Εναγόμενοι (ποινική διαδικασία)

Κύπρος

Περίληψη της ποινικής διαδικασίας

Ακολουθεί περίληψη των συνήθων σταδίων της ποινικής διαδικασίας:

Ένα πρόσωπο που θεωρείται ύποπτο για συμμετοχή σε αδίκημα μπορεί να ανακριθεί από την αστυνομία. Η αστυνομία είναι υπεύθυνη για τη διερεύνηση των αδικημάτων.

Ο ύποπτος μπορεί να συλληφθεί βάσει δικαστικού εντάλματος, με εξαίρεση την περίπτωση αυτόφωρων αδικημάτων.

Πριν από την ανάκριση από την αστυνομία, ο ύποπτος πρέπει να ενημερωθεί για το δικαίωμα επικοινωνίας με δικηγόρο και πρέπει να του επιστηθεί η προσοχή στις δηλώσεις του.

Εάν στο τέλος της διερεύνησης προκύπτουν ενοχοποιητικά στοιχεία κατά του υπόπτου, η αστυνομία του απαγγέλλει επίσημα κατηγορίες. Σε υποθέσεις σοβαρών αδικημάτων, η απόφαση άσκησης δίωξης λαμβάνεται από τον Γενικό Εισαγγελέα. Η εξουσία της αστυνομίας τελεί πάντοτε υπό τη γενική εποπτεία του Γενικού Εισαγγελέα, ο οποίος, βάσει του Συντάγματος, έχει την εξουσία να κινεί, να διεξάγει, να επιλαμβάνεται και να συνεχίζει ή διακόπτει οποιαδήποτε ποινική διαδικασία.

Η αστυνομία υποβάλλει το κατηγορητήριο, στο οποίο περιγράφονται τα αδικήματα, σε επαρχιακό δικαστή για έγκριση. Εφόσον εγκριθεί, ο κατηγορούμενος κλητεύεται να εμφανισθεί ενώπιον του δικαστηρίου σε συγκεκριμένη ημερομηνία.

Ανάλογα με τη βαρύτητά τους, οι ποινικές υποθέσεις μπορούν να εκδικασθούν: α) με συνοπτική διαδικασία από έναν δικαστή του επαρχιακού δικαστηρίου στην περιφέρεια του οποίου διαπράχθηκε το αδίκημα, β) κατόπιν παραπομπής από τον Γενικό Εισαγγελέα, από το Κακουργιοδικείο απαρτιζόμενο από τρεις επαρχιακούς δικαστές υπό την προεδρία του προέδρου επαρχιακού δικαστηρίου.

Στη συνοπτική διαδικασία, την ημέρα κλήτευσής του στο δικαστήριο, ο κατηγορούμενος απαντά στις κατηγορίες δηλώνοντας εάν είναι ένοχος ή αθώος. Στις υποθέσεις που εκδικάζονται από το Κακουργιοδικείο, κατά την ορισμένη ημερομηνία διενεργείται προκαταρκτική εξέταση ενώπιον δικαστή επαρχιακού δικαστηρίου. Η προκαταρκτική εξέταση μπορεί να μην διεξαχθεί, εάν ο Γενικός Εισαγγελέας βεβαιώνει ότι δεν είναι αναγκαία. Η πρακτική σήμερα είναι να μην διενεργείται προκαταρκτική εξέταση.

Το θύμα ενός αδικήματος έχει το δικαίωμα να υποβάλει μήνυση.

Ο Γενικός Εισαγγελέας έχει τη συνολική ευθύνη για τις ποινικές διώξεις, συμπεριλαμβανομένου του δικαιώματος διακοπής της δίωξης.

Στην Κύπρο δεν διεξάγονται δίκες με ενόρκους.

Εάν κατόπιν αιτήματος, το δικαστήριο κρίνει ότι ο κατηγορούμενος είναι ανίκανος να δηλώσει ενοχή ή αθωότητα λόγω διανοητικής διαταραχής ή άλλης ανικανότητας, το δικαστήριο μπορεί να διατάξει να υποβληθεί σε θεραπεία σε κατάλληλο ίδρυμα.

Ο κατηγορούμενος μπορεί να εγείρει προκαταρκτικές αντιρρήσεις στις κατηγορίες επικαλούμενος: α) την απουσία καθ' ύλη ή κατά τόπο αρμοδιότητας, β) την προηγούμενη αθώωση ή καταδίκη του για την (τις) ίδια (-ες) πράξη (-εις), γ) την απονομή χάριτος για τα αδικήματα, δ) την έλλειψη πληρότητας ή την επανάληψη των κατηγοριών.

Το ίδιο κατηγορητήριο μπορεί να αφορά περισσότερα πρόσωπα για συναφή αξιόποινη συμπεριφορά. Εάν αυτό θεωρηθεί άδικο, το δικαστήριο μπορεί να διατάξει τον επιμερισμό των κατηγοριών για τους σκοπούς της δίκης.

Η δίκη ξεκινά με τα αποδεικτικά στοιχεία της κατηγορούσας αρχής. Στο τέλος της παρουσίασης των στοιχείων της κατηγορούσας αρχής, το δικαστήριο καθορίζει κατά πόσον στοιχειοθετείται υπόθεση στην οποία ο κατηγορούμενος πρέπει να απαντήσει. Εάν ναι, ο κατηγορούμενος κλητεύεται από το δικαστήριο να παρουσιάσει την υπεράσπισή του και ενημερώνεται για το δικαίωμα του να μην μιλήσει ή να προβεί σε ανώμοτη δήλωση από το εδώλιο ή να καταθέσει ενόρκως. Ο κατηγορούμενος μπορεί ανά πάσα να προσκομίσει στοιχεία για την υπεράσπισή του. Κανένα αρνητικό συμπέρασμα δεν μπορεί να εξαχθεί από την άσκηση του δικαιώματος σιωπής. Μετά την παρουσίαση των στοιχείων της υπεράσπισης, οι διάδικοι προβαίνουν στις τελικές τους αγορεύσεις και το δικαστήριο εκδίδει την απόφασή του.

Όλοι οι μάρτυρες που καταθέτουν ενόρκως στο δικαστήριο πρέπει να υποβάλλονται σε αντεξέταση.

