Defendants (criminal proceedings)

Maďarsko

The following factsheets explain what happens when a person is suspected of or accused of a crime which is dealt with by a trial in court. For information on minor offences like 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.

The stages of the criminal process

The investigation: during this phase, the prosecutor explores all the evidence surrounding the crime and decides whether to file charges. As part of this, the prosecutor attempts to establish the identity of the person who committed the crime and to locate all the evidence.

The prosecution phase: during this phase, based on the evidence collected, the prosecutor decides whether further investigation is necessary, or he files charges. The prosecutor may also decide to terminate the case.

The court of first instance: the court carries out the procedure of taking evidence (it hears witnesses, conducts witness confrontations etc.), then decides whether the accused is guilty of the criminal acts. If yes, it decides on a punishment, or applies some other measure (a lighter sanction).

The appeal: both the defence and the prosecution may appeal the decision of the court of first instance. It is the appeal court that decides about the appeal: it may hear or change the first instance decision, or – where ordering a new procedure – may annul the first instance decision.

The court of third instance: If the accused is acquitted at the court of first instance but is sentenced at the appeal court, or vice versa, a further appeal is possible at the court of third instance.

Information about the above stages of the criminal procedure and about your rights can be found in the factsheets. This information is not a substitute for legal advice and is intended 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 would like to seek a legal remedy. 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
Taking of evidence
Coercive measures and other restrictions of rights
The introduction of documents
3 – My rights during the trial
4 – My rights after the trial
5 – Road traffic offences

Related links

Legal regulation search
The Criminal Procedures Law
The Police
The Prosecutors' Offices
The Courts

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1 - Getting legal advice

Getting appropriate legal advice is very important when you are involved in some way with the criminal process. Below, you will find information on when and under what circumstances you are entitled to be represented by a lawyer. In addition to this, the factsheets will also tell you how to find a lawyer and how the costs of the lawyer will be met if you cannot afford to pay.

If there is a criminal procedure underway against you, you are entitled to be represented by a lawyer in every case. If you cannot pay the lawyer, and your income is under a certain level you are entitled to have a lawyer appointed for you by whichever authority is acting against you (the police, the prosecutor's office, the court). In such cases, the lawyer will be paid for by the state.

In certain cases a defence is mandatory (see When must I have a lawyer?). In these cases, if you do not hire a lawyer, the authority will appoint a defence counsel for you, and the state will pay his fees and expenses. However, if the court finds you guilty you will have to repay the costs of the lawyer.

If the authorities appoint a defence counsel for you because they see that it is necessary in your interest (for instance, the case is very complicated), the same rules apply. You can also request that a defence counsel be appointed, but the authorities are not obliged to do this.

Finding a lawyer

You can find the list of names and contact details of Budapest lawyers on the webpage of the Budapest Chamber of Lawyers, and a list of names of lawyers outside Budapest is on the webpage of the Hungarian Chamber of Lawyers.

If you are in custody and know a lawyer you can ask the police to notify him/her. If you do not know a lawyer, you can request that one be appointed for you. It is also possible for your next-of-kin to authorise a lawyer for your defence.

Paying for a lawyer

The lawyer's fees are different depending on whether the defence counsel was chosen by you or appointed by the court..

Lawyers' fees are not defined by law. The client and the lawyer are free to agree on a fee between themselves. Often, lawyers do not set their fees at an hourly rate but request particular amounts of money for every phase of the criminal process (investigation, first-instance procedure, appeal procedure).

The fee for defence counsels appointed by the court is defined by law and it is significantly lower than the market rate.
If it appears likely that you will not be able to pay the costs of criminal proceedings because of your income and financial circumstances, you can furnish proof of this fact. Prior to the formal indictment, this proof will enable the prosecutor to grant you a personal exemption from duties and charges.
Subsequently, you can request the exemption from the court by, using the form contained in the legal provisions. If an exemption is granted, you will not have to pay the fees and expenses of the defence counsel even if the court finds you guilty.
You can obtain such an exemption if your income is under the limit defined in the legal provisions and if you have no assets apart from your home and the furnishings, equipment etc. necessary for your subsistence

When must I have a lawyer?

