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Defendants (criminal proceedings)

Estonia

These factsheets explain what happens if you are suspected or accused of a crime which is tried in a court of law. For information on minor traffic offences, which are usually dealt with by a fine, see Factsheet 5. If you are the victim of a crime, you can find full information about your rights here.

Summary of criminal proceedings

The following is a summary of the standard stages in criminal proceedings:

Launching of criminal proceedings

Pre-trial proceedings or investigation

Access to the criminal file and hearing of applications

Charging

Pre-trial proceedings in court

Court hearing

Judgment

Appeals proceedings (in courts of second and third instance)

Execution of the judgment

The factsheets give details about these stages of the process and about your rights. This information is not a substitute for legal advice and is intended to be for guidance only.

The role of the European Commission

Please note that the European Commission has no role in criminal proceedings carried out in Member States and cannot assist you if you have a complaint. These factsheets provide information on how and to whom complaints should be submitted.

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

1 – Getting legal advice

2 – My rights during the investigation of the crime

Launching of criminal proceedings

Detention and arrest

Interrogation and the gathering of evidence

Access to the criminal file, hearing of applications and charging

Additional information for non-residents

3 – My rights during the trial

4 – My rights after the trial

5 – Traffic offences

Related link

Overview of the Estonian criminal procedure in English

Last update: 01/10/2020

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1 - Getting legal advice

Getting independent legal advice is very important if you are involved in some way in 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 for the legal advice.

Must I have a lawyer?

You must have a lawyer during the pre-trial procedure as of the point at which you have the opportunity to review the criminal file (see Factsheet 2).

Before this stage you must have a lawyer in the following cases:

if you were a minor when the crime was committed;

if you cannot defend yourself because of a physical or mental disability, or if the defence is complicated for you due to such disability;

if you are suspected of a crime which carries a sentence of life imprisonment;

if your case conflicts with the case of another person who has a defence lawyer;

if you have been in custody for at least six months;

if the case is tried in an expedited procedure.

You must have a lawyer during the trial. The lawyer's participation in the trial is obligatory, unless the defendant does not want a defence lawyer, the court considers the defendant capable of representing his/her own interests and the defendant wishes to avoid involving a defence lawyer.

Finding a lawyer

You have the right to select your own lawyer, who agrees to represent you on the basis of a contract. The names and contact details of lawyers are available on the homepage of the Estonian Bar Association.

If you do not have a contracted lawyer, or your lawyer cannot represent you, you have the right to request that a lawyer be appointed for you. In this case the Estonian Bar Association appoints a lawyer to represent you.

Your right to have a lawyer appointed for you by the Estonian Bar Association does not depend on your economic situation. You need not reveal details about your financial situation when applying for a lawyer.

If you want to have a lawyer appointed by the Estonian Bar Association, you must submit a request to the investigating agency, prosecution or the court.

In certain proceedings, the lawyer's participation is obligatory. If in those proceedings you have not selected a lawyer for yourself, the investigating body, the Prosecutor's Office or the court will appoint one for you. You need not apply for a lawyer.

Paying for the lawyer

You must pay for the services provided by a lawyer you selected. The lawyer's fee and the conditions of payment are included in the client contract.

If you do not want to hire a lawyer yourself, you have the right to have a lawyer provided by the state. A lawyer appointed by the Estonian Bar Association will be paid by the state. You do not have to pay the lawyer. If the court finds you guilty, you will be obliged to reimburse the state for the lawyer's fees.

Can I replace my lawyer?

You have the right to replace the lawyer you selected. If a lawyer was appointed for you, you have the right to replace the lawyer if the original lawyer and the new lawyer agree. If the lawyer appointed for you has been incompetent or careless, you have the right to submit an application to the court asking for that lawyer to be removed and for the Estonian Bar Association to appoint a new one.

Related links:

The Estonian Bar Association

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2 - My rights during the investigation of the crime and before the case reaches the court

Criminal proceedings have two stages: the pre-trial procedure or investigation, and the trial. Criminal proceedings may also be terminated without reaching court (for example, when it is established during the investigation that no crime was committed). You can be found guilty of a crime only in court.

What is the aim of the criminal investigation?

The aim of the criminal investigation is to establish whether a crime was committed and what the circumstances of the crime were. During the investigation, the evidence of the alleged crime will be collected, the circumstances established, and a decision will be made about whether the evidence is sufficient to charge you with the crime.

What are the stages of the criminal investigation?

Initiating criminal proceedings

Criminal proceedings are initiated by an investigating body (the police or some other state body with the power to do so) or the Prosecutor's Office. Criminal proceedings are initiated when the police or the Prosecutor's Office have received information about the alleged crime.

