Η γλωσσική έκδοση που βλέπετε τώρα βρίσκεται στο στάδιο της μετάφρασης. αγγλικά

Υπάρχει ήδη μετάφραση στις ακόλουθες γλώσσες: en

Swipe to change

Εναγόμενοι (ποινική διαδικασία)

Ιρλανδία

Στα δελτία που ακολουθούν παρέχονται αναλυτικές πληροφορίες σχετικά με το τι συμβαίνει όταν κάποιος θεωρείται ύποπτος ή κατηγορείται για αξιόποινη πράξη η οποία εκδικάζεται ενώπιον δικαστηρίου. Για πληροφορίες σχετικά με τις τροχαίες παραβάσεις ήσσονος σημασίας, για τις οποίες επιβάλλεται συνήθως προκαθορισμένη ποινή όπως πρόστιμο, βλ. Δελτίο 5. Εάν είστε θύμα αξιόποινης πράξης, μπορείτε να βρείτε αναλυτικές πληροφορίες για τα δικαιώματά σας εδώ.

Περίληψη της ποινικής διαδικασίας

An Garda Siochána (ή αλλιώς Gardai) διαθέτει διάφορες εξουσίες και, μεταξύ αυτών, την εξουσία να σταματήσει κάποιον και να τον υποβάλλει σε σωματικό έλεγχο, όπως επίσης και την εξουσία να συλλάβει κάποιον για τον οποίον πιστεύει ότι έχει διαπράξει, ή ότι ετοιμάζεται να διαπράξει, αδίκημα που επισύρει σύλληψη.

Σε περίπτωση που τεθείτε υπό αστυνομική κράτηση, κάποιο μέλος της An Garda Siochána θα σας εξηγήσει τα δικαιώματά σας. Μεταξύ αυτών, περιλαμβάνονται το δικαίωμά σας να μιλήσετε με solicitor (νομικό σύμβουλο) και ιατρό, και το δικαίωμά σας, εφόσον το ζητήσετε, να παρίσταται διερμηνέας. Εάν ο κρατούμενος είναι παιδί, ισχύουν ειδικές διατάξεις σύμφωνα με τις οποίες στην ανάκριση πρέπει να παρίσταται ενδεδειγμένος ενήλικος.

Στο στάδιο αυτό, μπορεί να σας ζητηθεί να δώσετε τη συγκατάθεσή σας για τη λήψη δειγμάτων με σκοπό τον έλεγχο του DNA. Μπορεί επίσης να σας ζητηθεί να δώσετε δακτυλικά αποτυπώματα, να δεχθείτε να σας φωτογραφίσουν, ή/και να σταθείτε στη σειρά μαζί με άλλους για σκοπούς αναγνώρισης.

Κατά τη διάρκεια της έρευνας, είναι πιθανό η An Garda Siochána να σας απαγγείλει κατηγορίες για κάποιο αδίκημα. Αυτό μπορεί να γίνει είτε με έγγραφο απαγγελίας κατηγορίας ή είτε με την επίδοση κλητήριου θεσπίσματος όπου αναγράφεται η ημερομηνία κατά την οποία οφείλετε να εμφανιστείτε στο δικαστήριο. Η Gardai αποστέλλει αναλυτικό φάκελο με τα στοιχεία που συνέλεξε κατά την έρευνά της στο Γραφείο του Διευθυντή της Εισαγγελίας ο οποίος αποφασίζει εάν θα ασκήσει δίωξη εξ ονόματος της πολιτείας.

Είναι δυνατό να αφεθείτε αμέσως ελεύθερος με εγγύηση («Station Bail») με την υποχρέωση όμως να εμφανιστείτε στο δικαστήριο, ή μπορεί να χρειαστεί να υποβάλετε σε μεταγενέστερο στάδιο αίτηση στο District Court (περιφερειακό δικαστήριο) για καταβολή εγγύησης.

Τα αδικήματα ήσσονος σημασίας, τα γνωστά «πταίσματα», εκδικάζονται ενώπιον του District Court. Τα πιο σοβαρά αδικήματα ή αλλιώς «πλημμελήματα» εκδικάζονται ενώπιον δικαστή και σώματος ενόρκων.

Κατά τη διάρκεια της ποινικής διαδικασίας, θεωρείστε αθώος μέχρι αποδείξεως του αντιθέτου.

Έχετε δικαίωμα να λάβετε νομικές συμβουλές. Εάν δεν είστε σε θέση να πληρώσετε για εκπροσώπηση, μπορείτε να υποβάλετε αίτηση για νομική συνδρομή.

