Optuženik (kazneni postupak)

Grčka

U ovim informativnim člancima objašnjeno je što se događa kad je osoba osumnjičena ili optužena za kazneno djelo za koje se vodi sudski postupak.

Kratki pregled kaznenih postupaka

Istražni postupak / pokretanje kaznenog postupka

Ovaj dio procesa počinje kad se tužitelja obavijesti da je vjerojatno počinjeno kazneno djelo. Nastavlja se pokretanjem kaznenog postupka i završava određivanjem suđenja za optuženu osobu ili povlačenjem optužbi.

U toj se fazi nastoji razjasniti slučaj, koliko je to moguće, kako bi se utvrdilo postoje li jake indicije da je tuženik počinio kazneno djelo, na temelju čega se odlučuje hoće li se za tuženika odrediti suđenje pred nadležnim sudom.

Sudska rasprava

U ovoj se fazi sudi o predmetu do donošenja i izricanja presude.

Pravni lijekovi

Riječ je o pravnim sredstvima koja se osiguravaju osobi kako bi joj se omogućilo osporavanje presude kaznenog suda.

To su sljedeća sredstva:

žalba, radi preinake ili ukidanja pobijane presude na činjeničnoj ili pravnoj osnovi

ponovno suđenje te djelomično ili potpuno ukidanje pobijane presude na pravnoj osnovi.

Detaljnije informacije o svim tim fazama u postupku i o svojim pravima možete pronaći u sljedećim informativnim člancima. Te informacije nisu zamjena za pravni savjet i služe samo kao opće smjernice.

Ako ste žrtva kaznenog djela, potpune informacije o svojim pravima možete pronaći ovdje.

Uloga Europske komisije

Europska komisija nema nikakvu ulogu u postupcima kaznenog progona donesenima u državama članicama i ne može vam pomoći ako želite podnijeti pritužbu. U ovim informativnim člancima dostupne su informacije o tome kako i komu možete podnijeti pritužbu.

Kliknite na poveznice u nastavku kako biste pronašli informacije koje trebate

Moja prava tijekom istrage

Moja prava tijekom suđenja

Moja prava nakon suđenja

Posljednji put ažurirano: 29/02/2024

Verziju ove stranice na nacionalnom jeziku održava odgovarajuća država članica. Prijevode je napravila služba Europske komisije. Moguće promjene u originalu koje su unijela nadležna nacionalna tijela možda još nisu vidljive u drugim jezičnim verzijama. Europska komisija ne preuzima nikakvu odgovornost za informacije ili podatke sadržane ili navedene u ovom dokumentu. Pogledajte pravnu obavijest kako biste vidjeli propise o autorskim pravima države članice odgovorne za ovu stranicu.

1 - My rights during the investigation

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

No. All persons in Greece enjoy full protection of their life, honour and freedom, without discrimination on the basis of nationality, race, language, and religious or political beliefs.

B. What are the stages of an investigation?

i. Evidence gathering phase / Power of investigators

The purpose of the preliminary examination is to gather the necessary evidence with a view to deciding whether criminal proceedings should be launched.

ii. Police custody

Anyone arrested having being caught committing a crime or under a warrant must be brought before the competent investigating judge no later than 24 hours after their arrest. If the arrest was made in a place other than the seat of the investigating judge, the person must be brought before the court within the time strictly necessary for their transfer. The investigating judge must, within three days of the arrested person being brought before the court, either release them or issue a warrant of imprisonment. That period may be extended by two days at the request of the person brought before the court.

iii. Questioning

The purpose of the main investigation is to collect the necessary evidence with a view to establishing that a crime has been committed and to deciding whether a person must be brought to trial for that crime.

iv. Pre-trial detention

Temporary detention is permitted only if the accused is prosecuted for a felony and has no known residence in the country, or has taken preparatory action to abscond, or has formerly been a fugitive or absconder, or has been found guilty of escaping custody or of violating residence restrictions, and, given such circumstances, clearly intends to abscond or is justifiably considered, by virtue of their previous final convictions for similar offences, to be highly likely, if released, to commit further crimes. If the offence of which the person is accused is legally punishable by life imprisonment or temporary imprisonment of up to 15 years, or if the offence was committed repeatedly or in the context of a criminal or terrorist organisation, or if there is a high number of injured parties, temporary detention may also be ordered if, given the particular characteristics of the act, the person in question is justifiably considered to be highly likely, if released, to commit further crimes. The legal gravity of the act alone is not sufficient to order temporary detention.

C. What are my rights during the investigation?

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

Suspects or accused persons who do not speak or understand Greek sufficiently well are entitled to interpretation and to written translation of all essential procedural documents.

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

As soon as the accused person is summoned to appear in order to defend themselves, the investigating judge must inform them of the content of the indictment and of the investigation documents. The accused person or their defence counsel is also entitled to study the indictment and the investigation documents. Copies of the indictment and of the investigation documents may be provided to the accused person at their written request and at their expense.

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

Accused persons have the right to be represented by a defence counsel, even in cross-examination with witnesses or with other accused persons. Under no circumstances may an accused person be prohibited from communicating with their defence counsel. Such communication is strictly confidential.

iv. What is my right to legal aid?