Detention and arrest

If the investigating body has good reason to suspect that you have committed a crime, you may be detained as a suspect for up to 48 hours. If you are detained, the investigating body must question you without delay.

If it becomes evident during the investigation that there are no grounds for detaining you, you must be released immediately. If the Prosecutor's Office is convinced that you need to be detained longer so that you do not evade investigation or commit new crimes, they must request a warrant for your arrest from a court.

If this happens you will be brought before a judge within 48 hours of the time of your detention. The judge decides whether arrest is appropriate. If the judge finds that there are no grounds for your arrest, you will be released immediately.

Questioning and the collection of evidence

The aim of an investigation is to collect evidence confirming the circumstances of a crime. For this purpose the suspect, the victim and the witnesses will be questioned, evidence collected, forensic analyses performed and surveillance activities conducted. All the actions taken to collect evidence must be documented in accordance with the law. To charge you, only lawful evidence that has been collected legally can be used.

Granting access to the criminal file, hearing applications and presenting charges

A criminal file is created, containing details of the criminal investigation and the evidence. When the criminal investigation is completed, the Prosecutor's Office gives a copy of the criminal file to the defence lawyer. Your lawyer will tell you about the evidence which has been collected and the basis of the charges against you.

You and your lawyer have the right to submit applications to the Prosecutor's Office (for example to include additional evidence in the file, to have the criminal proceedings terminated, etc.). The Prosecutor's Office must decide on these applications. If the Prosecutor's Office does not satisfy an application, you can present the same application again in court during the trial.

If, after the file has been presented to you and decisions have been taken on any applications, the prosecutor finds that there is enough evidence to charge you, an indictment will be drawn up.

This is a document which contains the facts and sets out the evidence on which the charge is based. The prosecutor presents the indictment to the defence lawyer and transmits it to the court. On the basis of the indictment the judge will begin the trial.

My rights during the investigation

Initiating criminal proceedings (1)
Detention and arrest (2)
Questioning and the collection of evidence (3)
Granting access to the criminal file, hearing applications and presenting charges (4)
Additional information for non-residents (5)

Initiating criminal proceedings (1)

Why are criminal proceedings initiated?

Criminal proceedings are initiated because the investigating body has received information which suggests that a crime has been committed. This information may be based on a complaint lodged by a person or the discovery of a fact which suggests that a crime has been committed.

The purpose of the criminal proceedings is to establish whether a crime was committed and, if so, whether the evidence is sufficient to charge a suspect with the crime.

Who carries out the criminal investigation?

The criminal proceedings are led by the Prosecutor's Office, and the criminal investigation is carried out by the investigating body in accordance with the instructions from the Prosecutor's Office. In general, the police carry out the investigation. The investigation may also be carried out by the Internal Security Service, the Tax and Customs Board, the Environmental Inspectorate, the Prisons Department and Prison Service of the Ministry of Justice , the military police and the Competition Authority.

There are certain procedural acts that the investigating bodies may carry out only with the permission of either the Prosecutor's Office or the court.

How do I learn that criminal proceedings have been initiated?

Criminal proceedings begin with the first procedural act. If you are suspected of having committed a crime, you will learn that criminal proceedings have been initiated when you are detained as a suspect or called to an investigator and questioned.

Why might I be suspected of having committed a crime?

You may be treated as a suspect if the investigating body has sufficient grounds to think that you have committed a crime. There may be different reasons for these grounds, for example:

you were caught committing the crime or immediately thereafter;

a witness to the crime or the victim identifies you as the person who committed it;

evidence of the crime or other information suggests that you are the person who committed it.

What are my rights as a suspect?

Your main rights as a suspect are:

the right to be told what you are suspected of, to make statements in relation to the suspicion, or refuse to do so;

the right to know that your statements can be used against you;

the right to have the assistance of an interpreter;

the right to have the assistance of a defence lawyer;

the right to meet the defence lawyer in private;

the right to be questioned with your defence lawyer present;

the right to participate in the court hearing concerning the request for your arrest;

the right to present evidence;

the right to submit applications and complaints;

the right to inspect the records concerning a procedural act and to make statements concerning the conditions, course and results of the procedural act and concerning the records, these statements also being recorded; to agree to the application of the settlement procedure, to participate in the negotiations as part of the settlement procedure, to make proposals concerning the type and size of punishment to be applied, and to enter into or to refuse to enter into a settlement agreement.

What are my obligations?

You are obliged:

to appear when called by the investigating body, the Prosecutor's Office or the court;

to participate in procedural acts and obey the orders of the investigating body, the Prosecutor's Office and the court.

What will I be told about the proceedings which are taking place?