Σε περίπτωση που εκδοθεί καταδικαστική απόφαση σε βάρος σας, αυτό σημαίνει ότι σας έκριναν ένοχο πέραν κάθε εύλογης αμφιβολίας για το αδίκημα για το οποίο σας είχαν απαγγελθεί κατηγορίες. Εάν η καταδικαστική απόφαση εκδοθεί από το District Court, έχετε το δικαίωμα να ασκήσετε ένδικο μέσο είτε κατά της καταδικαστικής απόφασης είτε κατά της ποινής που σας επιβλήθηκε. Σε περίπτωση που εκδοθεί αθωωτική απόφαση, αυτό σημαίνει ότι η υπόθεση κλείνει και ότι παύει κάθε περαιτέρω δίωξη εναντίον σας.

Σε περίπτωση που εκδοθεί καταδικαστική απόφαση σε βάρος σας για πλημμέλημα από σώμα ενόρκων, τότε δεν έχετε αυτομάτως το δικαίωμα να ασκήσετε ένδικο μέσο. Σε αυτή την περίπτωση, πρέπει να διαβουλευθείτε με τους νομικούς σας συμβούλους για τις περαιτέρω κινήσεις σας.

Αναλυτικές πληροφορίες για όλα τα προαναφερθέντα στάδια της ποινικής διαδικασίας καθώς και για τα δικαιώματά σας μπορείτε να βρείτε στα δελτία. Οι πληροφορίες αυτές δεν υποκαθιστούν σε καμία περίπτωση τις νομικές συμβουλές. Παρέχονται αποκλειστικά και μόνο για σκοπούς καθοδήγησης.

Ο ρόλος της Ευρωπαϊκής Επιτροπής

Επισημαίνεται ότι η Ευρωπαϊκή Επιτροπή δεν έχει καμία αρμοδιότητα στο πλαίσιο των ποινικών διαδικασιών που διεξάγονται στα κράτη μέλη και δεν μπορεί να σας βοηθήσει σε περίπτωση που θέλετε να υποβάλετε καταγγελία. Τα ακόλουθα δελτία περιέχουν πληροφορίες για τους τρόπους και τους φορείς υποβολής καταγγελιών.

Κάνετε κλικ στους ακόλουθους συνδέσμους για να βρείτε τις πληροφορίες που χρειάζεστε

1 – Λήψη νομικών συμβουλών

2 – Τα δικαιώματά μου κατά τη διερεύνηση αξιόποινων πράξεων

Σύλληψη

Ανάκριση και διερεύνηση της υπόθεσης από την αστυνομία

Πραγματοποίηση ερευνών

Πρώτη ακροαματική διαδικασία

Προετοιμασία για δίκη ή υποβολή δήλωσης ενοχής προ της δίκης

3 – Τα δικαιώματά μου κατά τη διάρκεια της δίκης

4 – Τα δικαιώματά μου μετά τη δίκη

5 – Τροχαίες και λοιπές παραβάσεις ήσσονος σημασίας

Τελευταία επικαιροποίηση: 18/01/2024

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.

1 - Getting legal advice

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

Finding a lawyer

If you are in custody, and need a lawyer, Gardaí can search for a solicitor available to attend their local garda station to provide legal advice and attend interviews. If you as a detainee do not nominate your own solicitor, Gardaí can print a current, randomised list of available solicitors for their division on the day you are detained. A list of solicitors who can provide legal services to persons detained pursuant to a European Arrest Warrant is also available.

If you are not in custody, but require advice from a criminal lawyer you can contact the Law Society of Ireland, who will provide you with the names of solicitors who do criminal defence work. They are not permitted to recommend any one firm.

Another way to find a lawyer specialising in this work is by word of mouth, if you know people who have been in a similar situation before. Alternatively you could try the internet, where most law firms show their areas of work that might be best for your issue.

Paying for a lawyer

In Ireland, there is a system of legal aid which can provide the services of a lawyer to a person suspected or accused of an offence, at no cost to the person, in certain circumstances.

If you are detained for questioning under certain legislation at a Garda Station, and you are in receipt of Social Welfare payments or in employment earning less than €20,316 gross per annum, you are probably eligible to receive assistance under the Garda Station Legal Advice Revised Scheme. You have to sign a declaration form for you solicitor to access this scheme, which then entitles you to the services of a solicitor free of charge.

If you have been charged with an offence, then you are entitled to apply to the judge you are in receipt of Social Welfare payments or receiving a low income, you may be entitled to apply to the judge, at the court where you appear, for free legal aid. Your solicitor will help you apply to the court. If you don't have a solicitor, the judge informs you of your right to free legal aid and it is at this stage that the application is made by you. If you are working, you may have to fill out a declaration form.

