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## Defendants (criminal proceedings)

Romania

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 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

The Romanian criminal process consists of three stages: the criminal investigation, the trial, the enforcement of decisions.

**The investigation** is the first stage of the criminal process. Its purpose is to gather conclusive evidence and it is carried out by the prosecutor and by the criminal investigation bodies, judicial police or special investigation bodies. Following a criminal investigation and depending on its findings, a decision will be taken not to proceed with prosecution or to prosecute by indictment issued by the prosecutor;

**The trial** is the second stage of the criminal process. This only occurs when, following a criminal investigation, the prosecutor decides to prosecute. The trial is public. The court (the judge) directly conducts all actions necessary for this stage of the trial, and is in direct contact with the evidence. All the evidence can be discussed by the parties, prosecutor, court and lawyer. At the end of the trial, the judge pronounces the judgement;

**The enforcement** of the judgement is the third and last stage of the criminal process. This stage is reached after trial, when the court issues a final judgement of conviction. It includes the entire procedure of implementation of the final judgement (issuing the arrest and detention warrant with a view to executing the punishment of imprisonment, issuing the order to execute the punishment of imprisonment, issuing the order prohibiting the defendant from leaving the country, etc.).

More information regarding the stages of the process and 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](#)

Initiating the criminal investigation and questioning the accused

Restriction of movement and deprivation of liberty

Taking of evidence by the prosecution and the defence

Access to evidence taken during the investigation and prosecution of the case

[3 – My rights during the trial](#)

[4 – My rights after the trial](#)

[5 – Road traffic and other minor offences](#)

### Related links

[Public Ministry](#)

[Ministry of Justice](#)

[Information about Romanian criminal legislation \(in English\)](#)

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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 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

If you are accused of a crime in a criminal trial, you have the right to be assisted by a lawyer throughout the criminal process. The judicial bodies must inform you of your right to be assisted by a lawyer, before taking the first statement. This will be recorded in the official investigation report.

In principle, legal advice is optional, in the sense that you may or may not choose the services of a lawyer for legal advice.

If you decide to choose a lawyer, but do not know which lawyer to hire, please contact the local [Bar Association](#).

If you decide not to hire a lawyer, the criminal process can proceed even if you are not assisted by a lawyer. In such situations, you will be forced to defend yourself.

In some cases, legal representation is required by law. Legal representation is compulsory in criminal proceedings if the accused is:

a juvenile, held in a correctional centre;  
hospitalized in a medical educational unit;  
in custody or arrested, including in connection with another case;  
in custody on the grounds of medical safety, or obliged to receive medical treatment in connection with another case;  
not capable of defending himself/herself, in the opinion of the investigation body or the court;  
in the trial phase for an offence punishable with life imprisonment or imprisonment for 5 years or more;  
in other cases stipulated by law.

Where legal representation is required and you did not choose a lawyer, the investigation body or the court must appoint a lawyer. The legal aid services of the local Bar Association of the court where your trial is or will be heard will appoint a lawyer. Afterwards, you may choose another lawyer at any time, in which case the assignment of the lawyer appointed by the court ends automatically.

#### **Paying for a lawyer**

If you have chosen a lawyer, you will pay the costs of the legal services provided by the lawyer, according to the fees set in the agreement concluded with the lawyer.

If a lawyer is appointed for you by the court, where legal assistance is required by law, the state will pay the fees of the lawyer.


#### **Related links**

 [The Romanian National Bar Association](#)

 [The Bucharest Bar Association](#)

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

### **When is an investigation conducted?**

An investigation can be initiated when:

the victim of a crime files a complaint;  
another person reports the crime;  
the police find evidence that a crime has been committed;  
the police capture a person who committed or is in the process of committing a crime.

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


The purpose of a criminal investigation is to take evidence about the existence of crimes, the identity of the perpetrators and their accountability. Following an investigation and depending on its findings, a decision will be taken not to proceed with prosecution or to prosecute.

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

#### **Initiating the criminal investigation and questioning the accused**

This step marks the beginning of the criminal process. In this situation, the police officer or the prosecutor summons the person suspected of having committed a crime in order to inform him/her of the charges against him /her.