You must have a lawyer during the court procedure in certain cases, even if you do not want to have one.

In what circumstances is it compulsory to have defending counsel during the investigation?

The participation of a defence counsel is required during the investigation if
a sentence of 5 years or more could be imposed for the crime which you are accused of;
you are in custody;
you are deaf, mute, blind or mentally impaired;
you do not speak Hungarian or the language of the procedure;
you cannot defend yourself personally for some other reason;
you are a minor.

In what circumstances is defence compulsory during the court hearing?

In addition to the circumstances listed above, the participation of a defence counsel is required at the court hearing
if the case is heard at first instance in the county court rather than the local court;
if a supplementary complainant appears;
if the public prosecutor participates in the hearing and you did not previously have a defence counsel, but now ask for one.

In what other cases is it compulsory to assign a defence counsel?

A defence counsel may be assigned to you if the court or other authority considers this to be in your interests.
A defence is also required in certain extraordinary procedures, for example in the case of a procedure conducted in your absence.
If a defence counsel is assigned to me by the court, can I change my **defence counsel?**
If you have a good reason for doing so, you can ask the court for another defence counsel, however the court is not obliged to grant your request.

Related links

The Criminal Procedures Law
Decree on the application of personal expense-free status

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

How does the investigation start and who investigates?

The investigative authority starts the investigation on the basis of information from someone, or information that it obtains through its own activities.
The investigation is carried out by the investigative authority (usually the police) or the prosecutor, depending on the criminal act. The prosecutor also supervises the investigations that he does not conduct. If the investigative authority does not end the procedure during the course of the investigation (because it concludes that no criminal act took place), it sends the case to the prosecutor. The prosecutor examines the case and on the basis of his examination, sends it back for further investigation, ends the procedure, or files charges.
What are the main elements of the investigation (the procedure before the case goes to court)?

Taking of evidence

During the course of the investigation, the authority tries to uncover the circumstances of the criminal offence, to establish the identity of the person who committed it and to locate the evidence. To this end, the investigative authority may hear you as the accused, may hear witnesses, obtain an expert opinion, etc.

Coercive measures and other restrictions of rights

Coercive measures are measures restricting your rights as an accused person in order to ensure the success of the criminal process., Examples of coercive measures are custody, preliminary arrest (detention pending trial), or search of your home.
In this part, you will also find information on other restrictions of rights (e.g. taking fingerprints).

The introduction of documents

When the investigation is completed, the authority presents the entire investigation file to the defence counsel. At this point, you and your lawyer will be able to see all the documents and evidence serving as the basis for a possible indictment.

My rights during the investigation

For further information about your rights during the various stages of the investigation, click on the links below.:

Taking of evidence (1)
Coercive measures and other limitations of rights (2)
The introduction of documents (3)

Taking of evidence (1)

What is the purpose of this stage of the process?

The purpose of this stage is to investigate the circumstances of the offence, to identify who committed it and to collect the evidence. The investigation is conducted by the investigative authority (usually the police) or the prosecutor. They carry out different proof procedures (hearing the accused and the witnesses, obtaining expert opinions, conducting witness confrontations etc.). The investigation must be completed within two months, but – in justified cases – this deadline can be extended for not more than two years from the date of the first hearing.

What information do I get?

At the beginning of the very first hearing, the person conducting the hearing must inform you about the nature of the hearing and give a brief summary of the crime you are accused of). In addition to this, they must inform you which parts of the Hungarian Criminal Code have been violated by the act you are accused of. However, they do not have to disclose to you the evidence which the charge is based on.

During the course of all proceedings to take evidence where you are present, you must be informed of your most important rights (e.g. your right to remain silent). This warning and your decision on whether or not to testify must be entered into the minutes word-for-word. If this is not done, your testimony cannot be used as evidence.

Will an interpreter be provided if I don't speak Hungarian? Will the documents of the criminal process be translated?

If you are not familiar with the Hungarian language an interpreter will be used in every phase of the criminal process. You can use your mother tongue, or another language known by you.

The costs of interpreting are paid by the state even if the court eventually convicts you. However, the state does not provide an interpreter free of charge for consultations with your defence counsel.

