

Home>Your rights>Defendants (criminal proceedings)

## Defendants (criminal proceedings)

These factsheets explain what happens when a person is suspected or accused of a crime which is dealt with by a trial in court. For information on minor road traffic offences, which are usually dealt with by a fixed penalty like a fine, 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

You will always be arraigned before the Court of Magistrates. If you are arraigned under arrest, the Court must first decide whether your continued detention is founded on a provision of law and then inform you that you may request bail. If you are not arraigned under arrest, you will be notified of the charges and of the date when you must appear in court for the first hearing.

There are three different types of trials depending on the seriousness of the charges brought against you:

### Summary proceedings before the Court of Magistrates

Arraignment

Prosecution's case conducted by the Executive Police

Defence's case

Final Submissions

Judgement

### Proceedings before the Court of Magistrates following the compilation of evidence

Arraignment

Prosecution's case conducted by the Executive Police and the Attorney General

Defence's case

Final Submissions

Judgement

### Trial by jury

Preliminary pleas and pleas relating to the admissibility of evidence

Reading out of the bill of indictment

Address by the Prosecution

Prosecution's case conducted by the Attorney General

Defence's case

Reply by the Prosecution

Rejoinder by the Defence

Summing-up

Verdict

Sentence

Details about all of these stages in the process and about your rights can be found in the factsheets. This information is not a substitute for legal advice and is intended to be for guidance only.

### 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](#)

Investigation

Arrest

The first court hearing

Preparation of the case pre-trial

Preparation of the case by the defence

[3 – My rights during the trial](#)

[4 – My rights after the trial](#)

[5 – Road traffic offences](#)

### Related links

[Criminal Code](#)

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### 1 - Getting legal advice

Getting independent legal advice is very important when you are involved in some way with the criminal process. The factsheets tell you when and in what circumstances you are entitled to be represented by a lawyer. They will also tell you what a lawyer will do for you. This general factsheet 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

Unless you have your own lawyer, the best way to find one is to check out the official website of the [Chamber of Advocates](#). If you are in custody you will need to ask for assistance to access this website since internet is not readily available.

## **Paying for a lawyer**

The duty advocate is an independent lawyer who is paid for by the State. He is available to provide advice 24 hours a day. He will advise you about your rights and ensure that you do not do or say anything that could harm your case.

You will however only be entitled to a lawyer free of charge if you cannot afford to pay for one. No particular means test is carried out and the main criterion as to whether you are entitled to legal aid is whether you work or not. If you do not work, the State will provide you with the duty advocate both prior to your interrogation by the police and during your appearances in court.

If you appear in Court without a lawyer, the Court will suggest that you engage one unless you insist that you do not need one.

If you can afford your own lawyer, you will have to engage one because you will not be entitled to legal aid. It is advisable to establish the fees with the lawyer of your own choice before engaging him.

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## **2 - My rights during the investigation of a crime**

A criminal investigation may take place upon a report by a public officer, information provided by the general public or a complaint by an injured party. An investigation may also take place if a person is caught in the act of committing a crime.

### **What are the various stages pre-trial?**

#### **Investigation**

The police may ask a person to attend the police station to answer questions. The purpose of this stage is to find out if there is enough evidence to suggest that a person, not necessarily the one being questioned, has been involved in a crime.

#### **Arrest**

If the police believe that there is enough evidence to suggest that a person has been involved in a crime then he can be arrested to allow the police to keep him for a period of time and question him officially. The purpose of this stage is to decide whether the person can be charged with a crime or not.

#### **First court hearing**

If a person is charged with a crime, he will be arraigned in Court and have his charges read out. If he is arraigned under arrest the Court will first decide whether his continued detention is founded on a provision of law and then inform the person that he may request bail.

#### **Before the trial**

Before the case comes to trial, the prosecution must collect and produce all the evidence in favour and against the accused. In more serious cases, the prosecution must bring enough evidence to show the Court that there is a strong case against the accused.