If you are charged under certain offences that involve the Criminal Assets Bureau, you may avail of the Criminal Assets Bureau Ad-hoc Legal Aid Scheme . This scheme provides legal representation for people who need it but who cannot afford it, however the scheme is subject to specific terms and eligibility criteria.

Related links

Criminal legal aid

Law Society of Ireland

Last update: 05/05/2021

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2 - My rights during the investigation of a crime

What is the purpose of a criminal investigation?

The purpose of a criminal investigation is to respond to a complaint of a criminal act by a member of the public or where the Gardaí suspect there has been a breach of criminal law, and to detect the offender(s). It is usually the case that a member of the public will report an incident and the Gardaí will respond by launching an investigation as to whether there has in fact been a breach of criminal law and if so they will begin to investigate the matter further.

Who carries out the investigation?

In almost all cases the right to investigate crime lies with the Irish Police known as An Garda Síochána. The Gardaí may receive legal guidance as to how best to progress their investigation from the Chief Prosecution Solicitors Office (The Director of Public Prosecutions) who are the legal officers who conduct most prosecutions on behalf of the Irish state.

What are the stages of a criminal investigation?

The first stage of a criminal investigation is the making of a complaint by a member of the public or the detection of a suspected crime by a Garda (member of the Irish police). The Gardaí will ascertain whether the incident as reported is a criminal offence and if it is they will begin to investigate the offence.

It is at this stage that the Gardaí will decide whether the suspected offence is deemed to be 'serious' or not. The term 'serious' means any offence that could in theory carry a term of imprisonment of at least five years. If the offence falls into this category it can be investigated by the Gardaí by using their power to arrest and detain you in a Garda station and during that detention to question you. The rights of arrest, detention and questioning will be discussed later in this factsheet.

If the offence is not one of a serious nature then the Gardaí will have greater restrictions of their powers. They will usually have the power to investigate the alleged crime but not the power to arrest and detain you for the purposes of questioning. They will only have a power to arrest you for the purpose of charging you with the suspected offence. If they do not arrest you for a non-serious offence then they will usually summon you to court to begin the trial process.

The third stage of an investigation will be the gathering of information that may become evidence in a later trial. This information gathering process may take many forms and the rights of the Gardaí to gather this information will be dependent upon the nature of the suspected crime. The right of the police to arrest and question you also gives them limited powers to gather forensic and other forms of potential evidence from you which will be discussed within this factsheet.

The Gardaí will make a decision either themselves or with the guidance of the DPP to charge you and what to charge you with. The decision to prosecute crimes of a serious and non-serious nature is often taken by the Gardaí. If the crime is of an unusual or obviously serious nature or one which will require the assistance of the DPP to prosecute then the Gardaí will normally seek the guidance of the DPP.

My rights during the investigation

Click the links below for more information about your rights during the stages of the investigation.

My rights when arrested (1)

Questioning and the police investigation (2)

Searches (3)

First court hearing (4)

Preparation for trial or entering a plea of guilty pre-trial (5)

My rights when arrested (1)

If the offence is 'serious' then the Gardaí have the power to arrest and detain you for questioning. This means you are taken into custody and that you are not entitled to leave for the remainder of your lawful custody (the maximum period of detention ranges from 24 hours to 7 days depending on which section of the legislation you are being detained under).

Do the Gardaí need a warrant to arrest me?

No. The Gardaí do not necessarily need a warrant to arrest you. You may be arrested without a warrant when a Garda has reasonable cause to suspect that you have committed an arrestable offence and that you are guilty of the offence.

Where can they arrest me?

The Gardaí can arrest you in your home or in a public place. Gardaí may enter and search any premises where they suspect you to be in order to carry out an arrest, if they have obtained a warrant. Gardaí may also enter and search any premises (other than a dwelling) when they have reasonable cause to suspect you to be, if it relates to an arrestable offence.

Must I be told the reason for my arrest?

Yes. A Garda must tell you that you are under arrest and the reason for arrest. You are also entitled to be told in a simple language that you are under arrest and the reason for your arrest.

Can the Gardaí use force when arresting me?

Yes. Gardaí can use reasonable force to arrest you. However, if excessive force or physicality is used, you can make a complaint to the Garda Ombudsman. You can also sue the arresting Garda/An Garda Síochána for assault where excessive force was used.

Once you are arrested

You will be brought to a Garda station for questioning or charge. Your rights when in the police station are protected by law and the Member in Charge of the Garda station will be responsible for your rights. The length of time that you can be kept in a Garda station depends upon the statutory power upon which the Gardaí detain you. Please refer to The Irish Council for Civil Liberties (ICCL) for further reading on your rights.

Questioning and the police investigation (2)

Will I be given a notice of my rights?