Η διαδικασία της δίκης πρέπει να τηρεί τους κανόνες της δίκαιης δίκης. Το τεκμήριο της αθωότητας ισχύει καθ' όλη τη διάρκεια της δίκης. Το βάρος της απόδειξης φέρει ανά πάσα στιγμή η κατηγορούσα αρχή. Εάν στο τέλος της δίκης το δικαστήριο δεν είναι βέβαιο πέραν κάθε εύλογης αμφιβολίας για την ενοχή του κατηγορουμένου, οφείλει να τον απαλλάξει.

Εάν ο κατηγορούμενος καταδικασθεί, ακολουθεί η διαδικασία απαγγελίας της ποινής.

Λεπτομέρειες σχετικά με όλα τα στάδια της διαδικασίας και σχετικά με τα δικαιώματά σας περιέχονται στα ενημερωτικά δελτία. Οι παρούσες πληροφορίες δεν υποκαθιστούν τις νομικές συμβουλές και προορίζονται μόνον για καθοδήγηση.

Ο ρόλος της Ευρωπαϊκής Επιτροπής

Σημειώνεται ότι η Ευρωπαϊκή Επιτροπή δεν διαδραματίζει κανέναν ρόλο στις ποινικές διαδικασίες στα κράτη μέλη και δεν μπορεί να σας βοηθήσει σε περίπτωση που έχετε κάποια καταγγελία. Στα παρόντα ενημερωτικά δελτία περιέχονται πληροφορίες σχετικά με το πώς και πού μπορείτε να υποβάλετε την καταγγελία σας.

Για τις πληροφορίες που χρειάζεστε, ανατρέξτε στους παρακάτω συνδέσμους

Τα δικαιώματά μου κατά τη διάρκεια της έρευνας

Τα δικαιώματά μου κατά τη διάρκεια της δίκης

Τα δικαιώματά μου μετά τη δίκη

Τελευταία επικαιροποίηση: 11/03/2024

Την έκδοση αυτής της σελίδας στην εθνική γλώσσα διαχειρίζεται το εκάστοτε κράτος μέλος. Οι μεταφράσεις έχουν γίνει από την αρμόδια υπηρεσία της Ευρωπαϊκής Επιτροπής. Οι τυχόν αλλαγές που επιφέρει η αρμόδια εθνική αρχή στο πρωτότυπο ενδέχεται να μην έχουν περιληφθεί ακόμα στις μεταφράσεις. Η Ευρωπαϊκή Επιτροπή δεν αναλαμβάνει καμία ευθύνη όσον αφορά τις πληροφορίες ή τα στοιχεία που περιλαμβάνονται ή για τα οποία γίνεται λόγος στο παρόν έγγραφο. Βλ. την ανακοίνωση νομικού περιεχομένου για τους κανόνες πνευματικής ιδιοκτησίας που ισχύουν στο κράτος μέλος που είναι αρμόδιο για την παρούσα σελίδα.

A. If I am a foreign national, does it affect the investigation?

No.

B. What are the stages of an investigation?

i. Evidence gathering phase / Powers of investigators

Every investigating officer may require any person whom he has reason to suppose to be acquainted with the facts or circumstances of the offences which he is investigating, to attend at such time and place as the officer may reasonably direct for the purpose of examining him and taking a statement from him in relation to such offence.

ii. Police custody

A person who is arrested and detained shall have the right to request that he or his lawyer be granted access in due time to the essential documents which are relevant to the specific case and are in the possession of the prosecution, and which are necessary to effectively challenge the legality of the arrest and detention.

«Essential documents» shall mean the copy of the arrest and detention warrant and the copy of the request and the affidavit on the basis of which the warrant was issued.

Where it is demonstrated to a judge that investigations into the commission of a criminal offence for which a person was arrested have not been completed, and following a request by a police officer with the rank of Chief Inspector or a higher rank, the judge shall be able under the law, whether or not he/she has the authority to deal with the criminal offence in respect with which the interrogation is conducted, to order, from time to time, that the arrested person be held in police custody for a period not exceeding eight days, and in any event as the Court deems it appropriate, the day following the order for police custody being considered the first day in police custody.

iii. Questioning

The investigating officer may record any testimony of the person being questioned, which is then read to said person who then signs it or, if the person is illiterate, puts a distinct mark thereon. Where the person refuses to act in this manner, the investigating officer shall record the refusal at the end of the testimony, also indicating the reason for said refusal, if that was verified, and subsequently the testimony shall be signed by the investigating officer.

Any such testimony, provided that it is proven that it was voluntary, shall be accepted as evidence in any criminal proceedings against the person who gave the testimony.

Anyone who, without good reason, refuses to appear at such a place and time as the investigating officer may determine, shall be guilty of a criminal offence and shall be liable to imprisonment of no more than one year or a financial penalty not exceeding one thousand pounds or both of the aforementioned penalties.

During the investigation of a criminal offence, where the investigating officer considers that a document is necessary or desirable for the purposes of the investigation, the officer may issue a written order addressed to the person who has or is believed to have said document in his/her possession or control, requesting that said person produce the document at such reasonable place and time as specified in the order. Any person required by a written order to produce a document shall be deemed to have complied with the order if he/she has caused the document to be produced instead of appearing in person for that purpose.

Anyone who, without due cause, refuses to present any document following a relevant order pursuant to this Article, shall be guilty of a criminal offence and shall be liable to imprisonment of no more than three years or a financial penalty not exceeding one thousand five hundred pounds or to both of the aforementioned penalties.

iv. Pre-trial detention

Any court may, if it so deems appropriate, postpone any case brought before it and on the basis of such postponement it may either release the accused on such terms as it considers reasonable or order him/her to be remanded in custody pending trial.

C. What are my rights during the investigation?

i. What rights do I have regarding interpretation and translation?

Suspects who do not understand the language of the police or other
competent authorities shall be entitled to assistance from an interpreter free of charge. The interpreter
may help suspects to talk with their lawyer and must keep the content of that communication confidential. In addition, they shall have the following rights:

In the event of an arrest outside of a police station, when the police officer who carried out the arrest does not speak the language that the suspects understand so as to inform them, or does not have the necessary means to do so when outside a station, the officer shall inform the investigator, who will arrange for the suspects to be informed immediately and, in any event, before the investigation begins.