The prosecution, which is led by the police at this stage, have no obligation to divulge any information as to how they will be proving their case. They have no obligation to inform the accused or his lawyer about their case and what evidence they have. The accused person's lawyer may work with the accused to collect evidence for their own case.

Usually there are a number of preliminary hearings before the trial takes place.

#### **My rights during the investigation**

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

[Investigation \(1\)](#)

[Arrest \(2\)](#)

[The first court hearing \(3\)](#)

[Preparation of the case pre-trial \(4\)](#)

[Preparation of the case by the defence \(5\)](#)

[Investigation \(1\)](#)

#### **Why might the police want to question me?**

If the police think that you have been involved in some way with a crime, or if you might be able to help with their investigations, they can invite you to assist them with their enquiries and to answer a range of questions.

#### **What will I be told about my rights?**

The police should not question you with a view to obtaining evidence, unless they have cautioned you, that is, told you about your rights.

Where, in the course of an investigation, you attend voluntarily at a police station or office, you will be free to leave at any time, unless and until you are informed that you are under arrest.

#### **What happens if I don't speak the language?**

If you don't understand the language, then the police will get an interpreter for you. The interpreter will be free of charge. The interpreter should translate the caution, the police's questions and your replies.

#### **Can I have a lawyer?**

You do not have a right to a lawyer during the interrogation. You do however have the right to speak to a lawyer for one hour prior to the interrogation. If you need an interpreter, he or she will also translate your conversation with your lawyer for you.

If you know the name of a lawyer, you can ask the police to contact him or her for you. If you do not know a lawyer, then the police will provide you with a list of lawyers made available by the Chamber of Advocates and you may choose a lawyer from that list. If you cannot afford a lawyer the police will contact the duty advocate for you. The duty advocate is available 24 hours per day. For more information, see [Getting legal advice](#).

#### **Do I have to answer the police's questions?**

You have the right to remain silent. Anything that you say can be recorded and used during the trial. However, if you want to answer the questions, it may be in your interests to do so. If you choose to consult a lawyer and then exercise your right to remain silent, such silence may be considered as amounting to corroboration of any evidence of guilt.

#### **Can I be searched or asked to provide samples or fingerprints?**

If you have not been arrested, samples may only be taken from you with your prior consent in writing. If you have been arrested, intimate and non-intimate samples may only be taken if your appropriate consent is given. If you refuse to give non-intimate samples (e.g. fingerprints), you may be compelled to do so upon an order by a Magistrate.

#### **Arrest (2)**

#### **Why might an arrest happen?**

Any police officer may arrest without warrant anyone who is in the act of committing or has just committed a crime punishable with imprisonment, or whom he reasonably suspects to be about to commit or of having just committed such a crime.

The police can also carry out an arrest if:

the identity of the person is unknown;

there is doubt whether the particulars furnished by him are true;

the person has not furnished a satisfactory address for service;

it is necessary to prevent him causing physical harm to himself or to any other person or causing loss or damage to property;

it is necessary to prevent him from committing an offence against public decency;

if there are reasonable grounds for believing that the arrest is necessary to protect a child or any other vulnerable person.

#### **What will I be told about my arrest?**

If you are arrested you must be informed that you are under arrest, even though the arrest may be obvious. The reasons for your arrest must also be explained.

The person arresting you cannot use any harshness, bond or other means of restraint unless indispensably required to secure you, or which is necessary because of you resisting arrest.

#### **I don't speak the local language. Can I have an interpreter?**

If you don't understand the local language, the police must provide you with an interpreter and must not interview you until the interpreter is present.

#### **Can I see a lawyer?**

Everyone who is arrested has the right to have legal advice from the duty advocate. Legal advice is however limited to one hour prior to the interrogation.

The police will contact a lawyer on your behalf. For more information, see [Investigation \(3\)](#). You may also get advice over the telephone.

You have the right to see a lawyer in private. If you need an interpreter, he or she should be present when you speak to your lawyer as well as when you speak to the police.

