

Domov>Vaše pravice>Obdolženci v kazenskem postopku

Obdolženci v kazenskem postopku

Irska

V teh informativnih listih je pojasnjeno, kaj se zgodi, če je posameznik osumljen ali obtožen kaznivega dejanja, ki se obravnava v sodnem postopku. Informacije o prekrških v cestnem prometu, za katere se po navadi izrekajo globe, najdete v Informativnem listu 5. Če ste žrtev kaznivega dejanja, lahko izčrpne informacije o svojih pravicah najdete tukaj.

Kratek opis kazenskega postopka

Irska nacionalna policija (An Garda Síochána) ima številne pristojnosti, da lahko ustavi in preišče posameznika ter ga tudi prime, če meni, da je storil kaznivo dejanje, za katero je zagrožena zaporna kazen, ali da tako kaznivo dejanje ravno izvaja.

Ko ste v policijskem priporu, vam bo pripadnik policije razložil vaše pravice, ki vključujejo pravico do pogovora z odvetnikom in zdravnikom ter pravico do tolmača, če ga potrebujete. Obstajajo posebne določbe za otroke v priporu, v skladu s katerimi mora biti na razgovorih navzoča ustrežna odrasla oseba. V tej fazi ste lahko zaproseni za soglasje za odvzem vzorcev za analizo DNK, odvzem prstnih odtisov, fotografiranje in/ali sodelovanje v prepoznavni vrsti. Med preiskavo lahko pripadnik policije zoper vas vložijo obtožbo zaradi kaznivega dejanja. To lahko stori z obtožnico ali pa vam izroči pisni poziv, da se na določen datum zglasite na sodišču. Policija (Gardaí) bo poslala kazenski spis s podrobnostmi o preiskavi **direktorju državnega tožilstva**, in ta bo odločil, ali bo zadevo kazensko preganjal v imenu države.

Lahko ste nemudoma izpuščeni proti plačilu varščine na policiji, pri čemer se od vas zahteva, da se zglasite na sodišču, ali pa morate za varščino zaprositi pozneje na **okrajnem sodišču**.

Manjša kazniva dejanja oziroma prekrški se obravnavajo na okrajnem sodišču. Hujša kazniva dejanja se obravnavajo pred sodnikom in poroto.

V kazenskem postopku se vedno domneva, da ste nedolžni, dokler se vam ne dokaže krivda.

Pravico imate do pravnega svetovanja. Če nimate zadostnih sredstev, da bi plačali zastopnika, lahko zaprosite za **pravno pomoč**.

Če ste obsojeni, ste bili spoznani za krivega kaznivega dejanja onkraj razumnega dvoma. Če ste bili obsojeni na okrajnem sodišču, se imate pravico pritožiti zoper obsodbo ali kazen. Če ste oproščeni, je s tem zadeva zaključena, nadaljnji ukrepi zoper vas pa se ne morejo uvesti.

Če vas je porota obsodila za kaznivo dejanje, nimate samodejne pravice do pritožbe, zato se v tem primeru o nadaljnjih korakih posvetujte s svojimi pravniki. V informativnih listih so na voljo podrobnosti o vseh teh fazah postopka in vaših pravicah. Te informacije ne nadomeščajo pravnega svetovanja, temveč so zgolj napotki.

Vloga Evropske komisije

Upoštevati je treba, da Evropska komisija nima nobene vloge v kazenskih postopkih držav članic, zato vam v primeru pritožbe ne more pomagati. V teh informativnih listih je navedeno, kako in pri kom se lahko pritožite.