If the suspects cannot communicate with the lawyer of their choice in a language they understand, an interpreter or another person may be present at the interviews, at the request of said lawyer, so that the suspects' lawyer may be able to communicate with them in a language they understand.

Additionally, if the suspects cannot communicate with the doctor in a language they understand, an interpreter or another person may be present at the medical examination, treatment and follow-up so that the suspects' doctor may be able to communicate with them in a language they understand.

In addition, they shall have the right to free translation of all essential documents (arrest and/or detention warrant, charge sheet, any judicial decision and order in the proceedings and any other document deemed essential by the competent authority). An oral translation and/or oral summary of essential documents may be provided in certain cases.

ii. What are my rights to information and access to the case-file?

Upon arrest and detention, the suspects or their lawyer shall have the right to access essential documents (copy of arrest and detention warrant, copy of the request and of the affidavit on the basis of which the warrant was issued) which they need to challenge the lawfulness of the suspects' arrest or detention. If the case is brought before a court, the suspects or their lawyer shall have the right to access the testimonies and documents obtained during the investigation of the case relating to the criminal offence being tried.

iii. What is my right of access to a lawyer and to have a third party informed of my situation?

Right of access to a lawyer

Suspects shall have the right to talk to a lawyer in confidence. The lawyer shall be independent from the police, which may help the suspect to contact a lawyer.

Pursuant to the law, suspects shall also have the following rights:

Immediately after the arrest and without undue delay, they shall be entitled to contact a lawyer of their choice by telephone themselves, without any other person present.

They shall have the right of access to a lawyer at the following times, whichever comes first:

(a) prior to being questioned by the police or investigated by any other competent authority;

(b) in a timely manner before being brought before a court;

(c) during an investigation or gathering of evidence by the police or any other competent authority;

(d) following the deprivation of their freedom, without undue delay.
Access to a lawyer shall include the right to:
(a) have a private meeting and contact the lawyer representing them, at any time;
(b) request the presence and participation of their lawyer during the questioning, in order to be provided with clarifications with regard to the procedure followed and to be advised on their procedural rights regarding the questioning;
(c) request the presence of their lawyer during an investigation or gathering of evidence, if they are entitled to have a lawyer present during the questioning concerned.
The police shall comply with the confidentiality governing communication between the suspect and his/her lawyer during meetings, correspondence, telephone conversations and all other permitted forms of communication between suspects and their lawyers.
In any event, a list of the names and telephone numbers of all lawyers registered in the «register of lawyers practising the profession »shall be made available to suspects immediately after their arrest or, if they are arrested outside of a police station, immediately after they enter the police station.
When in police custody, suspects shall be entitled to have, for the purposes of their defence, and on any day and at any time, confidential meetings with their lawyer in the detention facility where they are kept, in a specifically designated place where they are not seen or heard by any police officer, and to be provided by their lawyer with confidential written or oral instructions during the interview.
If they do not wish to be represented by a lawyer, they shall notify in writing the person in charge of the detention facility by completing a relevant form. In addition, they shall be informed that any waiver of their right of access to a lawyer may affect the effectiveness of their defence.
In the event that the person is under eighteen years of age, the questioning shall take place in the presence of his/her lawyer. Furthermore, the person's parents or guardians shall have the right to be present during interviews with the person's lawyer.
If, due to any mental insufficiency or physical disability, the person cannot exercise his/her right to contact a lawyer without assistance, the suspect shall be entitled to exercise said right with the assistance and/or in the presence of an official of the State's medical and/or social services, which the suspect shall enjoy as soon as that is possible following his/her arrest. Furthermore, if the suspect does not understand his/her rights because of mental insufficiency, he /she shall be questioned in the presence of his/her lawyer.

Temporary derogation from the right of access to a lawyer

A temporary derogation from the suspects' right of access to a lawyer without undue delay following the deprivation of their freedom shall be permitted in exceptional circumstances and only at the pre-trial stage, where, for reasons of geographical isolation, it is impossible to guarantee the right of access to a lawyer.
In addition, a temporary derogation from their right of access to a lawyer may be permitted, in exceptional circumstances at the pre-trial stage and where this is justified by the specific circumstances of the case, for one of the following imperative reasons:
(i) There is an urgent need to prevent serious adverse impact on the life, freedom or physical integrity of a person.
(ii) There is an urgent need for immediate action by the police to prevent serious risk to the criminal proceedings.
However, the above temporary derogations shall:
(i) be proportionate and not go beyond what is necessary;
(ii) be strictly time-bound;
(iii) not be based exclusively on the type or seriousness of the alleged offence; and
(iv) not infringe upon the globally fair nature of the proceedings.
If the suspects are not allowed to exercise their rights regarding:
(i) access to a lawyer following the deprivation of their freedom, without undue delay;
(ii) face-to-face meetings and communication with their lawyer; and
(iii) the presence and participation of their lawyer during the questioning and during an investigation or gathering of evidence; they may, either when they first appear before a court or on the date of the first hearing of their case, ask the court to examine the reasons why they were not allowed to exercise such rights.

Informing a third party about your arrest or detention / Informing your consulate or embassy