#### **Do I have to answer questions from the police?**

You have the right to remain silent. Anything that you say can be recorded and used during the trial. If you however opt to consult a lawyer and then exercise your right to remain silent, such silence may be considered as amounting to corroboration of any evidence of guilt.

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

You have a basic right not to incriminate yourself and you will be warned that you have the right to remain silent. You will also be warned about the consequences of not exercising your right to remain silent. This means that you are not required to give the police information which would prove that you are guilty.

No inference may be drawn from your failure to explain certain details such as why you were in a particular place at a particular time, or why you had certain objects in your possession. However failure to give such explanations could have a negative effect on your case.

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

The Police have a duty to inform you without undue delay of your right to request that a relative or friend be informed of your arrest and your whereabouts unless such relative or friend is reasonably suspected of being involved in the offence being investigated.

#### **I am from another Member State. Can I contact my Embassy?**

It is customary for the Police to suggest or recommend that you contact your Embassy so that they will be notified about your arrest and the reasons for it and recommend a lawyer if you need one.

#### **Will my fingerprints be taken? Can my DNA be recorded?**

Your fingerprints may be taken and your DNA may be recorded if your appropriate consent is given. If you however refuse to give your fingerprints, you may be compelled to do so upon an order by a Magistrate. You may not, however, be compelled to have your DNA recorded.

#### **Can there be a body search?**


You may be searched by a police officer if he has reasonable grounds to suspect that you may present a danger to yourself or others, for anything that you might use to escape from custody and for anything which might be evidence related to an offence.

When your arresting officer has a reasonable suspicion that you have concealed an item related to an offence, he may request a Magistrate to order an intimate search of your person. The Magistrate will appoint an expert of your same sex to carry out the search or alternatively will appoint, with your prior consent, any medical practitioner to carry out such search.

#### **How long can I be held by the police?**

After you have been arrested, you may be held for up to forty-eight (48) hours. If you have not been released with six hours from your arrest the arresting officer must inform a Magistrate, giving all details as to time and place where you are being held. After forty-eight hours the police must charge you with a crime, release you on police bail or release you unconditionally.

#### **What happens if I am arrested on a European Arrest Warrant?**

If a [European Arrest Warrant](http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33167_en.htm)  [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/judicial\\_cooperation\\_in\\_criminal\\_matters/l33167\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33167_en.htm) issued by one Member State, you can be arrested in another Member State and sent back to the country concerned after a hearing before a Magistrate. You are entitled to have a lawyer and an interpreter if you need one.

#### **The first court hearing (3)**

##### **Why does the first hearing take place?**

There are two different situations:


If you have been arrested and are in police custody, the purpose of the first court hearing is to have the charges read out. The Court will then first decide whether your continued detention is founded on a provision of law and then inform you that you may request bail;

If you have been charged but are not in police custody, the purpose of the first court hearing is that of having the charges read out and hearing evidence brought forward by the prosecution in support of the charges.

If you are in police custody, you must appear before a court as soon as possible after you have been charged to hear evidence brought forward by the prosecution in support of the charges and to decide whether or not you should be released on bail.

If you are not in custody, you will be notified about the charges and of the date when you must appear in court for the first hearing.

##### **Do I have a right to a lawyer?**

When you appear in court you have a right to a lawyer of your own choice. If you cannot afford a lawyer, the State will provide you with legal aid. For more information, see  [Getting legal advice](#).

##### **Will there be an interpreter if I don't speak the language?**

If you do not understand the Maltese language but speak English, the trial will be conducted in the English language. If you do not understand English, then the trial will be conducted in the Maltese language and an interpreter will be appointed to assist you. The services of the interpreter are free.

**Do I have to speak in court?**

You have the right to remain silent. You will however be asked whether you plead guilty or not guilty to the charges. Your lawyer will advise you on how to plead.

**Do I have to give any other information?**

Prior to pleading to the general issue of guilty or not guilty you will be asked, without oath, a few basic questions principally regarding your identity and place of residence.

**Will I be released or held in custody after the hearing?**

At the hearing, the court will decide whether you should be granted bail or not.

