unjustifiably avoiding the performance of its obligation. There are, therefore, no grounds for imposing a disciplinary penalty when there are real reasons to refuse to comply with the order. In such a situation, imposing a penalty means resolving the legal problem using the wrong tool, i.e., a repressive measure, instead of using the right method, i.e., through appropriate legal argumentation.<sup>54</sup>

## 6. CONCLUSION

The obligation of state authorities and local government institutions to provide assistance to authorities conducting criminal proceedings regulated in Article 15 § 2 CCP, as has already been indicated, has not been the subject of broader doctrinal reflection so far. More attention was undoubtedly drawn to the provision of Article 15 § 3 CCP, which applies to non-public entities.<sup>55</sup> This state of affairs seems to result mainly from the fact that the issue of providing assistance between public institutions seems to be quite obvious and does not generate any significant

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<sup>53</sup> Resolution of the Court of Appeal in Kraków of 23 July 2012, II AKz 311/12, KZS 2012, No 7–8, item 58.

<sup>54</sup> Resolution of the Court of Appeal in Kraków of 23 July 2012, II AKz 311/12, KZS 2012, No 7–8, item 58.

<sup>55</sup> Cf especially the above-quoted study on this issue by Andrzej Jezusek.

theoretical or practical problems. However, the analysis conducted in this study indicates that such a view is an oversimplification. This remark concerns, in particular, the scope of the obligation referred to in Article 15 § 2 CCP. While there is no doubt that providing assistance in the form of specific services (e.g., making available a means of transport or premises) enables the performance of procedural actions, it is much more complicated to determine the scope of permissible information acquisition. In the era of the information society, the growing volume of data collected by public authorities and the ease of their processing and transfer, authorities conducting criminal proceedings are faced with the temptation to use the general norm of Article 15 § 2 CCP in order to quickly access information. It should be emphasized, however, that in a situation where this information is supposed to have evidentiary value, and especially if it concerns third parties, it is necessary to obtain it in accordance with the proper procedure specified in the provisions of CCP (e.g., regulations contained in Chapter 25 CCP). Only the provisions specifying such a procedure define a precise procedural framework for obtaining information, the depositories of which are the institutions indicated in Article 15 § 2 CCP, and also offer appropriate legal protection against abuse. The latter is important not only because the unlimited use of Article 15 § 2 CCP could lead to circumventing restrictions on obtaining certain information for the purposes of criminal proceedings and, consequently, lead to the violation of individual rights. This is also about an important institutional dimension, which must protect state and local government institutions called upon to provide assistance against the arbitrary actions of other state institutions. Respect for their autonomy and independence, especially in relation to information processing, is very important for the proper functioning of the state apparatus.

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