Obdolženci v kazenskem postopku

Slovenija

V teh informativnih listih je pojasnjeno, kaj se dogaja, 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 mandatne kazni, kot so globe, najdete v Informativnem listu 5. Če ste sami žrtev kaznivega dejanja, so izčrpne informacije o vaših pravicah na voljo tukaj.

Kratek opis kazenskega postopka

Predhodni postopek

Predkazenski postopek

V predkazenskem postopku policija po uradni dolžnosti ali po navodilih državnega tožilca odkriva storilca kaznivega dejanja, zbira ter zavaruje sledove in dokaze ter zbira obvestila o kaznivem dejanju. Za dejavnost policije morajo obstajati razlogi za sum, da je bilo storjeno kaznivo dejanje.

Redni kazenski postopek

Redni kazenski postopek je postopek, ki ga vodi sodišče. Začne se lahko le na zahtevo upravičenega tožilca (upravičeni tožilec je državni tožilec, zasebni tožilec ali oškodovanec kot tožilec). Podan mora biti utemeljen sum, da je določena oseba storila kaznivo dejanje. Utemeljen sum je podan, če je stopnja verjetnosti, da je oseba storila kaznivo dejanje, večja od verjetnosti, da ga ni storila.

Preiskava

Namen preiskave je zbiranje dokazov. Na zahtevo upravičenega tožilca preiskovalni sodnik po zaslišanju obdolženca izda sklep o uvedbi preiskave, zoper katerega je možna pritožba. Preiskava je obvezna, če je za kaznivo dejanje predpisana kazen zapora nad osem let.

Obtožba

Z obtožbo upravičeni tožilec določi, kaj bo sodišče obravnavalo na glavni obravnavi, saj je določen obdolženec ter dejanje, ki je predmet obtožbe. Zoper obtožbo je možen ugovor.

Glavni postopek

Priprave na glavno obravnavo

Predsednik senata po pravnomočnosti obtožbe določi čas in kraj glavne obravnave ter zagotovi navzočnost oseb in predmetov dokazovanja.

Glavna obravnava in sodba

Na glavni obravnavi sodišče ob prisotnosti tožilca in obdolženca odloča, ali je obdolženec kriv za kaznivo dejanje. Glavna obravnava se konča z razglasitvijo sodbe.

Redna pravna sredstva

Tožilec in obdolženec se lahko zoper izrečeno sodbo pritožita. Pritožbo je treba napovedati v osmih dneh od razglasitve sodbe, razen če je bila izrečena zaporna kazen.

Izvršitev sodbe

Ko je sodba pravnomočna, se izvrši.

V informativnih listih lahko najdete podrobne informacije o vseh fazah kazenskega postopka in vaših pravicah. Te informacije ne nadomeščajo pravnega svetovanja, temveč so zgolj koristni napotki.

Vloga Evropske komisije

Upoštevati je treba, da Evropska komisija nima nobene vloge v kazenskih postopkih držav članic, zato vam v primeru pritožb 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 – Posvetovanje z odvetnikom

2 – Moje pravice med preiskovanjem kaznivega dejanja

Policijska preiskava

Pridržanje in privedba k preiskovalnemu sodniku, ki opravi zaslišanje

Pripor ali izpustitev

Uvedba preiskave in preiskovalna dejanja

Obtožba

Priprave na glavno obravnavo

3 – Moje pravice med glavno obravnavo

4 – Moje pravice po glavni obravnavi

5 – Prekrški v cestnem prometu

Sorodne povezave

Zakon o kazenskem postopku

Kazenski zakonik-1

Zakon o izvrševanju kazenskih sankcij

Zadnja posodobitev: 24/06/2015

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 factsheets tell you when and in what circumstances you are entitled to be represented by a lawyer. They also tell you what a lawyer will do for you. This general factsheet tells you how to find a lawyer and how the costs of the lawyer will be met if you cannot afford to pay.

Finding a lawyer

If you have been charged with a crime, you are entitled to a counsel throughout the criminal procedure. A counsel can also be hired for you by your family. If you need a lawyer, you can find one at the website of the Bar Association of Slovenia.

I. Obligatory defence

In certain cases, defence through a counsel is obligatory, regardless of your preferences. If you do not find your own counsel, the court will appoint one for you on its own motion.

Court-appointed counsel

The court will appoint a counsel for you, on its own motion, at the first hearing in the following circumstances:
if you are mute, deaf or incapable of defending yourself;
if you are charged with a crime punishable by imprisonment of 30 years;
if, after being detained by the police, you are brought before an investigating judge for questioning.
You must have a court-appointed counsel during the process of making a decision on whether you should be held in detention and, throughout the time you are detained.
A counsel will also be appointed by the court when you are served with a charge sheet accusing you of a criminal offence which is punishable with a jail sentence of eight years or more.
The term of a court-appointed counsel usually ends when the judgment becomes final. The court appoints a counsel from its list of eligible lawyers. The fees of a court-appointed counsel are paid for by the court from the public budget allocated to it. If you are convicted, you will have to repay the costs of the counsel to the court. However, the court can exempt you from paying these costs if this would mean that you don't have enough money to live on.
The court can suspend a counsel appointed by it on your request only if the counsel fails to perform his/her duties properly. In this case, you will be assigned another counsel. You are entitled to find your own defence counsel at any time, in which case the court-appointed counsel will be discharged.