Yes. When you are detained under one of these statutory powers then you will be given a notice of your rights in custody. This notice will be in writing and must be translated into your language if you do not understand English.

Can I notify my embassy?

Yes. If you are not an Irish citizen then you have the right to contact your embassy or consulate about your arrest if that is your wish.

I am from another country. Do I have to be in Ireland during the investigation?

Not necessarily. If you are not charged after your detention ends then you are free to leave and to travel. If the Irish state wishes to charge you at a later date you can return voluntarily for that purpose or you can challenge your extradition in your home state. If you are charged after your detention ends then you must be brought before a competent court. A judge will then decide whether you should get bail.

Will I be allowed to speak to a solicitor?

Yes. You have the right to speak to a solicitor in private. You should contact your solicitor immediately. If you do not know a solicitor then the Member in Charge will help you to find one, from a list kept at the Garda Station. If you ask for a solicitor, you cannot be questioned until they arrive, except in exceptional circumstances.

When can I speak to a solicitor?

If you wish to speak to a solicitor you should not be questioned until your solicitor arrives and then you should be given immediate access to them.

Can I have my solicitor with me when I am questioned?

Yes. You do have the right to have your solicitor with you while you are being questioned. A solicitor will be admitted to the interview if that is your wish. A solicitor cannot answer questions on your behalf, but a solicitor is there to protect your legal rights.

What if I cannot afford a solicitor?

If you cannot afford a solicitor, then you may be entitled to have your solicitor's advice paid for under the Irish Free Legal Aid system (see Factsheet 1). However it is always advisable to seek legal advice and the issue of your financial means can be discussed with your solicitor at a later stage in the process.

How long can I be questioned for during my detention and how will I be questioned?

You can only be questioned for a maximum of four hours at a time. All interviews must be fair. Only two Gardaí may interview you at any time and there should be no more than four Gardaí in the room at any time. The interview should be recorded on video camera unless it is not practicable. You will only be entitled to a copy of the recording if you are prosecuted and the court makes an order releasing it to your legal adviser. The Gardaí will also record your interview in writing.

Do I have to answer questions?

No. You can remain silent throughout questioning but you should be aware that if you remain silent it may in certain circumstances be used as evidence against you in a later trial. If you refuse to answer certain questions then this refusal may be used with other evidence to support a finding of guilty against you. In certain specific circumstances, the Gardaí must tell you what could happen if you don't answer the questions.

If I am asked for information should I provide it?

You are obliged to give your personal details to allow the Gardaí to identify you. You should seek legal advice before deciding to provide any further information. If you are under arrest for the purpose of questioning then you are suspected of a serious criminal offence and any information you provide may become evidence against you in any future trial.

What happens if I say something which is bad for my case?

You have the right against self-incrimination. If your answers are bad for your case, then your legal advisers will advise you about the consequences, which will usually be that what you say becomes evidence against you.

Do I have to give my fingerprints and allow myself be photographed?

Yes. If you are detained in a Garda station, your fingerprints (and/or palm print) and your photograph can be taken without your consent. The Garda can also use reasonable force to take the fingerprints (and/or palm print) and photograph with the authorisation of a Superintendent. It is a criminal offence to obstruct the taking of either fingerprints or photographs.

Can the Gardaí keep my fingerprints forever?

Yes. However you or your legal adviser can write to the Gardaí and ask that the materials taken be destroyed if there is to be no prosecution or if you have been acquitted at trial.

Do I have to give DNA or other more intimate bodily samples?

If you are detained under a statutory power then the Gardaí need authorisation from a senior officer to allow them to take intimate samples such as DNA, saliva, nail clippings, hair, a footprint, material found under a nail or swab from your mouth. They are not allowed to take a dental impression, blood, urine, pubic hair or a swab from your genital region or any other body opening (other than your mouth), without authorisation, unless you consent. If you obstruct the Gardaí in taking any of these samples, you may be guilty of an offence.

Can my home, business premises, car or other property be searched?

Yes. The Irish Constitution and European Convention of Human Rights require that your bodily integrity and privacy are respected, but these rights are limited. The Gardaí may search your home with your consent or without your consent if they have a search warrant or are going onto your property to find you to arrest you if they have reasonable cause. For more information about searches, see Searches 3.

Can I appeal against a breach of my rights?

You should tell your legal advisers about any breaches of your rights and they will advise you as to how and when to challenge such breaches.

Who is the Member in Charge?

The Member in Charge is a member of the Gardaí who is responsible for your welfare and the protection of your rights. Every Garda station must have one present. If you have any problems during your time in custody you should ask to speak to the Member in Charge.

Can I speak to my family?