Upon arrest or detention, suspects shall inform the police if they wish to contact someone, i.e. a family member or their employer, themselves by telephone to inform them of their detention. In certain cases the right to inform another person of their detention may be temporarily restricted. In such cases the police shall inform them of this.
In the case of foreign nationals, they shall inform the police if they wish to contact their country's consular post or embassy themselves by telephone. In addition, they shall inform the police if they wish to contact an official of their country's consular post or embassy. In this regard, they shall be informed that a waiver of the right to inform and contact their consular post or embassy may affect them personally.
Pursuant to the law, they shall also have the following rights:
They shall have the right to contact themselves and by telephone, immediately after their arrest and without undue delay, and in the presence of a police officer, a relative or their employer or another person of their choice, and if they are under eighteen years of age, a parent or guardian, to inform them of their arrest and let them know in which police station or detention facility they are being kept in custody or are going to be kept in custody.
If, due to any mental insufficiency or physical disability, the person cannot exercise his/her right to contact said persons as per above, the suspect shall be entitled to exercise said right with the assistance and/or in the presence of an official of the State's medical and/or social services, which the suspect shall enjoy as soon as that is possible following his/her arrest.
In the case of foreign nationals, they shall also have the right to contact themselves, by telephone, without undue delay and as soon as possible after their arrest, in the presence of a police officer, the consular post or diplomatic mission in the Republic of Cyprus of the state of which they are nationals, to inform them of their arrest or detention and let them know in which police station or detention facility they are being kept in custody or are going to be kept in custody. If there is no relevant consular post or diplomatic mission in the Republic of Cyprus, they may contact the Commissioner for Administration and the Protection of Human Rights (Ombudsman) of the Republic of Cyprus. If they are nationals of two (2) or more states, they may choose the consular post or diplomatic missions which they wish to inform of the deprivation of their freedom and which they wish to contact. In addition, they shall have the right, if they so wish, to contact, be visited by, talk to and correspond with such authorities, as well as to arrange to be represented by them, if there is no objection from such authorities in that respect.
If, due to mental insufficiency of the person, it is clearly impossible for him/her to understand or be informed that he/she has the above rights with regard to contact or to understand fully his/her right to exercise those rights, the consular post or diplomatic mission or the Commissioner for Administration and the Protection of Human Rights (Ombudsman) of the Republic of Cyprus, as the case may be, shall be informed by a police officer.
They shall also be informed that a waiver of the right to inform and contact third persons, relatives, their employer or the relevant consular authorities may affect them personally.

If, due to mental insufficiency of the individual, it is clearly impossible for him/her to understand or be informed that he/she has rights as regards contact or to fully understand the right to exercise said rights, the police shall call, immediately after the arrest, a relative of the arrested person to inform the former of the arrest and let them know in which police station or detention facility the person is being kept in custody or is going to be kept in custody.

Temporary derogation from the right to contact relatives / a person of your choice / your employer

The right to contact relatives or a person of their choice or their employer and the right to inform the persons exercising parental responsibility (where a person under 18 years of age is involved) shall not be granted immediately after the arrest, where justified by the specific circumstances of the case, for one of the following imperative reasons:

(a) There is an urgent need to prevent serious adverse impact on the life, freedom or physical integrity of a person. or

(b) There is an urgent need to prevent a situation in which a significant risk to the criminal proceedings may arise, and provided that the derogation:

(i) is proportionate and does not go beyond what is necessary;

(ii) is strictly time-bound;

(iii) is not based exclusively on the type or seriousness of the alleged offence; and

(iv) does not infringe upon the globally fair nature of the proceedings.

Where it is justified by an urgent need or equivalent operational requirements, they shall not be given the right to contact a third person (relatives or employer or other person of their choice) immediately after they are arrested.

If they are not allowed to exercise their rights to:

(i) inform and contact relatives or a person of their choice or the employer,

(ii) inform the persons exercising parental responsibility, of the arrest of a person under 18 years of age, they may, either when they first appear before a court or on the date of the first hearing of their case, ask the court to examine the reasons why they were not allowed to exercise such rights.

In the case of a person under eighteen years of age where the above temporary derogations apply, the police shall inform, without undue delay, Social Welfare Services, the Commissioner for the Protection of Children's Rights and any other authority competent for the protection and welfare of children, of the deprivation of freedom of said person.

iv. What is my right to legal aid?

If they do not have sufficient resources to exercise their

right of access to a lawyer at the pre-trial stage, they may report this to the police officer responsible for questionings, after signing the relevant form. They shall then be given a list indicating the names and telephone numbers of lawyers interested in providing their services. Suspects shall verify that they have been given the list. The lawyer of their choice will be informed accordingly by the police officer.

If they wish to be provided with the services of a lawyer free of charge, they may file a relevant request to the court once they are brought before it, and the court will examine their request.

v. What is important to know about the:

Presumption of innocence

Any person who is suspected or accused of having committed a criminal offence shall be presumed innocent until he/she is found guilty according to the law. The principle of law referring to the presumption of innocence shall apply to a natural person in criminal proceedings, from the moment when said person is suspected or accused of having committed a criminal offence, until the conclusion of the proceedings consisting in a final court decision.

Right to remain silent and right not to incriminate oneself

While being questioned by the police or other competent authorities, they shall not have to answer questions about the alleged offence. Also, when asked to make a statement or answer questions, they shall not have

an obligation to produce evidence or documents or to provide information that may lead to self-incrimination.

Burden of proof

The police shall be responsible for the gathering of evidence on the basis of which the offences under investigation will be established beyond reasonable doubt. Accused persons shall have the right to give their own version of the facts and to make a testimony or a statement of defence available to the investigating authorities to support their own version or innocence.

vi. What are the specific safeguards for children?

Criminal liability

A person under the age of 14 is not criminally liable for any act or omission (Chap. 154, Article 14) and thus shall not be arrested. That person is asked to appear at the police station accompanied by his/her parents/guardians if his/her presence is deemed necessary.

Arrest

Where possible, arresting a minor is to be avoided. The arrest of a minor must be carried out in accordance with the law, be used only as a measure of last resort and have the shortest possible duration.

When a minor is arrested, the arrest procedure shall be followed (provision of information, judiciary rules, letter of rights, etc.). Please note that during the arrest

the age, maturity and vulnerability of the children must be taken into account.

In addition, any decision concerning the arrest of a child should be based on the best interests of the child.

Children under arrest should be informed of the procedures which will follow, in a comprehensible manner considering their age and maturity.

No handcuffs shall be used, unless that is absolutely necessary and taking into account the conditions laid down in police regulation 5/39.

The use of a police baton shall be permitted as a last resort and only under the conditions laid down in police regulation 5/38.

The body search should be carried out by a police officer of the same sex.