II. Optional defence

Counsel through free legal assistance

If you have no income or other assets, you can lodge a special application for free legal assistance. This application should be addressed to the district court of your place of residence. If you meet the necessary conditions, the court will, by way of a decision, grant you free legal assistance. The court will select a lawyer for you from a special list of lawyers. This lawyer will defend you in the criminal procedure. Eventually, the lawyer's fees will be paid by the state from the budget. You do not need to repay this money to the state, even if you are ultimately convicted.

Counsel in the interest of fairness

Upon your request, the court can assign you a counsel when you are served with the charge sheet even if the conditions for an obligatory defence are not met. It can do so if you are unable to pay a lawyer due to your financial situation and if this is in the interest of fairness. If you have been deprived of liberty, a counsel can also be assigned by the police in the interest of fairness.
The same rules regarding cost recovery as with a court-appointed counsel apply.

Related links

Bar Association of Slovenia
List of lawyers
Application for free legal assistance

Last update: 16/02/2012

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2 - My rights during the investigation of a crime

What are the stages of a criminal investigation?

The main purpose of a criminal investigation is to establish the circumstances of a crime and collect evidence. The court will use this information at the trial to determine whether you are guilty of the crime.
The phases of a criminal investigation are:

Police investigation

The police will on their own motion or following the state prosecutor's instructions detect offenders, collect and protect traces and evidence, and collect information about the alleged crime. The police will act if there are reasons to suspect that a crime has been committed.

Police custody and bringing before the judge for questioning

The police can exceptionally deprive you of liberty and keep you in police custody for 48 hours. The police must have sufficient reason to suspect that you have committed a crime and that there are grounds for detention.
Further, police custody must also be necessary for the purpose of collecting information and evidence, establishing your identity, and checking your alibi. If you are kept in police custody for more than six hours, a detention decision must be issued. During the period of custody, you can appeal against this decision to a non-trial court panel consisting of three judges.
The police can deprive you of liberty if any of the grounds for detention exist. However, you must be brought before an investigating judge without delay. The investigating judge can order that you be kept in custody for 48 hours from the moment you are brought before him/her.
Within this time period the investigating judge must interrogate you. When you are interrogated, the judge must tell you about your rights, and the presence of a counsel is obligatory. The court can order detention if that is proposed by the prosecutor. The prosecutor must also request the initiation of an investigation.

Detention or release

On the proposal of the state prosecutor, the judge can order detention if this is essential for public safety or for the criminal procedure. There must be reasonable suspicion that you have committed a crime, and one of the following three grounds of detention: the risk of you escaping, the risk you may destroy evidence or influence witnesses, or the risk of you reoffending.
A detention ruling must be provided to you no later than 48 hours from the time you were deprived of liberty or brought before the investigating judge. You can appeal against this ruling within 24 hours of the moment you were served this ruling. A non-trial court panel must decide on your appeal within 48 hours. If the investigating judge does not agree with the prosecutor's proposal for detention, he/she forwards it to the non-trial panel for decision. If the panel orders detention, any appeal against this decision is handled by a higher court.

Initiating an investigation and investigative acts

The purpose of an investigation is to collect evidence. An investigation is compulsory for offences punishable by a prison sentence of over eight years. The prosecutor will lodge an investigation request with an investigating judge if there is reasonable suspicion that you have committed a crime. After you have been interrogated, the investigating judge issues a ruling on the initiation of an investigation. You can appeal against this ruling.

Charges

In a charge, the prosecutor defines what the court will deal with at the trial. The charge sets out the defendant and the offence. You can lodge an appeal against the charge.

Preparation for trial

When the charge is final, the president of the panel fixes the time and place of the trial, and ensures the presence of persons and items of evidence.

For more information about your rights, click on the links below:

Police investigation (1)
Police custody and bringing before the judge for questioning (2)
Detention or release (3)
Initiating and investigation and investigative acts (4)
Charges (5)
Preparation for trial (6)

Police investigation (1)

The Police start investigating a crime on the basis of information that is sufficient for them to begin their activities. A person who is aware of a crime can file a criminal complaint with the competent state prosecutor. The role of the police is to find out whether the alleged crime has actually been committed. The purpose of this phase is to detect sufficient evidence to determine whether a particular person has committed a crime, and to continue the criminal prosecution against this person.