Suspects or accused persons have the right to free legal aid, including legal advice and assistance as well as representation in court, in accordance with the relevant legal provisions.

v. What is important to know regarding:

a. Presumption of innocence

Suspects and accused persons are presumed to be innocent until proven guilty in accordance with the law.

b. Right to remain silent and not to incriminate oneself

Suspects or accused persons have the right to remain silent and not to incriminate themselves. Exercising that right cannot be used against the suspect or accused person in question.

c. Burden of proof

Accused persons are not required to provide evidence of the facts they call upon in their defence. Judges and prosecutors are obliged to examine carefully any facts or evidence called upon by the accused person, if this is useful to uncovering the truth. Any doubt as to guilt is to the benefit of the suspect or accused person.

vi. What are the specific safeguards for children?

A minor who has been the victim of certain offences against their personal or sexual liberty has the right to be present in all investigative acts and to access all case material, even if they do not appear in court to support the charge.

vii. What are the specific safeguards for vulnerable suspects?

Vulnerable persons are informed of their rights, taking due account of their specific needs. They are always informed of the consequences of waiving such rights.

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

Night is defined as being from 8 p.m. to 6 a.m. for the period from 1 October to 31 March and from 9 p.m. to 5 a.m. for the period from 1 April to 30 September.

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

Home confinement by electronic surveillance may be ordered. This involves prohibiting the accused person from leaving a specific building or complex of buildings, as specified in the investigating judge's order and which has been proven to be their place of stay or residence.

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2 - My rights during trial

A. Where will the trial take place?

The trial will take place at the premises of the court with territorial jurisdiction. The place of trial may be changed in the event of a serious threat to public order.

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

The charges may not be modified. The accused person or their defence counsel is entitled to study the indictment and investigation documents.

C. What are my rights during the court appearances?

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

The accused person must appear in person at the hearing and may also appoint a lawyer to defend them in proceedings for both misdemeanours and felonies.

ii. What are my rights to an interpreter and translated documents?

At any stage of the criminal proceedings, when a suspect, accused person or witness who does not speak or understand Greek sufficiently well is to be heard, interpretation must be provided without delay. Where necessary, interpretation is available for communication between accused persons and their defence counsels at all stages of the criminal proceedings.

iii. Do I have the right to a lawyer?

In the case of felonies, the President of the Court must appoint a defence counsel for those accused persons who do not have one. A juvenile judge must do the same in cases where a minor is accused of an act which, if they were of age, would be a felony. Accused persons may not refuse to be defended by the defence counsel(s) appointed by the President of the Court. They may, however, in cases where more than one defence counsel has been appointed, submit a reasoned request asking the court to revoke the appointment of only one defence counsel, whereupon they will continue to be defended by the others.

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

In cases where an absent witness is unable to appear in court, their sworn testimony given at the pre-trial stage is read in court, provided that the accused person or their defence counsel representing has expressly given their consent, in a statement to be recorded in the minutes.

D. Possible sentences

Imprisonment is temporary. Exceptionally, if explicitly stipulated by law, it is for life. The duration of temporary imprisonment is not more than fifteen years or less than five years. The duration of custody is not more than five years or less than ten days. Unless otherwise provided, the duration of community service is not over 720 hours or less than 100 hours. Financial penalties may not be higher than: (a) 90 daily units, where the penalty is the only principal punishment or is ordered in conjunction with a penalty of community service; (b) 180 daily units, where the penalty is ordered in conjunction with a custodial sentence; and (c) 360 daily units, where the penalty is ordered cumulatively with a custodial sentence. Unless otherwise provided in specific provisions, the amount of each daily unit may not be less than €1 or more than €100.

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3 - My rights after the trial

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

Yes, if a sentence of imprisonment of more than 2 months has been handed down by a single-member misdemeanour court or of more than 4 months by a three-member misdemeanour court or of at least 2 years by a mixed jury court, or if confinement in a special juvenile detention facility or reformative or therapeutic measures have been imposed by a single-member or three-member juvenile court.

B. What other recourse options do I have?

You can apply for annulment of the proceedings within 15 days if the accused person who has been convicted by a final judgment has not been able, in due time, for reasons of *force majeure* or for other irreversible causes, to notify the court, by any means, of an insurmountable impediment to their appearance at the trial and to request that the hearing be adjourned. You can also apply for annulment of a ruling if the whereabouts of accused person were unknown at the time of their conviction, but known when the writ of summons was served on them.

C. What are the consequences if I am sentenced?

i. Criminal record

All final convictions are entered in the criminal record. All sentences are entered in the copy that is available for judicial use, whereas prison sentences of up to 6 months are not recorded in the copy that is available for general use after 3 years, sentences of up to 5 years are not recorded after 8 years and sentences more than 5 years are not recorded after 20 years. Once the person reaches the age of 80, or 5 years after expiry of the suspension period, the record is destroyed.

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

If a person is sentenced to imprisonment for less than 3 years, the court orders execution of the sentence to be suspended for a period of 1–3 years, unless it considers, on specifically stated grounds, that imprisonment is absolutely necessary in order to prevent the sentenced person from committing new offences. Greece may recognise and enforce judgments which have been handed down in another Member State of the European Union and impose a custodial sentence or detention order, and may apply for recognition and enforcement of a corresponding judgment of a national court addressed by Greece to another Member State of the European Union. The sentenced person must be located in the issuing or enforcing State. Double criminality must be verified, with the exception of certain serious crimes, which are punishable in the issuing State by a custodial sentence of no more than 3 years.

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