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Beschuldigte (Strafverfahren)

Italien

Diese Informationsblätter beschreiben, was geschieht, wenn jemand einer Straftat verdächtig oder beschuldigt wird.

Kurzbeschreibung des Strafverfahrens

Im Folgenden werden die Abschnitte eines normalen Strafverfahrens gegen Erwachsene zusammengefasst:

Nähere Informationen zu den einzelnen Schritten im Strafverfahren und zu Ihren Rechten finden Sie in den Informationsblättern. Diese Auskünfte sind kein Ersatz für rechtlichen Beistand und dienen nur der Orientierung.

Das Verfahren beginnt, sobald die Polizei oder der Staatsanwalt Kenntnis von Fakten erlangen, die als Vergehen oder als Straftat angesehen werden können.

Sobald die Ermittlungen abgeschlossen sind, entscheidet der Staatsanwalt, ob der Fall eingestellt werden kann oder ob die Strafverfolgung weiter zu betreiben ist.

Bei den Straftaten, die vor einem Kollegialgericht, einem Schwurgericht [ähnlich den Crown Courts in UK und den Federal Judicial District in den USA] und in einigen Fällen vor einem Einzelrichter verhandelt werden, reicht der Staatsanwalt beim Richter für die Voruntersuchung einen Antrag auf Eröffnung der Hauptverhandlung ein.

Nach Abschluss der Voruntersuchung stellt der Richter entweder die Strafverfolgung ein oder eröffnet die Hauptverhandlung.

Bei den Straftaten, die unter die Zuständigkeit eines Einzelrichters oder eines Friedensrichters fallen, stellt der Staatsanwalt entweder eine Ladung zur Hauptverhandlung oder eine unmittelbare Vorladung zur Hauptverhandlung zu.

Daneben gibt es eine Reihe spezieller Verfahren: das Schnellverfahren, die Strafzumessung auf Antrag der Parteien (Absprache), das sofortige oder summarische Urteil und das Strafbefehlsverfahren.

Bei einem Strafverfahren gibt es normalerweise drei Rechtsmittelinstanzen: erste Instanz (Schwurgericht, Kollegialgericht, Einzelrichter, Friedensrichter), Appellationsgericht und Kassationsgericht [Oberster Gerichtshof].

In der ersten Instanz werden alle Beweise erhoben – Zeugen- und Urkundsbeweise. Das erstinstanzliche Verfahren endet entweder mit einer Verurteilung oder einem Freispruch.

Sie können gegen das Urteil der ersten Instanz Rechtsmittel einlegen.

Das Appellationsgericht bestätigt in seiner Entscheidung entweder das Urteil der ersten Instanz, ändert es ganz oder teilweise oder hebt es auf und verweist es zurück an den erstinstanzlichen Richter.

Sie können eine Entscheidung des Appellationsgerichts anfechten, indem Sie beim Kassationsgericht [Oberster Gerichtshof] Revision beantragen.

Das Kassationsgericht kann dann die Revision als nicht zulässig ablehnen, das Urteil aufheben, ohne es zurückzuverweisen, oder das Urteil aufheben und es an den erkennenden Richter zurückverweisen.

Sobald das Verfahren abgeschlossen ist, ist das Urteil rechtskräftig. Ist mit dem Urteil eine Strafe verhängt worden, ist die Strafe jetzt vollstreckbar.

Nähere Informationen zu den einzelnen Abschnitten des Strafverfahrens und zu Ihren Rechten finden Sie in den Informationsblättern. Diese Auskünfte sind kein Ersatz für rechtlichen Beistand und dienen nur der Orientierung.

Informationen über geringfügige Vergehen, wie etwa Verkehrsdelikte, für die üblicherweise nur eine Geldbuße vorgesehen ist, finden Sie im [Informationsblatt 5](#).

Wenn Sie als Opfer einer Straftat Informationen suchen, finden Sie umfassende Erläuterungen zu Ihren Rechten [hier](#).