The police undertake everything necessary to detect the offender, the traces of a crime and items of evidence. The police will also collect information that might be useful for the criminal procedure. Police officers collect information from individuals, may search visible parts of your car, determine your identity, restrict movement in specific areas and announce the search for persons and conduct, in your presence, an examination of certain buildings and premises.

How do the police collect information?

The police collect criminal information in the field. They can also invite you to come to their offices. You can be brought to the police station by force if you have been warned that that is possible in the invitation. During the interview, the police may not restrain you. This means you can leave at any time. If you wish, you can bring your lawyer to the questioning.

When will I be informed about my rights?

When the police gather evidence supporting the suspicion that you have committed a crime, you are designated the status of a 'suspect'. At this point the police must inform you of your rights.

What are my rights if I am a suspect?

The police must tell you what criminal offence you are suspected of committing and what evidence they have against you. They must tell you that you have the right to remain silent without having to answer any questions.

They must also tell you that, if you decide to defend yourself, you are not obliged to incriminate yourself or your family or to admit guilt. You also have the right to a defence counsel, whom you can choose of your own free will. The counsel can be present at your questioning. The police must tell you that any statements you make may be used against you in court.

You should be instructed about your rights in a language you understand. If the police officer does not speak the language you understand, he/she should get you a sworn court interpreter.

If the police do not inform you of your rights, your statements will be excluded from the court file.

If the police decide to deprive you of liberty after the interview, they must make you aware of your additional rights.

Can I have a lawyer?

Your counsel may be present during the questioning. However, you are not eligible for a court-appointed counsel. If you want a counsel, the police will postpone your questioning for at least two hours. If you do not want a counsel or your counsel does not arrive, the police will only make an official note of your statement. The court will be able to use this note as a basis for evidence, although the final judgement cannot make reference to this statement.

If your counsel is present at the questioning, the police draw up minutes of the questioning session. The minutes will be used as evidence in the criminal procedure even if you incriminate yourself. In the police questioning, you have the same rights as in a court interrogation.

Your counsel can communicate with you freely and without supervision. He/she can review the police file and suggest to the police what evidence to collect; the counsel can take part in this.

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

If you are interrogated by the police as a defendant and you do not understand the language, the police must arrange a sworn court interpreter for you. The interpreter will interpret into the language you understand and vice versa. The interpreter's fees will be paid for by the state.

Will I be asked for fingerprints and DNA samples?

The police can take a photo of you. They can also take your fingerprints and a sample of your mouth mucus. The police can perform a polygraph test with your agreement. However, the court may not use the polygraph test results in its judgement.

Arrest and appearance before an investigating judge for interrogation (2)

What are my rights upon arrest?

When you are arrested, the police must immediately inform you about your rights as a suspect. You must be informed in your mother tongue or a language you understand about the grounds for your arrest. Further, the police must tell you of your right to remain silent, your right to immediate legal assistance through a counsel of your own free choice, and your right to inform your family of your arrest. If the police bring you before an investigating judge after your arrest, the judge must again inform you of these rights.

If you are a foreign citizen, the police or the court are obliged, on your request, to immediately inform the consulate of your country about your arrest.

Can I also be kept in custody by the police?

The police can keep you in custody for 48 hours, provided they have reasonable grounds to suspect that you have committed a crime. They can keep you in custody if they collect information or evidence, try to determine your identity, or check your alibi. Grounds for detention must exist: the risk of you escaping, the risk of you reoffending, or the risk you may destroy traces of a crime.

What are my rights during police custody?

If you want a counsel, the police must let you find and call one. The police can appoint a counsel in the interest of fairness. They must not question you until your counsel arrives, but may begin questioning f your counsel does not arrive within two hours.

If the police keep you in custody for more than six hours, they must inform you of the grounds for your detention by issuing you a written decision. You can appeal against this decision whilst you are in police custody. The appeal is dealt with by a non-trial court panel, who must reach a decision within 48 hours.

What happens if the police deprive me of liberty?

The police can deprive you of liberty if there is any ground for detention. However, the police must bring you before an investigating judge immediately, or keep you in custody on the basis of a written decision as explained above.

The investigating judge can order that you be kept in custody for 48 hours from the moment you are brought before him/her. During this time, the judge must interrogate you. You are entitled to find your own counsel within 24 hours. If you do not, the court will appoint one for you. If you have been deprived of liberty, the investigating judge must inform you of your rights.

What are my rights when I am interrogated by a judge?

The summons to the first court hearing must be served on you personally. Before you are interrogated, the judge will ask for your personal details.

During the first interrogation, the judge will specifically tell you:

that you should respond to the court summons and notify the court about any change in your place of residence;

that in certain instances the punishment can be reduced;

that you are entitled to an interpreter.

