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Czech

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### Defendants (criminal proceedings)

Under the Constitution of the Czech Republic punishment may be imposed on you only in accordance with the law and in the manner laid down by the relevant laws. These laws are the Criminal Code, the Act on Juvenile Justice, and the Criminal Procedure Code, which establish the rules for criminal proceedings, including specific conditions for exercising and enforcing your rights. These factsheets explain what happens when a person is suspected or accused of a crime. For information on minor offences like road traffic offences, which are usually dealt with by a fixed penalty go to Factsheet 5. If you are the victim of a crime, you can find full information about your rights here.

#### Summary of the criminal process

The following is a summary of the normal stages in the criminal process.

##### 1. Preparatory process

The preparatory process is the first stage of the criminal process. It has two parts:

The procedures of the authorities responsible for the criminal process prior to the start of a criminal prosecution, known as the examination stage; and

The investigation stage, the part of the criminal prosecution from its start to the filing of a charge or its termination in a different manner (see [\)#Podstránka\\_2](#).

##### 2. Preliminary discussion of the charge

During the preliminary discussion the court will examine whether the case was properly clarified in the preparatory process and whether the charge provides a proper basis for further proceedings. It also decides whether the court has jurisdiction to decide the case.

##### 3. The trial itself

This is the most important part of the criminal process. Evidence is examined and a decision in the case is made. During this stage of the criminal process the defendant(s) and any witnesses and the injured party or parties are questioned in court. The trial is public, oral and is conducted in Czech. If you do not speak Czech, you have the right to an interpreter.

##### 4. Appeal proceedings

The defendant, his family, lawyer, public prosecutor or the injured party have the right to appeal within 8 days. If an appeal is lodged, the court of appeal reviews the decision of the court of first instance

#### Role of the European Commission

Please note that the European Commission has no role in criminal proceedings in Member States and cannot assist you if you have a complaint. Information is provided in these factsheets about how to complain and to whom.

**Click on the links below to find the information that you need**

[1 – Getting legal advice](#)

[2 – My rights during the investigation of a crime and before the case goes to court](#)

Examination

Investigation

Custody

Decision in the preparatory process, a charge

Abbreviated preparatory process

[3 – My rights during the trial](#)

Court trial

Sentences; rights of the victim

[4 – My rights after the court makes its decision](#)

[5 – Traffic and other minor offences](#)

#### Related links

[Czech Ministry of Justice](#)

[Czech Ministry of Interior](#)

[Czech Bar Association](#)

[Information on Human Rights](#)

[Legal information for all](#)

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#### 1 - Getting legal advice

This factsheet tells you in what circumstances you are entitled to be represented by a lawyer, how to find a lawyer, and how the costs of the lawyer will be met if you cannot afford to pay. It will also tell you what a lawyer will do for you.

##### Finding a lawyer

Only a lawyer entered in the register of lawyers maintained by the [Czech Bar Association \(CBA\)](#) may defend a person in a criminal case.

If you need a defence lawyer contact the [Czech Bar Association](#) (<http://www.cak.cz>) or contact one of the lawyers on the register directly).

##### What if I do not choose a lawyer?

If you do not choose a lawyer you must defend yourself.

In some cases, you are obliged to have a defence lawyer and the court will appoint a defence lawyer for you if you do not choose one within a specified time limit. The following are situations in which a defence lawyer is required:

- if you are in custody or under observation in a medical facility,
- if your competence to perform legal acts is restricted,
- if you are a fugitive,
- if you are under 18),
- if you are physically or mentally handicapped and there is doubt about your competence to defend yourself properly,
- if you could be sentenced to more than 5 years in prison,
- if simplified proceedings are to be initiated against you as the detained person,
- in proceedings where you might be required to undergo preventive medical treatment (apart from treatment for alcoholism),
- in some proceedings with a foreign element. .

#### **Who pays the lawyer?**

It is the accused person who pays for the lawyer's services. If the court appoints a lawyer for you, the state pays for the defence. The state also pays if you are entitled to a free defence.

#### **How much is the lawyer's fee?**

Payments for the services of a defence lawyer are specified by a contract between you and your defence lawyer or by the [Act on Lawyers' Fees](#) (if you don't have a contract).

#### **When are you entitled to a free defence?**

If you do not have enough money to pay the costs of your defence, you are entitled to a reduced fee or to a free defence (both referred to as 'free defence'). A judge, or the chairman of the court will decide your application, based on information about your financial situation. This application must be submitted by you during the preparatory process through the public prosecutor or during the court proceedings.

You may be awarded a free defence even without such an application if the evidence suggests that it is appropriate.

#### **Related links**

[Act on Lawyers' Fees](#)

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

### **What are the stages of a criminal investigation?**

The preparatory process is intended to examine whether a crime was committed and who the likely perpetrator was (the examination stage) and then to secure evidence and prepare the case for court (the investigation stage).

