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4 - My rights after the trial

Can I appeal?

You have the right to appeal against a judgment within 40 days from the date of the judgment by means of a declaration to the court. This appeal may be confined to an appeal against the amount of the sentence or against the civil claim.

Jurisdictions

- Minor offence ("*contravention*") = before the police court; the appeal is heard by the criminal court.
- Major offence ("*délit*") = before the criminal court; the appeal is heard by the Court of Appeal.
- Crime ("*crime*") = before the criminal division of the district court; the appeal is heard by the criminal division of the Court of Appeal.

What will happen if I appeal?

The State Public Prosecutor at the court where the appeal is to be heard is informed within 24 hours of the appeal. A date will be set for hearing the appeal and will be notified to you.

How long will it take for the appeal to be heard?

It will take several months for the appeal to be heard.

Will I be able to submit new evidence for the appeal? What rules are applicable?

You have the right to submit new evidence as part of the appeal. The rules of evidence apply. The court accepts all the legal evidence which is presented. It will not accept, however, procedural evidence such as the nullity of a document which should have been raised during the initial hearing.

What will happen at the appeal hearing and what may the court's decision be?

The judges re-examine the facts, but in principle witnesses are not heard again unless the court deems this to be necessary. Similarly, it may hear new witnesses if required.

Generally speaking, the appeal court cannot increase the sentence given in the lower court if it was only the defendant who has contested the ruling. In this case, the court may only maintain or reduce the defendant's sentence. An increase in the sentence is only possible where the State Public Prosecutor has also appealed against the judgment, which is generally the case if the accused appeals against the criminal part of the ruling.

What will happen if the appeal is upheld/dismissed?

You have the right to make a further appeal ("*cassation*"). The Court of Cassation confines itself to verifying the law but no longer concerns itself with the facts.

If the first decision was wrong, will I get damages? How much? How?

You are only entitled to compensation in the event of wrongful imprisonment. This right is open to any person who has been remanded in custody for more than three days on condition that the custody or the continuation thereof is not your own fault.

If my appeal is upheld, will the ruling against me remain on my criminal record?

If your appeal is accepted and results in your being acquitted, the ruling against you will not be entered on your criminal record.

Is another appeal possible if the first appeal fails? To whom? Under what circumstances?

A review may still be requested by any person recognised as the perpetrator of a crime or offence by a final decision in the following circumstances:

- Where, following a conviction for a crime or offence, a new legal decision has convicted another person for the same act and the two convictions cannot coexist, in this case their contradiction is proof of the innocence of one or the other.
- If the witnesses heard are subsequently convicted of perjury.
- Where, after the conviction, a fact arises or unknown evidence comes to light which is such as to totally or partially establish your innocence.
- Where, following a conviction for homicide, evidence is presented which provides sufficient indication of the existence of the alleged victim.
- Where the European Court of Human Rights rules that a criminal conviction has been handed down in violation of the Convention on Human Rights.

The Supreme Court of Justice, acting as Court of Cassation, will rule on the review applications.

When does a conviction become final?

A conviction becomes final when all available appeals have been exhausted, including when the periods for bringing an appeal or further appeal have expired.

Can I be deported after the trial if I come from another Member State?

You may be deported after the trial as a national of another Member State in the event of current serious disturbances affecting the maintenance of law and order. A national of a third country may ask to be released half way through his prison sentence if he gives a written undertaking never to return to the country.

You may appeal to the Administrative Court against the Ministry of Immigration's decision to deport you.

What happens to the information about the accusations/conviction?

The information about your conviction will be entered on your criminal record, the file in which convictions by the Luxembourg criminal courts are recorded.

How and where will this information be kept?

The criminal record is kept at the General Prosecutor's Office under the authority of the State Public Prosecutor in the form of a computerised database. You are shown in the database under your surname and first name, the surname and first name of your father and mother and, where applicable, your spouse, with your date and place of birth, place of residence and profession, or by means of an identification number.

How long will it be kept for?

Convictions handed down by a Luxembourg court are deleted from the criminal record once you are deemed to have earned legal or judicial rehabilitation.

Can it be kept without my consent?

Keeping information on the criminal record is obligatory and may be done without your consent.

Can I object to this information being kept? How? To whom?

You have the right to object to entries on the criminal record; you have the right to appeal to the Judges' Council Chamber at the district court.

Related links

[Criminal record](#)

[Criminal Code](#)

[Code of Criminal Procedure](#)

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