Each time, the judge will tell you:

that you have the right to a counsel, who can be present while you are interrogated;

what you are accused of and on what grounds;

that you can express yourself about all facts and evidence that are incriminating for you, and state facts and evidence in your favour;

that you are not obliged to defend yourself or answer questions; and that if you defend yourself you are not obliged to incriminate yourself or your family, or admit guilt.

If the court does not make you aware of your rights, you can request the court to exclude the record of your statement from the file.

The prosecutor can also be present at the hearing.

What are the consequences of my statements?

If you incriminate yourself, the court can use your incriminating statements. If you admit an offence in the course of an investigation and this admission is in line with the evidence, the court will collect other evidence only on the request of other parties in the procedure.

If you decide to remain silent or do not tell the truth, the court may not use this against you. It may not use your statements as aggravating circumstances when assessing the punishment. Even if you decide not to defend yourself, you can ask all witnesses questions, present evidence, and give comments on the progress of the criminal procedure.

What happens if I do not understand or speak the language?

You have the right to use your own language in court. The court must arrange an interpreter who will interpret the proceedings into a language you understand and vice versa. You will be able to receive and submit written requests in your language only if you have been deprived of liberty. The interpreter's fees will be paid for by the state.

Detention or release (3)

After you have been questioned, the state prosecutor must state whether he/she will propose detention. If the prosecutor says he/she will not propose detention, you will be released. If the prosecutor requests detention, his/her proposal will be decided on by the investigating judge.

The judge can order detention if it is absolutely necessary for the safety of other people or for the progress of the criminal procedure. There must be reasonable suspicion that you have committed a crime, as well as one of the following **grounds for detention**:

the risk of escaping;

the risk that traces of the alleged crime will be destroyed or witnesses will be influenced;

the risk of reoffending.

If the investigating judge agrees with the detention, he/she orders it by way of a written ruling. The ruling must be delivered to you within 48 hours of the time you were brought before the investigating judge or deprived of liberty. You can appeal against this ruling within 24 hours of being served with it to a non-trial panel. The panel must reach a decision within 48 hours.

If the investigating judge does not agree with the prosecutor's detention request, he/she requests the non-trial court panel to make the decision. If the panel orders detention, an appeal can be lodged with a higher court.

How is detention carried out?

If detention has been ordered, you can request that your family, your employer and a social care organisation be notified about it within 24 hours.

Based on the ruling by the investigating judge, you can be detained for no more than one month. After that, the court may on the prosecutor's proposal extend the detention for a maximum of five months. If no charges have been made against you at this time, you must be released. After charges have been presented, you can be detained for a maximum of two years.

Can I ensure my presence in the procedure in any other way?

You can request the court to order other options instead of detention to remove the detention risks you pose. These other options may be house arrest, regular reporting at a police station, your promise that you will not leave your place of residence, or an order to stay away from a particular place or person.

If you leave the country, you will have to respond to a court summons. If you do not, the court can order you be detained and issue an arrest warrant or a European Arrest Warrant.

What happens if I am arrested on a European Arrest Warrant?

If a European Arrest Warrant has been issued against you, you can be arrested in another Member State and surrendered to the issuing Member State for the purpose of prosecution or execution of a judgement. You must first be heard by an investigating judge. You are entitled to the obligatory presence of a counsel and to have the procedure interpreted into a language you understand.

Is detention also possible in a summary procedure?

As a rule, a local court can only order detention on the basis of grounds for detention for certain serious criminal offences. You can be held in detention for a maximum of 15 days before charges are filed.

Initiating an investigation and investigative acts (4)

An investigation is carried out by the investigating judge on the prosecutor's request if there is reasonable suspicion that you have committed a crime.

Must I be interrogated by an investigating judge before he/she reaches a decision?

When the investigating judge receives the prosecutor's request to start an investigation, he/she must interrogate you, except if a delay could be dangerous or if you have already been questioned.

Can I be interrogated in another Member State?

If you live in another Member State and cannot attend the hearing for justified reasons, you can be heard by a video link in this Member State. When this happens, a competent person from that Member State must be present to confirm your identity. Your counsel can also be present throughout the hearing.

You can be heard in another Member State by the requested court of that Member State on the basis of international legal assistance. If this is the case, your rights should not be encroached upon.

Will an investigation be initiated by a written decision?

After you have been heard, the investigating judge decides on initiating an investigation by way of a ruling. You can appeal against this ruling to a non-trial court panel within eight days of being served with this document. If the panel upholds the appeal, the investigation request is refused. The criminal procedure against you can be reopened under certain conditions.

If the investigating judge does not agree with the prosecutor's request for an investigation, he/she requests – after you have been heard – a non-trial court panel to decide on the investigation request.

What rights do I have during the investigation?

The investigating judge carries out an investigation with regard to the crime and the defendant that are the subject of the prosecutor's investigation request. The prosecutor may at a later stage extend his/her investigation request to other offences or other defendants.