#### **Restriction of movement and deprivation of liberty**

During the investigation, under certain conditions strictly established under the  [Code of Criminal Procedure](#), the accused can be forbidden to leave the locality or the country, or can be taken into custody for 24 hours or arrested for a maximum of 30 days.

#### **Taking of evidence by the prosecution and the defence**

The taking of evidence is the purpose of the entire investigation. The task of taking evidence falls upon the criminal investigation bodies (police or prosecutors). They are required to collect any evidence, both against and in favour of the accused.

#### **Access to evidence taken during the investigation and prosecution of the case**

This step marks the completion of the investigation. When the case is considered ready for trial, after the completion of the criminal investigation, the accused has the right to consult the entire case file, containing all evidence against or in his/her favour.

#### **Who carries out each stage?**

The criminal investigation is carried out either by the police or by the prosecutor (criminal investigation body). Depending on the crimes under investigation, the criminal investigation may be conducted by the police, under the supervision of the prosecutor, or directly by the prosecutor, assisted by the police.

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

Throughout the criminal investigation you are entitled to be assisted by a lawyer, you have the right not to answer any questions, as well as the right to make statements and submit evidence in your defence.

For more information about your rights during the various stages of the proceedings, click on the links below:

[Initiating the criminal investigation and questioning the accused \(1\)](#)

[Restriction of movement and deprivation of liberty \(2\)](#)

[Taking of evidence by the prosecution and the defence \(3\)](#)

[Access to evidence taken during the investigation and prosecution of the case \(4\)](#)

[Initiating the criminal investigation and questioning the accused \(1\)](#)

#### **When can the police or prosecutors ask me to make a statement?**

If the police or prosecutors believe that you have information regarding crime which has been committed or that you might be involved in a crime, they can ask you to make a statement. A person is called before the investigation body or the court by (written or telephone) summons, which must include the capacity in which the person is summoned (accused, witness, suspect, party, etc.).

If I am asked to make a statement, does this mean that a criminal investigation has been initiated against me?

Before the criminal investigation is initiated, a preliminary investigation can be conducted. In this context, the investigator may ask people to provide statements without an investigation being under way against them.

#### **When can a criminal investigation be initiated against me?**

When there is sufficient evidence that you have committed or taken part in a crime, the criminal investigation can be initiated. This marks the beginning of the criminal process. A police officer or prosecutor will summon you to notify you of the charges against you. At that moment, the indictment is made public.

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

The charges are notified in a language the accused understands. If you do not understand the language, an interpreter will be provided free of charge. The interpreter will translate the questions asked by the police officer or the prosecutor, and your answers.

**Can I be assisted by a lawyer?**

Before making the first statement, you must be informed that you have the right to be assisted by a lawyer of your own choice or a lawyer appointed for you.

**What is the significance of the notification of the charges?**

Following initiation of the criminal process and notification of the charges, the accused has a new status, with specific rights and obligations.

**When and in what circumstances can I be questioned?**

After being informed of the charges brought against you, you can be questioned. There can be several interviews, at different stages of the investigation. If you do not speak Romanian, an interpreter will be provided for you.

**What rights apply?**

You will be informed that:

- you have the right not to make any statements,
- that anything you say may be used against you;
- you have the right to be assisted by a lawyer during questioning.

Before any questioning, if you agree to make a statement, you handwrite a statement concerning the charges brought against you. You are first allowed to declare everything you consider relevant to the case, without being asked any questions.

**What happens during questioning?**

After making the statement, you can be asked questions regarding the crime under investigation and the charges. You will also be asked what evidence you intend to submit.

**What happens if I have a medical problem during questioning?**

If, during questioning, you complain of symptoms of a life threatening disease, the questioning will be interrupted and a doctor will be called. Questioning can resume as soon as the doctor declares that your life is not in danger.

**How are declarations recorded?**

Your statement is recorded in writing and consists of: the declaration handwritten by you and the typed declaration dictated by the investigator, following the actual questioning.

Each statement must mention when the interview began and ended.

The written statement will be read to you. If you agree with its content, you will be asked to sign each page and the end of the statement. If questioning was conducted through an interpreter, the interpreter must also sign the statement.