The preparatory process is conducted by the Police who are supervised in their work by the public prosecutor who decides whether the process has been carried out properly.

Some actions may be undertaken only by the public prosecutor or are subject to his decision (such as termination of the preparatory process), while the judge has the authority to decide about some other actions (such as a suspect being taken into custody, arrest, house search, and wiretapping).

Click on the links below to find more detailed information about the stages of the investigation pre-trial.

[Examination \(1\)](#)

[Investigation \(2\)](#)

[Custody \(3\)](#)

[Decision in the preparatory process, a charge \(4\)](#)

[Abbreviated preparatory process \(5\)](#)

### **Procedure before the start of criminal prosecution – examination (1)**

#### **What is the purpose of the examination?**

In order to establish the nature of a crime and who committed it, the police may:

- take statements
- obtain expert opinions
- consider documents
- search for objects and search the scene of the crime
- make police records, take fingerprints, body measurements, search suspects
- conduct urgent acts
- detain suspects
- use other investigative procedures as appropriate.

The examination ends with a decision to start criminal prosecution of a specific person or in various other ways (adjournment, temporary adjournment, submitting the case for a non-criminal disposal).

#### **What are the time limits for this stage?**

The time limit is two, three, or six months depending on the seriousness of the case. If it is not possible to complete the examination, the public prosecutor may alter or extend the time limit based on a written justification.

#### **What will I be told about what is happening?**

You will not be informed about what is happening in this stage until you need to be involved directly in the procedure.

#### **Will an interpreter be provided if I do not speak the language?**

In the event that you are asked to provide an explanation of certain events an interpreter will be brought in by the police and will interpret the questions, your answers and will then interpret the written report before you are asked to sign it.

#### **At what stage will I be able to speak to a lawyer?**

You can invite a lawyer to be present for the explanation. The participation of a lawyer at this stage is not compulsory and a lawyer will not be appointed for you if you have not chosen to contact one yourself. You can seek the lawyer's advice but not on how to answer a question that has already been asked. You must get your own interpreter at this stage to assist you and your lawyer.

#### **Will I be asked for information? Should I provide information?**

At this stage the police may ask you for your explanation of the facts which they are investigating. It is your duty to provide a true explanation. You may refuse to provide an explanation if you (or a person related to you) risk being prosecuted on the basis of your statement. You may also refuse if you would break a duty of confidentiality.

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

Your statement will be used only in order to decide whether criminal prosecution will be started against a specific person for a specific crime. If criminal proceedings are commenced, your statement will be considered witness testimony only if it was given early and could not have been repeated later. Also, it must have been given before a judge. Otherwise, your testimony must be given again, at a later stage of criminal proceedings (as a rule, before a court).

**Can I contact a family member or friend?**

At your request the police will inform one of your relatives or a friend that you have been detained, provided that this does not hamper the police investigation, and that it is not excessively difficult.

**Can I see a doctor if I need one?**

The police will arrange for a medical examination and obtain a doctor's statement concerning your medical condition at the time you are presented for examination or detained. You must be immediately released if the doctor so prescribes and the police, if required, will take you to a medical facility.

**Can I contact my embassy if I am a citizen of another country?**

You can demand the right to contact your embassy and have discussions in private with an Embassy representative at each stage of the criminal proceedings.

**I live in another country. Do I have to be present during the investigation?**

A judge can order that you are heard before you leave the country, if that is essential to the case and will prevent evidence being lost. You can also be heard after you leave the country if a request is made to the relevant authorities of the country in which you live.

**Can I be sent back to my home country?**

Not at this stage.

**Will I be held in custody or be released?**

If your presence is required, you will be presented to the court or detained. If you are not subsequently charged or are not presented to the judge within 48 hours from being detained for a decision about custody, you must be released.

**Can I leave the country during the investigation?**

Yes.

**Will I be asked for fingerprints, samples of my DNA (e.g. hair, saliva), or other bodily fluids?**

If this is required to establish your identity or verify whether there are traces on your body from the crime, or if this is required for evidence, your fingerprints, a specimen of DNA, blood, biological material, or the outer measurements of your body, may be taken, or a body search, or similar may take place. Any physical resistance on your part may be overcome with the consent of the public prosecutor. If you refuse, you can be fined up to CZK 50,000. If the information which is acquired in this way is no longer required for further proceedings or for the purpose of preventing, searching for and detecting criminal activities, it will be destroyed.

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

If your guilty plea is reliable, it can constitute a ground for commencing criminal prosecution or for a decision on summary proceedings.

**Will I receive information about witnesses who have testified against me and about other evidence?**

At this stage of the proceedings you will not receive any of this information.

**Will information be requested about my criminal record?**

Yes, the police will obtain a copy of your criminal record.