Throughout the investigation, you are entitled to present evidence and state facts in your favour. You can be present during investigative acts and can review your court file. You can participate in the process if you wish, but your presence is not obligatory.

If you have already been convicted of the same criminal offence in another country or the procedure against you has been stopped, you may not be prosecuted. You may request the non-trial court panel to discontinue the investigation against you.

How are investigative acts conducted?

The investigating judge may conduct investigative acts following a request by the prosecutor or the defendant. The judge will carry out such investigative acts as he/she deems necessary. You can be present during the hearing of witnesses. You may ask them questions and make comments. You can also be present during an inspection, house search and expert hearing. The court must notify you about all of this.

When the investigating judge thinks that facts are clear, he/she closes the investigation. Before the end of the investigation, the investigating judge obtains details about your character. For that purpose, the judge will request information from the criminal record.

How is an investigation carried out in a summary procedure?

Normally there will be no investigation if the procedure takes place before a local court. However, the prosecutor may propose that the judge carries out certain investigative acts. If the judge agrees, he/she will undertake such acts.

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

The police can search your house or your car if they have a written court order. There must be reasonable suspicion that you have committed a crime, and a likelihood that you will be caught, or traces or items of a crime will be detected.

Before starting the search, the police must present you with a search order. You then have two hours to bring in a counsel. You can be present during the house search if you use the house that is being searched. Two impartial witnesses must also be present. They will be asked to sign the minutes at the end.

The police can enter your premises without an order if you agree; if you call for help; if you are caught in an act;, if this is necessary for safety reasons; or if you retreat to your premises because of the possibility of being arrested by the police.

If the house search is unlawful, you can ask the court to exclude evidence gathered during it.

The items you hand over on a voluntary basis can be used by the court against you in the procedure.

Can there be a body search?

A body search can be carried out under similar conditions as a house search, i.e. with an order and in the presence of two witnesses.

The police can search you without an order on your arrest if they suspect you are carrying weapons or items of evidence that you intend to hide or destroy.

A body search differs from a security search; the police use the latter to check your clothes if you are likely to attack others or injure yourself.

Charges (5)

When the investigation is completed and the investigating judge believes the facts of the case have been clarified, he/she sends the file to the prosecutor. The prosecutor can withdraw from the criminal prosecution, or file charges within 15 days.

What is a charge sheet?

A charge sheet is a charge document filed by the prosecutor. Its format and content are prescribed by law, as is the procedure of charge testing. A charge sheet must specify who the defendant is and describe the offences covered by it. A statement of grounds must list the evidence representing the basis for reasonable suspicion that you have committed the offence you have been charged with.

Upon receiving the charge sheet, the panel must decide, on the prosecutor's proposal, whether to order, extend or release you from detention.

Can I appeal against the charges?

If you do not have a counsel, the charge sheet must be delivered to you personally. You have the right to object to the charge within eight days of it being served and request a non-trial court panel to dismiss the charge.

If, when deciding on the objection, the panel finds that the case has already been finally concluded, it will stop the procedure with a ruling.

If your objection is reasonable, the panel upholds the objection, dismisses the charge and stops the criminal procedure. In this case you cannot be tried again for the same act.

If no objection was filed or an objection was dismissed, the president of the panel can within two months request that a non-trial court panel decide on all issues, similarly as with an objection.

As a rule, a charge becomes final on the day your objection was rejected and in other cases two months following the date when the court received the charge. At the moment a charge becomes final the pre-trial criminal procedure turns into the main criminal procedure.

Is there a charging phase in a summary procedure?

A criminal procedure before a local court is initiated on the basis of a summary charge filed by a prosecutor. No objection is possible against it. When the court has examined the summary charge, it will serve it on you and call the main trial.

Preparation for trial (6)

Preparation for the trial consists of all procedural acts conducted by the court from the moment the charge has become final up to the beginning of the trial. The preparations are carried out by the president of the panel that will hear the case at the trial. If the president of the panel finds that the case has already been finally concluded, he/she will stop the procedure with a ruling.

The president of the panel calls the trial and ensures the presence of persons and items of evidence. The president can decide about this on his/her own, without requests by the parties in the procedure. Inadmissible evidence must be excluded.

You must be personally served with a summons to appear at the trial. You must be given sufficient time to prepare your defence, with the minimum being eight days. If the prosecutor withdraws the charge before the trial starts, the court stops the criminal proceedings with a ruling.

Are criminal offences always dealt with in court?

With minor criminal offences, which are mainly heard by local courts, you can ask the state prosecutor to initiate a settlement procedure with the injured person. The prosecutor may also suspend a criminal prosecution against you if you agree to carry out certain tasks. The injured person's agreement is required. In these cases, the prosecutor withdraws the criminal complaint and any pending court proceedings are stopped. The act will not appear on your criminal record.