The acting authority must ask you in every instance whether you understand the interpreter, and the statement about this must be included in the minutes.

There are restrictions on the translation costs which are paid by the state, namely the state must pay the translation costs for those documents which legally must be served on you by the authorities (e.g. a copy of the indictment or the judgment).

The acting authority does not pay for the translation of other documents (e.g. the minutes of the procedural acts). If you would like to have them in your mother tongue, you will have to pay the costs of translation.

Will I be heard? Must I speak during the case?

During the course of your hearing you are not required to make a statement. You can refuse to testify or respond to the individual questions at any time during the course of the hearing. You cannot be required to give any testimony which indicates any wrong-doing on your part, or to provide evidence against yourself.

The procedure continues even if you refuse to testify. If you refuse to testify in connection with a crime, no further questions can be put to you in connection with it and no confrontation with the other accused/defendants or witnesses in the case will take place. You can ask questions and make observations and motions even if you have refused to testify.

You can decide at any time to make a statement, even if you had refused to testify earlier on.

In your testimony you do not have to tell the truth but you cannot falsely accuse another person of the commission of a criminal act.

When can I talk to a lawyer?

Before the first hearing you must be told that you have the right to engage a defence counsel or to request that a defence counsel be appointed for you. If you are required to have a defence counsel, for instance, you are in custody, and you do not engage a defence counsel within 3 days, the authority will appoint one for you. If you declare, as you are being told about this, that you do not wish to engage a defence counsel, the authority will appoint a defence counsel for you immediately. You can also request the appointment if you cannot pay a defence counsel (for further information, see: Getting legal advice).

All this does not mean that you can only be heard in the presence of a defence counsel. If you request that you want your defence counsel to be told about the hearing, the authority will notify him – by fax, electronically or, if this is not possible, by telephone. If your defence counsel has been notified about the hearing and does not appear for whatever reason, the hearing can be held in his absence. The hearing can also be held if the appointed defence counsel, having been notified, does not appear.

The state does not provide an interpreter free of charge for consultation with your defence counsel. If there is no language in which you could communicate with your defence counsel, you must pay an interpreter. The authorities usually allow the interpreter appointed for the hearing to interpret during the consultation between you and your defence counsel before the hearing.

Can the contents of the charge be changed during the investigation?

If the charges against you change, that is, you are suspected of a different criminal act(s) from the one in the original charge, you must be told that at the beginning of the next interrogation.

Will I be informed about the evidence against me?

All the evidence will not be disclosed to you until the end of the investigation; you will see all the documents serving as the basis for the indictment only when the introduction of the documents occurs.

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

You have the opportunity to plead guilty during the investigation. If you do so, you may avoid punishment, the procedure may be shorter, and your punishment may be less severe; but this is not certain.

If you make a confession during the course of the investigation, the court may use an alternative procedure to decide your case.

Arraignment: if

you are accused of a criminal act that is punishable by a maximum of 8 years' imprisonment;

the case is simple;

the evidence is available;

you have been caught in the act or you have admitted committing the crime.

The prosecutor will arraign you within 30 days of your confession to the crime. This does not require your consent.

Waiving the court hearing

If you are involved in a procedure for a crime punishable by imprisonment for no more than 8 years, you have the opportunity to confess and waive the court hearing.

When the court hearing is waived, you and the prosecutor conclude a written agreement which contains the description of the crime you have confessed to, its legal classification, and the prosecutor's and your statement on what kind and extent of punishment you accept. The court will hear you in this case, too, but it does not take any evidence (e.g. it does not hear witnesses).

The court hearing is waived: if

you are accused of a criminal act that is liable to imprisonment for not more than 3 years;

the facts of the case are simple;

you have confessed the crime.

In this case, the court passes a relatively mild sentence without holding a hearing (a suspended sentence of a maximum of one year of imprisonment) If you do not agree with the decision of the court you may request that a court hearing be held.

Active repentance

In certain minor cases (you are suspected of having committed a criminal offence against a person, a minor traffic offence, a minor offence against property, or a crime liable to no more than 3 years of imprisonment), you may avoid punishment by participating in mediation.

You must confess to the crime before the indictment is served and agree to compensate the victim in a manner which the victim agrees to.