Legal representation and other rights

Informing the minor of the right to contact a lawyer of his/her choice himself/herself by telephone, without any other person present

Informing the minor of his/her right to legal aid in case he/she does not have sufficient resources

Informing the minor of the right to contact himself/herself by telephone his/her parents/guardians and to inform them about the arrest and let them know in which police station or detention facility he/she is being kept in custody or is going to be kept in custody, in the present of a police officer

Parents/guardians shall be informed immediately. Contacting parents/guardians for the purpose of informing them may be delayed and take place within 12 hours after the arrest if there is reasonable suspicion that the exercise of the right of access immediately after the arrest may:

(a) lead to the destruction or concealment of evidence related to the clarification of the offence; or

(b) prevent the arrest or questioning of another person in connection with the offence or lead to the escape thereof; or

(c) lead to the commission of another offence or to the death or physical injury of any person; or
(d) lead to damage to interests pertaining to the safety of the Republic of Cyprus or the constitutional or public order or to an intervention to the administration of justice.
Informing the minor's parents/guardians by the police as well (in a supplementary manner) regarding the arrest and the (intended) detention facility.
Corresponding record made in the investigation file.
If so deemed necessary and in the interest of the minor, the social services of the State may also be informed about the arrest.

Questioning

The investigating officer may not begin the questioning prior to such information being provided and/or notification taking place and before the minor has exercised any right of access as requested.
Persons under 18 years of age shall be questioned in the presence of their lawyer.
If the person being questioned does not understand or speak the language, he/she shall be entitled to the assistance of an interpreter.
The questioning must always be carried out in accordance with the provisions of the law, of judicial rules and of the relevant police regulations (PR 3/3, PR 3 /4, PR 5/18).
Minors who are not in detention shall be questioned and statements shall be taken from them in the presence of their parents or guardians.
The police should ensure that the questioning is conducted as soon as possible, and in any event within 24 hours, so that in principle there is no need to ask the court to order imprisonment (letter from the Commissioner for the Protection of Children's Rights dated 11/06/2014).

Arrest / Questioning / Criminal prosecution of under-age students

The arrest and questioning of under-age students on school premises must be avoided. However, if it is necessary, police officers must go to the school dressed in civilian clothes and in an unmarked police vehicle.
The arrest and questioning must take place in the presence of the headmaster of the school, who shall be informed accordingly in advance (PR 5/18, paragraph 6(3)).
When an under-age student is criminally prosecuted, the Deputy Assistant Commissioner (*Astinomikos Diefthintis*) must inform the Ministry of Education and Culture only where that is absolutely necessary and where he considers that such notification serves the needs of the criminal or correctional policy of the Republic of Cyprus and, naturally, taking into account:
-the nature of the offence and provided that said action serves the purpose of protecting other students / national guards (*ethnofrouri*),
-the problems currently faced by Cypriot society, and
-the particular circumstances of each case.
It shall be prohibited to disclose the name and/or address of the school, and/or a photograph or any information which may lead to the identification of a young person appearing before the Juvenile Court (*Dikastirio Anilikon*), except with the permission of the Court.

Conditions of detention

In addition to the rights granted to all prisoners (Act 163(I)/2005), detainees under the age of 18 shall have the following additional rights with regard to their detention:
Minors shall stay in cells separate from those of the other detainees. It should also be ensured that minors do not meet in common areas with adult prisoners.
Minors deprived of their freedom must be detained in detention facilities designed specifically for persons of that age, where activities specific to their needs shall be available and which will be staffed by persons with specific training. Such facilities must be of sufficient size, sufficiently illuminated and ventilated, adequately furnished and well-decorated and must provide appropriate visual stimuli. Finally, minors may keep a reasonable number of personal belongings in their cell (CPT Standards), unless safety issues arise therefrom. In addition, it shall be ensured, through cooperation with other services, that the children occupy their time in a healthy manner (letter from the Commissioner for the Protection of Children's Rights dated 07/11/2014).
The minor's parents or guardians shall have the right to be present during interviews with the minor's lawyer.
The minor's parents or guardians must be present at every medical examination, treatment and follow-up of the minor.
All detainees and any relative thereof or another person of their choice and, in the case of detainees under the age of 18, their parents or guardians, must be informed in a language they understand by the person in charge of the detention facility that they have the right to meet every day for up to one hour in total in a separate area of the detention facility, in the presence of a police officer.

vii. What are the specific safeguards for vulnerable suspects?

Children shall be considered vulnerable persons and therefore the special safeguards referred to in the previous paragraph (vi) shall also apply hereto.
For the purposes of the Rights of Arrested and Detained Persons Act (Act 163(I)/2005), «**vulnerable person**» shall mean a suspect or accused person unable to understand or participate effectively in the criminal proceedings because of his/her age, mental or physical condition or disability.
In the event that a person with a mental insufficiency or physical disability is arrested, **information** to said person with regard to their rights as those result from Act 163(I)/2005 shall be provided **in simple and comprehensible language,** taking into account the special needs of such persons.
In such a case, the services of a person who can communicate the relevant information to the arrested person or to the other persons involved, so that such information is understood by them, given their insufficiency or disability, shall be ensured.
Furthermore, in the event of arrest of a person who, because of any mental or physical disability, as the case may be, is clearly unable to exercise the **rights of access** provided for in the law (Act 163(I)/2005), said person shall be entitled to exercise such rights **with the assistance and/or in the presence of an officer of the State's medical and/or social services**, and such assistance must be made available to the person immediately after his/her arrest and in any event as soon as this becomes possible.

D. What are the legal time limits during the investigation?

The person arrested as suspected of having committed an offence shall be brought within 24 hours of his/her arrest before a judge, if the questioning with regard to the offence for which he/she was arrested has not been completed. The purpose of this appearance before a judge is for the police to request his /her detention for a specific period of time, which may not exceed 8 days at a time and 3 months in total.
Following the expiry of an order for detention, and if the questioning and investigations have not been concluded, it is possible for the police to file a request with the court for renewal of the order for another eight days, and this may be repeated upon renewal of the detention every eight days, for a maximum period of imprisonment of 3 months in total.
It is usually considered necessary to detain a suspect where there is a risk that the suspect may influence witnesses or destroy evidence if released. The police shall bear the burden of proving to the court sufficiently that the conditions for issuing an order for detention are met.

E. What are the pre-trial preparations, including alternatives to pre-trial detention and possibilities for transfer to the home state (European Supervision Order)?