Za informacije, ki jih potrebujete, kliknite na spodnje povezave

1 - Kako do pravnega svetovanja

2 - Moje pravice med preiskavo kaznivega dejanja

Prijetje

Zaslišanje in policijska preiskava

Preiskave

Prva obravnava pred sodiščem

Priprava zadeve za glavno obravnavo ali priznanje krivde pred glavno obravnavo

3 - Moje pravice med glavno obravnavo

4 - Moje pravice po glavni obravnavi

5 - Prekrški v cestnem prometu

Zadnja posodobitev: 29/05/2012

Strani v jezikih držav članic pripravljajo posamezni nacionalni organi, njihov prevod pa zagotavlja prevajalska služba Evropske komisije. Prevodi zato morda še ne vsebujejo kasnejših sprememb izvirnika, ki so jih vnesli nacionalni organi. Evropska komisija ne prevzema nobene odgovornosti za informacije ali podatke, ki jih vsebuje oziroma na katere se sklicuje ta dokument. Za pravila o avtorskih pravicah države članice, ki je odgovorna za to stran, glejte pravno obvestilo.

1 - Getting legal advice

Getting independent legal advice is very important when you are involved in some way with the criminal process. The fact sheets 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 fact sheet tells you how to find a lawyer and how the costs of the lawyer will be met if you cannot afford to pay.

Finding a lawyer

If you are in custody, and need a lawyer, the Gardaí will have a list of solicitors who will be prepared to come and see you urgently to advise you. Their list will consist of people who are known to be available to visit Garda Stations on a 24 hour basis.

If you are not in custody, but require advice from a criminal lawyer you can contact the [Law Society of Ireland](#), who will provide you with the names of solicitors who do criminal defence work. They are not permitted to recommend any one firm.

A better way to find a lawyer specialising in this work is by word of mouth, if you know people who have been in a similar situation before. Alternatively you could try the internet, as many law firms now have websites setting out the kind of work that they do best.

Paying for a lawyer

In Ireland, there is a system of legal aid which can provide the services of a lawyer to a person suspected or accused of an offence, at no cost to the person, in certain circumstances.

If you are detained at the Garda Station for questioning about an offence, and are not working or earn a low wage you will probably be entitled to the services of a solicitor free of charge, under the [Garda Station Legal Advice Scheme](#). You have to sign a form for your solicitor, which includes a declaration that you earn under the permitted limit €20,316.00 or are in receipt of social welfare payments. There is no other paperwork.

If you have been charged with an offence, then you are entitled to apply to the judge, at the court where you appear, for legal aid. This is called a [Certificate for Free Legal Aid](#). Your solicitor will help you apply to the court. If you don't have a solicitor, the judge will often offer you legal aid and choose a solicitor for you. If the charge is a serious offence, and you are not working, you will probably be granted legal aid. If you are working, you may have to fill out a form, declaring your income and outgoings.

Related links

[Criminal legal aid](#) <http://www.legalaid.ie/>

[Law Society of Ireland](#)

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2 - My rights during the investigation of a crime

What is the purpose of a criminal investigation?

The purpose of a criminal investigation is to respond to a complaint of a criminal act by a member of the public or where the Gardaí suspect there has been a breach of criminal law, and to detect the offender(s). It is usually the case that a member of the public will report an incident and the Gardaí will respond by launching an investigation as to whether there has in fact been a breach of criminal law and if so they will begin to investigate the matter further.

Who carries out the investigation?

In almost all cases the right to investigate crime lies with the Irish Police known as [An Garda Síochána](#). The Gardaí may receive legal guidance as to how best to progress their investigation from the Chief Prosecution Solicitors Office (The Director of Public Prosecutions) who are the legal officers who conduct most prosecutions on behalf of the Irish state.

What are the stages of a criminal investigation?

The first stage of a criminal investigation is the making of a complaint by a member of the public or the detection of a suspected crime by a Garda (member of the Irish police). The Gardaí will ascertain whether the incident as reported is a criminal offence and if it is they will begin to investigate the offence.

It is at this stage that the Gardaí will decide whether the suspected offence is deemed to be 'serious' or not. The term 'serious' means any offence that could in theory carry a term of imprisonment of at least five years. If the offence falls into this category it can be investigated by the Gardaí by using their power to arrest and detain you in a Garda station and during that detention to question you. The rights of arrest, detention and questioning will be discussed later in this factsheet.