**Start of criminal prosecution – investigation (2)**

**What is the purpose of this stage?**

During the investigation the police look for and examine evidence important to the case. The police will look for evidence that will favour or be detrimental to the accused.

**What is the time limit for an investigation?**

The time limit is two, three or six months depending on the seriousness of the case. The time limit may be extended by the public prosecutor based on written reasons provided by the police. However the prosecutor must verify the reasons in each case at least once a month.

The police must proceed as quickly as possible. If you are adversely affected by a delay, you can ask the public prosecutor to resolve the problem. If the delays are caused by the public prosecutor, you can ask his or her superior to resolve the problem.

The accused person can also demand compensation for non-financial damage caused by delays in proceedings or also compensation for damages. When imposing a punishment the court will take any delays in this phase into account.

**What will I be told about what is happening?**

You will receive a ruling about the commencement of the criminal prosecution. This will contain a description of the act which you are accused of, its legal basis and the reasons. You can file an objection to this ruling within a time limit of three days and the public prosecutor will then make a decision about your objection.

You or your defence lawyer will be informed of the investigation procedures and you will have the right to participate in these, through your defence lawyer, to ask witnesses questions and propose evidence. You and your defence lawyer can be denied access to your file during the investigation, if there are legitimate reasons for doing so.

**Will an interpreter be provided if I do not speak the language?**

During your examination, if you do not speak Czech you will be provided with an interpreter for a language you can speak or for your native language.

You will also be provided with an interpreter during the investigation procedures. In this stage, the police will allow you to participate and to ask questions if you want to.

At your request, you will be provided with a written translation of the ruling on the start of criminal prosecution, the ruling on custody or the ruling on the conditional suspension of criminal prosecution.

**At what stage will I be able to speak to a lawyer?**

This can be at any time and the confidentiality of the conversation must be ensured. An interpreter will be provided if requested by the lawyer. You may choose a lawyer yourself (see [Factsheet 1](#)).

**Will I be asked for information? Should I provide information?**

You are entitled to express your opinion on the case and you also have the right not to say anything.

**Can I raise objections against the examining police officer, the public prosecutor, or judge?**

You can raise an objection against the police officer or the public prosecutor as well as against the minutes' clerk, probation officer, court clerk, court expert, and interpreter, and against the judge if you believe that there is prejudice on their part – that is, if you believe that they have a personal conflict of interest in your case or in relation to any of the parties or their representatives, and cannot, therefore make impartial decisions.

In general terms, a person is also considered prejudiced if he or she has already contributed to the proceedings in a different procedural role. For example, a judge cannot pass judgement on guilt and decide on punishment if that judge has ruled in the preparatory process on custody, made a ruling about wiretapping, and so forth.

The person who first decides about your objection is the person whose prejudice you have objected to.

If you are not satisfied with that decision a complaint may be filed against that person's decision within three days and a superior authority will then make a decision. The procedural decisions made by a prejudiced person may not be applied in the criminal proceedings.

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

Everything you say may be used in your favour or against you. Your testimony at this stage of the proceedings may be used as evidence.

**Can I contact a family member or friend?**

The police will decide whether you can contact your family or friends during the examination, detention and arrest. If you are in custody, you have the right to write letters (the letters are read by the Prison Service of the Czech Republic if you are in custody because of the danger that you might influence witnesses; and also by the public prosecutor who is authorised to censor your letters).

You are entitled to visitors once every two weeks while in prison but if you are in custody because of the danger that you might influence witnesses, someone else will be present during your visits.

**Can I see a doctor if I need one?**

If you are in custody you will be seen by the prison doctor who is obliged to provide you with proper medical care. If you are presented for examination or detained, see [#Podstránka\\_1here](#)

**Can I contact my embassy if I am a citizen of another country?**

Yes, at any stage of the proceedings. Any meeting with a consular official is confidential. The court will, with your consent, inform your consulate that you have been taken into custody.

**I am from another country. Must I be present during the investigation?**

Your presence is not essential if your examination has taken place and you do not wish to be present at the investigation. If there is a danger of you fleeing, you will be placed in custody or be allowed to go free after making a written promise that you will return when summoned.

**Can I be sent back to my home country?**

Yes, provided the conditions are met for your extradition or delivery for criminal prosecution or to serve your sentence in a different country and such a procedure is not excluded by law.

**Can I leave the country during the investigation?**

Yes, but you are obliged to have a valid mailing address or otherwise be in contact with the authorities responsible for the criminal proceedings. Otherwise you could be arrested and placed in custody.

**Will I be asked for fingerprints, samples of my DNA (for example, hair or saliva), or other bodily fluids? Can I be subjected to a body search?**

If this is required, yes. You are obliged to obey such a summons.

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

Yes, a house search can take place under an order issued by a judge. For other premises, this can be done under an order issued by the public prosecutor or police.

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

Yes, during the examination by the police.