If you are unable to or refuse to sign, this will be mentioned in the written statement.

What happens if I have already been tried for the same offence in another Member State?

Usually, a person who has been finally convicted in a different Schengen State cannot be investigated or tried again for the same crime, if the final judgement has been or is being executed, or can no longer be enforced in accordance with the law of the state where the conviction was pronounced. In such cases, the double jeopardy principle applies.

Recognition of criminal judgements is regulated by [the law on international judicial cooperation in criminal matters](#) (see, in particular, Articles 10, 114<sup>1</sup>, 115-121).

**Restriction of movement and deprivation of liberty (2)**

**When can such measures be taken?**

These measures can be taken only after the criminal trial has begun, but cannot be taken during the preliminary stages.

**What measures restricting movement may be taken against me?**

Your liberty can be restricted by ordering you not to leave the place where you live, or Romanian territory.

**When can such measures be taken?**

These measures can only be taken after hearing you in the presence of your lawyer and provided there is strong evidence or grounds to believe that you may have committed the crime.

**What are my obligations?**

The ban on leaving the locality or the country results in a set of obligations that should be observed for as long as the ban lasts.

You must appear whenever summoned, you are not allowed to relocate without notifying the authorities, or to possess, use or carry weapons.

Additional obligations can be imposed if necessary. Such measures can include: wearing an electronic monitoring system, prohibition against approaching certain persons or places, against driving certain vehicles, entering the home of the victim, or practising the profession, occupation or activity which led to the crime.

**How long can restrictions on movement last?**

The ban on leaving the locality or the country during the investigation cannot exceed 30 days. The measure can be extended only if necessary and justified. Each extension must be limited to 30 days and the total period of the measure cannot exceed one year.

In certain exceptional cases, when the crime charged is punishable with life imprisonment or imprisonment for 10 years or more, the maximum term of the restriction on movement is 2 years.

What happens if I fail to comply with the measures or obligations imposed upon me?

Intentional failure to comply with measures or obligations imposed upon you, throughout their duration, can lead to them being replaced with preventive custody.

**What restrictions can be placed on my liberty and when?**

You can be deprived of your liberty by detention or arrest. These measures can only be taken if there is reasonable evidence or grounds that you committed a crime and after you have been heard in the presence of a lawyer.

**When might I be taken into custody or arrested?**

You can be taken into custody or arrested in any of the following cases:

if you fled or are in hiding with the purpose of evading the investigation or the trial, or there are indications that you intend to flee or evade in any way the investigation, the trial or the enforcement of the judgement;

if you have intentionally failed to comply with the ban on leaving the locality or country of residence, or with the obligations imposed on you for the duration of these measures;

if you have intentionally attempted to directly or indirectly obstruct the finding of the truth by influencing a party, witness or expert, by destroying, altering or stealing evidence;

there are grounds to suspect that you are preparing to commit a new crime;

if you intentionally committed a new crime;

if there are grounds to suspect that you are pressuring the victim or attempting a fraudulent settlement;

there is evidence indicating that you present a real danger to public order.

You can also be taken into custody or arrested when the crime you are charged with is punishable with life imprisonment or imprisonment of 4 years or more.

If you are caught in the act of committing a crime, you will be arrested irrespective of the punishment set out in the law for that crime.

#### **Who might take me into custody and for how long?**

You can be taken into custody by a police officer or prosecutor for a maximum of 24 hours, only after a hearing in the presence of a lawyer.

Is it possible to extend the term? Can I make a complaint against this measure?

The preventive custody term cannot be extended. You can make a complaint within 24 hours. If the measure was ordered by a police officer, you can complain to the prosecutor.

If it was ordered by the prosecutor, the complaint should be directed to a hierarchically superior prosecutor.

The complaint should be settled before the 24 hours of preventive custody elapse.

#### **Can I be arrested after being taken into custody?**

If it is deemed necessary to arrest you after you have been taken into custody, the prosecutor must submit a justified proposal and the case file to the court.

The president of the court or the delegated judge will set a hearing for a decision on the proposal for preventive arrest, within 24 hours.