Die Rolle der Europäischen Kommission

Bitte beachten Sie, dass die Europäische Kommission in Strafverfahren der Mitgliedstaaten nicht eingreifen und Ihnen daher auch nicht helfen kann, wenn Sie sich beschweren wollen. In diesen Informationsblättern finden Sie Hinweise, wie und bei wem Sie Ihre Beschwerde vorbringen können.

Klicken Sie auf die nachstehenden Links. Sie finden dort die von Ihnen gesuchten Informationen:

[1 - Wie man Rechtsberatung erhält](#)

[2 - Ihre Rechte während der strafrechtlichen Ermittlungen](#)

Beweisaufnahme

Vernehmung

Festnahme, Untersuchungshaft, Sicherungshaft und Europäischer Haftbefehl

Abschluss der Ermittlungen und Voruntersuchung

[3 - Ihre Rechte während der Hauptverhandlung](#)

[4 - Ihre Rechte nach der Hauptverhandlung](#)

[5 - Verkehrsdelikte und sonstige geringfügige Vergehen](#)

Links zum Thema

[Justizministerium](#)

[Allgemeine Rechtsfragen](#)

[Strafrechtliche Fragen](#)

[Italienische Kammern für Strafverteidiger](#)

[Menschenrechte](#)

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1 - Getting legal advice

Getting independent legal advice is very important when you are involved in some way with the criminal process. The factsheets tell you in what circumstances you are entitled to be represented by a lawyer. They also tell you what a lawyer can do for you. This general factsheet tells you how to find a lawyer and how the costs of a lawyer will be met if you cannot afford to pay.

Finding a lawyer

If you are under arrest or detained or in custody, you may appoint a private counsel of your own immediately, and meet him right after arrest, detention or custody.

If you are on bail you can appoint a private counsel and talk to him at any time.

You may find a lawyer at the following links:

[National Bar](#)

[Multilingual Criminal Law](#)

[Italian Chambers of Criminal Lawyers](#)

If you are not appointing a counsel, the Judicial Authority will appoint one for you from a special register.

Paying for a lawyer

Generally you are supposed to pay the lawyer who is assisting you, whether you have chosen him yourself or whether he was appointed to you by the Court.

Can I get the services of a lawyer free of charge?

You can apply for legal aid in order to get legal assistance paid by the government if your taxable income doesn't exceed € 10,628.16. Should you live with a spouse or other relatives, the taxable income will be calculated by adding up all the incomes of each one of the family members. In such a case, the income limit is raised by a further € 1,032.91 and calculated for each one of the members of the family living with the interested party.

Are there circumstances where legal aid is excluded?

Legal aid is excluded:

in criminal proceedings related to tax evasion;

if the applicant is assisted by more than one counsel;

for those having a final conviction for those crimes related with mafia association, and related to tobacco smuggling and drug trafficking.

What can I do in to get Legal Aid?

You must apply to the office of the magistrate where the case is pending.

You must fill out and sign the application and you must supply the following information:

request for the granting of legal aid;

your name, surname, place, date of birth and tax code also of all the members of your family;

certification of your income for the year prior to your application (written statements);

your commitment to communicate any relevant changes in your income in order to be granted benefits.

You can either submit your application personally, attaching a photocopy of valid I.D. card, or you may submit it through your counsel who will have to legalize your signature. You can also send it by means of a certified letter with a return receipt, attaching a photocopy of your I.D. card.

If you have been detained you can submit your application from prison.

If you are under house arrest or custody, you can submit your application to an officer of the criminal police.

If you are a foreigner/alien coming from outside the EU, you must attach certification to your application from the competent consular authority about your income abroad and declaring the truth of what you have declared in your application.

If this is not possible such certification may be substituted by self-certification. If you are a foreigner and are detained and in prison for security reasons, or if you are under arrest or house arrest the certification from your Consulate may be submitted within twenty days from the submission of your application either by your counsel, a relative of yours or it can also be substituted by written statement.

What happens if I am granted legal aid?