**Can a charge be changed before the start of legal proceedings?**

No, only the legal description of the charge may be changed. Charging you with a different act must begin with a new resolution on the start of criminal prosecution.

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

Yes. However this does not apply if criminal prosecution in the other Member State in your case ended in a verdict, was suspended, ended by approval or settlement or was submitted for review as an offence rather than as a crime.

**Will I get information about the witnesses against me?**

You can find out their identity and the contents of their testimony by examining the case file or if you or your defence lawyer are present during their examination. The identity of secret witnesses will not be disclosed to you.

**Will I get information about other evidence against me?**

Yes, as soon as you and your defence lawyer are allowed to examine the case file.

**Will information be requested about my criminal record?**

Yes.

**Custody (3)**

**Will I be held in custody or be released?**

Only a person who has been charged may be taken into custody.

If you are handed over to the court with a petition to be taken to custody within 48 hours after your detention or 24 hours after your arrest, the court will decide whether you will be held in custody or not.

The reasons for custody may be:

- a possibility that you could evade criminal prosecution or sentence (escape custody),
- the possibility that you will obstruct the investigation, for instance by influencing witnesses (collusive custody),
- or the possibility that you will complete the crime you had started or commit a new one (advance custody).

If the reasons for custody are not present or no longer exist, you will be released based on a decision by the public prosecutor.

You must also be released after the legal time limit expires. For collusive custody, the time limit is 3 months. For escape and advance custody, the limit is one year in cases of a possible sentence of up to 5 years, two years in cases with a possibility of a higher sentence, three years for particularly serious crimes, and four years if an exceptional sentence can be imposed for the crime.

However, of these time limits only one-third applies during the preparatory process and two-thirds is reserved for proceedings before a court.

Reasons for holding you in custody are examined continuously. However a new decision needs to be made by the prosecutor after you have spent three months in custody as well as 30 days from filing a charge and always every three months after the previous decision became effective.

### **How can I get released from custody?**

You are always entitled to request release from custody fourteen days after the last custody decision came into force. However, if you can state other reasons in your request you can ask to be released at any time.

You have the right to propose that escape or advance custody be replaced by:

your written promise that you will lead a law-abiding life and that you will attend court when required to do so.

providing a monetary guarantee (bail) fixed by the court,

supervision by a probation officer

a guarantee made by an interested citizens' association or other trustworthy person.

In the case of advance custody in certain crimes specified by the law, a monetary guarantee cannot be accepted. The monetary guarantee may be provided by a person other than you.

### **Decision in the preparatory process - a charge (4)**

#### **What is the purpose of this stage?**

This stage ends the investigation of the criminal case and the public prosecutor decides about the next procedure:

whether to submit the case to another authority;

stop criminal prosecution;

conditionally stop criminal prosecution;

approve settlement; or

file a charge against you with the court.

#### **What will I be told about what is happening?**

The decision of the public prosecutor or the charge will be delivered to you. You are entitled to file an objection against:

the submission of the case against you

the suspension of criminal prosecution,

the conditional suspension of criminal prosecution and

a settlement.

A decision on your objection will be made by the superior public prosecutor.

#### **Will an interpreter be provided if I do not speak Czech?**

See [Start of criminal prosecution – investigation \(2\)](#).

#### **At what stage will I be able to speak to a lawyer?**

See [#Podstránka\\_2Start of criminal prosecution – investigation \(2\)](#).

#### **Will I be held in custody or released?**

If the reasons for custody continue and if the legal time limits for custody have not been exhausted, the filing of the charge does not affect the duration of custody.

#### **Can the charge be changed before the trial?**

The charge as well as the decision of the public prosecutor at this stage must be based on the facts which gave rise to the charge. However, the legal description may be changed if the public prosecutor decides that is appropriate

#### **Can I be sentenced and can the punishment be determined without a trial?**

In less serious cases the judge may deliver a criminal order to you which sets out a decision about your guilt and punishment, without hearing the case.

This criminal order can impose:

a conditional prison sentence or house arrest of one year,

community service,

a ban on certain activities for 5 years,

a financial penalty,

a residence ban of up to 5 years,

deportation for up to 5 years,

or a similar punishment.

If you do not object to the order within 8 days of receipt, it becomes effective and is enforceable. If your objection is made within the time limit or the criminal order cannot be delivered, a trial will be held. See [Factsheet 3](#).

#### **Will I get information about evidence against me?**

The charge contains the evidence which the public prosecutor will present at the trial. Further evidence may be found in the case file or can appear during the hearing of the case.

#### **Will information be requested about my criminal record?**

It will already be part of the file.

### **Abbreviated preparatory process (5)**

#### **The purpose of this stage**

If a suspect is caught at the scene committing a crime for which he or she could be sentenced to less than 3 years in prison, or where it is likely that a trial could take place within 2 weeks, abbreviated proceedings can be held.