#### **Who might arrest me and for how long?**

The arrest can be ordered by the judge, only after hearing you in the presence of a lawyer. You can be arrested for up to 30 days. The preventive arrest term can be extended by the court. Each extension must be limited to 30 days and the total preventive arrest period cannot exceed 180 days during the investigation.

#### **Can I appeal the arrest decision?**

The decision allowing or refusing the proposal for arrest can be challenged by appeal within 24 hours; the appeal can be declared verbally during the hearing.

#### **Can I contact a family member or my Embassy?**

If you are arrested, the judge must inform a family member or another person designated by you about the action taken within 24 hours. This may include a person from the Embassy.

#### **Can arrest be warranted if the accused is absent?**

The arrest can be warranted even if you are absent, have disappeared, or are abroad or evading criminal investigation or trial.

If an arrest warrant is issued in your absence, and you cannot be brought to justice because your location is unknown or you are evading arrest, the authorisation to proceed with pursuit is granted. You will be heard as soon as you appear in court or are apprehended.

#### **Can I apply for release pending trial?**

If you are under preventive arrest, you have the right to apply for provisional release, under judicial control or on bail.

Provisional release may be granted if the crime was committed without intent or the crime committed with intent is punishable by up to 18 years of imprisonment.

Provisional release on bail may only be granted after deposit of the amount of money, in excess of 1,000 lei (approximately 250 euro), determined by the judge.

#### **What happens if I am suffering from a serious illness?**

If you suffer from a serious illness that prevents you from taking part in the criminal process, you have the right to request that the prosecutor suspends the criminal investigation.

#### **Taking of evidence by the prosecution and the defence (3)**

##### **What is the purpose of taking evidence?**

In the pursuit of truth, the investigator must clarify all aspects of the case based on evidence.

##### **What types of evidence are acceptable?**

Any factual element that determines the existence or non-existence of a crime helps to identify the person who committed the crime and to reveal the full circumstances necessary for the fair judgement of the case is considered evidence. Evidence is obtained by means of proof.

##### **What exactly are means of proof?**

There are various means of proof such as: testimonies of the accused, testimonies of the victim, testimonies of the witnesses, documents, audio or video recordings, photographs, material evidence, technical, scientific, forensic findings and opinions of expert witnesses.

##### **Who takes evidence?**

The task of taking evidence falls upon the criminal investigation body, police officer or prosecutor. They must gather proof both against and in favour of the accused.

##### **What are my rights in relation to evidence?**

You are presumed to be innocent until guilt has been established and you are not obliged to prove your innocence. However, you have the right to submit evidence and request the taking of evidence. The request to take evidence cannot be rejected if the item is conclusive and useful. If there is incriminating evidence against you, you have the right to attempt to disprove such evidence.

##### **Can evidence be taken using violence or promises?**

It is forbidden to use violence, threats, or any other forms of coercion, as well as promises or incentives, for the purpose of taking evidence. It is also forbidden to incite another person to commit a crime for the purpose of taking evidence.

##### **Can evidence which has been obtained illegally be used against me?**

Evidence which has been illegally obtained cannot be used in a criminal trial.

##### **During the investigation, can I be asked to submit certain items?**

Any person possessing items or documents that can serve as evidence in relation to a crime is required to submit it at the request of the investigator. If the items or documents are not submitted voluntarily, the investigator can order their removal.

##### **Can there be a body search? To what end?**

If you are required to hand over an item or a document which might be used as evidence in relation to a crime and you deny that it exists, the investigator may search your body, if there are reasonable grounds to do so.

#### **What sort of searches can take place?**

Your home and your car may be searched, as well as your body.

#### **Who can authorise the search?**

A search of your home or your car can only be authorised by the judge. A body search can be authorised by the police investigator, the prosecutor or the judge.

Can a search of my home or car be carried out at any time, including night time?

Removing items or documents and home searches can only be carried out between 6.00 a.m. to 08.00 p.m. If the search began during this time period, it may continue during the night. The search can be carried out at any time if it is conducted in a public place or a crime is in progress.

#### **Access to evidence taken during the investigation and prosecution of the case (4)**

##### **When can I examine all the evidence in the file?**

Once the investigation is finished, you have the right to examine the entire case file, containing all evidence in your favour or against you.