If you are the subject of a criminal process where the possible penalty is a maximum of 5 years in prison, and you meet the above requirements, the court can alleviate your punishment without restrictions.

You or the aggrieved party can apply for mediation and both parties must consent to it voluntarily. In this case however the prosecutor must refer the case for mediation and rule that the court process can be waived.

Can I ask for evidence to be obtained?

You and your defence counsel are entitled to ask for certain evidence to be obtained (e.g. for witnesses to be heard). The acting authority will make a decision about your request. If the authority turns down the request, you can file a complaint (see below) but you cannot force the gathering of evidence.

Can I be present at the procedural acts?

During the course of the investigation you and your defence counsel can be present at the hearing of experts and some other procedures (e.g. the identification of a person or an object). Your defence counsel can be present at your interrogation, at the interrogation of witnesses who have been nominated by the defence, and when confronting such witnesses. However, during the course of the investigation, neither you nor your defence counsel can be present while witnesses who were not nominated by you are being heard.

Can I appeal during the investigation?

You can file an appeal against the authority's decision, measure, or failure to carry out a measure affecting you within 8 days. Complaints against the prosecutor's decisions are made to the superior prosecutor; complaints against decisions of the investigative authority are made to the prosecutor. You must be notified about the outcome of the complaint. Usually there is no opportunity for any further appeal against this decision.

Will information be obtained about my criminal record?

At the beginning of your hearing you will be asked about your criminal record, but the Hungarian authorities usually do not obtain such information from foreign records.

Can I contact the embassy of my country?

If you are in custody, you have the right to contact your consular representative and communicate with him in private. The consular representative may authorise a defence counsel for you and may be present at your hearing.

Can I leave the country during the investigation?

If you are not under preliminary arrest, house arrest, or subject to a ban on leaving your residence, you can leave the country but you have to be present at the procedural acts.

Do I have to be present at the investigation even if I am from another country?

You are required to take part in the investigative acts in person, even if you come from another country unless you were allowed to post bail.

If you live abroad and you are accused of/charged with a crime which is liable to no more than 8 years of imprisonment, you can request that bail be granted (unless the criminal act has resulted in the death of a person).

Before the bill of indictment is presented, you can make your request to the prosecutor, and afterwards to the court. If you are allowed to post a bail, once you have paid the amount set by the prosecutor or the court the procedure can then be conducted in your absence: that is, you do not have to attend either the investigation or the court hearing. You have to return to Hungary only if you are sentenced to imprisonment. You have to undertake to do this in your application.

If the court finds you guilty and the judgement becomes final, bail is returned to the state.

If you are acquitted, bail is returned to you. Bail is also returned if you are sentenced to imprisonment and you serve your sentence.

Hungarian law does not allow for you to participate in criminal proceedings conducted in Hungary by video link.

Can I be sent back to my home country?

The procedure against you can be transferred if the Hungarian authorities, taking into consideration the interests of the victim, decide that it is more appropriate to let the procedure be conducted by the authorities of another country. In this case, the court may order your arrest for the purposes of the transfer.

What happens if I have already been sentenced for this offence in another Member State?

There is a possibility that the Hungarian court will recognise the decision of the foreign court if the procedure abroad and the sentence do not conflict with Hungarian law.

You cannot be tried twice for the same act. If the Hungarian court does not recognise the sentence, you can be tried again, but in this case, the sentence, preliminary custody, or house arrest carried out abroad will be deducted from the sentence imposed by the Hungarian court.

Coercive measures and other restrictions of rights (2)

Will my fingerprints, DNA or other samples be taken?

If you are suspected of a crime which could result in a prison sentence of 5 years or more, your finger- and palm-prints will be taken.

This also happens in the case of certain other crimes punishable by imprisonment of less than 5 years (e.g. severe bodily injury, bribery, drug abuse, forging a public document, forging a private document, theft, or fraud).

A DNA sample will be taken from you only if you are accused of a serious crime (e.g. if the possible punishment is at least 5 years in prison, a criminal conspiracy, or a crime involving a weapon).

Can there be a body search?