If you are the suspect, the investigating body must explain your rights and obligations to you. You will be asked to sign a written record and, by doing so, you confirm that your rights and obligations have been explained to you.

After that you will be told what you are suspected of. This means that you are given a brief description of the crime you are suspected of having committed. You will also be given details of the legal provisions defining the act as a crime. Neither the investigating body nor the Prosecutor's Office is obliged to give you any more information before the pre-trial proceedings are complete.

When can I speak to my lawyer?

From the moment you are confirmed as a suspect in criminal proceedings you have the right to meet and speak to your lawyer. You have the right to speak to your lawyer before the investigating body starts to question you.

Detention and arrest (2)

Under what circumstances can I be detained?

You can be detained as a suspect if:

you are caught committing the crime or immediately thereafter;

a witness to the crime or the victim identifies you as the person who committed it;

the evidence relating to the crime suggests that you might have committed it.

You may also be detained if the investigating body has other information suggesting that you are a suspect and:

you try to escape;

your identity has not been ascertained;

the investigating body is of the opinion that you may continue committing crimes, evade the criminal proceedings or impede them in some other way.

You may be detained and arrested for the purposes of surrender or extradition to another country (see Questioning and the collection of evidence (3)).

Who can detain me?

The investigating body has the right to detain you. If you are caught while committing a crime or immediately afterwards, or if you make an attempt to escape, anyone can take you to the police for detention.

How will I learn why I was detained and what happens later?

When detaining you, an official from the investigating body must inform you of the reason for your detention and explain to you your rights and obligations. The official will draw up a document concerning your detention which sets out the legal basis for your detention and the circumstances of the crime which you are suspected of having committed. You have the right to make applications and demand that these be included in the document on detention.

I do not speak the local language. How do I understand what is going on?

The investigating body must inform you without delay in a language and manner understandable to you of the reasons for your detention and of your rights. The investigating body must provide you with an interpreter if you need one. Only interpretation is provided, not written translation.

Can I inform the people close to me of my detention?

You have the right to inform at least one person of your choice who is close to you. This takes place through the investigating body. This means that you have the right to ask that a notice be passed on to a person of your choice, and this is done by the investigating body.

If the investigating body is of the opinion that it could harm the criminal proceedings to notify the person of your choice about your detention, it can refuse. The Prosecutor's Office must authorise any such refusal.

How long can I be detained?

You can be detained for up to 48 hours. If the court has not issued a warrant for your arrest within 48 hours of your detention, the investigating body must release you without delay.

Under what circumstances can I be arrested?

You can be arrested at the request of the Prosecutor's Office if there is reason to think that you may evade the criminal proceedings or commit new crimes. Only a judge can authorise an arrest.

How is the decision for my arrest made?

The investigating body takes you to a judge, who has to grant a warrant for your arrest. The prosecutor and, if you so wish, your lawyer are also called to the judge. The judge examines the file of your criminal case and questions you to check whether there are grounds for your arrest. After hearing the parties, the court approves or refuses the request for arrest. If the request for arrest is refused, you must be released immediately.

For how long may I be arrested?

At the pre-trial stage you cannot be held for more than six months. In extraordinary cases this may be extended. After each period of two months you have the right to request that the court review the grounds for your arrest, and the court must decide within five days whether it is justified to keep you under arrest. If the court finds that it is no longer justified to keep you under arrest, you must be released immediately.

Can I be freed on bail?

You have the right to request that bail be set instead of arrest. To do so you must submit an application to the court. You will be taken before a judge who will decide on the bail application. The judge must hear your opinion and that of your lawyer.

If the judge satisfies the application, you will be released from custody after the amount of the bail has been transferred to the court's account.

Do I have the right to appeal against the warrant for my arrest?

You have the right to appeal against the warrant for your arrest. To do so you or your lawyer must lodge a written appeal with the district court through the court which issued the original arrest warrant. The appeal must be lodged within 10 days of becoming aware of the arrest warrant.

Questioning and the collection of evidence (3)

What is the purpose of questioning and the collection of evidence?

The purpose of questioning and the collection of evidence is to ascertain and make a written record of the circumstances of the alleged crime so that they can be checked in court. The investigating body and the Prosecutor's Office are obliged to collect both information which suggests that you were involved in the crime and information which is in your favour. You do not have to prove your innocence.

Will I be asked for information?

If you are a suspect, the investigating body must question you without delay.

Must I give information to the investigating body?

You do not have to give information to the investigating body or answer the questions that you are asked. You have the right to remain silent. Silence cannot in any case be interpreted as an admission of guilt. You cannot be forced to incriminate yourself or people close to you.

How does questioning take place?