In these proceedings, the police will inform the suspect of the crime he or she is suspected of committing, without starting a criminal prosecution. If the abbreviated preparatory process ends within two weeks, the public prosecutor may file a petition to the court for punishment of the perpetrator.

#### **What will I be told about what is happening?**

You will be told about the details of the suspected crime by the start of your examination at the latest. You will be given information about your rights.

#### **Will an interpreter be provided if I do not speak the language?**

Yes, an interpreter will be present who speaks a language that you speak or your native language. The written petition for punishment will be translated.

#### **At what stage will I be able to speak to a lawyer?**

At any time, if you choose a lawyer. If you are not released from detention after your examination, a lawyer will be appointed by the court if you do not have one.

#### **Will I be asked for information? Should I provide information?**

See [Start of criminal prosecution – investigation \(2\)](#).

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

You can make your position worse, resulting in a verdict of guilty.

**Can I contact a family member or friend? Can I see a doctor if I need one?**

See [Start of criminal prosecution – investigation \(2\)](#).

**Can I contact my Embassy if I am a citizen of another country?**

See [Start of criminal prosecution – investigation \(2\)](#).

**I am from another country. Do I have to be present during the investigation?**

If you are released, it is not necessary to be present. However, it is good to stay in contact with the authorities responsible for the criminal proceedings and provide a valid mailing address so your absence is not considered as an escape which you could be punished for..

**Can I be sent back to my home country?**

Yes, if the court decides that the punishment is to deport you.

**Will I be held in custody or be released?**

If there are reasons for custody, you will be placed in custody. See [Custody \(3\)](#).

**Will I be asked for fingerprints, samples of my DNA (for instance hair or saliva), or other bodily fluids? Can there be a body search? Can my home, business premises, car, and other possessions be searched?**

See [#Podstránka\\_2Start of criminal prosecution – investigation \(2\)](#).

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

Yes, during the first examination or when the court hears your case in abbreviated proceedings.

**Can the charge be changed before the trial?**

New facts cannot be added to the charge. However, the legal basis can be changed.

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

See [Start of criminal prosecution – investigation \(2\)](#). [#Podstránka\\_2](#)

**Will I get information about the witnesses against me? Will I get information about other evidence against me?**

Yes, when you are given access to your case file (usually at the start of the abbreviated legal proceedings) or during the examination procedures if you are present.

**Will information be requested about my criminal record?**

Yes.

**Related links**

[Criminal Procedure Code](#)

[Ministry of Justice](#)

[Legal information for all](#)

[Criminal Code](#)

[Act No. 273/2008 on Police of the Czech Republic](#)

[Vienna Convention on Consular Relations of 24.4.1963](#)

[Act No. 101/2000 Coll. on Personal Data Protection](#)

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### 3 - My rights during the trial

This Factsheet describe your rights during the trial.

#### Fundamental Rights

During criminal proceedings you are entitled to:

- expect the authorities responsible for criminal proceedings to work as quickly as possible and to fully comply with your rights and fundamental freedoms;
- demand that the authorities responsible for criminal proceedings proceed so that there can be no reasonable doubt about the facts essential for a proper decision to be made. They must use equal care in assessing the evidence in your favour and to your detriment;
- be instructed by the authorities responsible for criminal proceedings about your rights and have the opportunity to have those rights fully enforced;
- express an opinion about all charges against you and the evidence supporting them;
- refuse to testify;
- examine files, get extracts and take notes, and make copies at your own cost;
- participate in the discussion of the case during the trial and public sessions held during an appeal;
- make a closing statement during the trial and in a public session during the appeal as well as the right to present a final petition;
- present circumstances and evidence for your defence;
- make petitions (on examining evidence and the methods of decision) and file applications;
- present remedies (ordinary, that is a complaint; an appeal, a protest, and extraordinary petition for a renewal of proceedings; initiate a complaint against a breach of law; and an appeal
- choose a defence lawyer (if you do not choose one yourself, one can be chosen by a family member or other participating person) and seek his or her advice even during actions which the authority responsible for the criminal proceedings alone performs;
- speak with your defence lawyer in private if you are in custody or serving a prison sentence;
- demand that you are questioned in the presence of your defence lawyer and that he or she participates in other parts of the preparatory process;
- use your native language or another language you speak before authorities responsible for criminal proceedings, if you declare that you do not speak Czech.

#### Court trial

##### Preliminary discussion of the charge

If a charge is filed, it will be examined by the presiding judge who will consider whether a preliminary discussion is required, or whether a trial can be ordered.

The outcome of the preliminary discussion of the charge may be a decision of the court on:

- submitting the case for a decision on jurisdiction;
- submitting the case to another authority (if this is not a crime but could be an offence, etc.);
- stopping criminal prosecution;

suspending criminal prosecution;  
returning the case to the public prosecutor for further investigation;  
conditionally suspending criminal prosecution or approving a settlement

#### **Where will the trial be held?**

Depending on the seriousness of the crime the trial of first instance will be held before the district or regional court with jurisdiction in the place where the crime was committed, or the domicile of the accused, or the place where the crime was discovered.