Should the judge grant your request you may choose a private counsel from among the lawyers listed in special registers kept by the Bars. You can check these registers at the office of each Bar.

Expenses related to legal aid and all expenses related to the proceedings, including the services of an interpreter will be paid by the government.

Related links

[Volunteer Solicitors](#)

[Ministry of Interior](#)

[Italian Chambers of Criminal Lawyers](#)

[Bar of Triveneto](#)

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2 - My rights during the investigation of a crime and before the case goes to court

What is an investigation?

An investigation is a series of activities carried out by the Public Prosecutor and by the Criminal Police right after a notice of offence. The notice of offence is obtained directly either by the Public Prosecutor, by the Criminal Police, or else, through an action entered by the claimant or by other individuals.

What is the purpose of a criminal investigation?

The purpose of the preliminary investigations is to ascertain whether a crime/offence was actually committed, to find the person responsible and to gather evidence to proceed with the investigation and the proceedings.

Who carries out investigations?

The Public Prosecutor, the Criminal Police and the defendant's counsel carry out the investigation. Then there is the Judge for the Preliminary Investigations who guarantees respect for the procedural regulations and of the rights of the parties.

What are the main stages of a preliminary investigation?

Looking for evidence

The Public Prosecutor and the Criminal Police may arrange and carry out searches, controls, seizure of things and documents, examination of witnesses, telephone tapping, electronic surveillance and inspection of premises. The purpose of these steps is to look for and obtain evidence. The defendant's counsel may carry out searches in order to look for evidence in his favor.

Interrogation

A suspected person may be called by the criminal police or by the Public Prosecutor to be questioned. The purpose of interrogation is to find out whether the individual is involved in a crime/offence.

Arrest, detention, preventive custody in prison and European arrest warrant

Police may arrest an individual if caught in the act of committing the crime/offence, or arrest him after the crime has been committed, if there is a risk that he might escape. The purpose of arrest is to avoid more crimes being committed and to take the individual into custody. The purpose of the arrest is to ensure that the suspect does not escape.

The Judge for the preliminary investigations may decide that the suspect should be kept in custody in prison. The purpose of this is to avoid more crimes being committed, to allow the necessary evidence to be procured and to avoid the suspected person escaping.

Lastly, the police may arrest an individual to enforce a [European Arrest Warrant](#). The purpose of such Warrant is to take the individual into the custody of the requesting State.

Closing of preliminary investigations and preliminary hearing

Once the preliminary investigations are over the Public Prosecutor starts prosecution unless he has asked for the dismissal of the case.

For the most serious crimes a preliminary hearing takes place before the Judge before the trial starts. The function of this hearing is to act as a filter in order to assess the grounds for the accusation and to avoid useless trials. The defendant may choose to be judged by an alternative process avoiding trial and, in case of conviction from a reduction of his prison sentence.

My rights during investigation

Click on the following links to know what your rights are during each stage of investigation.

[Looking for evidence \(1\)](#)

[Questioning \(2\)](#)

[Arrest, detention, preventive custody and European Arrest Warrant \(3\)](#)

[End of preliminary investigation and pre-trial hearing \(4\)](#)

[Looking for evidence \(1\)](#)

Can the police carry out inspections and search my home, my car or my business premises?

Yes. The Police may carry out inspections and local searches either on their own initiative or at the request of the Public Prosecutor in order to look for and hand over the evidence of the crime/offence committed.

Can they do a body search?

Yes. There must be a warrant from the Public Prosecutor for a body search. However the police may stop and frisk a person on their own initiative.

Can the police take documents and objects that I am holding or which are in my home, car or business premises?

Yes. The police may seize documents and things which may be considered as material evidence and which are necessary for proving a fact, either on their own initiative, or with a warrant from the Public Prosecutor.

What are my rights in case of inspection, search and seizure?

If you are subjected to a body search or frisk you can be assisted by a trustworthy person as long as they are immediately available. A body search must be conducted respecting your dignity.