Normally if you do not have a criminal record, and you are not a risk to society, you will be released on bail, subject to certain conditions. If the court decides against granting bail, then you will be taken to prison until the next hearing where you can request bail once again. The court cannot decide not to grant bail until the trial. You may request bail at any stage of the proceedings.

If you are a foreigner, usually the court will not grant bail unless you have a fixed address.

**Can I leave the country before the trial?**

If you give sufficient security that you will return for the trial, then you can leave the country but you must come back for all court hearings. If you fail to attend any of the hearings, a warrant will be issued for your re-arrest. You could also be charged with the offence of breaching the bail conditions. In most cases, one of the bail conditions would be that you cannot leave the country but such a condition could be varied at some subsequent stage of the proceedings.

**Preparation of the case pre-trial (4)****What happens before the trial?**

In the period before the trial, the Attorney General collects up all the evidence in the case to ensure that the case is strong enough to justify the trial. The evidence is collected during the compilation of evidence. You will be present at this stage of the proceedings and can be assisted by your lawyer. You may test the evidence by cross-examining the prosecution's witnesses and you may also produce your own evidence.

**Will the case always go to trial?**

The Court of Magistrates conducting the compilation of evidence may decide that there is no case and would then discharge you. If you are discharged and the Attorney General does not agree with the Court's findings, he may, within one month, apply to the Criminal Court for your re-arrest. If the Court of Magistrates commits you for trial, the Attorney General may still order your discharge. The law does not provide an alternative to a trial.

**Can I plead guilty before the trial?**

You can plead guilty upon arraignment and if the punishment for the charge brought against you does not exceed ten years imprisonment, the Court of Magistrates will proceed to pass sentence. Such sentence will, save a few exceptions, appear on your conduct certificate.

If you plead guilty to the indictment before the Criminal Court, a jury will not be impanelled and the Court will pass judgement.

**Can the charges against me change before the trial?**

It is possible for the charges to change before the trial takes place, depending on the evidence collected in the compilation of evidence. The Attorney General may include in the indictment any charge resulting from the compilation of evidence. It is also possible for the charges, or some of the charges, to be dropped before the trial.

**What kind of evidence will the prosecution collect?**

The prosecution will interview witnesses in the case and also collect physical and forensic evidence. For example, the prosecution might collect documents from your home or place of work. The Court of Magistrates may order any inquest, search, experiment or any other thing necessary for the fullest investigation of the case. The Court may also order to be examined by experts any part of your body or the body of the person on whom or with whom the offence has been committed, if it is of the opinion that such examination is relevant to the case.

**Can I prevent the prosecution from collecting certain evidence?**

The compilation of evidence is not the appropriate stage of the proceedings to discuss the admissibility of evidence. You have a time-limit which starts to run from the date that you receive the indictment to challenge the inadmissibility of evidence that the prosecution intends to produce. However, if the evidence is highly inadmissible, the Court of Magistrates will consider not allowing it.

**When will I find out about the evidence against me?**

You will be present with your lawyer during the compilation of evidence and you will have the opportunity to cross-examine the prosecution's witnesses and see the physical evidence.

**What happens if I live in another Member State?**

If you have been allowed to go back to your home country, then you must come back for every court hearing before the trial.

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

Whether you are convicted or acquitted, you cannot be tried again for the same crime. However such decision belongs to the Court conducting the trial since the Court of Magistrates conducting the compilation of evidence is expressly forbidden from deciding whether you are being tried again for a crime which you have already been tried for.

**Preparation of the case by the defence (5)****What happens before the trial?**

If the trial is held before the Court of Magistrates, the prosecution will compile and conclude its evidence before you prepare your case. You may cross-examine the prosecution's witnesses when they are produced or you may reserve your right to cross-examine them at a later stage.

If the trial is held before the Criminal Court, where procedures are more solemn, you must prepare your list of witnesses and any other preliminary pleas within a stipulated time-limit that starts running from the day that you receive the bill of indictment.