Access to the evidence should be provided in all cases, unless you are absent or evading criminal investigation.

##### **How can I get access to the evidence taken during the investigation?**

You will be notified of the legal classification of the crime committed. After that and as soon as possible, you will be given access to the evidence, in the presence of a lawyer. If you cannot read, the investigator has the duty to read out the evidence to you. If you do not understand Romanian, the court will provide an interpreter free of charge.

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

After examining the evidence, you have the right to make new requests or additional statements. A report is prepared regarding the access to the evidence containing information, such as requests and statements made, answers provided by you. The report is signed by you and your lawyer.

##### **What happens if I request new evidence in my defence?**

The investigator has the duty to examine new requests and admit or dismiss them, as appropriate. If new evidence is admitted, or the legal classification of the crime is changed, you must be informed.

##### **What is next after examining the evidence?**

If the evidence taken indicates that the crime exists and was committed by you, and that you can be held criminally liable, the prosecutor issues the indictment to prosecute.

##### **What does the indictment contain?**

The indictment must contain several elements expressly provided by law, including: information about the accused, the charges, legal classification of the crime, evidence justifying the charges, any measures of movement restriction and deprivation of liberty taken and their duration, the decision to prosecute.

##### **Will I receive a copy of the indictment?**

You will not receive a copy. The court will serve the summons on you, stating the date of the trial. A copy of the indictment is only served on you if you are held in custody.

#### **Related links**

[Ministry of Justice](#)

[Information for the foreign users](#)

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

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

If an indictment was issued at the end of the investigation, the prosecutors will send the file to the competent court.

#### **Which court will hear the case?**

This will be decided on the basis of the seriousness of the crime and where it was committed.

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

Court hearings are usually public.

In exceptional cases, if a public court hearing might undermine state interests, morals, dignity and the privacy of a person, the court can declare the hearing or some part of it closed to the general public.

The court hearing of a minor (under 18 years of age) is held separately from other hearings and is not public.

#### **Is the case decided by a judge or a jury?**

Cases are decided by a panel of one or more judges, as appropriate under the law. In the Romanian criminal process there is no jury.

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

During the trial, if the legal classification of the crime is considered incorrect, the court must discuss the new classification.

If new facts are revealed related to the crime charged, the court can change the charges and try the crime as such.

If, during the proceedings, new facts are revealed which may constitute another crime, connected to the one charged, the court can request the addition of new charges. The court will decide whether to add new charges or refer the case to the police or prosecution for further investigation.

In all situations, you will be informed of the modifications and you have the right to prepare your defence.

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

The fact that you admit that you are guilty is not sufficient for the court to sentence you. All the evidence should also satisfy the court that you are guilty.

However, if you admit that you are guilty, this may lead to a less serious sentence being imposed by the court.

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

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

You do not have to appear in court unless you are held in custody, in connection with the charges which are being tried or in connection with a different case, or if you are a minor.

**If I live in another Member State, can I participate by video link?**

The hearing can be carried out by video-conference, if there is an agreement to this effect between Romanian judicial authorities and the state where you live. You must agree to this procedure.

**Do I have to be present throughout the trial?**

Except in cases where your presence is required, you may choose not to appear at the hearing and appoint a lawyer to represent you.

**Will I have interpretation if I don't understand the language?**

If you do not understand Romanian, the court must appoint an interpreter to provide translation.

**Must I have a lawyer? Will a lawyer be allocated to me? Can I change my lawyer?**

You can choose to hire a lawyer. When legal representation is required, if you cannot afford a lawyer, the court will appoint a lawyer for you. You can change lawyers during the trial.

**Can I speak at the trial? Must I speak at the trial? Do I have the right not to make any statement?**

The court must hear you at the beginning of the trial and before the end of the hearing. You have the right to question witnesses and other parties, and to provide explanations during the trial. However, you also have the right not to make any statement.

**What are the consequences if I don't tell the truth during the trial?**

There is no criminal penalty if you do not tell the truth. If you are convicted however, this behaviour can be taken into account in determining the sentence.

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

**Can I challenge the evidence produced against me?**

You have the right to challenge the evidence produced against you by submitting other evidence, requesting counter-expertise, challenging the authenticity of documents on file in order to prove that the charges against you are groundless.