In the case of inspection or seizure with a warrant, the police must hand you a copy of such warrant. If you are not present at that moment the police must hand it to anyone present on site at the time. You have the right to be assisted by a lawyer but the police do not have to call the lawyer in advance.

Do I have the right to petition against seizure?

Yes, you can present a request for review within ten days of the seizure/impoundment order. The decision will be taken by the competent court.

Will I be asked for fingerprints or samples of my DNA (hair, saliva, body fluids)?

Yes. If you are suspected of a crime, the police may ask for DNA samples and fingerprints in order to identify you. If you don't give your consent, the police can go ahead, by asking the Public Prosecutor simply for verbal authorization to take the fingerprints or samples.

You can be asked for fingerprints and DNA samples as evidence, but only if you are suspected of serious crimes and an order from the Judge is necessary or, in urgent cases, a warrant from the Public Prosecutor and then a ratification from the judge.

Can I ask to carry out investigations for my defence?

Your counsel has the right to carry out investigations on your account for your defence even through the use of a private detective.

He can also take down any statements from witnesses, inspect sites, authorize experts and ask for documents from the Civil Service.

Declarations from witnesses and documents can be taken by your counsel to the Judge for the preliminary investigations, to the Public Prosecutor and to the "Tribunale del Riesame" [a special court whose task is reviewing, at the request of the defendant, orders which impose coercive measures such as: home arrest or deportation].

They will be taken into account when the court makes its decision.

Questioning (2)

Why might I undergo interrogation?

If you are suspected of being involved a crime you might be called to be questioned in order to verify the allegations/accusations.

You can also ask to be interrogated in order to clarify your position.

If you are under arrest or custody, [click here](#).

Will I get information on the charges before interrogation?

Yes. Descriptions of the facts regarding your accusation are contained in the summons for the interrogation. Before starting interrogation you will be told what you are accused of and the evidence against you.

Do I have to answer to the questions?

No. Before starting interrogation, the police and the Public Prosecutor must warn you that you are not obliged to answer the questions. Nevertheless, you have to answer the questions related to your personal details and previous convictions.

What happens if I don't understand the local language?

You have the right to be assisted for free by an interpreter. The interpreter translates the questions and your answers.

Can I get a lawyer?

When you are called for the interrogation you will be told that you have the right to be assisted by a lawyer. If you do not have a lawyer, the court will appoint one for you. For information on how to get the services of a lawyer, go to [Factsheet 1](#).

During the whole time you are being interrogated, you must be assisted by a lawyer whether a personal one or appointed by the court.

Immediately after the crime has been committed the police might ask you some questions even if your counsel is not present but you are not obliged to answer their questions. If you answer, your statements can be used as evidence in order to continue investigations.

Arrest, detention, preventive custody in prison and the European Arrest Warrant (3)

Why can I be arrested?

The police may arrest you if you are caught in the act of committing a crime, that is while you are actually committing a crime or if they chased you, immediately afterwards.

The police may also detain you for being caught in the act of committing a crime, when you are suspected of having committed a crime and if there is a real risk that you might escape.

A judge in the preliminary investigations may order that you should be kept in custody in prison if there is serious evidence that you might be guilty of a crime and there is a risk that you might somehow interfere with or obstruct the course of justice or that you might commit other crimes or that you are about to escape.

Will I be able to speak to a lawyer?

Yes. Right after arrest, detention or after an order of custody has been notified in prison, the police must inform you that you can appoint a lawyer. The police have to call your lawyer immediately or, if you do not have one, the lawyer who has been appointed by the court. For information on how to get the services of a lawyer, go to [Factsheet 1](#).

You have the right to talk with your lawyer immediately.

Should there be exceptional reasons for being held in custody, the judicial authorities might postpone your discussions with your counsel for a period not exceeding 48 hours in the case of arrest or detention, and of 5 days in the case of custody.

Can I contact a family member?

Yes. The police will contact your relatives if you give them authorization to do so.

Will I be questioned? Should I provide information?

If you are arrested or detained, the police may question you with your lawyer present but you are not forced to answer their questions.