At the beginning of the questioning you must be told that you have the right to refuse to say anything and that anything you say can be used against you. First of all you will be asked whether you committed the crime of which you are suspected.

You will be given the opportunity to state what you know about the crime under investigation. You will also be asked questions. A written record of the questioning will be drawn up. Before signing the record, you have the right to read it through. You have the right to have your comments included in the record.

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

Anything you say may be used as evidence against you.

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

During the questioning you can plead guilty to all or some of the charges. You also have the right to do this at any time after questioning, even if you said you were not guilty during the questioning.

The criminal proceedings do not come to an end if you confess your guilt. The investigating body must still establish the circumstances of the crime and prove them. You cannot be convicted of the crime solely on the basis of your confession.

Do I have the right to withdraw my confession later?

If you have confessed your guilt, you have the right to go back on your earlier testimony and deny your guilt later in the criminal proceedings or during the trial. However, in this case your earlier confession may be presented in court and used as evidence against you. If other evidence confirms your guilt, the fact that you withdrew your confession will be ignored, because it is unreliable.

Can I get information about the witnesses testifying against me?

During the criminal investigation the investigating body is not obliged to give you information about which witnesses have testified against you and what these witnesses have said. You will only be told about the witnesses and their statements when you are given access to the criminal file at the end of the investigation (see Granting access to the criminal file, hearing applications and presenting charges (4)).

Will questions be asked about my previous offences?

You may be asked about your previous offences, but you may refuse to give this information. The investigating body has the right to establish whether you have any previous offences by referring to the various registers. Any previous offences will be set out in the indictment.

Might I be searched?

The investigating body has the right to carry out a body search to find traces of the crime, to identify the particular features of your body and to obtain other information which is important for the criminal investigation.

Can I be asked to give fingerprints, and are DNA samples (for example hair or saliva) or other bodily fluids taken from me?

The investigating body has the right to take forensic evidence and samples from you, including fingerprints and biological material for DNA analysis.

If you refuse to provide samples, the investigating body has the right to force you to provide them. However, if you still refuse to provide samples or if taking them would harm your physical integrity, this can only be done on the basis of a ruling from the investigating body. You have the right to see the ruling.

Can my home, business premises, car, etc. be searched?

Your home, business premises, car, etc. can be searched for the purposes of finding evidence of the crime or other items necessary for solving the crime. The Prosecutor's Office or the court must issue a search warrant. If a search is required urgently, it is also allowed on the basis of a warrant from the investigating body.

The person on whose property the search is carried out must be shown the search warrant and asked to surrender the item mentioned in the warrant. If the item is not surrendered, the officials of the investigating body will carry out the search.

Can I lodge a complaint if my rights are violated?

If your rights are violated, you have the right to complain about the activities of the investigating body and submit a complaint to this effect to the Prosecutor's Office. If the complaint concerns the activities of the Prosecutor's Office, it may be submitted to the Office of the Prosecutor General #_msocom_1[A1] . The complaint will be reviewed within 30 days. You will be sent a copy of the decision. If you do not agree with the decision of the Office of the Prosecutor General, you have the right to lodge a complaint with a court within 10 days.

Granting access to the criminal file, hearing applications and presenting charges (4)

For what purpose is access granted to the criminal file?

All the evidence collected during the criminal investigation and the summary of the pre-trial proceedings describing the circumstances of the crime are added to the criminal file. Allowing you as the suspect access to the criminal file is necessary so that you are aware of the charges against you and the grounds on which they are made.

When will I be able to see the criminal file?

If you have been declared a suspect, the criminal file will be made available to you after the criminal investigation is complete.

How is access to the criminal file granted?

As of the moment the criminal file is made available to you, you must have a lawyer (see Factsheet 1). The Prosecutor's Office will give a copy of the criminal file to your lawyer. Your lawyer will inform you of the contents of the criminal file.

How much time do I have to review the criminal file?

No specific time limit is set for reviewing the file. If the Prosecutor's Office finds that the process of reviewing the criminal file is being protracted, a time limit may be set. The Prosecutor's Office must grant enough time to ensure that you can actually exercise your right to defend yourself.

What is the purpose of submitting applications?

After you have reviewed the criminal file, you and your lawyer have the right to submit applications to the Prosecutor's Office. The purpose of submitting applications is to guarantee that the criminal investigation is carried out thoroughly and fairly.

You have the right to request that:

additional investigations be conducted;

new evidence presented by you be included in the file;

material that is irrelevant to the case be removed from the file, etc.

You also have the right to request that the Prosecutor's Office terminate the criminal proceedings if, in your opinion, there are no grounds for continuing with them. In addition, you have the right to request that the case be dealt with through a simplified procedure which is laid down by law (e.g. the settlement procedure) without a normal full trial.