During the investigation you can be searched. Your clothing and body can be examined to locate evidence or other objects. During the course of the search, your vehicle, baggage and other belongings can also be examined. The search can only be conducted by a person of the same sex as you, and only a person of the same sex as you can be present at the search (with the exception of the doctor participating in the search). Individuals you name can also be present at the scene of the search.

Can my house be searched during the investigation?

A house search can take place during the investigation, and must be carried out in your presence. If you, or your defence counsel, or another authorised representative are not present during the search, the acting authority appoints a person whose role it is to protect your interests in an appropriate manner.

Will I be detained?

If you have committed a criminal act, the authorities may detain you. The police can hold you for up to 12 hours if you have been caught in the act of committing a crime or are suspected of a crime.

If the suspicion that you have committed a crime is confirmed and you become a suspect, and if there are good reasons to believe that the court will order your detention until the trial, you may be taken into custody for a period of time not exceeding 72 hours.

The court can order that you be detained until the trial (after the maximum duration of 72 hours of custody) if you are accused of a crime for which you could be sent to prison, and if you have previously absconded. This may also happen if there are grounds to suspect that you might abscond, repeat the crime, or endanger the success of the criminal proceedings (e.g. by influencing the witnesses).

During the investigation, the investigating judge will decide whether you should be detained. After completion of the investigation, it is the judge acting in the case who makes the decision. You can appeal against the decision.
The pre-trial detention is reviewed at certain time intervals. You or your defence counsel can make request to the investigating judge or the judge hearing the case that the detention should be brought to an end

What are the alternatives to pre-trial detention?

The judge may also decide to restrict your freedom in less severe ways. If you are placed under house arrest, you can only leave the area designated by the court, your home and the fenced-in area around it, for certain purposes specified in the court order (e.g. medical treatment).
If you are banned from leaving your place of residence, you cannot leave a specified area or district (e.g. town) without permission.

Is it possible to post bail?

If you were put under preliminary arrest (pre-trial detention) only because of the danger that you might flee, you or your defence counsel may request that bail be posted. If the court is satisfied that your appearance during the procedure can be secured in this way, bail is set.
Bail is lost if the court orders your preliminary arrest (pre-trial detention) because you did not appear in spite of being summoned. If you are under preliminary arrest for another reason (e.g. the danger of repetition of the crime), there is no possibility of bail.

Can I contact family members or friends?

While being held you must be given an opportunity to notify a relative or some other person, provided this does not jeopardize the investigation. If you cannot notify a family member yourself, the police must carry out the notification.
The person specified by you must be informed that you have been taken into custody and where you are being held within 24 hours.
While you are under preliminary arrest (pre-trial detention), you are entitled to communicate, under supervision, with a family member in person or in writing, unless the prosecutor or the judge prohibit this. You can only communicate with other individuals if the prosecutor, or the judge, grant permission to do so.

Can I get medical treatment?

If you are in custody and during pre-trial detention, you are entitled to medical treatment, which the police or the prison are required to provide, usually through their own medical service. If you need some treatment that only a civilian institution can provide, they are required to take you there and ensure that you are guarded appropriately.

The introduction of documents (3)

What evidence can I see during the investigation?

During the investigation, there are restrictions on your access to the documents and the evidence. You and your defence counsel have the right to view the records of those investigative measures which you had the right to be present at, even if you were not actually present. In addition, you have the right to view the expert opinions. You can only view other documents during the investigation if this does interfere with the objectives of the investigative measures. The decision about this is made by the investigative authority. You and your defence counsel are entitled to free copies of the documents you can view.

When can I see all the evidence?

When the investigation is completed, you and your defence counsel can see all the documents serving as the basis for a possible indictment (with certain exceptions, e.g. the identity of a protected witness). After the investigation is complete, you have practically unlimited access to the documents. You are entitled to get free copies of all the documents.
Having reviewed the documents, you or your defence counsel may ask for further investigations be carried out, and may also make other motions and observations. The authority which is conducting the investigation decides about these motions.

Related links

The Criminal Procedures Act
The Criminal Procedures Law
Decree on the detailed rules of the investigation

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3 - My rights during the trial

Where will the trial be held?