**What kind of evidence can I produce on my behalf?**

You can produce any kind of evidence: testimonies by witnesses, documents, audio and video recordings, photographs, material evidence, technical findings and forensic expertise.

**Under what conditions can I introduce such evidence?**

You can ask the court to accept evidence and the court will decide whether to allow or dismiss the evidence.

**Can I use a private detective to obtain evidence for me? Is such evidence acceptable?**

Private detectives are not allowed to investigate criminal cases tried by judicial bodies.

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

You can ask individuals to testify. After that, you must request the court to admit these witnesses for the defence.

**Can I or my lawyer ask the other witnesses questions? Can we challenge what they say?**

You are entitled to ask witnesses questions through the judge. You can challenge their testimonies and submit evidence proving their insincerity.

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

Information about your existing criminal record will be attached to the case file.

**At what stage?**

Information about the criminal record is usually attached to the file during the investigation, but it can also be requested afterwards.

**Will previous convictions in another Member State be taken into account?**

Judgements passed in another Member State are recognized.

**What are the possible outcomes of the trial?**

The two possible solutions are: acquittal or conviction.


In case of conviction, depending on the crime's gravity, the penalty can be: life imprisonment, imprisonment for a period of time or a fine. In some cases, the court can suspend the sentence of imprisonment and impose certain obligations and liberty restrictions throughout the period that the sentence is suspended.

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

The victim can testify and can claim compensation. The victim is not required to participate in the trial, but may choose to claim compensation. The victim can participate in the process as early as the criminal investigation.

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

**Can I appeal?**

**Can I appeal against the decision at the trial?**

You are always entitled to challenge the decision of the court of first instance, by way of a legal remedy. Usually, the first legal remedy available is the *appeal*. In exceptional cases, certain decisions may be challenged directly by final *appeal*.

**To whom do I appeal? What time limits apply?**

The appeal can be declared verbally at the hearing, when the decision is pronounced, or is presented in writing, by filing a notice of appeal to the court that pronounced the decision that you are challenging. The general time limit for appeal is 10 days. When *caught* in the *act of committing* the crime, the time limit for appeal is 3 days.

**What are the grounds of appeal?**

To appeal means to retry the case, therefore the grounds of appeal are not restricted by law. The court has to examine all aspects of the matter, both, factual and legal.

**What happens if I appeal?**

**Who will hear the appeal?**

The appeal will be tried by a higher court than the court which made the first decision.

**What happens if I am in prison when I appeal?**



If you are in prison, you may appeal to the detention unit administration and your presence at the appeal hearing is mandatory.

#### **How long will it be before the appeal is heard?**

Appeals are usually heard within a short time. Cases involving detained persons are given priority and are tried with urgency.

#### **Can I produce new evidence for the appeal?**

When the matter is retried in appeal, you can produce new evidence. Regardless of whether you produce new evidence or not, the Court of Appeal may also reconsider the evidence produced in the court of first instance.

#### **What happens at the hearing of the appeal? What rules apply?**

You may explain your grounds of appeal during the hearing. Essentially, the same rules apply as in the first instance trial. You have the right to respond to new information or evidence which is revealed during the appeal.

#### **What can the court decide?**

The court can decide to allow or dismiss the appeal. If the appeal is dismissed, the original decision stands. If the appeal is allowed, the decision challenged is cancelled. Under these circumstances, the court may retry the case and decide to convict or to acquit, or may send the case back to the court of first instance for retrial.

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

If your appeal is successful, you can expect a second appeal from the prosecutor. If your appeal is unsuccessful you are entitled to a second appeal. The second appeal will be tried by a higher court.

If the first decision was wrong, will I get any compensation? What for? How?

If the first decision was wrong, you are not automatically entitled to compensation, unless the decision was a final one and it was corrected by way of appeal.

If, during the trial, you were subjected to unlawful restriction or deprivation of liberty, you are entitled to compensation. To this end, you may bring an action to the court against the state represented by the Ministry of Public Finance in this case.

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

No, only records of final convictions will be kept.