How are applications submitted?

Applications are submitted to the Prosecutor's Office in written form. They must be submitted within 10 days of reviewing the criminal file. If the criminal case is large and complex, the Prosecutor's Office may extend this period to 15 days (Section 225 of the Code of Criminal Procedure, which entered into force on 1 September 2011).

How are applications resolved?

The Prosecutor's Office reviews applications within 10 days. If the Prosecutor's Office does not satisfy an application, a ruling will be drawn up and a copy of it forwarded to you. If your application is rejected at this stage, you can still raise it again during the trial.

When is the charge presented?

After you have reviewed the criminal file and the Prosecutor's Office has made a decision concerning your applications, you will be charged if the Prosecutor's Office is convinced that there is sufficient evidence to put you on trial.

How is the charge presented?

The Prosecutor's Office will draw up an indictment. This is a document setting out the circumstances on which the charges are based and the evidence confirming them. The Prosecutor's Office will give the indictment to you and your lawyer and send it to the court.

Can the charges be changed before the trial?

The court can only hear a case on the basis of an indictment. The Prosecutor's Office can change or supplement the charges, but in this case a new indictment must be presented.

I have already been tried on the same charges in another country. What happens in that case?

If you have been found guilty on the same charges in another country or if criminal proceedings in relation to the charges have been terminated, you cannot be charged again with the same crime. In such a situation, if the criminal proceedings against you were initiated in Estonia, they must be terminated without you being charged with the crime.

Can my case be resolved by means of a settlement?

After you have reviewed the criminal file, you have the right to apply to the Prosecutor's Office to start negotiations in the settlement procedure. If the Prosecutor's Office agrees, negotiations will begin with you and your lawyer to agree on the legal definition of the act of which you are accused and the punishment for it.

If you reach an agreement as a result of the negotiations, it will be written down and submitted to the court for endorsement. If the court endorses the agreement, you will be convicted of the crime on the conditions set out in the agreement that you made.

Additional information for non-residents (5)

What is the European Arrest Warrant?

The European Arrest Warrant#_msocom_2[A2] is a request issued by a body of a Member State of the European Union to another Member State of the European Union with a view to the detention and arrest of a particular person and the surrender of that person to the requesting country so that that country can continue criminal proceedings or imprison the person concerned.

What are my rights if I am detained on the basis of a European Arrest Warrant?

When you are detained, the basis for your detention must be explained to you and you must be informed that you can agree to be surrendered to another Member State. If you agree to be surrendered, you cannot change your decision later. As of your detention you have the right to free legal aid and to have the assistance of an interpreter.

How is my surrender to another Member State decided?

The decision to surrender or to refuse to surrender you is taken by a court. You, your lawyer and the prosecutor will attend the court hearing. The court must hear your opinion about your surrender. The court will issue a ruling whereby your surrender is agreed or refused. You have the right to lodge an appeal against the ruling with a district court within three days as of receiving the ruling. The district court will review the appeal within 10 days and its decision is final.

How quickly is my surrender to another Member State decided?

If you have agreed to be surrendered, a decision must be made within 10 days. If you have not agreed to be surrendered, the final decision to surrender or to refuse to surrender you must be made within 60 days of your arrest. In extraordinary cases this period may be extended by 30 days. If the court ruling on your surrender has entered into force, you must be extradited to the country that submitted the request within 10 days. If you are not extradited within this period, you must be released.

Under what circumstances can I be extradited to another country?

If another country has initiated criminal proceedings against you and drawn up a warrant for your arrest or if a court in that country has imposed a custodial sentence on you, that country can apply for your extradition. If Estonia has received a request from another country for your extradition or a request through Interpol for your arrest, you may be detained and arrested for the duration of the extradition procedure. During the extradition procedure you may be kept under arrest for up to one year. A court will decide whether your extradition should be allowed.

Can I contact the embassy of my country if I am arrested?

If you are a foreign citizen, a copy of the warrant for your arrest will be sent to the Ministry of Foreign Affairs, which will inform the embassy or consulate of your home country. You have the right to request a meeting with a consular official from your country.

Will I have the possibility of using an interpreter if I don't speak the local language?

The investigating body and the Prosecutor's Office must ensure that you are able to use the assistance of an interpreter. The interpreter must be present for all of the procedural acts in which you participate. The interpreter is obliged to translate all information relating to the procedural act precisely and in full. Only interpretation is provided, not written translation.

You can request to have the indictment translated in written form into your native language or another language you understand. Other documents which are part of the criminal proceedings are not translated in written form.

Must I be in the country during the criminal proceedings? Can I leave the country?