If the offence is not one of a serious nature then the Gardaí will have greater restrictions of their powers. They will usually have the power to investigate the alleged crime but not the power to arrest and detain you for the purposes of questioning. They will only have a power to arrest you for the purpose of charging you with the suspected offence. If they do not arrest you for a non-serious offence then they will usually summon you to court to begin the trial process.

The third stage of an investigation will be the gathering of information that may become evidence in a later trial. This information gathering process may take many forms and the rights of the Gardaí to gather this information will be dependent upon the nature of the suspected crime. The right of the police to arrest and question you also gives them limited powers to gather forensic and other forms of potential evidence from you which will be discussed within this factsheet.

The Gardaí will make a decision either themselves or with the guidance of the [DPP](#) to charge you and what to charge you with. The decision to prosecute crimes of a serious and non-serious nature is often taken by the Gardaí. If the crime is of an unusual or obviously serious nature or one which will require the assistance of the DPP to prosecute then the Gardaí will normally seek the guidance of the DPP.

My rights during the investigation

Click the links below for more information about your rights during the stages of the investigation.

[My rights when arrested \(1\)](#)

[Questioning and the police investigation \(2\)](#)

[Searches \(3\)](#)

[First court hearing \(4\)](#)

[Preparation for trial \(5\)](#)

My rights when arrested (1)

If the offence is 'serious' then the Gardaí have a power to [arrest you and detain you for questioning](#). This will mean that you are taken into Garda custody and that you are not entitled to leave for the remainder of your lawful custody.

Do the Gardaí need a warrant to arrest me?

No. The Gardaí do not necessarily need a warrant to arrest you if they suspect you have committed the offence that they are investigating.

Where can they arrest me?

The Gardaí can arrest you in your home or in a public place. The Gardaí need only have a reasonable suspicion that you have committed an offence to allow them arrest you.

Must I be told the reason for my arrest?

Yes. The Gardaí must tell you the reason for your arrest.

Can the Gardaí use force when arresting me?

Yes. They can use reasonable force to arrest you.

Once you are arrested

You will be brought to a Garda station for questioning or charge. Your rights when in the police station are protected by law and the Member in Charge of the Garda station will be responsible for your rights. The length of time that you can be kept in a Garda station depends upon the statutory power upon which the Gardaí detain you. Please refer to [The Irish Council for Civil Liberties \(ICCL\)](#) for further reading on your rights.

Questioning and the police investigation (2)

Will I be given a notice of my rights?

Yes. When you are detained under one of these statutory powers then you will be given a notice of your rights in custody. This notice will be in writing and must be translated into your language if you do not understand English.

Can I notify my embassy?

Yes. If you are not an Irish citizen then you can have your embassy or consulate notified of your arrest.

I am from another country. Do I have to be in Ireland during the investigation?

Not necessarily. If you are not charged after your detention ends then you are free to leave and to travel. If the Irish state wishes to charge you at a later date you can return voluntarily for that purpose or you can challenge your extradition in your home state. If you are charged after your detention ends then you must be brought before a competent court. A judge will then decide whether you should get bail.

Will I be allowed to speak to a solicitor?

Yes. You have the right to speak to a solicitor in private. If you do not know a solicitor then the Member in Charge will help you to find one, from a list kept at the Garda Station.

When can I speak to a solicitor?

If you wish to speak to a solicitor you should not be questioned until your solicitor arrives and then you should be given immediate access to them.

Can I have my solicitor with me when I am questioned?

No. However you have the right to seek further legal advice during your questioning if something arises that you are uncertain of.

What if I cannot afford a solicitor?

If your financial means are limited then you may be entitled to have your solicitor's advice paid for under the Irish Free Legal Aid system (see [Factsheet 1](#)). However it is always advisable to seek legal advice and the issue of your financial means can be discussed with your solicitor at a later stage in the process.

How long can I be questioned for during my detention and how will I be questioned?