Yes. You can have a member of your family (or another person of your choice) told that you are being detained, and in which Garda station. This does not necessarily mean you have a right to talk the person. However, this person can also visit you, but only if the member in charge is satisfied that the visit can be supervised and it will not delay the investigation of the crime.

What if I feel unwell and what about my right to rest and refreshments?

You have the right to medical attention, and should ask as soon as you need it. You have the right to proper periods of rest and to refreshments during your detention. You should get at least two light meals and one main meal in any 24-hour period. You are also entitled to a reasonable time for rest, however this may extend your period of detention in certain circumstances.

Will there be a record kept of my time in custody?

A record will be kept of your time in Garda custody and of other relevant details. You or your legal adviser will be entitled to a copy.

What if I do not speak or understand English?

You have the right to have an interpreter to translate on your behalf. You or your legal adviser should insist that the interpreter who interprets any private consultation between you and your solicitor is not the same interpreter who interprets your question and answer session with the Gardaí. An interpreter should be available at all times where either a solicitor or Gardaí wish to communicate with you.

How long can I be detained for?

The maximum period of detention ranges from 24 hours to 7 days depending on which section of the legislation you are being detained under.

Searches (3)

Do I have to be told why my property is being searched?

You can ask and should be told why the search is being carried out and under what power. If your property is searched you will be entitled to a copy of any search warrant at a later stage.

How can the Gardaí carry out the search?

Gardaí must carry out the search in a fair and respectful way. You also have the right not to be treated in a degrading way during the search.

Can the Gardaí take away anything with them?

Yes. They can seize any items that they reasonably believe they can use as evidence. They can also take away items which may not have been specified on any warrant but which may be evidence of a different criminal offence.

Can I remain in my property when the Gardaí are carrying out a search?

Yes. You can observe the way in which a search is carried out, however, you are not allowed to do anything which may obstruct a lawful search. You could commit a criminal offence if you obstruct a search.

Can I personally be searched?

Yes. If a Garda has a reasonable suspicion that you have committed a criminal offence then they have powers to search you without your consent.

Do they have to arrest me first?

No. You can be searched prior to arrest.

Do I have to be told the reason for the search?

Yes. The Garda should tell you the reason for the search and the power they are relying upon to search you.

Can I be strip searched?

Yes. You should only be strip searched if it is necessary. A strip search should take place in a private area of a Garda station and not in a manner that causes harassment to you. If possible a doctor should carry out the search.

Will I be searched by someone of the same sex?

You should be searched by someone of the same sex if the search is more than a 'pat down search' (search of clothing).

The first court hearing (4)

Can I be held in custody or released?

You can be held in custody if you are brought from a Garda detention to court and refused bail by the court.

Can I make an application for bail?

In most cases you can apply for bail during your first appearance in the District Court (lower court). In limited circumstances (for example the charge of murder) you must apply to the High Court and will therefore have to spend some time in custody before that application.

You are entitled to legal representation and depending upon your income this representation will be paid for under the free legal aid scheme.

Can I be told why bail is being opposed by the Gardaí?

Yes. You must be told in advance about the reasons why the Gardaí object to the granting of your bail. You have a right to bail but it is not absolute. Bail can be refused when a judge is of the opinion that if granted bail, you will either not turn up for your trial, interfere with witnesses or commit further serious offences whilst on bail, or other relevant reasons.

Can I be given conditional bail?

Yes. You may be granted bail with conditions such as the surrendering of your passport, residency within the Irish state while awaiting trial and reporting regularly to a Garda station to ensure your compliance with these conditions.

Preparation for the trial or entering a plea of guilty pre-trial (5)

Can I plead guilty to all or some of the charges before the trial?

Yes. You can plead guilty to the offence at any stage in the criminal proceedings against you in court. You will only be given a trial if you enter a plea of not guilty. If you enter a plea of guilty then you will not be given a trial but rather you will be given a sentence hearing.

What happens?

If you do not seek a trial then you are accepting one or a number of the offences with which you are charged. You cannot use plea bargaining to reduce the severity of your sentence or conviction as it has no statutory basis in the Irish law. However in practice, the DPP may accept a plea to some charges and

agree to withdraw others. If you enter a plea of guilty then you will be sentenced at a later date and may or may not be placed in custody before the sentence hearing.

What happens at my sentence hearing?

Unless there is a mandatory sentence, such as life in the case of murder, you have the right to a sentencing hearing and to have your legal advisor address the court in relation to your role in the crime and your personal circumstances.

If you are charged and plead guilty to a summary offence, The District Court Judge will issue your sentence after listening to your legal representative and the prosecution. If you are charged and plead guilty to an indictable offence, you will be required to sign a plea of guilty. Before you sign a plea of guilty, the District Judge will first make sure that you are aware of the facts alleged against you and that you understand the nature of the offence. You will then be sent to the Circuit or Criminal Court for sentencing.