**When must I prepare my defence?**

You have no specified time-limits to prepare your defence in a trial before the Court of Magistrates. When the prosecution concludes its case, you will be given a date to start your defence. You are not required to conclude your defence in one sitting.

When you receive a bill of indictment for trial before the Criminal Court, you may, within 15 working days, give notice of any preliminary pleas and indicate the witnesses and produce the documents and other evidence which you intend to use at the trial. This is a peremptory time-limit and it is advisable to speak to a lawyer as soon as you receive the bill of indictment.

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

In the case of a trial before the Court of Magistrates, witnesses for the prosecution will be heard and evidence will be produced in your presence. Before preparing your defence you may also request a copy of the acts of the proceedings which will include transcripts of the evidence and copies of other evidence produced.

In the case of a trial before the Criminal Court, the Attorney General must file the acts of the proceedings together with a list of witnesses and documents that he intends to produce at your trial. You will be notified with the list of witnesses and documents together with the bill of indictment. You may also request a copy of the acts of the proceedings from the Registry of the Criminal Court.

#### **Can I prevent the prosecution from collecting certain evidence?**

In cases before the Court of Magistrates, you may prevent the prosecution from producing evidence that is inadmissible i.e. not legally allowable. This can be done immediately or at any later stage of the proceedings.

Where an indictment has been filed against you, if pleas regarding the evidence intended to be produced by the prosecution have been raised within the time-limit, the Criminal Court will appoint a day for the hearing of those pleas. The Court will put the case off for its decision after hearing submissions by the parties. When the decision is delivered, if you wish to appeal to the Court of Criminal Appeal, you must file a note of appeal immediately after the decision of the Court is pronounced. You then have three working days to file the appeal.

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

Whether you are convicted or acquitted, you cannot be tried again for the same crime. The plea of double jeopardy may be raised at any stage before the Court of Magistrates, with the exception of the compilation of evidence.

The plea of double jeopardy may be raised before the Criminal Court as a preliminary plea. However, this plea may be raised at any stage by the Court itself even when no specific reference to it has been made.

#### **I have already been tried in another Member State for this crime. What happens?**

The Court of Magistrates or the Criminal Court will examine the contents of the decision of the other Member State and discharge you if it concludes that the crime is one for which you have already been convicted or acquitted.

#### **How long will the trial last?**

A trial before the Court of Magistrates will be conducted over a number of sittings that may take place within weeks or months of each other.

Most trials before the Criminal Court do not last longer than a week. However, trials which are serious may last longer than that.

#### **Related links**

[Criminal Code](#)

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### **3 - My rights during the trial**

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

The court that will hear your case will be either the Court of Magistrates or the Criminal Court depending principally on the gravity of the charges against you.

The trial will be public save a few exceptions where, for instance, the identity of the victim needs to be concealed.

If the case is heard by the Court of Magistrates, the presiding magistrate will decide the case. If on the other hand the case is heard by the Criminal Court, the case will be decided by the jury and, in case of a guilty verdict, the sentence will be delivered by the presiding judge.

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

The charges may be changed when the case is heard by the Court of Magistrates. The prosecution can ask for the charges to be corrected if the evidence suggests that another charge is more appropriate or if there was a mistake in the original charge. Charges may also be withdrawn or substituted.

In cases before the Criminal Court, once you have pleaded guilty or not guilty, the accusations may be changed in limited circumstances with the condition that the charges don't become more serious than the original ones.

If you plead guilty to all the charges the Court will proceed to give judgement. If you plead guilty to some of the charges, unless the other charges are withdrawn by the Prosecution or are alternative charges, the Court will proceed with the trial.

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

You must be present during all the stages of the trial.

If you live in another Member State it is not possible for you to participate by video link.

If you do not understand the Maltese language but are an English speaking person, the trial will be conducted in the English language. If you do not understand English, then the trial will be conducted in the Maltese language and an interpreter will be appointed to assist you.

You are free to conduct your own defence but generally the Courts will insist that you engage a lawyer to assist you. A lawyer will be allocated to you. If your lawyer is the duty advocate from legal aid then you cannot change your lawyer. If, however, you have engaged your own private lawyer, you can change him.