Related links

Criminal Procedure Act

Act on International Cooperation in Criminal Matters between the Member States of the European Union

Police Act

Last update: 16/02/2012

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3 - My rights during the trial

During the trial, the court will decide whether you are guilty of the criminal offence you are charged with. The trial ends with a judgement.

Where will the trial be held?

At first-instance level, local courts try minor criminal offences punishable by imprisonment of up to three years or a fine. They do this in a summary procedure.

Other serious criminal offences are tried at first instance by district courts in an ordinary procedure. In local courts, issues such as guilt, and the type and level of punishment are decided by a single judge. In district courts, decisions are made by a court panel. The panel consists of one judge and two lay judges. The trial is open to the public. The court may order that the public be excluded. This may be necessary for the sake of confidentiality, public order and morals, the private or family lives of the parties in the procedure, or if a public trial could damage the interest of fairness.

Trials by video conference are not allowed.

Can the charges be changed during the trial?

The prosecutor may change the charges during the trial orally or in writing if evidence shows that the facts set out in the original charge have changed. If the changes are so great that you must prepare your defence, the court may postpone the trial.

If, during the trial, you commit a new criminal offence or if another criminal offence is detected, the prosecutor may extend the charges (orally or in writing) to include this new criminal offence. The court may adjourn the trial, or decide, after an interrogation, that this criminal offence will be tried separately.

No objection is permissible against changed or expanded charges.

Can I plead guilty to criminal offences?

When the prosecutor reads the charges, you can plead guilty to some or all of the offences. You can also do this in your defence and throughout the trial. Even if your admission of guilt is very clear and complete, the court must take other evidence as well.

What are my rights during the trial?

If the trial is being held in the district court, you must attend the hearing. It can be held without you if you have already been heard, if your counsel is present, if your presence is not essential, and you have been correctly summoned.

In a summary procedure, the judge can conduct the hearing in your absence if your presence is not essential, if you have been correctly summoned, and if you have been heard before.

If these conditions are not met, you fail to appear at a hearing and do not excuse yourself to the court, you may be brought to court by force. If the court thinks you are avoiding hearings, it can order that you are detained in order to ensure your presence. You can be detained for a maximum of one month or until the judgment has been given.

You can use your own language at court hearings. The court interprets your statements into the official language of the court. A sworn court interpreter must interpret what other participants are saying into a language you understand, as well as translate all written documents. Regardless of the outcome of the criminal procedure, the interpreter's fees are paid for by the state.

Your counsel may be present at the hearing.

Before you are heard, the court must tell you about your rights.

What are my rights in relation to evidence against me?

The court must find the truth about an alleged crime. It can therefore decide to use other evidence that none of the parties has produced. The prosecutor must present evidence that you committed a crime. You can defend yourself and prove your innocence but you are not obliged to do so. You are entitled to comment on and ask questions about every item of evidence.

The court will take evidence you have presented if it is important for your defence. You must say why this is the case. You can also propose witnesses who will testify in your favour, and present any other evidence you think will justify your statements and contribute to your acquittal.

All evidence is admissible that has not been acquired by a violation of human rights as set out in the Constitution of the Republic of Slovenia; this means, among others things, that you can hire a private detective to collect evidence for you.

Will information about my criminal record be taken into account?

Information about any final convictions against you contained in your criminal record can influence the type and level of punishment; they are considered to be aggravating circumstances. Previous convictions in other Member States may also be taken into consideration. The court compares the criminal offences in terms of their similarity, whether they were committed with the same motives, and how much time has passed since a previous conviction or sentence.

Whether you are granted conditional release also depends on whether you reoffend. Under certain conditions, the court can merge the sentence imposed in the past with the new sentence into a single sentence.

What happens at the end of the trial?

As a rule, the trial ends with the court immediately giving its judgement. The judgement can exceptionally be postponed for a maximum of three days. The court also decides on detention, which can be ordered, extended or lifted.

The court will convict you if it is convinced that you are guilty of the crime.

The court will acquit you if the offence you are charged with is not a criminal offence; if there are circumstances that exclude guilt or make it inappropriate to punish you; if it has not been proven that you have committed a criminal offence; or if the offence is of minor importance.

The court may also pass a judgement rejecting the charge; this happens if certain procedural obstacles exist, for instance because the prosecutor withdrew the charges, or you have already been convicted of the same offence, or because the prosecution against you has lapsed etc.

What types of sentence can the court pass if I am convicted?

If you are convicted, the court can pass a punishment of imprisonment or a fine. The court can also impose a fine or a disqualification from driving as a secondary sentence. In minor offences, the court can pass sanctions such as a suspended sentence, supervised suspended sentence and judicial admonition.

Imprisonment should not be shorter than 15 days and not longer than 30 years. For certain serious crimes against humanity and in case you have been convicted of two or more serious crimes, a punishment of life imprisonment can be imposed.

A financial fine is determined in daily amounts.