You will be told what the accusations and evidence against you are.

In the detention hearing you can be interrogated by the Judge but you are not obliged to answer. You can also ask to be interrogated.

In the case of custody in prison the Judge must interrogate you within 5 days of the beginning of such custody (so called custodial interrogation). The presence of your counsel and of an interpreter is compulsory and you are not obliged to answer.

For further information see [Questioning \(2\)](#).

What happens if I don't understand the language?

You have the right to be assisted for free by an interpreter. The interpreter translates the questions and your answers.

How long can I be held by the police?

After your arrest or detention you can be kept at the police headquarters for up to 24 hours. Within this period of time the police must put you in prison. A hearing to confirm the arrest or detention takes place before a Judge within 48 hours from the arrest. Once the hearing is over, the Judge may either order you to be released immediately or decide on a personal custody measure.

Can I appeal against an order that forces me to be in custody?

Yes. Within 10 days from the execution of the order, you can ask the competent Collegiate Court to review the order. A hearing will be arranged where you have the right to attend and you can ask to be heard. You can appeal to the Court of Cassation against the decision of the Court within 10 days of the decision being made.

What happens if I am arrested under a European Arrest Warrant?

If one Member State has ordered a [European Arrest Warrant](#) you can be arrested inside another Member State and handed over to the requesting State after a hearing before the Court of Appeal.

You can be arrested by the police on their own initiative or after an order for custody issued by the Court of Appeal.

You have the right to appoint a lawyer. If you do not have one, a lawyer will be appointed for you by the court. Your counsel and your Embassy must be called immediately.

Within 48 hours from being arrested by the police or within 5 days from the execution of the custody order, a Judge will hear you with your counsel being present and with an interpreter.

A hearing before the Court of Appeal will take place within 20 days of your arrest. At that hearing, a decision will be taken on whether you should be handed over or not. You can appeal against such a decision before the Court of Cassation.

End of the preliminary investigation and preliminary hearing (4)

What happens once the preliminary investigations are over?

Unless the Public Prosecutor asks for the dismissal of the case, he will notify you that the preliminary investigation has come to an end. You will not be notified if the crime comes under the jurisdiction of the Justice of the Peace.

You can consult the records of the preliminary investigation and know about the transcripts of the evidence against you. You can file briefs and evidence for your defence; and ask to be interrogated again.

After the notification that the preliminary investigation has come to an end, unless the Public Prosecutor asks for the dismissal of the case, he will start the prosecution. For minor offences, the Public Prosecutor will summon you directly for trial. In other cases he makes a request for trial to the Judge for the preliminary investigation.

What is a preliminary hearing?

The purpose of the preliminary hearing is to verify the charges against you.

It is carried out in private with the Public Prosecutor and your counsel and, if you want to do so, you can participate and be heard. The Judge may listen to the witnesses and procure documents. At the end of the hearing, the Judge may either dismiss the case, or commit it for trial before the Court or the Court of "Assise".

Do I have the right to have a lawyer?

Yes, it is compulsory that you are assisted by a lawyer.

For more information, go to [Factsheet 1](#).

What happens if I don't understand the language?

The request that you should be committed for trial and the charges, have to be translated into your language. If you are present at the hearing, you will be provided with an interpreter.

Do I have to be present?

No. You can choose not to be present.

Can I avoid going to trial?

Yes. You can ask the judge at the preliminary hearing to be judged by means of a summary trial. The hearings take place in private and the decision is taken on the basis of the written evidence. Should you be convicted, the penalty will be reduced by a third.

You may also avoid going to trial by agreeing a reduced penalty with the Public Prosecutor (plea-bargaining).

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3 - My rights during the trial

Where will the trial be held?

The trial will be held before the competent judge for the jurisdiction as well as for the subject matter.

For minor offences the competent judge is the Justice of the Peace and the Single Judge Court. For more serious crimes the Collegiate Court will deal with the matter. For those crimes considered of serious social threat (murder and terrorism), the competent court is the Court of "Assise".