Can the charges be changed before the trial?

Yes. The DPP can add additional charges up to and during the trial date. They can also withdraw charges up to the trial date. The DPP have the right to serve additional evidence up to and during the trial. The DPP must act in accordance with fair procedures and cannot withhold evidence or disclose materials in their possession which are relevant to you and your legal advisers.

Can I be charged with an offence which I have already been charged with in another Member State?

If you have been charged and tried for an offence in one Member State then you cannot be charged with the same offence in another Member Sate. However if you have been charged in one Member State but the charges have been withdrawn then you may be charged with that offence in Ireland.

Will I get information about the evidence against me?

Yes. You must be given documents (commonly known as a 'book of evidence') which comprise of the evidence against you. In a case of trial on indictment, the prosecution is obliged to give you statements of the evidence against you when you ask for it. You must also be given disclosure of the materials which are produced as a result of the investigation into your alleged crime but which the prosecution do not intend to rely upon.

In summary trials, there is no general duty for the prosecution to provide you in advance with the evidence. You or your solicitor should provide reasons to the court regarding why you need advance disclosure of the evidence.

Will I get information about the witnesses against me?

Yes. You can get some limited information about the witnesses against you. You are entitled to know if they have a criminal record. You are entitled to seek information from them during the trial by way of cross examination by your lawyer or by way of private investigation by your legal advisors.

You are not entitled to an exhaustive list of personal details about the witness. You are not entitled to interfere with a witness in a manner that may be seen as an attempt to intimidate them or pervert the course of justice and such an action may result in your bail being revoked or you facing additional and subsequent separate charges.

In a summary prosecution there is no general duty for the prosecution to provide you in advance with the statements of witnesses, whether or not you request them. You can apply to the court to be provided with the statements, however, it is up to the court to decide whether you can be provided with them.

When will my 'book of evidence' be given to me?

If you are to be tried on indictment for a serious crime then you should be given these documents within 42 days from the date of charge. The court has discretion to extend the time period within which the State has to give these documents to you.

What will be given to me?

The prosecution is obliged to disclose to the defence all relevant evidence which it has before the trial starts. This includes evidence which the prosecution intends to use at your trial, as well as the evidence which it has but does not intend to use.

How do I get my 'book of evidence'?

You will be given your 'book of evidence' by it being handed to you in court by a member of the Gardaí. Additional evidence will usually be served upon your legal advisor at their office or in court.

Will information be requested about my criminal record?

Yes. The Gardaí are entitled to seek information about your previous character for the purpose of their investigation and for the purpose of making a decision about your suitability for bail if charged. They are also allowed to refer to your criminal record if you are convicted to allow the Judge(s) determine an appropriate sentence. A record of foreign convictions can be admitted.

Are there any limitations on when they can refer to my previous character?

Yes. They cannot refer to your previous character during your trial unless your legal advisers introduce your character in their cross examination or submissions to the court.

Related links

More detail on the powers of search, detention and charge

More detail on the role of the Gardai

Chief State Solicitors Office and the Office of the Director of Public Prosecutions

More details on legislation

The Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Stations) Regulations 1987

Irish Council of Civil Liberties

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3 - My rights during the trial

What happens before my case comes up for trial?

If a Garda brings you into custody to a Garda station, the station can release you on bail with or without sureties. The amount of money specified in the bail bond is set by the Garda in charge of the station. You must enter into a bond to appear before the District Court on a specific date. If you are brought before the District Court, the judge can hold you in custody or release you conditionally when you enter into a bail bond. The amount of money specified in the bail bond is set by the judge. You will usually have the right to bail.

You have a right to know what the case against you is before your trial, however, in a summary prosecution there is no general duty for the prosecution to provide you in advance with the statements of witnesses, whether or not you request them. You can apply to the court to be provided with the statements, and the court then decides whether to provide you with them.

In a case of trial on indictment, the prosecution is obliged to give you statements of the evidence against you when you ask for it. This is called a Book of Evidence, and it outlines the evidence that the prosecution intends to present in the case against the defendant. If you intend to rely on the evidence of any alibi at your trial you must give notice of the alibi to the prosecution within 14 days of being served the Book of Evidence.

Where will the trial be held?

You will be given the name and location of the court your trial is being held in. The Courts Service of Ireland are in charge of all the courts and can help you find the court you are in. Minor charges are heard in the District Courts where judges decide the cases alone. More serious charges are heard in the Circuit Courts or Central Criminal Courts where juries give the verdict. The courts are open to the public, however where the accused is a child or it is a sexual crime, the case is heard in private.

Can the charges be changed during the trial?