The duration of imprisonment and the number of daily fine amounts are determined within predefined ranges depending on the seriousness of the crime and your guilt. The level of the daily amounts depends on your income.

If you have committed a crime as a motor vehicle driver, the court can also prohibit you from driving a particular type or category of motor vehicle. This ban may last from six months to two years.

If a suspended sentence is passed, the court determines the punishment, but the punishment will not actually be imposed if you do not commit another criminal offence in the probationary period or if you fulfil the conditions set out in the judgement.

What is the role of the victim during the trial?

The injured person or victim of a criminal offence can be present throughout the trial on their own or with a lawyer. They can produce evidence, questions all persons heard, and give remarks and clarifications regarding the evidence produced.

Related links

List of courts

Criminal Procedure Act

Constitution of the Republic of Slovenia

Criminal Code-1

Last update: 16/02/2012

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4 - My rights after the trial

Can I appeal?

If you are not satisfied with the judgement, you can appeal against it. You must announce an appeal within eight days of the judgement being given, except where a sentence of imprisonment has been imposed. If you do not announce an appeal, you are deemed to have waived the right to it. Then, the court will within a maximum of 30 days to prepare a judgement with an explanation of the grounds, which must be personally served on you unless you have a counsel. You can appeal within 15 days of being served with the judgement. Your appeal must include a statement of grounds.

What happens if I appeal?

An appeal should be lodged at the court that issued the judgement. It will be dealt with by a higher court. An appeal lodged in time suspends enforcement of the judgement.

A judgement can be challenged due to:

a major violation of the provisions governing the criminal procedure;

a violation of criminal law;

a mistake in or an incomplete finding of the actual state of facts;

a decision on criminal sanctions, the confiscation of crime proceeds, the costs incurred in criminal procedure and property claims, and due to a decision on publishing the judgement in public media.

In an appeal, you must state the judgement you are appealing against; the reasons for challenging the judgement; a statement of grounds; the request to partly or fully reverse or change the judgement; and your signature.

If your appeal does not include all these elements, the court will ask you to add them.

You can state new facts and evidence in the appeal. However, you must also explain why you did not refer to them before.

What happens at the appeal hearing?

The court will dismiss appeals that are not lodged within the required time limit and are not permissible. The other party can respond to a permissible appeal within eight days. The appeal is then sent together with the file to a higher court, which will deal with it. Generally, the higher court will convene a session. You will be invited to it.

In some cases, the higher court also conducts a trial at which it takes evidence. After the reporting judge presents his/her report, you can explain your appeal and present new facts and evidence. The prosecutor may withdraw or change the charges in your favour.

What can a court of second instance decide?

If it finds that the appeal is not justified, the higher court rejects the appeal with a judgement and confirms the first-instance judgement.

If an appeal is justified, the higher court grants the appeal by way of a ruling. It also reverses the judgement at the level of first instance and sends the case to the first-instance court for a new trial. When rehearing the case, the court of first instance uses the initial charge as the basis. You can present new facts and evidence at the new trial. An appeal is permissible against a new judgement.

In certain cases, the higher court can only change the judgement of a first-instance court by issuing a new judgement. You can appeal against this judgement to the Supreme Court of the Republic of Slovenia if the higher court passed or confirmed a jail sentence of 30 years or life imprisonment; if the higher court established different facts than the court of first instance; and if the higher court changed a judgement of acquittal into a judgement of conviction.

What happens when the second-instance court decides on the appeal?

A judgement becomes final when it can no longer be challenged with an appeal, or if no appeal is possible against it. At this point, the criminal procedure closes and the decision about the case becomes final.

A final judgement can only be challenged with extraordinary legal remedies, which are:

a reopening of the criminal procedure;

an extraordinary reduction of the punishment;

a request for the protection of legality.

Each extraordinary legal remedy is subject to different conditions regarding the persons entitled to lodge it; the grounds based on which it can be lodged; and the time limit within which it can be lodged.
If you feel that the final judgement violates the rights to which you are entitled under the Constitution, you can lodge a constitutional complaint with the Constitutional Court.
If it turns out within the appeal procedure that the first-instance court was wrong in its decision, you are entitled to compensation, provided all assumptions regarding liability for damages are fulfilled under general civil law.
You are entitled to compensation under a special compensation procedure if you were wrongfully convicted with a final judgement, and if you were deprived of liberty without justification through police custody or detention already in the first instance procedure.

Information about the conviction

When you are finally convicted of a criminal offence, the conviction will be noted in your criminal record kept by the Ministry of Justice. Your consent is not needed.
Under the previous Criminal Code, access to criminal records is given to courts and criminal prosecution bodies, state bodies, legal entities and employers with a justified interest.
It is accessible to an individual person if he/she needs information from the criminal records for the sake of his/her own rights. The court can obtain information about your previous convictions any time during the trial. The current Criminal Code-1 leaves the regulation of these issues to a sector-specific act, which has not yet been passed.