The trial must be held in public. If not, it is held to be invalid

The judge may decide that the trial or some of the parts of it, should be held in private for particular cases. You may ask that a witness be heard in private if a public hearing would prejudice your privacy on facts unrelated to the proceedings.

The judicial decision will be taken by the same judge who holds the trial. For trials at the Court of "Assise" the judicial decision will be taken along with a jury.

Can the charges be changed during the trial?

The charges against you can be changed during the trial.

The Public Prosecutor may find new charges against you if the crime turns out to be different from the one described in the indictment, or if a simultaneous crime/offence or an aggravating circumstance arises.

You can ask for a period of time to prepare your defence.

What happens if I plead guilty?

Pleading guilty is not expected in the Italian legal system.

If you don't want to go through the trial and want to have a reduced penalty you must ask the Public Prosecutor for an agreement on the penalty (plea bargain). You must make your request at the preliminary hearing or, if there is no preliminary hearing, right at the beginning of the trial.

What are my rights during trial?

You don't need to be present in court.

Your presence might be required for some particular acts, for example: to be identified by a witness.

In such case, if you do not appear of your own accord, the judge may order your compulsory attendance at the trial.

If you want to be present but you have a serious impediment (sickness) your counsel may ask that the hearing be postponed.

You may also participate in only some of the hearings. If you fail to attend even one appearance the court will enter a judgment in default of appearance.

If you do not understand the language it is compulsory that you have an interpreter.

Being assisted by a lawyer is compulsory and he must be present at trial.

You have the right to a personal counsel. If you don't have the means to pay him you can apply for legal aid (defence paid for by the government).

If you don't appoint a personal lawyer the court will appoint one for you.

For more information, go to [📄 Factsheet 1](#). You can revoke your counsel at any time. To change the counsel appointed to you by the court you need to get an order from the judge supplying the reasons for it.

You have the right to remain silent for the whole trial.

If either the Public Prosecutor or any of the parties request that you be questioned you can either agree or refuse.

You are allowed to make statements at any time during the trial.

You have the right to be questioned.

If you are not telling the truth you will not be sanctioned, yet the judge may take this matter into account against you.

If you blame or accuse other people you must be sure that your statements are true. If you lie you can be accused of slander.

What are my rights in relation to the evidence against me?

Right at the beginning of trial the Public Prosecutor, your counsel and any other party will ask the judge for the admission of evidence.

Your counsel can reject the evidence requested by the other parties.

Your counsel may ask to have witnesses and experts heard and ask for documents to be obtained. This is evidence that your counsel may have obtained through investigations for your defence. For more information, go to [📄 Factsheet 2](#). Witnesses and experts are heard during the cross-examination of the parties

Your counsel may ask questions both to the prosecution witnesses as well as to your witnesses.

Your counsel may rebut any declarations previously made by the witnesses. Differences between statements made previously and in court will be taken into account by the judge in order to establish whether the witness is reliable or not.

Will information about my criminal record be taken into account?

The Judge may take into account any previous convictions you may have.

You may be accused of being a habitual offender. In this case, if you are convicted, the penalty will be raised.

Previous convictions in other Member States may be taken into account if they are recognised by the Italian government.

What happens at the end of the trial?

Once the trial is over the Public Prosecutor, your counsel and any other parties make their final statements and present their requests.

The judge presents his verdict and immediately reads the charges.

The sentence can be either acquittal or conviction.

In case of conviction the penalty might be either a fine or a prison sentence or both.

The judge may grant a suspended sentence.

A sentence of imprisonment with no suspended sentence becomes enforceable only when the sentence is final.

If the judge thinks that it is necessary, he can agree to or request precautionary custody in prison or house arrest. For further information, go to [📄 Factsheet 2](#).

In trials before the Justice of the Peace, the possible penalties are: fines, home confinement and community service.

A suspended sentence is not applicable.

The Justice of the Peace may substitute deportation for the penalty.

What is the role of the victim during the trial?