You do not need to be in the country during the criminal proceedings and you can leave the country, but you are obliged to present yourself at the investigating body when required in order to enable it to perform a procedural act. The investigating body can prohibit you from leaving your place of residence without its authorisation.

If you wish to leave your place of residence for longer than 24 hours, you need authorisation in advance from the investigating body. If you do not present yourself at the investigating body when required or you violate the prohibition on leaving your place of residence, you may be arrested.

Can I be questioned from a foreign country by means of telecommunication, e.g. video link?

The investigating body may question you in a foreign country by live video link. Questioning of this nature is possible only with your consent.

Related links

Code of Criminal Procedure

Code of Criminal Procedure in English (does not contain all the amendments)

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3 - My rights in court

Where does the trial take place?

All criminal cases are resolved by county courts. In general, the decision is made by a single judge. Criminal cases involving a crime of the first degree are heard by a court made up of the president of the court and two lay judges.

Is the trial public?

The trial is public.

The court can declare that the trial will be held partially or fully in private:

to protect state or business secrets;

to protect morals, family or private life;

in the interests of a minor;

in the interests of administering justice, including in cases where a public trial may endanger the security of the court, the parties to the proceedings or the witnesses.

Can the charges be changed during the trial?

Before the end of the court hearing the Prosecutor's Office may change the charges or add charges against you. If this happens, the Prosecutor's Office will draw up a new statement of charges. This will not be done if the charges are changed to your benefit. If the charges are changed, you and your lawyer have the right to request that the trial be postponed, so you can prepare your defence.

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

Your confession is treated as one piece of evidence of the crime. If you plead guilty, the Prosecutor's Office still has to prove your guilt with other evidence.

Must I be present at the trial? Can it be carried out without me?

It is obligatory for the accused to participate in the trial. Exceptionally, the trial can be carried out without you in the following cases:

where you have created a disturbance at the trial and ignored the judge's orders, and been sent out of the courtroom as a result;

you are outside the Republic of Estonia, and have failed to appear in court and it is possible to hear the case in your absence;

where after your interrogation in the court you are in such a state that you are unable to continue participating in the trial and it is possible to hear the case in your absence.

If I live in another country, can I participate via video link?

The court has the right to allow you to participate in the trial via video link if it is problematic for you to appear in court. This is possible only with your consent.

Will I be provided with translation if I do not understand what is going on?

If you cannot understand the language of the trial, the court must provide you with an interpreter during the trial. Only interpretation is provided (no written translation).

Must I have a lawyer? Will I be given a lawyer?

You must have a lawyer and if you have not selected a lawyer yourself, one will be appointed for you by the Estonian Bar Association (see Factsheet 1).

Can I speak during the trial? Must I speak during the trial?
You have the right to speak during the trial and express your opinion about all the circumstances of your case. You do not have to speak during the trial and you have the right to remain silent.
What happens if I do not tell the truth during the trial?
The accused is not obliged to tell the truth in court. If you do not tell the truth, no sanctions can be imposed on you. If during the trial it is proved that you have lied in court, your entire testimony (including the truthful part) may be considered unreliable. In that case your testimony is not considered as evidence.
Can I challenge the evidence which is presented against me?
You have the right to present objections to the evidence given against you to the court. The evidence will not be allowed to be used in court if it was obtained in fundamental breach of the law. You have the right to challenge the reliability of the evidence as well as whether it is legally admissible.
You and your lawyer may challenge the evidence orally and in writing during each stage of the proceedings until the end of the trial.
What kind of evidence can I present on my behalf?
You have the right to present in court all evidence which is relevant to the case and has been obtained legally.
What conditions apply to my evidence?
Generally, in order to present new evidence, a request must be submitted after reviewing the criminal file or at least three working days before the preliminary hearing. However, it is also possible to present new evidence during the trial if it was not possible, for objective reasons, to present it earlier.
Can I use a private detective to collect evidence?
You have the right to use a private detective in order to obtain evidence. Evidence collected by a private detective is admissible in court if the private detective has obtained the evidence without breaching the law.
Can I request witnesses to speak in my favour?
You have the right to request that people who have important information which is necessary for resolving your case be invited to the court.
Can I or my lawyer ask questions of other witnesses in my case? Can I or my lawyer challenge what they say?
You, and your lawyer, have the right to question all the witnesses. You have the right to express your opinion about the relevance and truthfulness of the witness's statements. You have the right to present evidence which will prove the witness's statements wrong or cast doubt on their reliability.
Will information about my previous offences be taken into account?
Only the information about your previous offences which is recorded in the punishment register and has not been removed from your criminal record (an offence is removed from your criminal record within 1–15 years of serving your sentence, depending on the severity of the offence) may be taken into account.
Information from other countries about your previous offences can also be taken into consideration. The offences to be taken into account in court must be set out in the statement of charges. In the case of certain crimes, the fact of having committed a similar crime previously may result in a more severe punishment being imposed.
What are the possible outcomes of the trial?
After the hearing, the court either acquits or convicts you. You will be acquitted if, during the trial, it is not proved that the crime was committed or that you committed it. You will also be acquitted if the Prosecutor's Office drops the charges. You will be convicted if it is proved in court that you committed the crime.
If you are found guilty, the court will impose a punishment on you according to law. The possible punishments are:
a fine, which may be 30 to 500 times your average daily income;
imprisonment for between 30 days and 20 years, or a life sentence.
If you agree, the court can replace imprisonment with community service.
In certain circumstances, the court may also decide to grant you probation. If this is the case, you will not have to serve the original sentence or you will only have to serve part of it, unless you commit a new crime during the probation period. The probation period is 3 to 5 years.
In addition to the principal punishment, the court may impose additional punishments, such as prohibiting you from engaging in certain activities or expelling you from Estonia. Also, any property connected with the crime can be confiscated.
What is the role of the victim during the trial?
The victim has the right to participate in the trial, make statements and present evidence, demand damages to cover losses caused by the crime and express an opinion about the sentence proposed by the Prosecutor's Office for your punishment.
Related links
Code of Criminal Procedure
Code of Criminal Procedure in English (may not contain all the amendments)
Penal Code
Penal Code in English (may not contain all the amendments)
Last update: 01/10/2020
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4 - My rights after the court has made its decision