The case is normally heard by the local court in the area where the crime was committed. More severe cases (e.g. homicide) are heard by the county court.
The court hearing is open to the public. The public can only be excluded from the hearing in exceptional cases (e.g. where one of the participants is a minor or to protect a witness). The decision in the case is usually made by one professional judge or one professional judge and two lay judges.

Can the charges be changed during the trial?

The charges can be changed during the course of the court hearing, though if new facts related to those set out in the indictment come to light. A criminal act that is completely independent of the act in the indictment cannot be added. In the event of changes, you or your defence counsel can move that the court hearing be postponed.
If you plead guilty to some or all of the charges during the course of the court hearing, this does not affect the course of the procedure, but might reduce the sentence that you receive.

What are my rights during the trial?

You must be present during the entire court hearing. It cannot be held in your absence unless you did not appear even though you were served with the process. If this is the case, the court hearing can be held in your absence but the case cannot be closed. The court will order that you be apprehended. If this is unsuccessful, the court will issue a warrant for your arrest.
Unless you have been allowed to post bail, you have to attend the court hearing, even if you live in another country.
You have the right to have an interpreter.
If defence is mandatory you must have a lawyer. If you do not choose a lawyer, one will be appointed for you.
At the court hearing you have the right to give testimony and make observations, but you are not obliged to do either.

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

You may challenge the evidence against you. You are entitled to present evidence in your own defence, and to make observations about the evidence against you. You and your defence counsel may put questions to all of the witnesses and may challenge their statements.
You and your defence counsel may submit evidence and may move that evidence should be acquired (e.g. obtaining expert opinions, hearing new witnesses). The court decides whether this should be allowed. If the court turns down the motion (e.g. the witness is not heard), you cannot file a separate appeal against this, but this decision can be challenged if you appeal against the final judgement of the court.

Can I use a private detective to obtain evidence for me?
You or your defence counsel may hire a private detective or investigator.
Will information about my criminal record be taken into account?
The decree must contain information about your earlier sentences. When deciding on the sentence the court takes these into account. Earlier sentences from other Member States will also be taken into account. However, the Hungarian authorities are not obliged to request information from foreign records. This might happen in cases where it turns out during the course of the procedure that a similar sentence had been imposed on you before.
What happens at the end of the trial?
At the end of the criminal procedure, the court may make three kinds of decisions: sentence you, acquit you (if your guilt cannot be established), or close the proceedings (e.g. crime is statute-barred or already assessed by another court).
If the court sentences you, it
decides on a punishment (see below);
puts you on probation or reprimands you (see below);
or waives sentencing (in certain cases the Hungarian Criminal Code allows for this, e.g. in the case of certain offences, if the perpetrator voluntarily averts the danger he has caused).
What kind of punishments can be imposed?
The punishment is likely to be deprivation of liberty, community service, or a fine.
The Hungarian Criminal Code defines the minimum and maximum sentences for every crime for which a prison sentence can imposed. The shortest possible prison sentence is 2 months, the longest is 20 years. The most serious crimes can be punished with life imprisonment. The court may replace a prison sentence not exceeding 2 years with probation. If the period of probation passes successfully, the sentence cannot be executed.
If you are sentenced to community service, you are obliged to perform the work defined in the court order without remuneration, for at least 1 day per week, on your weekly day of rest or in your free time. The minimum duration of community service is 42 hours, while the maximum is 300 hours.
The minimum fine is HUF 75,000, the maximum is HUF 108,000,000. Fines may also be suspended.

The court may also pass – simultaneously or separately – supplementary punishments, depending on the nature of the offence, such as:- ban you from driving a vehicle, from practising your profession, and may expel you from the country for a maximum period of ten years. It can also order that all or part of your assets be forfeited.
What other sanctions may the court apply?
As well as the punishments above, the court may impose other sanctions. If you are found guilty but are not sentenced to a punishment you can be reprimanded which is a kind of official warning, or put on probation, when the court postpones sentencing you for the period of the probation – which cannot be more than 3 years. If, during the period of probation, you commit a serious breach of law the court ends the period of probation and imposes a punishment on you.

