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4 - My rights after the court has pronounced its decision

Can I file an appeal?

In the case of petty offences, you may appeal against certain judgments of the police court and local courts within 10 days from their pronouncement, before the *Chambre des appels correctionnels* (Court of Appeal, Criminal Appeals Division).

In the case of *délits*, you may appeal against judgments of the *tribunal correctionnel* (court dealing with lesser offences) within 10 days from their pronouncement, before the *Chambre des appels correctionnels* (Court of Appeal, Criminal Appeals Division).

For crimes, you may appeal against conviction by the *Cour d'Assises* (court dealing with the most serious offences) before another *Cour d'Assises* within 10 days from pronouncement of the judgment.

You may appeal either against the judgment pronounced in the criminal proceedings (sentence) or against the judgment pronounced in the civil action (damages and interest awarded to the victim).

You may also appeal to the Criminal Division of the Court of Cassation against higher court judgments given on appeal and judgments of last resort, within five days of the date when the contested decision was pronounced.

The Court of Cassation, as supreme court, will give a decision within a set period on whether the appeal is admissible; if the appeal is deemed admissible, the Court of Cassation can only rule on the application of law and does not therefore decide on the merits of the case.

Notice of appeal must be given to the clerk's office of the court that pronounced the contested decision or the head of the penal institution if you are detained.

In all cases it is imperative that you sign the notice of appeal.

What will happen if I file an appeal?

During the term of appeal and proceedings before the Court of Appeal, or during the term of appeal and proceedings before the Court of Cassation, enforcement of the contested decision is, in principle, suspended.

However, if you have been sentenced to a penalty involving deprivation of freedom and then placed in detention, appealing against the contested decision does not have the effect of putting an end to detention pending the further decision.

Once the notice of appeal has been registered by the court to which it has been referred, the hearing must be held within a "reasonable" period.

What will happen at the hearing before the Court of Appeal or Court of Cassation?

As criminal proceedings are oral, you have the option of presenting and developing new evidence and elements of proof during the appeal, which will hear full argument on both sides.

Ruling on appeal, the *Chambre des appels correctionnels* or *Cour d'Assises* may either confirm or overturn the

contested decision.

In certain cases only, particularly where the public prosecutor has filed a principal appeal or appeal on a point of law, you could on appeal incur a heavier penalty than the original sentence and an increase in the damages and interest requested by the civil claimant (victim).

The Court of Cassation, ruling on the application of law, can quash and annul the contested decision and may or may not refer the parties back to the Court of Appeal.

A judicial decision only becomes final when the time limits for exercising the remedies at law have expired.

If, on conclusion of the appeal lodged against the initial conviction, you are discharged or acquitted by a final judgment of the appeal court, you may, subject to certain conditions, apply for full reparation of the material loss and pain and suffering that the "arbitrary" detention has caused you.

You will be informed of your right to obtain reparation upon notification of the decision to discharge or acquit you.

In this regard, you have a period of six months from notification of the discharge or acquittal decision to make an application to the First President of the Court of Appeal in whose jurisdiction the decision was pronounced.

The latter will rule on the application for reparation in a decision stating reasons, pronounced following a public hearing during which you may ask to be heard personally or through your lawyer.

The decision of the First President of the Court of Appeal may be the subject of an appeal lodged before

the *Commission Nationale de réparation des détentions* (CNR - a national body dealing with applications for compensation for unjustified detention) within a period of 10 days from its notification.

The CNR rules sovereignly and its decisions are not liable to appeal.

The reparation awarded is payable by the State.

What information is contained in the criminal record?

If, on conclusion of the appeal to the Court of Appeal or Court of Cassation, a final judgment has sentenced you to a penalty, the conviction will be recorded in your criminal record held by the judicial administration of your country of origin.

I am a national of a Member State. Can I be sent back after the trial?

By virtue of the Convention on the transfer of sentenced persons of 21 March 1983, transfer to your country of origin may be requested either by the latter or by France, the sentencing state.

However, implementation of the transfer requires your prior, free, and informed consent, which means that you must be fully and precisely informed of the consequences of transfer.

In addition, you may personally request a voluntary transfer to your country of origin. Your request may be accepted if various conditions are met.

If I am convicted, can I be judged again for the same actions?

By virtue of the "Non bis in idem" principle that governs French criminal law, if you have been judged and convicted by virtue of a final judgment in a Member State, you cannot be either prosecuted or convicted for the same actions in another Member State.

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