You can be questioned for up to four hours at a time. Your interview must be conducted in a fair manner. It should be recorded on video camera unless it is not practicable. You will only be entitled to a copy of the recording if you are prosecuted and the court makes an order releasing it to your legal adviser.

There should only be two Gardaí present in the interview at any time.

Do I have to answer questions?

No. You can [remain silent](#) throughout questioning but you should be aware that if you remain silent it may in certain circumstances be used as evidence against you in a later trial. If you refuse to answer certain questions then this refusal may be used with other evidence to support a finding of guilty against you.

If I am asked for information should I provide it?

You are obliged to give your personal details to allow the Gardaí to identify you. You should seek legal advice before deciding to provide any further information. If you are under arrest for the purpose of questioning then you are suspected of a serious criminal offence and any information you provide may become evidence against you in any future trial.

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

You have the right against self-incrimination. If your answers are bad for your case then your legal advisers will advise you about the consequences, which will usually be that what you say becomes evidence against you

Do I have to give my fingerprints and allow myself be photographed?

Yes. You can be forced to give your fingerprints and allow your photo be taken if you are detained under a statutory power. It is a criminal offence to obstruct the taking of either fingerprints or photographs.

Can the Gardaí keep my fingerprints forever?

Yes. However you or your legal adviser can write to the Gardaí and ask that the materials taken be destroyed if there is to be no prosecution or if you have been acquitted at trial.

Do I have to give DNA or other more intimate bodily samples?

If you are detained under a statutory power then the Gardaí need authorisation from a senior officer to allow them to take intimate samples such as DNA, saliva, nail clippings, material found under a nail or swab from your mouth. They are not allowed to take a footprint impression, sample from the genital region or bodily orifice without authorisation, unless you consent.

Can my home, business premises, car or other property be searched?

Yes. The [Irish Constitution](#) and [European Convention of Human Rights](#) require that your bodily integrity and privacy are respected, but these rights are limited. The Gardaí may search your home with your consent or without your consent if they have a search warrant or are going onto your property to find you to arrest you. For more information about searches, see [Searches \(3\)](#).

Can I appeal against a breach of my rights?

You should tell your legal advisers about any breaches of your rights and they will advise you as to how and when to challenge such breaches.

Who is the Member in Charge?

The Member in Charge is a member of the Gardaí who is responsible for your welfare and the protection of your rights. Every Garda station must have one present. If you have any problems during your time in custody you should ask to speak to the Member in Charge.

Can I speak to my family?

You are entitled to have a relative informed of the fact you are detained but not necessarily to speak to them.

What if I feel unwell and what about my right to rest and refreshments?

You have the right to medical attention if you need it and you have the right to proper periods of rest and to refreshments during your detention.

Will there be a record kept of my time in custody?

A record will be kept of your time in Garda custody and you or your legal adviser will be entitled to a copy.

What if I do not speak or understand English?

You have the right to have an interpreter to translate on your behalf. You or your legal adviser should insist that the interpreter who interprets any private consultation between you and your solicitor is not the same interpreter who interprets your question and answer session with the Gardaí. An interpreter should be available at all times where either a solicitor or Gardaí wish to communicate with you.

How long can I be detained for?

This depends on the power that determines your detention. The longest period in Irish law is seven days.

Searches (3)

Do I have to be told why my property is being searched?

You can ask and should be told why the search is being carried out and under what power. If your property is searched you will be entitled to a copy of any search warrant at a later stage.

How can the Gardaí carry out the search?

They must carry out their search in compliance with your right to not be degraded.

Can the Gardaí take away anything with them?

Yes. They can seize any items that they reasonably believe they can use as evidence. They can also take away items which may not have been specified on any warrant but which may be evidence of a different criminal offence.

Can I remain in my property when the Gardai are carrying out a search?

Yes. You are not allowed to do anything which may obstruct a lawful search but you may observe the search.

Can I personally be searched?