In most cases a charge cannot be changed during a trial. Certain charges can be changed if the law allows for it. For example, a charge of dangerous driving can be changed to the less serious charge of careless driving if the judge decides you were driving carelessly but not dangerously.

If you plead guilty to all of the charges during the trial, the judge will then decide what sentence to give. The judge will balance how serious the crime is and what your personal situation is to make that decision. You should be given credit for pleading guilty.

You can also plead guilty to some of the charges and not guilty to the rest. The judge or jury will make a decision on the charges you are contesting. You will then be sentenced for the charges you pleaded guilty to and for the charges you were found guilty of.

What are my rights during the trial?

For most cases you have to be present at your trial. If you fail to appear in court, the judge can make an order to arrest you and bring you to court in custody. The trial can occasionally go ahead without you and you can be convicted in your absence.

If you cannot come to court because of an accident or illness, you should tell your solicitor and provide him or her with a medical certificate explaining your absence.

You have a right to interpretation if you don't understand what is happening. If you are deaf, you have a right to interpretation by sign-language.

You have a right to defend yourself in your trial if you want. If you cannot afford a solicitor, one can be appointed to you under the Criminal Legal Aid Scheme depending on how serious the charge is. You have a right to choose your solicitor. If you don't know any, the judge can choose one for you. You can change your solicitor if you are not happy with them.

You can speak at your trial if you want, but you don't have to. It is a criminal offence to lie when giving sworn evidence.

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

You can challenge the evidence given against you if it was obtained unlawfully. You can also challenge the evidence by asking witnesses questions to show they are lying or mistaken. You can also ask witnesses to give evidence which is relevant to your defence, or shows the prosecution witnesses are lying or mistaken. A witness can only give evidence about facts within their own personal knowledge, and cannot testify about what somebody else saw or heard.

You can hire a private detective to obtain evidence for you. The evidence is admissible as long it was lawfully obtained.

Will information about my criminal record be taken into account?

Evidence of your previous convictions cannot normally be taken into account during your trial. However, your personal circumstances are an important factor for the court in considering an appropriate sentence. This may include your previous convictions, including previous convictions from other countries.

What happens at the end of the trial?

At the end of the trial, the judge will explain the law to the jury and summarise the facts of the case. The judge will give directions about the duties of the jury before they are sent to deliberate and consider a verdict.

The verdict will then be delivered. If found guilty, the defendant will be sentenced by the judge, possibly on a different date. You might have to pay a fine or serve a prison sentence, or the judge might suspend your sentence as long as you don't commit more crimes. The judge might ask the Probation Service to write a report about you before giving out your sentence. They will tell the judge if you are suitable for supervision to deal with whatever problems cause your criminal behaviour. If you are found not guilty, you are acquitted.

What is the role of the victim during the trial?

A victim may be a witness and give evidence for the prosecution at the trial. The victim may also attend and watch the trial. The courts can provide a video link facility for victims aged under 17 who are giving evidence in serious sexual or violent crime cases, as well as for vulnerable or intimidated witnesses. If the defendant pleads guilty or is found guilty, the victim has a right to make a personal statement before they are sentenced, called a victim impact statement.

Related links

Database of Irish legislation

Database of Irish and British case law

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4 - My rights after the trial

Can I appeal?

You can appeal against your conviction or sentence. The way you appeal will depend on which court heard your case.

If your trial took place in the District Court, you can appeal the conviction or sentence to the Circuit Court. This would mean you have a full re-hearing of the case, and would have to attend court as a witness again. If you want to appeal from the District Court, you must give a document called a 'notice of appeal' to the prosecutor within 14 days. You must also lodge the notice of appeal and declaration of service to the court clerk of the area within 14 days.

If your trial took place in the Circuit Court, the Central Criminal Court or the Special Criminal Court, you can appeal the sentence or conviction to the Court of Appeal (Criminal). In this court, the three judges will read the transcript of the original trial instead of hearing evidence all over again. If you want to appeal from the Circuit Court or Central Criminal Court, you must apply to the trial judge for permission to appeal within three days of the conviction. You must then serve a 'notice of appeal' on the Registrar of the Court of Criminal Appeal within seven days if permission has been refused and within 14 days if permission has been granted. Normally, your lawyer will do all of this for you.

What happens if I appeal?

If you appeal from the District Court, the conviction will be set aside until your appeal is heard. This will require you to enter into a bond, called a recognisance, which may require the payment of a sum of money. If you are in prison when you appeal from the District Court, you are entitled to be released once you have served the notice of appeal and entered into your recognisance. If you are in prison and you want to appeal, the prison authorities will provide you with the proper forms.