Can I appeal the judgment?
You have the right to appeal the judgment. You can appeal both your conviction and the sentence. You have the right to appeal the entire judgment or part of it.
How do I appeal?
You must inform the court which convicted you that you wish to lodge an appeal. You must do that in writing within 7 days of the court decision being made public. This can also be done by fax.
The appeal is to be presented to the court which made the judgment within 15 days of the date when you first got the opportunity to review the judgment. The appeal is to be made in writing and sent to the court by mail or by fax. Appeals drawn up by the Prosecutor's Office and the legal counsel are also sent to the court electronically.
The court which issued the judgment sends the appeal and the criminal file to the district court#_ftn1.
What happens if I appeal?

If you appeal, the initial judgment will not be enforced until the district court has made its decision. If you have been arrested before the judgment is made, or after that, you will not be released on the basis that you have appealed. You can be kept under arrest until a decision is made on the appeal. There is no time limit set by law for consideration of the appeal, but it must be carried out within a reasonable time.

Can I present new evidence for my appeal? What conditions apply?

You have the right to present new evidence on appeal, if you have a valid reason for not having presented this evidence before.

What happens at the hearing in the court of appeal?

At the hearing in the district court the arguments raised in the appeal will be considered. If you do not appear in court, the district court can consider the appeal without your participation. Having considered the appeal, the district court can:

dismiss the appeal;

amend the judgment of the court of first instance or make a new judgment;

annul the judgment of the court of first instance and terminate the criminal proceedings;

annul the judgment of the court of first instance and send the case back there to be reconsidered.

Is a further appeal possible if the first appeal fails?

It is possible to submit an appeal in cassation against the decision of the district court to the Supreme Court.#_ftn2 An appeal in cassation can be submitted only through a lawyer.

If you wish to make an appeal in cassation, you must inform the district court within seven days of the appeal decision being made public.

The appeal in cassation itself must be presented within 30 days of the day when you first had the opportunity to review the decision of the district court. The appeal in cassation is presented to the Supreme Court through the district court which made the appeal decision.

The Supreme Court has the right to decide whether to hear the appeal in cassation or not. If the court refuses the cassation procedure, no reason need be given.

When is the conviction final?

The conviction becomes final when the judgment enters into force. This happens when the time limit for lodging an appeal or an appeal in cassation has lapsed. In the case of an appeal in cassation, the judgment will enter force if the Supreme Court has either refused the cassation procedure or made a decision in the case.

If my appeal is successful, will there be a record of the conviction?

Your conviction will only be recorded in the punishment register if it is enforced. If the Supreme Court annuls the decision of the court which convicted you, the conviction is not recorded in the punishment register.

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

You have the right to compensation for the harm caused to you if you are deprived of your freedom without reason. You can apply for compensation by writing to the Ministry of Finance within 6 months of the entry into force of your acquittal or the ruling which brings the criminal proceedings to an end.

The amount of compensation is fixed and equals 7 times the minimum daily salary in force in the Republic of Estonia for every day spent under arrest. In addition, you have the right to demand that the state reimburse the money that you paid to your lawyer.