#### **Will the trial be in public?**

Yes, the trial is held in public. However the public may be excluded in some cases.

#### **Who will decide the case?**

A panel of judges or a single judge will decide the case..

#### **Can I raise objections to the judge?**

Yes, see [🔗 Factsheet 2](#).

#### **Can the charges be changed during the trial?**

The trial is held only to decide on the act described in the charge. However, should it become apparent that you have committed other acts, it may be decided during the preliminary discussion of the charge or at the end of the trial that the case will be returned to the public prosecutor for further investigation. The revised charge will contain the new allegations. The court can decide that the act for which you are being tried should be charged more moderately or severely than the public prosecutor.

#### **What happens if I plead guilty to all or some charges during the trial?**

If you plead guilty, the court will still go on to examine and assess the evidence of those people who speak in your favour.

#### **What are my rights during the trial?**

See [🔗 Fundamental Rights](#) at the beginning of this factsheet. Further specific rights exist that apply to specific procedural situations.

#### **Do I have to be present at the trial? Can it be held without me?**

The trial may be held in your absence, but not if:

you are in custody;

you are serving a prison sentence;

the case involves a crime for which you could be sentenced to imprisonment for more than 5 years. However you do not have to be present at the trial even for this type of case if you ask the court to hold the trial in your absence.

In cases where a defence is required (see [🔗 Factsheet 1](#)) the trial cannot be held without the presence of a defence lawyer.

#### **If I live in another Member State can I participate by video conference?**

It is not possible to participate in a trial in this manner.

#### **Will I be present during the whole trial?**

You will be present throughout the trial. You do not have to be present for procedures which take place outside the trial, however, you or your defence lawyer have the right to participate in these if you want to.

#### **Will I get an interpreter if I do not understand what is happening?**

Yes, see [🔗 Fundamental Rights](#) at the beginning of this factsheet.

#### **Must I have a lawyer? Will a lawyer be provided for me? Can I change my lawyer?**

The Criminal Procedure Code specifies the cases which require a defence. See [🔗 Factsheet 1](#).

#### **Can I or must I speak at the trial?**

During the trial you are entitled to a defence, that is to defend yourself or do so through your defence lawyer. During the entire trial the court will allow you or your defence lawyer to express an opinion on all the procedural steps which take place. You do not have to make use of your right to defend yourself and you can refuse to testify.

#### **What are the consequences if I do not tell the truth during the trial?**

As the accused, you are not obliged to tell the truth in court. However, if you intentionally state facts untruthfully in order to bring about the criminal prosecution of someone else, you may later be charged with libel.

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

You are entitled to express an opinion on the evidence and propose additional evidence or propose evidence supporting your defence.

You will get the chance during a closing statement to express your opinion on the evidence after each individual piece of evidence has been examined.

#### **What kind of evidence can I produce on my own behalf? Under what conditions?**

In addition to your own testimony, you can propose evidence that could rebut or reduce your guilt, including for example hearing witnesses, challenging the evidence, identification of witnesses, crime scene reconstruction, hearing experts, documentary evidence, search, and so forth.

You are entitled to propose to the court that such evidence be examined. The court will decide whether to do so or not. As soon as the presiding judge declares the evidence complete, no further evidence can be presented in the trial.

#### **Can I use a private detective to obtain evidence?**

It is possible to use the services of a private detective. However, the detective must act in accordance with the law in order for the evidence which is obtained to be used during the trial. The private detective may not influence witnesses.

#### **Can I ask witnesses to speak for me?**

You can propose that a certain person is examined if you think the person's evidence will benefit your case. But you cannot influence witnesses.

#### **Will information about my criminal record be taken into account?**

Your criminal record may be taken into account during sentencing, provided that the conviction has not expired.

#### **What will happen at the end of the trial?**

The trial may end in the following ways:

the case may be returned to the public prosecutor for further investigation;

if the act is not a crime but could be an offence, the case may be transferred. The criminal prosecution may be stopped;

the criminal prosecution may be stopped conditionally, or a settlement may be approved;

the court may decide on a guilty verdict or an acquittal.

#### **Sentences, rights of the injured party**

##### **What sentence could I get?**

Under the Criminal Code if you commit a crime you can be sentenced as follows:

imprisonment, which, unless the law specifically states otherwise, can be unconditional, conditional or conditional with supervision. An exceptional sentence is also possible. This is either a prison sentence of over twenty to thirty years, or a life sentence;

house arrest,

community service,

forfeiture of property,

financial penalty,

forfeiture of an item or other asset,

ban on certain activities,

residence ban,

ban on entry to sports, cultural and other social events,

loss of honorary titles or awards,

loss of military rank,

deportation.