A court exercising criminal jurisdiction may within its discretion order the detention of an accused person during the trial of his/her case. In accordance with Article 48 of the Criminal Procedure (Chapter 155), the power of the District Court implementing summary proceedings shall be limited to a maximum period

of eight days each time the case is postponed. Conversely, there is no such limitation on the power of the Supreme Court or the Assize Court to order the detention of the accused during the trial of their criminal case.
Article 157(1) of the Act (Chapter 155) stipulates that a court exercising criminal jurisdiction may authorise the release of a prisoner on bail. If the court decides to release the accused, it shall have the power to do so by laying down specific conditions and ordering him/her to sign a document regarding bail. This power of the court is the combined result of the provisions of Articles 48 and 157(1) of the Code of Criminal Procedure.

Conditions for forwarding a court decision on supervision measures

The competent authority of the Republic of Cyprus may forward the decision it issued on supervision measures to the competent identification authority of the Member State where the person concerned has his/her lawful and habitual residence when said person, after being informed of the relevant measures, consents to return to that Member State.
The competent issuing authority of the Republic of Cyprus may, at the request of that person, forward the decision on supervision measures to the competent authority of a Member State other than the Member State where the person has his/her lawful and habitual residence, provided that the competent authority of the Member State where the person does not have his/her lawful and habitual residence consents to such transmission.
The competent identification authority of the Republic of Cyprus shall agree to forward the decision on supervision measures regarding a person who does not have his/her lawful and habitual residence in the Republic of Cyprus only if said person has been in its territory for a period of at least three (3) months.
The competent issuing authority in the Republic of Cyprus shall be the Assize Court or District Court exercising criminal jurisdiction and which has jurisdiction over the offence or issued a decision on supervision measures.
The competent identification authority in the Republic of Cyprus with regard to decisions on supervision measures of another Member State shall be:
the District Court (*Eparchiako Dikastirio*) with territorial jurisdiction in the area where the person in respect of whom a decision on supervision measures has been issued by another Member State resides;
the District Court of Nicosia (*Eparchiako Dikastirio Lefkosias*), if the residence of the person concerned is unknown or if the person concerned does not reside in the Republic of Cyprus.

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My rights during trial

A. Where will the trial take place?

If the criminal case pertains to an offence or offences punishable by imprisonment of up to 5 years, the trial shall take place in a District Court (*Eparchiako Dikastirio*) (single-member). Please note that with the written consent of the Attorney General (*Genikos Eisaggeleas*), the District Court may try a criminal offence punishable by imprisonment exceeding 5 years.
Where the criminal offence is punishable by imprisonment of more than 5 years, the trial shall be heard in the Assize Court (three-member).

B. Can the charges be modified? If so, what is my right to information in this regard?

The charges may be modified at the beginning of or during the trial. Articles 83, 84 and 85 of the Criminal Procedure Act, Chap. 155, provide for the procedure for modifying the charges and for the rights of the accused.

83.-(1) Where, at any stage of the trial, the court decides on the basis of evidence that the indictment or the indictment filed with the Assize Court is somehow defective, either in substance or in form, the court may issue an order to modify the indictment or the indictment filed with the Assize Court, either by modifying it or by replacing it or by adding new charges thereto, as the court deems necessary for the charges to reflect the facts of the case.
(2) Where an indictment or an indictment filed with an Assize Court is modified in such a manner, the order for modification shall be recorded on the indictment or the indictment filed with the Assize Court, and such documents shall be used for the purposes of any related proceedings as if they had been filed in the modified form.

84.-(1) Where an indictment or an indictment filed with an Assize Court is modified as provided for in Article 83, the court shall immediately call on the accused to present a defence before the court and to state whether he/she is ready to be tried on the basis of the indictment or the indictment filed with an Assize Court as modified.
(2) If the accused declares that he/she is not ready, the court shall examine the grounds put forward and, should it deem that the immediate continuation of the proceedings is not likely to affect in an adverse manner the accused's defence or the public prosecutor's handling of the case, the court may proceed with the trial as if the modified indictment or indictment filed with an Assize Court were the initial one.
(3) If the modified indictment or indictment filed with the Assize Court is such that the immediate continuation of the trial may, in the opinion of the court, affect in an adverse manner the accused or the public prosecutor, the court may either order a new trial or postpone the trial for such a period as it deems necessary.
(4) Where an indictment or an indictment filed with an Assize Court is modified by the court after the trial has begun, the testimony already given during the trial may be used without the need for a new hearing, but the parties shall be allowed to call again to the stand or send another summons to any witnesses who may have testified already and to examine or cross-examine them in relation to the modification at hand.

85.-(1) Where only part of the indictment or the indictment filed with an Assize Court may be proved and the part established constitutes a criminal offence, the accused may, without any modification of the indictment or indictment filed with the Assize Court, be sentenced for the criminal offence which he/she has committed as evidenced.
(2) Where a person is charged with a criminal offence, he/she may be convicted of having attempted to commit said criminal offence, without the need for modification of the indictment or indictment filed with the Assize Court.
(3) Where it is established that a person has committed any act with a view to committing the criminal offence for which he/she is accused, and where the commission of the act with such intent constitutes a criminal offence, said person may, if he/she has not been charged yet with the aforementioned criminal offence, be convicted of said offence, without the need for modification of the indictment or indictment filed with the Assize Court.
(4) Where, at the end of the trial, the Court deems that it has been established by testimony that the accused committed a criminal offence or criminal offences which are not included in the indictment or the indictment filed with an Assize Court and of which the accused may not be convicted without prior modification of the indictment or the indictment filed with an Assize Court and that, if convicted of such criminal offences, the accused would not be subject to a stricter sentence than the one that would apply had he/she been convicted on the basis of the indictment or the indictment filed with an Assize Court and that, therefore, the defence of the accused would not be affected in an adverse manner, the court may order that a charge or charges be added to the indictment or the indictment filed with the Assize Court with regard to such criminal offence(s), and the court shall decide thereon as if such charge(s) were part of the initial indictment or the indictment filed with an Assize Court.

C. What are my rights during the court appearances?

i. Am I required to be present in the court? What are the conditions for me to be absent during the court case?

The right of the accused to be present at the trial is guaranteed under the provisions of Articles 12 and 30 of the Constitution and under the provisions of Article 6 of the European Convention on Human Rights. Moreover, the accused shall have the obligation to be present at the trial unless his/her absence falls within the exceptions provided for in Articles 45(1) and 63(3) of the Criminal Procedure Act, Chap. 155.