You are not obliged to speak during the trial and no inference can be drawn from your silence. If you however decide to take the witness stand you cannot refuse to answer incriminating questions relating to the charges brought against you.

Not telling the truth can seriously affect your credibility and, moreover, could lead to the offence of perjury.

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

In general you can challenge evidence which is brought against you. If the evidence consists of witnesses, you may cross-examine them or bring your own witnesses to challenge their testimony. In case of documentary evidence you may cross examine the witness or expert producing it or bring your own witnesses to attack such evidence. You may not however bring your own expert evidence. Expert evidence may only be attacked by cross-examining the expert with regard to his findings or his expertise.

You can produce witnesses and documentary evidence in support of your defence.

If your trial is to be held before the Criminal Court, the law sets a time-limit which starts running from when you receive the bill of indictment in which you must indicate all the witnesses and other evidence that you intend to produce in your defence at the trial. No such restriction exists if your trial is held before the Court of Magistrates.

If you want to, you can use a private detective to obtain evidence. Evidence obtained by him is admissible as long as it is not excluded by the law.

Your lawyer may cross-examine the prosecution's witnesses and he may challenge what they say during the cross-examination.

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

Information about your criminal record will be taken into account if a charge depends on a previous conviction such as relapsing or committing an offence during the operational period of a suspended sentence. Your criminal record may also be taken into account by the magistrate and judge when deciding the punishment you will receive in if you are convicted.

In the course of a trial before the Criminal Court, your criminal record may be taken into account if you try to establish your good character or attack the character of one of the prosecution's witnesses. The court may, in determining your punishment, take into account a final judgement delivered by a foreign court.

### **What happens at the end of the trial?**

At the end of the trial you will be acquitted or convicted of the accusations brought against you. You may also be acquitted/convicted in part. If convicted you may be sentenced to a term of imprisonment. If the term of imprisonment does not exceed two years the Court may suspend its operation for a maximum period of four years. If the offence carries a punishment that does not exceed seven years imprisonment, the Court may also discharge you unconditionally or conditionally for a maximum period of three years. If you breach a condition imposed by the Court you will be brought before it and sentenced again.

The Court may also make a probation order whereby a probation officer will be assigned to monitor you. In certain cases the Court may also impose a financial penalty.

### **What is the role of the victim during the trial?**

When the trial is held before the Criminal Court, the victim may be present during the proceedings and may make submissions on punishment. Before the Court of Magistrates the victim may take on a more active role by assisting the prosecuting officer personally or through a lawyer.

### **Related links**

[Criminal Code](#)

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## **4 - My rights after the trial**

### **Can I appeal?**

You can appeal against the decision at the trial and you can also appeal against the sentence. You may do so by filing an appeal application before the Court of Criminal Appeal. You must do so within eight working days in the case of a judgement by the Court of Magistrates. In the case of a verdict by the jury and a consequent sentence by the Criminal Court you must file your appeal within fifteen working days from the date of the sentence.

In both cases you may appeal against the decision on the merits or/and against the sentence.

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

If you are sentenced to a term of imprisonment by the Court of Magistrates your request to file an appeal will suspend the execution of the judgement until the final outcome of the appeal.

On the other hand if you are sentenced to a term of imprisonment by the Criminal Court following a guilty verdict you will be sent to prison immediately and filing an appeal will not suspend the execution of the sentence. In this latter case you may request bail pending the outcome of the appeal but as a rule this is not granted.

There is no hard and fast rule as to when your appeal will be heard but usually a few months lapse before the appeal is heard.

As a rule you cannot produce new evidence during the appeal but there are a few exceptions such as when the evidence was not known to you or was inadmissible at the time of the trial.

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

In the case of an appeal against a decision of the Court of Magistrates, if the testimony of witnesses has not been transcribed, such witnesses will be heard and then your lawyer and the prosecutor will make their oral submissions for and against the appeal.