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

If you are a foreign citizen, living legally in Estonia, and you have been convicted of an intentional crime and sentenced to prison, the court may, as an additional punishment, decide to expel you from Estonia and prohibit you from entering Estonia for 10 years. Since expulsion from Estonia is also a punishment, you have the right to appeal it.

If you do not have the right to live in Estonia, your expulsion from Estonia takes place automatically without a court decision. You have the right to challenge your expulsion by lodging a complaint with the Administrative Court. The fact that you have challenged your expulsion will not postpone it for the duration of the court procedure.

I was convicted; can a new trial be brought against me on the same charges?

If you are convicted, a new trial cannot be brought against you on the same charges.

Will information about my conviction be registered and how will this information be stored?

Information about your conviction is entered in the punishment register. The register is kept by the Ministry of Justice and is administered by the Centre of Registers and Information Systems. The information entered in the register is public, except in cases specified by law.

The information can be forwarded to foreign government bodies if so permitted by international agreements. The information about your punishment is kept without your consent. The data will be deleted after the expiry period provided by law (1–15 years from serving the sentence depending on the severity of the offence).

Related links

Code of Criminal Procedure#_ftn3

Code of Criminal Procedure in English (may not contain all the amendments)#_ftn4

Punishment Register Act

Punishment Register Act in English (may not contain all the amendments)#_ftn6

Compensation for Damage Caused by State to Person by Unjust Deprivation of Liberty Act #_ftn7

Compensation for Damage Caused by State to Person by Unjust Deprivation of Liberty Act in English (may not contain all the amendments)#_ftn8

Obligation to Leave and Prohibition on Entry Act#_ftn9

Obligation to Leave and Prohibition on Entry Act in English (may not contain all the amendments)

Last update: 01/10/2020

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5 - Traffic offences

How are minor traffic offences dealt with?

Punishments for exceeding the speed limit and breaking parking and other traffic rules are imposed in misdemeanour proceedings.

The misdemeanour is dealt with by the police either at the location where the offence is discovered or at a police station.

There is no obligation to punish you on the spot. Instead you may be issued with a warning, or a cautionary fine may be imposed (up to EUR 15). It is also possible that a decision is made in the expedited procedure on-the-spot and a fine of up to EUR 400 is imposed. The on-the-spot procedure can be carried out only with your consent. Audio or video recordings may be made of statements made by the person regarding the crime.
If you break the speed limit and are caught by a speed camera, a cautionary fine can be imposed on the owner or registered user of the vehicle. The maximum cautionary fine is EUR 190. The fine notice is sent to you by post. If you do not agree with the fine notice, you have the right to challenge it within 30 days of receipt. The complaint should be submitted to the police station which sent the fine notice to you. If the natural person responsible for a motor vehicle disputes the imposition of a fine because the vehicle was being used by someone else, he or she must state in the complaint the first name and surname of the person using the car at the time noted in the fine notice, as well as that person's address, driving licence number and date of birth or personal ID number.
If you do not agree with the opinions of the police about the alleged offence, you have the right to object to the on-the-spot procedure. In that case the police will draw up documents about the offence on the spot, but the punishment will not be imposed immediately.
The documents will be forwarded to the police station whose officials must collect evidence regarding the offence. If you are questioned, you have the right to remain silent. You have the right to have a lawyer and an interpreter present. You have the right to review the material collected during the misdemeanour proceedings and object to the charges.
You can submit your objections within 15 days of receiving the misdemeanour report. You will be told when it is possible for you to get a copy of the decision made on the misdemeanour from the police. In order to obtain a copy, you or your lawyer must go to the police station. It will not be sent by post.
Traffic offences may be punished by a maximum fine of EUR 1 200. For a serious traffic offence you may be arrested for up to 30 days. A decision on arrest can only be made by a court. You may also be banned from driving for up to 2 years.
If you do not agree with the police's decision, you have the right to lodge a complaint with the county court. You must lodge the complaint within 15 days of the date when the decision first became available.
Citizens of other Member States of the European Union can also be punished for traffic offences.

Will misdemeanours appear on my criminal record?

Punishments for traffic offences will be entered in the punishment register, except for information about cautionary fines. Information on offences is deleted from the register and is archived one year after the fine imposed for the misdemeanour is paid, the custodial sentence is served, the community service is performed or the driving ban is imposed as a main sanction;

Related links

Traffic Act #_ftn1
Traffic Act in English (may not contain all the amendments)#_ftn2
Code of Misdemeanour Procedure #_ftn3
Code of Misdemeanour Procedure in English (may not contain all the amendments)

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