Article 45(1)

It is understood that a judge or, for such categories of criminal offences such as the President of the District Court (*Eparchiako Dikastirio*) may determine by means of a general order, the appointed Registrar (*Protokollitis*) may by special order in the summons release the accused from the obligation to appear in person; and

(a) allow the accused to appear and respond to the charges represented by a lawyer, in which case the accused may appear and respond in that manner. It is understood that, where the accused person is charged solely in the capacity of director or secretary of the company and is not personally charged with any offence, he/she shall not have to appear at court in person either to respond to the charges or at any other stage, with the exception of the hearing stage of the case, but shall have the right to be represented by a lawyer;

(b) allow the accused, if he/she wishes to plead guilty, to send that reply to the court, duly certified and stamped by a registrar or sergeant (*Iochias*) or a police officer or senior police officer pursuant to the Police Act or a certifying official under the Certifying Officials Act or by a lawyer under the Lawyers Act, who uses for that purpose his/her personal stamp clearly indicating his/her full name and address, or by a head of community (*koinotarchis*), along with the summons with regard to which the reply is provided, in which case the reply shall be considered an admission of guilt for the purposes of the procedure.

63.-(1) The accused shall have the right to be present at court throughout the trial, provided that he/she behaves properly.

(2) Where the defendant fails to behave properly, the court may, at its discretion, order that he/she be removed from the court room and remain in custody, and continue the trial in his/her absence by making

such arrangements which, in the court's opinion, seem sufficient for the accused to be informed about everything that happened during the trial and to prepare his defence.

(3) The court may, if it so deems appropriate, allow the accused to remain outside the court room during the whole trial or part thereof, on such terms as it may deem appropriate.

On the basis of Cypriot case-law, a trial may take place in the absence of the defendants where that is in the interest of justice.

ii. What are my rights regarding access to interpreters and translated documents?

The right to an interpreter is guaranteed both under the Constitution and under the 2014 Right to Interpretation and Translation during the Criminal Procedure Act (18(I)/2014). Furthermore, the right to an interpreter is provided for under Article 65 of the Criminal Procedure Act, Chap. 155.

Article 12. 5(a) and (e) of the Constitution stipulates that:

Any person charged with an offence shall have, as a minimum, the following rights:

(a) to be informed immediately and in detail in a language he/she understands about the nature of the charges and the reasons therefor;

(e) to be assisted by an interpreter free of charge if he/she is unable to understand or does not speak the language used in court.

Article 30(3) of the Constitution stipulates that every accused person has the right to an interpreter free of charge if he/she cannot understand or speak the language used in court.

The 2014 Right to Interpretation and Translation during the Criminal Procedure Act (18(I)/2014) provides for the

Right to an interpreter

4.-(1) The competent authority shall arrange for interpretation services without delay to a suspect or accused person who does not speak and/or understand the language in which the criminal proceedings are conducted, during the criminal proceedings before investigating and/or judicial authorities, including police questioning, all court hearings and any necessary intermediate hearings.

(2) The judicial authority responsible for executing the European arrest warrant, in accordance with Article 11 of the European arrest warrant and Procedures for Extradition of Requested Persons Between the Member States of the European Union Act, shall arrange for interpretation services to be provided without delay to any person requested who does not speak and/or understand the language in which the related proceedings are conducted.

(3) Where this is necessary to ensure a fair trial, the competent authority shall arrange for interpretation services to ensure communication between the suspect, accused and/or requested person and the lawyer thereof, where such communication is directly related to questioning and/or hearings in the course of the criminal proceedings and/or the execution of a European arrest warrant and/or to the lodging of an appeal and/or other procedural claims, including a request for bail.

(4) Pursuant to this Article interpretation shall:

(a) be provided in the mother tongue of the suspect, accused person or requested person or in any other language that he/she speaks and/or understands; and

(b) include further assistance, as appropriate, such as the use of sign language, to meet the needs of suspects, accused or requested persons with hearing and/or speech problems.

(5) The competent authority shall verify by any means it deems appropriate whether the suspect, accused person or requested person speaks and understands the language used in the criminal proceedings or in the proceedings for the execution of the European arrest warrant and whether that person needs assistance from an interpreter.

(6) Interpretation services as provided for in this Article shall be of sufficient quality to ensure a fair trial, in particular by ensuring that the suspect, accused person or requested person understands the case against him/her so as to be able to exercise his/her right of defence. To this end, the competent authority shall pay particular attention to the specificities of communication with the assistance of an interpreter.

(7) Where necessary, the competent authority may arrange for interpretation services to be provided with the use of communications technologies, for instance videoconferencing, a telephone and/or the Internet, unless the physical presence of the interpreter is required to ensure a fair trial.

(8) For the purposes of better implementation of the provisions of paragraph (5), the procedure or mechanism for verifying whether the suspect, accused person or requested person speaks and understands the language used in the criminal proceedings or in the proceedings for the execution of the European arrest warrant may be determined by regulations.

Right to translation

5.-(1) In order to ensure that the suspect or accused person is able to exercise his/her right of defence and to ensure a fair trial, the competent authority shall, within a reasonable period of time, provide the suspect or accused person who does not understand the language used in the relevant criminal proceedings with a written translation of all essential documents.