Yes. If a Garda has a reasonable suspicion that you have committed a criminal offence then they have powers to search you without your consent.

Do they have to arrest me first?

No. You can be searched prior to arrest.

Do I have to be told the reason for the search?

Yes. The Garda should tell you the reason for the search and the power they are relying upon to search you.

Can I be strip searched?

Yes. You should only be strip searched if it is necessary. A strip search should take place in a private area of a Garda station and not in a manner that causes harassment to you. If possible a doctor should carry out the search.

Will I be searched by someone of the same sex?

If the search is any more than a search of clothing then you should be searched by someone of the same sex.

The first court hearing (4)

Can I be held in custody or released?

You can be held in custody if you are brought from a Garda detention to court and refused bail by the court.

Can I make an application for bail?

In most cases you can [apply for bail](#) during your first appearance in the [District Court](#) (lower court). In limited circumstances (for example the charge of murder) you must apply to the High Court and will therefore have to spend some time in custody before that application.

You are entitled to legal representation and depending upon your income this representation will be paid for under the free legal aid scheme.

Can I be told why bail is being opposed by the Gardai?

Yes. You must be told in advance about the reasons why the Gardai object to the granting of your bail. You have a right to bail but it is not absolute. Bail can be refused when a judge is of the opinion that you will if granted bail either not turn up for your trial, interfere with witnesses or commit further serious offences whilst on bail.

Can I be given conditional bail?

Yes. You may be granted bail with conditions such as the surrendering of your passport, residency within the Irish state while awaiting trial and reporting regularly to a Garda station to ensure your compliance with these conditions. The Court may also require you to lodge cash or can order the freezing of a family member or friend's Irish bank account as a guarantee of your commitment to the terms of bail.

Preparation for the trial or entering a plea of guilty pre-trial (5)

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

Yes. You will only be given a trial if you enter a plea of not guilty. If you enter a plea of guilty then you will not be given a trial but rather you will be given a sentence hearing.

What happens?

If you do not seek a trial then you are accepting one or a number of the offences with which you are charged. Plea bargaining has no statutory basis in the Irish state but in practice the DPP may accept a plea to some charges and agree to withdraw others. If you enter a plea of guilty then you will be sentenced at a later date and may or may not be placed in custody before the sentence hearing.

What happens at my sentence hearing?

Unless there is a mandatory sentence, such as life in the case of murder, you have the right to a sentencing hearing and to have your legal advisor address the court in relation to your role in the crime and your personal circumstances.

Can the charges be changed before the trial?

Yes. The DPP can add additional charges up to and during the trial date. They can also withdraw charges up to the trial date. The DPP have the right to serve additional evidence up to and during the trial. The DPP must act in accordance with fair procedures and cannot withhold evidence or disclose materials in their possession which are relevant to you and your legal advisers.

Can I be charged with an offence which I have already been charged with in another Member State?

If you have been charged and tried for an offence in one Member State then you cannot be charged with the same offence in another Member State. However if you have been charged in one Member State but the charges have been withdrawn then you may be charged with that offence in Ireland.

Will I get information about the evidence against me?

Yes. You must be given documents (commonly known as a 'book of evidence') which comprise of the evidence against you. You must also be given disclosure of the materials which are produced as a result of the investigation into your alleged crime but which the prosecution do not intend to rely upon.

Will I get information about the witnesses against me?

Yes. You can get some limited information about the witnesses against you. You are entitled to know if they have a criminal record. You are entitled to seek information from them during the trial by way of cross examination by your lawyer or by way of private investigation by your legal advisers.

You are not entitled to an exhaustive list of personal details about the witness. You are not entitled to interfere with a witness in a manner that may be seen as an attempt to intimidate them or pervert the course of justice and such an action may result in your bail being revoked or you facing additional and subsequent separate charges.

When will my 'book of evidence' be given to me?

If you are to be tried on indictment for a serious crime then you should be given these documents within 42 days from the date of charge. The court has discretion to extend the time period within which the state has to give these documents to you.