#### **Is further appeal possible if the first appeal fails?**

If the first appeal is dismissed, you have the right to a second appeal. The second appeal is filed with the court that pronounced the decision which you are challenging and it will be heard by a higher court.

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

The conviction is final when the second appeal court makes its decision, confirming the decision of the lower court or, if it retries the case, pronouncing a decision itself.

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

##### **Under what circumstances?**

If your conviction is final, you can be sent back to your home country, in order to carry out the sentence.

##### **Is the transfer automatic?**

The transfer is not automatic. You have to apply for transfer to the convicting country or to the country where the sentence will be carried out.

##### **What conditions apply?**

The conviction must be final, you must have at least 6 months remaining on your sentence (in exceptional cases, this time can be shorter), the actions you were convicted for must also be considered crimes in the state where the sentence will be carried out, and both countries must agree to the transfer.

##### **Who examines the petition to send me back? Can I appeal the decision?**

The petition for transfer will be considered by the Court of Appeal in the area where you are imprisoned or where you live if the prison sentence has not yet started. You can appeal the decision within 5 days (Articles 128-139 of Law 302/2004).

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

This is impossible. If a final decision has been made, the matter is considered to be resolved and a retrial is not possible.

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

Will information about the charges and/or the conviction be added to my criminal record?

The information about initiating an investigation or arresting a person will be temporarily added to the criminal record until the final decision is reached. The information about final convictions will be added to the criminal record.

##### **How and where will that information be held?**

The criminal record is administered by the Ministry of Administration and Interior and is maintained by the territorial units of the Romanian Police.

##### **How long will it be held?**

Criminal records are only purged in certain cases, such as: rehabilitation, amnesty, activity no longer a crime under the law, etc.

##### **Can it be held without my consent?**


The information is held by virtue of the law, and your consent is not required.

##### **Can I object to the holding of the information? How, to whom?**

You may apply for the correction of the information in your criminal record if it does not match the actual circumstances or the information was not entered in accordance with the law. The application for correction must be justified and filed with the police unit that issued the criminal record (Law no. 290/2004, on criminal records).

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## **5 - Minor road traffic offences**

In Romania, offences subject to (non-criminal) penalties are called *minor offences*. Minor offences are dealt with according to administrative procedures.

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

#### **How are speeding, parking etc. offences dealt with?**

These offences are dealt with according to an administrative procedure which generally involves filling in a report on the offence committed, indicating the penalties.

**Who deals with such offences?**

Minor road traffic offences are dealt with by traffic officers and, at the Romanian border checkpoints, by border police.

**What is the procedure?**

The officers enforce the penalty by filling in a report on the offence. The report must include details, such as: a description of the offence including the date, hour and place where it was committed, the law relating to the offence, etc.

When drafting the report, the officer must inform you of your right to object to the contents of the report. The objections are written down separately in the report. If this does not happen, the report is null and void.

Offences can also be established using technical devices (for example, a radar), which should be mentioned in the report. In this case, you do not have to be present when the report is completed.

**What are the penalties?**

The main penalties are warnings and fines.

Additional penalties can include: penalty points, suspension of the driver's licence for a limited period of time, etc.

The officer can also order an administrative penalty: retention of the driver's licence or vehicle registration certificate, revocation of the driver's licence, etc.

**Are such offences pursued against nationals of other Member States?**

Minor offences committed in Romania by foreign citizens are subject to the same regime as offences committed by Romanian citizens.

Reports concerning foreign citizens are sent for enforcement to the General Inspectorate of Romanian Police. They send the report to the General Inspectorate of Border Police, together with the name of the offender, passport number, report serial number and the amount due. The Border Police record the offence and impose conditions on the entry of the offender onto Romanian territory.

**Can I appeal?**

The report on minor offences can be appealed within 15 days of being served, with the court with jurisdiction in the area where the minor offence was committed. If you appeal the penalties will be suspended. The court decision taken in connection with the report can be further appealed by second appeal.

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

Minor offences will not appear on your criminal record.

The penalties applied for minor road traffic offences are added to the records of the traffic police and, if repeated, they may lead to other measures (for instance, if 15 penalty points are accumulated within 6 months, the driver's licence will be suspended).

**Related links**

 [Ministry of Administration and Interior](#)

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