Will my conviction be deleted from the criminal record?

Statutory rehabilitation

When you are rehabilitated, the Ministry of Justice will, on its own motion, delete your conviction from the criminal record.
A conviction is deleted from the criminal record within a specific period after you have served your sentence. The condition is that you have not committed a new crime in this time. The deadlines for deleting a conviction depend on the level and type of sanction. Any penalty of imprisonment exceeding 15 years will not be deleted.

Judicial rehabilitation

The court that convicted you at first instance can decide, on your request, to delete the conviction from your criminal record. This can happen if one-half of the statutory period after which the conviction is deleted by law has passed and you have not committed another crime in this time. The court will also consider your personal circumstances and the nature of the crime committed.
A conviction can also be deleted through an amnesty or a pardon.

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

If you are a national of another country, you can request the court to let you serve your sentence in your country. On the basis of an international treaty or reciprocity, the court asks your country to carry out your sentence. In specific circumstances even a criminal prosecution can be handed over to your country.

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

You cannot be convicted again for an offence for which criminal proceedings against you have been finally stopped, the charge has been finally dismissed, or you have been finally acquitted or convicted. This right is also safeguarded by the possibility to use extraordinary legal remedies. An extraordinary legal remedy cannot change a final judgement in a way that puts you in a worse position.

Related links

Criminal Procedure Act
Criminal Code-1
Criminal Code
Amnesty Act
Pardon Act
Criminal records
Ministry of Justice

Last update: 16/02/2012

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5 - Road traffic offences

How are road traffic offences dealt with?

Minor offences are dealt with in a fast-track procedure by bodies authorised to deal with minor offences ("minor offence bodies"), such as the police and municipal traffic wardens. In an ordinary procedure, minor offences are dealt with by courts.

Fast-track procedure

A body authorised to deal with minor offences collects evidence and issues a written decision. The offence body will issue a fixed penalty notice if you violate stopping and parking regulations or drive against the rules; this may be observed by the offence body itself or by using technical devices.
If you want to challenge a fixed penalty notice, you must lodge an objection within eight days the notice being served. Your objection will be decided on by the offence body by issuing a decision. You can lodge a request for judicial protection against this decision (and in certain cases directly against the fixed penalty notice) within eight days of having received it.
Within eight days of the decision or when the fixed penalty notice has become final, you can pay one-half of the fine. However, if your request is rejected, you will also have to pay the other half.
You should lodge a request for judicial protection with the offence body. The request will be dealt with by the court. The court issues a judgement by which it either rejects the request as unjustified, or upholds the request and changes the decision on minor offences with a new judgement. As a rule, no appeal is possible against this judgement.

Ordinary judicial procedure

This procedure is used in certain cases (e.g. conditions exist to issue a secondary sentence; juvenile offender etc.). The court acts on the basis of an accusatory complaint.
In the procedure, you must be questioned at a hearing and must be able to present evidence. If you admit the offence, the court does not have to collect other evidence.

After conducting the procedure for taking evidence, the court can decide that you are liable and issue a sanction for the minor offence. In all other cases, the court stops the procedure with a judgement. You can appeal against the judgement to a higher court within eight days of having been served with the judgement.
Final decisions on minor offences are deleted from the records kept by the Ministry of Justice three years after they became final.

What sanctions can be passed?

The usual sanction passed with respect to road traffic offences is a fine. For very minor offences, an admonition can also be issued. In addition to a fine, other sanctions are possible: penalty points combined with the revocation of a driving licence and a driving disqualification.
If you do not pay the fine, the payment can be collected with force. Another option is the so-called "compliance imprisonment" ordered by a court. This means you can be kept in prison until the fine has been paid, but for a maximum of 30 days. Even after you have served the "compliance jail sentence", you will still be liable to pay the fine. If you are in a very difficult financial situation you can ask the court – before the compliance imprisonment is due – to replace the fine with community service.

Penalty points in road traffic are imposed for serious offences against public traffic safety. If you acquire 18 penalty points or more in three years, the court can under certain other conditions also decide to revoke your driving licence.
If you commit serious offences against public traffic safety, you can be banned from driving for a period from one month to one year.

What happens if I am a citizen of another country?

If the police catch you committing a minor offence and you could avoid the penalty by going abroad, you will be brought before a competent judge. If you are caught in the act when courts do not operate and the police think you might want to escape, you can be held in police custody for a maximum of 12 hours.
If you do not have a place of permanent abode in Slovenia and there is a risk that you would want to avoid punishment, the court may decide after interrogation that you can deposit bail money or can immediately execute the decision, regardless of an appeal. Personal documents and other movables may be seized.
The court must decide on any request for judicial protection or appeal within 48 hours.

Related links

Road Traffic Safety Act
Minor Offences Act

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