What will be given to me?

You will be served a book of documents which contains the basis of the State's case against you. The book is not a total statement of the State's case and they are entitled to serve additional evidence up to and during your trial. The evidence which the State must rely on to secure a conviction will in most cases require to be given orally in court on oath by witnesses.

How do I get my 'book of evidence'?

You will be given your 'book of evidence' by it being handed to you in court by a member of the Gardai. Additional evidence will usually be served upon your legal advisor at their office or in court.

Will information be requested about my criminal record?

Yes. The Gardaí are entitled to seek information about your previous character for the purpose of their investigation and for the purpose of making a decision about your suitability for bail if charged. They are also allowed to refer to your criminal record if you are convicted to allow the Judge(s) determine an appropriate sentence. A record of foreign convictions can be admitted.

Are there any limitations on when they can refer to my previous character?

Yes. They cannot refer to your previous character during your trial unless your legal advisers introduce your character in their cross examination or submissions to the court.

Related links

- [More detail on the powers of search, detention and charge](#)
- [More detail on the role of the Gardaí](#)
- [Chief State Solicitors Office and the Office of the Director of Public Prosecutions](#)
- [More details on legislation](#)
- [The Criminal Justice Act 1984 \(Treatment of Persons in Custody in Garda Stations\) Regulations 1987](#)
- [Irish Council of Civil Liberties](#)

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3 - My rights during the trial

What happens before my case comes up for trial?

Before your case comes up for trial, a judge will decide if you should be given bail. You will usually have a right to bail. You can be refused bail if you are unlikely to turn up for your trial, if you have tried or will try to threaten a witness or if you are likely to commit another serious crime.

If you want to rely on an alibi for your trial (i.e. someone who will say you were with them when the crime happened) you will be told by the judge to give the [Prosecution](#) notice of who that is.

You have a right to know what the case against you is before your trial. You should be given statements of the evidence against you when you ask for it.

Where will the trial be held?

You will be given the name and location of the court your trial is being held in. The [Courts Service of Ireland](#) are in charge of all the courts and can help you find the court you are in.

Minor charges are heard in the District Courts where judges decide the cases alone. More serious charges are heard in the Circuit Courts or Central Criminal Courts where juries give the verdict.

The courts are open to the public. However, where the accused is a child or it is a sexual crime, the case is heard in private.

Can the charges be changed during the trial?

In most cases a charge cannot be changed during a trial. Certain charges can be changed if the law allows for it. For example, a charge of dangerous driving can be changed to the less serious charge of careless driving if the judge decides you were driving carelessly but not dangerously.

If you plead guilty to all of the charges during the trial, the judge will then decide what sentence to give. The judge will balance how serious the crime is and what your personal situation is to make that decision. You should be given credit for pleading guilty.

You can also plead guilty to some of the charges and not guilty to the rest. The judge or jury will make a decision on the charges you are contesting. You will then be sentenced for the charges you pleaded guilty to and for the charges you were found guilty of.

What are my rights during the trial?

For most cases you have to be present at your trial. If you fail to appear in court, the judge can make an order to arrest you and bring you to court in custody. The trial can occasionally go ahead without you and you can be convicted in your absence.

If you cannot come to court because of an accident or illness, you should tell your solicitor and provide him or her with a medical certificate explaining your absence.

You have a right to interpretation if you don't understand what is happening. If you are deaf, you have a right to interpretation by sign-language.

You have a right to defend yourself in your trial if you want. If you cannot afford a solicitor, one can be appointed to you under the [Criminal Legal Aid Scheme](#) depending on how serious the charge is. You have a right to choose your solicitor. If you don't know any, the judge can choose one for you. You can change your solicitor if you are not happy with them.

You can speak at your trial if you want, but you don't have to. It is a criminal offence to lie when giving sworn evidence.

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

You can challenge the evidence given against you if it was obtained unlawfully. For example, if the police went into your house without a search warrant, any evidence they got while there will usually not be allowed.