#### **What is the role of the victim (injured party) during the trial?**

The victim, that is, the person who was injured, who sustained damage to property, his person, or other damage by a crime, is entitled to:

be represented by proxy; if the victim proves he or she lacks funds, free legal aid can be provided by a lawyer;

make petitions for further evidence;

examine files;

participate in the trial and a public session during an appeal;

express an opinion about the case before the end of the trial;

if the victim is entitled under the law to compensation for damages, and the verdict is guilty, the victim may ask the court to require the accused make compensation. The petition must be made before the start of the presentation of evidence at the trial at the latest;

if the victim is in potential danger from the accused or the convicted person being set free, the victim is entitled to demand timely information that the accused has been released, has escaped, or other similar circumstances.

#### **Related links**

[Ministry of Justice](#)

[Criminal Law for the General Public](#)

[Assistance to victims of crime](#)

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## **4 - My rights after the court makes its decision**

### **Can I appeal?**

Yes, you can appeal the verdict in your case if there were mistakes in the findings which relate directly to you. You can appeal a verdict of guilty, the sentence and/or the compensation awarded, or you can appeal all findings of the court of first instance. You must file the appeal:

in writing;

with the court that issued the verdict;

within eight days from delivery of the copy of the verdict (if the copy is delivered to both you and your defence lawyer, the time limit is calculated from the later of the two delivery dates).

Your appeal must make clear which aspects of the verdict you are appealing, and also the specific flaws in the verdict and/or previous proceedings. You can also appeal without specific grounds by submitting an application to the presiding judge of the court of first instance, asking him or her to extend the time limit for submission of the specific grounds.

### **What are the grounds for an appeal?**

You can file an appeal based on errors in any finding in the verdict which relate directly to you or because a particular finding was not included in the verdict.

You can also base your appeal on new facts and evidence.

### **What happens if I appeal?**

Until a decision is made by the appeal court, the verdict will not enter into force and/or become executable. If you are in custody, you will not be released automatically just because you have lodged an appeal.

### **What happens at the appeal hearing?**

The court of first instance examines whether your appeal contains all the information which is required. If not, the court will ask you and your defence lawyer to remedy these flaws within a time limit of five days (eight days if you do not have a defence lawyer, and the presiding judge provides instructions directly to you).

A copy of the appeal and its grounds will be delivered to the other parties involved in the case and the entire case file will be presented to the court of appeal. The superior regional court will decide an appeal against the verdict of a district court and the Supreme Court will decide an appeal against the verdict of a regional court.

After the start of the proceedings of the appeal court, the contested judgement will be presented and a report about the case will be submitted.

Then you will present the appeal and justify it. If neither you nor your defence lawyer is present, this will be done by the presiding judge.

Subsequently, the public prosecutor and anyone who may be directly affected by the decision of the court of appeal will present their arguments.

Once the petitions are presented, the court of appeal will examine the evidence necessary for making a decision about the appeal unless review of the evidence would be so extensive that this would mean duplicating the previous work of the court of first instance.

The court of appeals may:

reject the appeal (if the appeal is not reasonable, if it was delayed, filed by an unauthorised person, or similar reasons) but this is always done at a public hearing;

reject the appeal (if its contents do not meet the requirements for an appeal);

interrupt the criminal prosecution;

overrule the contested verdict or a part of it and,;

decide to present the case for a decision about the court's jurisdiction;



transfer the case to a different authority;  
stop the criminal prosecution (if the court of first instance should have already done so);  
interrupt criminal prosecution (if the court of first instance should have already done so);  
It may also overrule the contested verdict due to fundamental flaws in the proceedings;  
flaws in the verdict (ambiguity, incomplete findings in the case);  
doubts over the accuracy of the findings in the case or the evidence has to be replicated;  
breach of the provisions of the Criminal Code;  
inadequacy of the sentence;  
an incorrect decision about the entitlement of the victim.

After it is overruled the appeals court either:  
returns the case to the court of first instance;  
decides its verdict on the case always at a public hearing.  
stops the criminal prosecution

#### **What happens if the appeal is unsuccessful?**

Unless the prosecutor appealed against the verdict, the court of appeal cannot make a decision which makes your situation worse.

#### **When is the conviction final?**

If the court of appeals does not return the case to the court of first instance, its decision ends the case and becomes final the moment the decision is declared. The verdict of the court of first instance also becomes final unless an appeal is filed against it promptly.

Once the verdict comes into force you can file:

an extraordinary appeal;  
a motion with the Minister of Justice to file a complaint for breach of the law to the Supreme Court;  
application for permission to renew proceedings;

#### **If the first decision is overturned, will I get any compensation?**

You can make a request to the Ministry of Justice for compensation under the [Act on damage caused by a public authority](#).