What is the role of the victim during the trial?
The victim is entitled to be present at the trial and to view the documents affecting him. The victim may make motions and observations. If the investigation ends with no charge, or if the prosecutor drops the charge, the victim can act in certain cases as a supplementary complainant: that is, he can assume the role of a prosecutor and can resubmit the charge before the court.
Related links
The Hungarian Criminal Procedures Law
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4 - My rights after the trial

Can I appeal the sentence of the court of the first instance?
When the court of first instance pronounces its sentence, you have to be asked whether you intend to appeal. You can accept the decision, file an appeal, or request three days to consider whether you want to appeal.
The appeal must be submitted to the court of the first instance in writing or orally and recorded at the same court. Reasons for the oral appeal can subsequently be provided in writing. If you are not present when the judgement is passed, it will be served upon you by mail, and you can appeal within 8 days of receiving it. You can appeal for both factual and legal reasons.
In the appeal you can state a new fact and refer to any new evidence you learnt about after the judgement was given. You can also submit a motion for consideration of evidence which was disregarded by the court of first instance.
What happens if I appeal?
The appeal court examines whether the judgment is well-founded in the light of the facts of the case and legally correct, and whether the first-instance procedure complied with the law.
The court decides the appeal at a court hearing or in an open session (see below). You will have the chance to appear in person before the appeal court, unless the court decides on its ruling at a council meeting (in the presence of only the judges). This happens rarely, usually when a decision favourable to you as the accused can be passed (e.g. acquittal or ordering the court of the first instance to execute a new procedure due to the violation of some procedural rule).
The date of the appeal hearing must be fixed within 60 days from the date when the appeal court receives the documents relating to the case. The hearing must take place on the earliest date possible.
There is no difference in the handling of the appeal if you are under preliminary arrest at the time of the appeal. Although theoretically, such cases should be heard quickly, in practice, this is not always the case.
What happens before the appeal court?
Production of evidence at the appeal court is only possible in cases where the court of the first instance failed to uncover the facts of the case, or if producing evidence might correct some breaches of procedural rules by the court of first instance.
If there is no need to take evidence, an open session is held. The regulations are the same for court hearings and open sessions, and you have the same rights as during the procedure at the court of the first instance,. The only difference is that both the open session and the court hearing can be held in your absence if you do not appear despite of having been summoned.

The appeal court can make a variety of decisions. It confirms the sentence of the court of first instance if it does not have to be annulled or amended. The appeal court can only amend the judgment of the court of first instance if legal regulations were applied incorrectly or if the appeal court finds that the judgement of court of the first instance was unfounded and this fault can be corrected by taking evidence at the appeal court.
The court can also overrule the sentence of the court of first instance. In this case, it will either terminate the proceedings or order the court of first instance to conduct new proceedings (e.g. in the case of serious breaches of procedural rules or if the judgment of first instance is largely unfounded). It is important for you to know that the severity of your original sentence can only increase if an appeal is lodged to your disadvantage (e.g. by the prosecutor). That is, you cannot end up in a worse situation as a result of an appeal in your favour.

What happens if the appeal is successful/unsuccessful?

If the appeal is unsuccessful, the appeal court upholds the first-instance decision. If it is successful, it changes the decision (acquits you or reduces the punishment), annuls it and ends the procedure, or orders the court of first instance to conduct new proceedings.
The decision of the appeal court is final; you cannot appeal against it unless you were acquitted at the court of first instance but sentenced by the appeal court. In this case, you can appeal to the court of third instance. The prosecutor can also appeal to the third-instance court if, for instance, you were sentenced at the first instance but were acquitted by the appeal court.
The case can be reopened if a new fact or evidence emerges, or review before the Supreme Court can take place if there has been a serious legal error.
You are not automatically entitled to compensation if the appeal is successful and you are acquitted. You can ask for damages against the court which sentenced you. You will have to prove that the court acted unlawfully. If, you were under preliminary arrest or house arrest, during the criminal process and later you were acquitted, you are entitled to compensation. You have to begin a court action in this case as well, but in this event all you have to prove is the amount of your damages and not that the court process was unlawful.
After you have been finally acquitted, no trace of the fact that there was a criminal procedure underway against you earlier can appear in any record.

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

Nobody can be tried again for the same crime.

