

Sławomir Steinborn

# Judicial review in criminal proceedings in Poland

[www.en.ug.edu.pl](http://www.en.ug.edu.pl)

25.05.2021





## Authority competent for applying the measure

Type of measure	Pre-trial	Trial
<b>Bodily samples</b>	Prosecutor, Police <ul style="list-style-type: none"><li>• no appeal</li></ul>	Court <ul style="list-style-type: none"><li>• no appeal</li></ul>
<b>Search of premises / Search of computers</b>	Prosecutor, Police (in urgent cases, ex post authorisation of the PP) <ul style="list-style-type: none"><li>• appeal to district court</li></ul>	Court <ul style="list-style-type: none"><li>• appeal</li></ul>
<b>Seizure</b>	Prosecutor, Police <ul style="list-style-type: none"><li>• appeal to district court</li></ul> Court or PP (in case of professional secrecy)	Court <ul style="list-style-type: none"><li>• appeal</li></ul>



## Authority competent for applying the investigative measure

Type of measure	Pre-trial	Trial
<b>Interception of telecommunications</b>	Court of first instance (ex ante authorisation) <ul style="list-style-type: none"><li>• appeal</li></ul> Prosecutor (in urgent cases, max 5 days, ex post authorisation of the court)	Court <ul style="list-style-type: none"><li>• appeal</li></ul>
<b>Traffic and location data</b>	Prosecutor <ul style="list-style-type: none"><li>• appeal to district court</li></ul>	Court <ul style="list-style-type: none"><li>• appeal</li></ul>
<b>Banking information</b>	Prosecutor (inf. reg. suspect – bank client) <ul style="list-style-type: none"><li>• no appeal</li></ul> Regional court (inf. reg. other) <ul style="list-style-type: none"><li>• appeal (?)</li></ul>	Court <ul style="list-style-type: none"><li>• appeal</li></ul>
<b>Data from social media</b>	Prosecutor <ul style="list-style-type: none"><li>• appeal to district court</li></ul>	Court <ul style="list-style-type: none"><li>• appeal</li></ul>



## Judicial review in Poland

### Correlation between the independence of the authority competent to issue/validate an EIO (pre-trial)

- Police + Prosecutor – bodily samples
- Prosecutor – search of premises / computers, seizure, traffic and location data, data from social media
- Prosecutor under prior authorisation of regional court – banking information regarding others than suspect-client
- Prosecutor under prior authorisation of first instance court – interrogation of witness regarding professional secrecy, seizure of documents incl. secrecy
- Court competent in first instance – interception of telecommunications