If you appeal from the District Court, it may be a number of months before the appeal is heard. If you appeal from the Circuit Court or Central Criminal Court, it may be considerably longer before the appeal is heard.

What happens at the appeal hearing?

If you appeal from the District Court, you will have a full re-hearing of the case in the Circuit Court. If you appeal from in the Circuit Court, the Central Criminal Court or the Special Criminal Court, you will have judges in the Court of Appeal (Criminal) read the transcript of the original trial, and you or your lawyer may address the court on why you think your conviction should be overturned or why you think your sentence is wrong in principle.

What happens if the appeal is successful/unsuccessful?

If the appeal is successful, the case is over and you have no further obligations in respect of the case. If the appeal is unsuccessful, the appeal court will affirm your conviction. If the appeal court thinks the sentence is wrong in principle, it can increase or decrease the original sentence.

Once your appeal has been heard, there is no further right of appeal. However, the Court of Criminal Appeal may allow you to appeal to the Supreme Court if there is a point of law of exceptional public importance.

There is no general provision for you to be compensated if your appeal is successful. When you appeal a conviction to the Court of Criminal Appeal, compensation may be available if you have suffered a miscarriage of justice. This occurs when the Court of Criminal Appeal overturns a conviction and certifies that a newly discovered fact shows that there has been a miscarriage of justice. This very rarely happens. If the Court of Criminal Appeal certifies a miscarriage of justice, you may apply to the Minister for Justice for compensation.

A conviction is recorded against you once the judge has found you guilty of an offence.

The conviction is final once you have been found guilty or you have pleaded guilty. However, you still have the right to appeal. If your appeal is successful your record should be free from any convictions.

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

If you are convicted of a criminal offence, the court cannot send you back to your country. However, the court may recommend to the Minister for Justice that you should be deported. It may also suspend your sentence or part of your sentence on condition that you leave the country. This does not mean that you are deported but if you fail to leave the country, you will be imprisoned. If you are in prison you may apply to the Minister for Justice to be transferred out of Ireland to serve the remainder of your sentence in another Member State.

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

It is not possible for you to be tried for the same crime if you have already been convicted. Also, if you have been convicted of a crime in another Member State, you cannot be tried again in Irish courts for the same crime.

Information about the charges/conviction

Your criminal record will have any convictions against you. If you are an adult, this information will be kept on permanent record by the Gardaí (national police force). The Gardaí may also have other information about you. You have the right to have inaccurate personal information about you corrected or erased. You can request this information from the Garda Central Vetting Bureau. If the Gardaí will not allow you access to this information or will not correct inaccurate information, you have the right to apply to the Data Protection Commissioner.

Related links

Irish Courts

Citizens Information Board

Data Protection Commissioner

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5 - Road traffic and other minor offences

How are minor road traffic offences dealt with?

Minor traffic offences, such as speeding, driving while using a mobile phone (cellphone), or illegal parking, are usually dealt with by fixed charge fine and you receive on your driving licence. Only if you do not pay the fine will the case go to court. Sometimes you will be given a notice on the occasion of the offence, and sometimes one will be sent to your address.

Some fixed penalty offences, however, involve 'penalty points' being put on your driving licence, and if you get a total of twelve penalty points in a period of three years, you will be banned from driving in Ireland. If you pay the fixed penalty notice, you will get fewer points than if the case goes to Court and you are convicted.

Traffic offences are almost always dealt with by the ordinary Gardaí. You should be aware that, in Ireland, drivers are obliged by law to carry their driving licences with them, and must produce the licence on demand by a Garda. It is also an offence to drive without payment of vehicle tax and motor insurance and you also must have an NCT certificate.

If you live in Ireland, being a national of another Member State, you will be dealt with in the same way throughout the process as an Irish National.

If your case goes to Court, it will be heard in the local District Court (the lowest court) by a judge without a jury. If you are not satisfied with the result, you can appeal the decision, whether conviction or penalty, to a higher court (see Factsheet 4).

Will these offences appear on my criminal record?

All traffic convictions are recorded on the Garda computer record. Very minor cases, such as speeding, are not generally regarded as criminal convictions. If however you are charged with a more serious charge, such as dangerous driving, drink driving, or driving without insurance, convictions will become part of your criminal record. Such offences will be dealt with in accordance with the procedure set out in Factsheet 4. If you are charged with such an offence, you should seek legal advice urgently.

How other minor offences are dealt with

Various other offences, such as driving in a bus lane, can be dealt with by a 'fixed penalty notice', but do not attract penalty points. Driving without reasonable consideration for other road users, which involves careless driving, will attract a fine and penalty points.

You will only go to court if you do not pay the fixed penalty notice. As above, it will be dealt with in the District Court. You can always appeal an order of the District Court, as above.

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