You can also challenge the evidence by asking witnesses questions to show they are lying or mistaken. You can also ask witnesses to give evidence which is relevant to your defence, or shows the prosecution witnesses are lying or mistaken.

You can hire a private detective to obtain evidence for you. The evidence is admissible as long it was lawfully obtained.

Will information about my criminal record be taken into account?

Evidence of your previous convictions cannot [normally](#) be taken into account during your trial.

However, when judges are deciding what sentence to give you they can take your previous convictions into account. That can include any previous convictions from other countries.

What happens at the end of the trial?

If you are found not guilty, the trial is over and you can walk free.

If you are found guilty or plead guilty, the judge will decide what sentence to give you. You might have to pay a fine or serve a [prison](#) sentence. The judge might suspend your sentence as long as you don't commit more crimes.

The judge might ask the [Probation Services](#) to write a report about you before giving out your sentence. They will tell the judge if you are suitable for supervision to deal with whatever problems cause your criminal behaviour.

If asked, the Probation Service will tell the judge if you are able to do Community Service. The judge may then order you to do up to 240 hours of unpaid work instead of a jail sentence.

What is the role of the victim during the trial?

The victim's role during the trial is as a witness for the prosecution. They will give evidence about what they saw happen in relation to the charge.

If you are convicted or plead guilty, the judge will take into account the impact of the crime on the victim.

Related links

[Database of Irish legislation](#)

[Database of Irish and British case law](#)

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4 - My rights after the trial

Can I appeal?

You can appeal against any conviction or sentence. The [way you appeal](#) will depend on which court has heard your case. Appeals from the District Court are heard in the Circuit Court. Appeals from the Circuit Court or [Central Criminal Court](#) are heard in the [Court of Criminal Appeal](#).

If you want to appeal from the District Court, you must give a document called a 'notice of appeal' to the prosecutor within 14 days. You must also lodge the notice of appeal and declaration of service to the court clerk of the area within 14 days. If you want to appeal from the Circuit Court or Central Criminal Court, you must apply to the trial judge for permission to appeal within three days of the conviction. You must then serve a 'notice of appeal' on the Registrar of the Court of Criminal Appeal within seven days if permission has been refused and within 14 days if permission has been granted. Normally, your lawyer will do all of this for you.

If you are appealing from the District Court, you are entitled to a full rehearing of your case. You are also entitled to appeal your sentence. If you are appealing from the Circuit Court or Central Criminal Court, you can appeal on a point of law or if you believe your trial was unsatisfactory. You can also appeal your sentence.

What happens if I appeal?

If you appeal from the District Court, the conviction will be set aside until your appeal is heard. This will require you to enter into a bond, called a recognisance, which may require the payment of a sum of money. If you are in prison when you appeal from the District Court, you are entitled to be released once you have served the notice of appeal and entered into your recognisance. If you are in prison and you want to appeal, the prison authorities will provide you with the proper forms.

If you appeal from the District Court, it may be a number of months before the appeal is heard. If you appeal from the Circuit Court or Central Criminal Court, it may be considerably longer before the appeal is heard.

If you appeal from the District Court you are entitled to produce new evidence and make different legal arguments for the appeal. If you appeal from the Circuit Court or Central Criminal Court, you are generally not allowed to produce fresh evidence and you can only do so where there are exceptional circumstances.

What happens at the appeal hearing?

If you appeal from the District Court, you are entitled to a full rehearing of the case. If you appeal from the Circuit Court or the Central Criminal Court, you or your lawyer may address the court on why you think your conviction should be overturned or why you think your sentence is wrong in principle.

What happens if the appeal is successful/unsuccessful?

If the appeal is successful, the case is over and you have no further obligations in respect of the case. If the appeal is unsuccessful, the appeal court will affirm your conviction. If the appeal court thinks the sentence is wrong in principle, it can increase or decrease the original sentence.