In cases where the testimony of witnesses has been transcribed oral submissions will be made. In the case of an appeal from a sentence of the Criminal Court your lawyers will make oral submissions in support of your appeal and the prosecutor will then reply to those submissions.

At the end of the trial you will be acquitted or convicted of the accusations brought against you. You may also be acquitted / convicted in part.

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

If your appeal is successful the judgement will be varied or reversed depending on what you request in the appeal application.

If your appeal is unsuccessful, the decision of the Court will be confirmed. In this latter case, if the judgement convicting you to a term of imprisonment has been delivered by the Court of Magistrates you will be taken into custody immediately.

You have no right of appeal to another Court from a judgement of the Court of Criminal Appeal. If the first decision was wrong you have no automatic right to compensation.

If your appeal is successful and the decision is reversed no record of your conviction will be kept.

A conviction is final either upon a sentence of the Court of Magistrates or the Criminal Court where no appeal is made within the time limits or upon a decision by the Court of Criminal Appeal.

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

If you are from another Member State, the Court will not order that you be sent back to your country. You may however make a request to the Government to spend your time in custody in your Member State.

The request may also be made by your Government either of its own accord or in support of your previous request. The decision has to be agreed to by both Governments.

The transfer is not automatic and must be set in motion by your request or/and your Government's request.

The decision to send you back to your country is not a Court decision but is one that must be agreed to by your Government and the Government of the Member State which has found you guilty of an offence. As such no appeal lies from such decision.

### **Information about the charges/conviction**

Charges of which you have been convicted will appear on your conduct certificate. However, in some cases, such as where you were below the age of eighteen years at the time of the offence, the conviction will not be entered in the conduct certificate.

This information is held by the Commissioner of Police at the Police Headquarters.

Your criminal record will be held by the Commissioner of Police without any time limitation. However convictions will not be entered in your conduct certificate after the lapse of certain time periods varying from six months to ten years depending on the length of your punishment. There are certain convictions, such as drug related ones that will always be entered in your conduct certificate notwithstanding the lapse of any amount of time.

Your consent is not required for your criminal record to be held by the Commissioner of Police. You cannot object to the holding of this information since it is allowed by law.

### **Related links**

[Criminal Code](#)

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## **5 - Road traffic offences**

**Minor road traffic offences, properly referred to as infringements or scheduled offences, are dealt with administratively before a Commissioner for Justice.**

### **How are minor road traffic offences dealt with?**

Infringements such as speeding and parking offences are dealt with in the same way that minor offences are dealt with before the Court of Magistrates.

These offences will be dealt with by a Commissioner of Justice.

You will be summoned to appear before a Commissioner. The summons will contain a brief statement of the facts of the charge as well as a warning that if you fail to appear, you will be deemed to have admitted the charge. The summons will also indicate the penalty to which you may be liable if found to have committed the infringement.

You may, up to three days before the hearing, settle the charge by paying the penalty. In such a case you need not appear before the Commissioner. If you choose to contest the charge then the proceedings are contentious. The prosecution will present its case and then you will present yours. The Commissioner will then decide whether or not you have committed the scheduled offence specified in the summons.

If the Commissioner decides that you have committed the scheduled offence, he will declare you guilty of an infringement and order you to pay a fine not exceeding one thousand and sixty-four euro and sixty-nine cents (€ 1,164.69). The minimum fine would be that of twenty-three euro and twenty-nine cents (€ 23.29). If the law so provides the Commissioner may also order the sequestration of any object used in the commission of the offence or/and the revocation or suspension of your licence in addition to the fine.

Scheduled offences may be pursued against nationals of other Member States if you are summoned. If you are summoned and do not appear you will be deemed to have admitted the charge. You may, alternatively, authorise in writing a close relative or advocate to appear on your behalf.

If you feel aggrieved by the decision of the Commissioner you may, within thirty days of the decision, apply to the Court of Magistrates to have such decision revoked or varied.

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

These infringements will not appear on your conduct certificate or on your conviction sheet.

### **Related links**

 [Legislation on road traffic offences](#)

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