#### **If my appeal is successful, will a record be kept of the conviction?**

Records of a conviction are drawn up only after the verdict becomes final. Once the verdict of guilty becomes final, a record is entered in the criminal register. If an extraordinary remedy is successful, this record is then deleted.

#### **I am from another Member State. Can I be sent back to my home state after the trial?**

Yes, you can be extradited to serve the sentence if the time remaining is at least 4 months.

The relevant authority of the country concerned must ask for extradition and the extradition must be consistent with constitutional rules and obligations, and with international treaties on human rights and fundamental freedoms.

The court can also order your extradition as part of a guilty verdict.

#### **Can I appeal the decision to send me back to my home country?**

You can appeal the decision when the notice to serve the sentence is delivered. You can appeal against the sentence of extradition.

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

No, not even in other Member States, unless permission to reopen the proceedings is given.

#### **Will information about the charge and/or the conviction be added to my criminal record?**

Yes, the Criminal Register holds records of legal convictions. The courts provide it with that information. The information is kept for a hundred years from the date of your birth.

If the conviction is removed, the information will not appear in the Criminal Register. You can obtain an extract from the Register by requesting one.

Depending on the seriousness of the conviction, it may be removed within time limits set by the law. These range from one year after the sentence has been served, to fifteen years.

The information will be held whether you consent or not.

#### **Can I object to the holding of the information?**

You can file an administrative lawsuit with the Municipal Court in Prague.

#### **Related links**

[Criminal Law for the General Public](#)

[Ministry of Justice](#)

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## **5 - Traffic and other minor offences**

The [Act on Offences](#), defines an "offence" as behaviour which violates or threatens the interests of society and which is explicitly described as an offence in the Act or another law.

The definitions written above are all in the Act on Offences and the [Administrative Procedure Code](#) and these are used in proceedings for offences.

#### **How are speeding and parking violations and other such offences dealt with?**

Traffic offences are dealt with by the municipal (city) authority.

Some offences and the sanctions that can be imposed by the municipal authority are:

speeding offences are normally dealt with by imposition of a fine ranging from CZK 1000, to CZK 10 000, depending on the seriousness of the offence. A ban on driving ranging from one month to one year may also be imposed.

other traffic offences have fines on a scale depending on their seriousness from CZK 1,500 to 10,000 and a possible ban on driving of up to one year;

breaking the [Act on Road Traffic](#) by causing an accident resulting in the death or injury of a person, can result in a fine from CZK 25,000 to CZK 50,000 and a ban on driving for a period from one to two years.

#### **What is the procedure in dealing with an offence?**

##### **Ticketed (coupon) proceedings**

This is a less serious offence which has been reliably proven and for which a reprimand is not sufficient. If you are willing to pay a lower fine, this can be dealt with by an authority which inspects traffic (or also the police) by imposing a ticket (coupon) fine on site.

##### **Standard offence proceedings**

Offences are adjudicated on the basis of official proceedings. The start of such proceedings is a report of an offence by a state authority, the police, a municipal authority, or by a legal entity or citizen.

The municipal authority may submit the case to another authority before the start of the proceedings. If the facts indicate that this concerns a crime, the case is submitted to the public prosecutor.

You will be a party to the proceedings in your capacity as the accused person. The victim will also be a party, if there is a need to discuss compensation for damages caused by the offence. Finally, the owner of an object or item which was or may be seized (for instance, the owner of a vehicle) will also be a party. You are accused of the offence as soon as the first procedural act is made against you.

**You are entitled to:**

express your opinion about all the acts you are accused of and the evidence supporting these accusations;

refuse to testify;

challenge the facts and propose evidence for your defence;

submit petitions;

submit remedies.

Oral hearings are held and the municipal authority will prepare a report. You will be asked questions during the hearing and you can enforce your rights (as set out above). The report will become part of the file. The municipal authority will ask you to examine the documents contained in the file before issuing its decision. You are entitled to express your opinion about these documents.

**End of proceedings for an offence:**

when the proceedings are stopped for the reasons set out in [the Act on Offences](#) (for instance, the act is not an offence, you have not committed the offence, a sanction would be insignificant next to the punishment which will be imposed on you for a different act in criminal proceedings, and similar reasons); or

when the decision is issued which finds you guilty of the offence and imposes a sanction on you.

**Can citizens of other Member States be prosecuted for these offences?**

The citizens of other Member States may be prosecuted in the same way as Czech nationals.

**Can I appeal?**

You have the right of full appeal. However, an appeal cannot be made against a fine imposed in ticketed (coupon) proceedings.

A decision contested by an appeal cannot be executed until a superior authority has decided the appeal.

Your appeal must be filed with the administrative authority (generally the municipal authority) within fifteen days of the date of notification of the decision.

**Will these offences appear on my criminal record?**

No.

**Related links**

[Traffic Offences](#)

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