(2) For the purposes of this Act, essential documents shall include:

(a) in all cases, the arrest and/or detention warrant, the bill of indictment and any judicial decision and order pertinent to the proceedings; and

(b) any other document deemed essential by the competent authority either ex officio or at the reasoned request of the suspect or accused person or the lawyer of the suspect or accused person.
(3) The competent authorities shall not have to provide a translation of excerpts of essential documents which do not contribute to the suspect's or accused person's understanding of the case against him/her.
(4) To ensure a fair trial, in proceedings for the execution of a European arrest warrant, the competent authority shall, within reasonable time, provide the requested person who does not understand the language in which the European arrest warrant was drawn up or into which it was translated by the issuing Member State, with a written translation of that document.
(5) Notwithstanding the provisions of paragraphs (1), (2) and (4), the competent authority may provide, instead of a written translation, an oral translation and /or an oral summary of essential documents, provided that such oral translation and/or oral summary does not affect the fairness of the proceedings.
(6) The suspect, accused person or requested person shall be entitled to waive the right to receive the written and/or oral translation and/or oral summary provided for in this Article, should the competent authority be provided with sufficient evidence that:
(a) the person concerned has previously consulted a lawyer and/or is otherwise fully aware of the consequences of such a waiver; and
(b) the waiver is legally valid and voluntary.
(7) The written and/or oral translation and/or oral summary provided for in this Article shall be provided in the mother tongue of the suspect, accused person or requested person or in any other language that he/she speaks and/or understands.
(8) The written and/or oral translation and/or oral summary provided for in this Article shall be of sufficient quality to ensure a fair trial, in particular by ensuring that the suspect, accused person or requested person is aware of the case against him/her and is able to exercise his/her right of defence.
Article 65- (1) of the Criminal Procedure Act, Chap. 155 stipulates that
where a testimony is given in a language which the accused does not understand and he/she present, an interpreter shall interpret for the accused in an open court hearing in a language which the accused understands.
It is understood that where there is a defence attorney, interpretation may be omitted with the consent thereof.
(2) Where documents are submitted as formal evidence, it shall be in the discretion of the court to interpret as much as their content as deemed necessary.

iii. Do I have the right to a lawyer?

According to Article 12¨of the Constitution,
Any person charged with an offence shall have, as a minimum, the following rights:
(c) to defend himself/herself in person or by means of a lawyer of his/her choice or, if he/she cannot afford an attorney, to be provided with legal aid free of charge where it is so required for justice to be served;
Article 30 (3) of the Constitution also stipulates that:
Everyone has the right to:
(d) have a defence attorney of their choice and to be provided with legal aid free of charge where it is so required for justice to be served and in accordance with the law.
Also, in accordance with the Legal Aid Act, i.e. Act 165(I)/2002, provided that the conditions set out therein are met, during the hearing the accused shall have the right to a lawyer of his/her choice and to legal aid free of charge.

iv. Which other procedural rights should I be aware of? (e.g. appearance of suspects before the court)

Appearance of an accused person before a court

If, in summary proceedings, an accused person fails to appear at the specified time, and after proof that he/she was served with a writ of summons is produced, the court may proceed to the hearing of the case and reach a decision in his/her absence or, if it so deems appropriate, postpone the hearing and issue a warrant for his/her arrest.
It is understood that a judge or, for such categories of criminal offences such as the President of the District Court (*Eparchiako Dikastirio*) may determine by means of a general order, the appointed Registrar (*Protokollitis*) may by special order in the summons release the accused from the obligation to appear in person; and
(a) allow the accused to appear and respond to the charges represented by a lawyer, in which case the accused may appear and respond in that manner;
(b) allow the accused, if he/she wishes to plead guilty, to send that reply to the court, duly certified and stamped by a registrar or sergeant (*lochias*) or a police officer or senior police officer pursuant to the Police Act or a certifying official under the Certifying Officials Act or by a lawyer under the Lawyers Act, who uses for that purpose his/her personal stamp clearly indicating his/her full name and address, or by a head of community (*koinotarchis*), along with the summons with regard to which the reply is provided, in which case the reply shall be considered an admission of guilt for the purposes of the procedure.
It is understood that, where the accused person is charged solely in the capacity of director or secretary of the company and is not personally charged with any offence, he/she shall not have to appear at court in person either to respond to the charges or at any other stage, with the exception of the hearing stage of the case, but shall have the right to be represented by a lawyer.

Answering the charges

When the accused is called upon to answer, he/she may or may not plead guilty or make a specific statement of defence and his/her answer shall be recorded by the court.
The specific statement of defence shall include the following statements:
(a) The Court before which the accused is called to answer to the charges has no jurisdiction and that another court has jurisdiction with regard to the accused or the criminal offence with which he/she is charged. Should this allegation be accepted, the court shall refer the case to the court of the Republic of Cyprus which has jurisdiction over the perpetrator or the relevant criminal offence.
(b) He/she has been previously convicted or acquitted, as the case may be, on the basis of the same facts for the same criminal offence.
(c) He/she has been granted pardon for this criminal offence.
If the court decides that the facts alleged by the accused do not prove the allegation, or that the allegation is indeed false, the accused shall have to answer the charges.
If the accused pleads guilty and the court has sufficient evidence that he/she has understood the nature of his/her reply, it may proceed as if the accused were convicted by court decision.
If the accused makes no admission of guilt, the court shall proceed to the hearing of the case. If the accused refuses to respond or does not respond immediately or is unable to respond because of physical disability, the court shall proceed as if the accused had made no admission of guilt.

D. Possible sentences

The District Court shall hear summarily offences punishable by law with a term of imprisonment not exceeding 5 years or a fine not exceeding EUR 85,000 or both.
The Assize Court (*Kakourgiodikeio*) hears criminal offences punishable by imprisonment of more than 5 years.

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My rights after the trial

A. Do I have the right to appeal the court's decision?

A person found guilty by the Assize Court or the District Court and sentenced to any period of imprisonment or to pay a financial penalty may appeal to the Supreme Court against the conviction or the sentence.

B. What other recourse options do I have?

No right to bring an action against the court decision is provided for.

C. What are the consequences if I am sentenced?

i. Criminal record

The penalty imposed by the court shall be recorded by the police in the file Prior Convictions Archive. The remission of sentences shall be carried out in accordance with the provisions of the Remission to Convicts Act (Act 70/1981). No remission is provided for with regard to life sentences or imprisonment of more than 2 years.

ii. Execution of sentence, transfer of prisoners, probation and alternative sanctions

A prison sentence shall be served from the day when the relevant decision is delivered; however, and unless the court orders otherwise, it may be reduced by the time during which the person was detained prior to trial pursuant to the provisions of this Act.

The court shall order that the execution of the sentence of imprisonment not exceeding three years be suspended, provided that this is justified by the circumstances of the case in their entirety and the personal circumstances of the accused.

The court issuing an order suspending the execution of the prison sentence may issue a probation order placing the convicted person under the supervision of a supervising officer (guardian) for a period not exceeding the period of implementation of the order (3 years).

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