Once your appeal has been heard, there is no further right of appeal. However, the Court of Criminal Appeal may allow you to appeal to the Supreme Court if there is a point of law of exceptional public importance.

There is no general provision for you to be compensated if your appeal is successful. When you appeal a conviction to the Court of Criminal Appeal, compensation may be available if you have suffered a miscarriage of justice. This occurs when the Court of Criminal Appeal overturns a conviction and certifies that a newly discovered fact shows that there has been a miscarriage of justice. This very rarely happens. If the Court of Criminal Appeal certifies a miscarriage of justice, you may apply to the [Minister for Justice](#) for compensation.

A conviction is recorded against you once the judge has found you guilty of an offence.

The conviction is final once you have been found guilty or you have pleaded guilty. However, you still have the right to appeal. If your appeal is successful your record should be free from any convictions.

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

If you are convicted of a criminal offence, the court cannot send you back to your country. However, the court may recommend to the Minister for Justice that you should be deported. It may also suspend your sentence or part of your sentence on condition that you leave the country. This does not mean that you are deported but if you fail to leave the country, you will be imprisoned. If you are in prison you may apply to the Minister for Justice to be transferred out of Ireland to serve the remainder of your sentence in another Member State.

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

If you are convicted, you cannot be tried again for the same crime. If you have been convicted in another Member State, you cannot be tried again in Ireland for the same crime.

Information about the charges/conviction

Your criminal record will have any convictions against you. If you are an adult, this information will be kept on permanent record by the Gardaí (national police force). The Gardaí may also have other information about you. You have the right to have inaccurate personal information about you corrected or erased. You can request this information from the [Garda Central Vetting Unit](#). If the Gardaí will not allow you access to this information or will not correct inaccurate information, you have the right to apply to the [Data Protection Commissioner](#).

Related links

[Irish Courts](#)

[Citizens Information Board](#)

[Data Protection Commissioner](#)

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5 - Road traffic and other minor offences

How are minor road traffic offences dealt with?

Minor offences, such as speeding, driving while using a mobile phone (cellphone), or illegal parking, are usually dealt with by a "fixed penalty notice", which gives you a fixed time to pay a fine by post. Only if you do not pay the fine will the case go to court. Sometimes you will be given a notice on the occasion of the offence, and sometimes one will be sent to your address.

Some fixed penalty offences, however, involve "penalty points" being put on your driving licence, and if you get a total of twelve penalty points in a period of three years, you will be banned from driving in Ireland. If you pay the fixed penalty notice, you will get fewer points than if the case goes to Court and you are convicted. The European Union is presently working on a project to harmonise all of the driving licence records of the Member States.

Traffic offences are almost always dealt with by the ordinary Gardaí. You should be aware that, in Ireland, drivers are obliged by law to carry their driving licences with them, and must produce the licence on demand by a Garda.

If you live in Ireland, being a national of another Member State, you will be dealt with in the same way throughout the process as an Irish National.

If your case goes to Court, it will be heard in the local District Court (the lowest court) by a judge without a jury. If you are not satisfied with the result, you can appeal the decision, whether conviction or penalty, to a higher court (see [Factsheet 4](#)).

Will these offences appear on my criminal record?

All traffic convictions are recorded on the Garda computer record. Very minor cases, such as speeding, are not generally regarded as criminal convictions. If however you are charged with a more serious charge, such as dangerous driving, drink driving, or driving without insurance, convictions will become part of your criminal record. Such offences will be dealt with in accordance with the procedure set out in [Factsheet 4](#). If you are charged with such an offence, you should seek legal advice urgently.

How other minor offences are dealt with

The most common minor offences are speeding and driving while using a cellphone. Various other offences, such as driving in a bus lane, can be dealt with by a "fixed penalty notice", but do not attract penalty points. Driving without reasonable consideration for other road users, which involves careless driving, will attract a fine and penalty points.

You will only go to court if you do not pay the fixed penalty notice. As above, it will be dealt with in the District Court. You can always appeal an order of the District Court, as above.

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