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3 - My rights before the court

Where will the trial take place?

- The police court hears the least serious cases (offences punishable by a fine of between €1 and €25 (breaches of the Rural Code, etc.) and all breaches of the Highway Code (fatal accidents, etc.);
- The criminal division hears offences or crimes reduced to misdemeanours by statute (those to which mitigating circumstances have applied immediately);
- The assize court hears the most serious crimes (those for which it's not possible or desirable for mitigating circumstances to apply).

Will the trial be held in public?

In principle, the trial is held in public in a room accessible to everyone (onlookers, journalists), unless this is not possible for security reasons.

Where you are affected by a sexual offence (rape, etc.), you can ask the court to hear the case in private, i.e. to restrict access to the court room to those persons to whom the trial relates.

If it is a matter of detaining an offender who is not responsible for his actions because he is seriously mentally disturbed, the latter may ask for the case to be heard in private, to which the Public Prosecutor's Office may object.

Who will hear the case?

Professional judges before the police court or criminal division. However, before the assize court, 12 jurors will alone rule on whether the accused is guilty. They will then decide on the penalty with three judges.

Can the accusations/charges be amended during the trial?

The facts of which you are accused may be treated differently by the Prosecutor's Office and by the judge. For example, if you have broken a car window, the Prosecutor's Office may prosecute you for attempted theft, whereas in fact you only intended to break it. The court may classify it differently and consider that it was a case of damage. However, it must notify you in order to enable you to defend yourself on this new basis.

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

The sentence will not be reduced automatically.

What are my rights during the trial?

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

You can always be represented by a lawyer. In exceptional cases, you will have to appear in person where the court has deemed this to be necessary by means of an order which it must ensure that you receive prior to the hearing.

Can it take place without me?

If you are not present or represented by a lawyer to reply to the accusations, the trial will take place without you and you will be judged in absentia.

If I live in another Member State, can I take part by video?

No.

Will I have an interpreter if I do not understand the language of the court?

Yes.

Do I have to have a lawyer ?

No, except in the assize court.

Will I be given a lawyer?

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Can I change lawyers?

Yes, even without giving a reason.

Can I speak at the trial?

Yes.

Do I have to speak at the trial?

It is not compulsory.

What will be the consequences if I do not tell the truth during the proceedings?

You have the right not to incriminate yourself and to develop your defence strategy as you see fit. This also includes the right to remain silent.

What are my rights in respect of the evidence cited against me?

Can I contest the evidence submitted against me?

Yes.

How?

By asking the judge at the hearing to have further investigations carried out.

Why?

To demonstrate the unlikelihood of the accusation.

What sort of evidence can I submit in my favour?

Submission of any document, request for a second expert opinion, hearing a new witness, etc.

Can I use a private detective to obtain evidence in my favour?

Yes.

Is such evidence acceptable?

Yes.

Can I ask witnesses to speak in my favour?

Yes.

Can I or my lawyer question other witnesses in the case?

Yes, through the police or the judge.

Can I or my lawyer contest what they say?

Yes.

Will information about my criminal record be taken into account?

Yes.

- What type of information?

Previous convictions.

- In what circumstances? At what stage?

They enable the maximum sentence to be doubled and may prevent the application of measures in your favour.

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

Yes, they may be forwarded to the judge.

What will happen at the end of the trial?

What are the possible outcomes of the trial?

- The prosecution may be declared inadmissible, if an important rule has not been complied with. However, a new trial may be possible;
- Acquittal, if there is insufficient evidence to demonstrate your guilt beyond all reasonable doubt;
- Conviction.

In the event of a conviction, the judge has 5 options, depending on the nature of the offences and your criminal history:

- custodial sentence;
- community service order: to carry out within one year unpaid work for the community, subject otherwise to receiving a prison sentence or fine;
- fine;
- stay of execution of the conviction or suspension of the ruling, with or without conditions (not committing any further offences, undergoing training, not frequenting certain areas, etc.) for a period of between 1 and 5 years;
- simple declaration of guilt.

What is the victim's role during the trial?

The victim may speak on the facts relating to him/her and claim monetary compensation.

How?

Verbally or by submitting a written claim.

At what stage?

At the hearing, just after you have been questioned by the judge.

For more information, see the sheets on the [rights of victims](#).

Related links

[Addresses of the courts](#)

[Ministry of Justice website](#)

[Addresses of prisons](#)

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