The victim of an offence/crime may participate in criminal proceedings with the assistance of a lawyer.

The counsel takes part in the trial, may ask for evidence, and interrogate witnesses and experts.

If you are convicted the judge may sentence you to pay damages to the aggrieved party.

The Judge may decide that the payment of damages to the aggrieved party be made immediately.

Related links

[Ministry of Justice](#)

[General law issues](#)

[Penal law issues](#)

[Italian Chambers of Criminal Lawyers](#)

[Human Rights](#)

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4 - My rights after the trial

Can I appeal?

You and your counsel may appeal against the sentence for any penalty that is not a fine.

The appeal must be filed with the judge who convicted you within a variable period of time: from 15 to 45 days from the verdict or recording of the judgment.

You must specify in your appeal the reasons for your appeal and issues of the sentence you are appealing against.

The trial will take place before the Court of Appeal or the "Corte d'Assise d'Appello".

What happens if I appeal?

If you appeal against the sentence the penalty will not be executed until the decision is final.

The fact that you have appealed will not mean that you are released from prison, if you are in prison when you appeal. The Court of Appeal will hear your appeal within a short time if you are in custody. In any other case it will depend on the amount of work the Court has.

The Court of Appeal decides on the existing evidence.

The Court may decide on a new trial but only in exceptional cases. It may decide to avail itself of the existing evidence only if it considers it vital for the decision. You can ask for unexpected or newly discovered evidence, which came to light after the first instance judgment to be considered during the appeal.

If you haven't attended the first degree stage of the trial and you can prove that it was impossible for you to do so, or because you were not aware that the trial was taking place, the Court may decide to restart the trial.

What happens at the appeal hearing?

Your lawyer must be present at the trial. You can participate but it is not mandatory.

You have the right to have an interpreter.

If the Court decides to restart the trial it will reconsider all the evidence.

Once the closing statements of the parties are over, the Court will present its verdict.

What happens if the appeal is successful/unsuccessful?

If the Court admits the appeal it may quash or modify the sentence either totally or partially.

If the Court doesn't admit the appeal it will confirm the sentence of the court which first heard the case.

If you are acquitted of the charges at the appeal stage, generally there is no provision for you to receive compensation.

Can I appeal against the sentence of the Court of Appeal?

You can appeal against the decision on appeal to the Court of Cassation.

The appeal may be submitted by yourself or by your counsel as long as he is registered in the "Albo dei patrocinanti in Cassazione" [a special Register of advocacy in the Court of Cassation]

The appeal has to be presented to the Court of Appeal within a variable period of time: from 15 to 45 days.

Cases for appeal are strict and only deal with legal errors.

The hearings may be in private or in public.

The Court of Cassation decides on the basis of the court records.

The Court of Cassation may not admit the appeal or reject it, or else quash the appealed sentence with or without committal to trial. If there is to be a retrial, the case will be sent back to the original judge.

What happens after the sentence is final?

The sentence becomes final, unless you appeal to the Court of Appeal or the Court of Cassation within the terms provided by law, or after the decision by which the Court of Cassation rejected the appeal.

When the sentence is final it becomes enforceable.

It is registered at the Criminal Records Office.

If the penalty is the payment of a fine you will have to pay the amount requested by the Office.

If you were given a prison sentence, which is not suspended, the Public Prosecutor presents an enforceable order.

If you have to serve three years or less in prison, the Public Prosecutor may suspend the sentence and notify you of his decision.

You may apply within 30 days for a different measure rather than imprisonment to the "Tribunale di Sorveglianza" [a sort of Parole Board]. If there are existing preconditions, you may ask to be submitted either to the supervision of a social worker, to be placed under house arrest or under the supervision of a rehabilitation and prevention centre.

If you don't submit your request or if your application is rejected you must start serving the sentence.

I am from another Member State. Can I be sent back after the trial?

The judge may apply the security measure of deportation if you have been sentenced to more than two years of imprisonment.