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

If you are not a Hungarian citizen, and come from another Member State of the European Union, you can be extradited from Hungarian territory if you are sentenced as a result of committing a crime that is punishable by imprisonment of 5 years or more.
If you have been living in the country lawfully for at least 10 years, are a juvenile or your family lives in Hungary, your expulsion can be ordered only in cases involving the most serious crimes. Expulsion can be final in the case of the most serious crimes, but normally it is for not more than 10 years. The decision can be appealed in the normal way.

Information about the charges/sentence

The Criminal Records Office of the Central Office of Administrative and Electronic Public Services can record details about you in several cases (e.g. if there is a criminal procedure underway against you, if a coercive measure has been applied against you, or if you are sentenced).
This can be done in criminal cases without your consent and you will not be told that the information is being recorded. How long the information is held depends on the nature of the crime and the sentence which you received. Normally information is held for at least 3 and not more than 12 years. If you object to the fact that information about you is being held, you can complain to the Criminal Records Office in writing, or you can ask the data protection ombudsman to consider your complaint.

Related links

The Hungarian Criminal Procedures Law
The law on criminal records

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5 - Road traffic offences

Minor road traffic offences

The system of dealing with minor road traffic offences is rather complex in Hungary.
If you have been flashed by a speed camera, the police impose a fine (maximum HUF 300,000). Notification about the penalty must reach you within 60 days, otherwise the authority is no longer entitled to collect the fine. If you were obliged to pay a fine, no further fine should be imposed in any future procedure against you for the same offence.
Other road traffic offences are usually dealt with in the context of minor offences procedures, primarily by the police, but parking attendants are also entitled to impose on-the-spot fines in the case of certain offences (e.g. prohibited parking).

What penalties can be imposed?

Fines can be imposed in case of violations of road traffic regulations. The maximum amount of these fines (HUF 100,000 at present) is defined by law.
If you do not pay the fine, and it cannot be collected from you, the fine can be converted to community service or a maximum amount of 60 days in prison. In the case of most traffic offences, the police may also impose a driving ban of 1 to 12 months.

What are the principal characteristics of the proceedings?

For most road traffic offences, the police can impose an on-the-spot fine, up to a maximum amount of HUF 20,000. If you accept the amount of the on-the-spot fine, you cannot appeal against it later. If you accept the fine, you are handed a cash deposit slip and you have to pay the fine within 30 days; it is also possible to pay with a bankcard in some police cars.
If you object to the fine, you will be prosecuted by the policeman and a regular minor offence procedure will be conducted against you.
During the proceedings the police must clarify what has happened. They can do this in a number of different ways (e.g. they can hear witnesses and obtain expert opinions, etc.). During the procedure you have the right to put questions to the participants, and make observations and motions. You can view the documents in the case at any time, and can make copies of them. You can hire a lawyer to represent you in the procedure, and you are also entitled to an interpreter free of charge.
If, based on their investigation, the police declare that you have committed a minor offence, and issue a warning or impose a fine or punish the offence with a driving ban, you can file an objection against the police order which will be dealt with by the local court. The court will uphold the police order if your objection is unfounded, or amend it if the administrative authority involved has applied a legal regulation incorrectly.
If you do not agree with the decision of the court you can request a hearing. In this case the court is required to hold a hearing, which you can attend. If you do not attend in spite of having been properly notified about it, the hearing can be held without you as well. There is no further appeal against the decision of the court at the hearing.

Are such offences pursued against citizens of other Member States?

Yes, the legal assistance process can be used against citizens of other Member States. Within this framework the Hungarian authorities have the opportunity to ask the authorities of your home country to interrogate you, and to provide them with official documents or with your personal details taken from the official records.

There is also a possibility for the Hungarian authorities to ask your home country to collect a fine imposed on you. This could happen if you fail to pay the fine voluntarily and it exceeds 70 Euros.

Will these offences appear on my criminal record?

Minor offences are recorded in a separate register - the Register of Offences. The police, the prosecutor's office and the court can request data from the register, so this information can also be used in a criminal process. If you repeatedly commit the same or similar offences, this information will be taken into consideration when you are being sentenced for the offence.

Related links

Act on offences

Decree on offences

Act on judicial assistance in offence procedures

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