The judge may replace the prison sentence with deportation with a re-entry prohibition, if you have been convicted or plea-bargained for a two year prison sentence and there are no provisions allowing a suspended sentence. Deportation will be immediate even if the sentence is not final. The competent authority is the "Questore" [provincial chief of the state-run police].

You may also be deported if you are already in prison and have to serve a sentence of less than two years. The order is presented by the Magistrate of the "Tribunale di Sorveglianza". You may appeal the decision before the "Tribunale di Sorveglianza".

Will information about the charges and/or the conviction be added to my criminal records?

Final sentences are registered in the criminal records.

Records are removed as soon as you are over 80 years old or after death.

They are removed also if the case is reviewed.

Sentences imposed by the Justice of the Peace will be removed five years after the date the sanction was issued, if a fine was imposed, or after ten years for a different penalty, and if no further crime/offence has been committed within the established period of time.

You may ask the competent Court to have records and certificates from the Criminal Records Office corrected. If you were born abroad, the competent court is the Court in Rome.

If I am convicted, can I be tried again for the same crime?

If you were convicted by an Italian Judge, the conviction is final, and you cannot be tried again in Italy for the same crime.

If you were convicted by a foreign Judge and it is a crime/offence committed in Italy then you can be tried again in Italy.

Related links

[General law issues](#)

[Ministry of Interior](#)

[General issues for non nationals](#)

[Penal law issues](#)

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5 - Road traffic offences

How are minor road traffic offences dealt with?

There are two categories of breaches of the law provided for by the Highway Code/Rules of the Road: offences and administrative breaches.

For offences like drunken driving the assessment and the imposing of the penalty follows the same rules as a criminal case.

For minor offences (like speeding, or parking offences) there is an administrative procedure which will be explained in this factsheet.

Who deals with such offences?

The Road Patrol, the State Police, the "Carabinieri", the "Guardia di Finanza" [Fiscal Police] and the "Polizia Municipale" [Municipal Police] deal with road traffic offences. In certain cases, the "ausiliari del traffico" [road traffic volunteers] may also fine you.

What is the procedure?

If it is possible, the Charge Sheet is immediately drafted and handed to you personally.

If not, the report will be sent to you within 150 days from the identification of the offender or the individual who is responsible for the payment of the fine (usually the owner).

What are the penalties?

You are usually expected to pay a fine.

There can also be other administrative sanctions, for example, you may be disqualified from driving or banned from driving for a certain period of time.

I come from another Member State. Are there any particular rules?

If you are driving a car with foreign plates you can pay a reduced fine immediately (minimum sanction) if allowed. In such cases you cannot appeal.

Another possibility is that you may pay a "cauzione" [a deposit] equal to the amount of the minimum sanction if the vehicle was registered in one of the EU Member States, or equal to half the amount of the maximum sanction in any other case. You can appeal even if you have paid the "cauzione".

Your vehicle will be provisionally seized if you don't pay the "cauzione". If that happens, you need to pay for the impounding of the vehicle and are not allowed to use it until you have paid one of the sums above.

If the vehicle is not seized, the notification of the report to people living abroad is made within 360 days of the report being written.

What is a "verbale" [traffic police report]?

A "verbale" is a public report where facts are reported and penalties are established.

This is positive evidence of the facts reported by the police officer.

You can refuse to sign it or to collect it. Your refusal has to be reported but doesn't change the validity of the report.

Can I appeal?

The person whose name is on the report may appeal, whether they are the offender or the owner of the vehicle.

You can appeal to the Prefect or to the Justice of the Peace.

The appeal to the Prefect has to be presented personally or by means of a certified letter with a return receipt within 60 days to the Prefect's office in the place where the offence took place or to the assessing authority.

The appeal to the Justice of the Peace has to be presented personally or by means of a certified letter with delivery receipt by return, within 60 days from notification of the act to the office of the Justice of the Peace in the place where the offence took place. You will have to be present at court either personally or through your counsel or else the proceedings will be void.

Will these offences appear on my criminal record?

As these are administrative offences, they do not appear on your criminal record.

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