4 - My rights after the trial

Can I appeal the sentence of the court of the first instance?

When the court of first instance pronounces its sentence, you have to be asked whether you intend to appeal. You can accept the decision, file an appeal, or request three days to consider whether you want to appeal.

The appeal must be submitted to the court of the first instance in writing or orally and recorded at the same court. Reasons for the oral appeal can subsequently be provided in writing. If you are not present when the judgement is passed, it will be served upon you by mail, and you can appeal within 8 days of receiving it. You can appeal for both factual and legal reasons.

In the appeal you can state a new fact and refer to any new evidence you learnt about after the judgement was given. You can also submit a motion for consideration of evidence which was disregarded by the court of first instance.

What happens if I appeal?

The appeal court examines whether the judgment is well-founded in the light of the facts of the case and legally correct, and whether the first-instance procedure complied with the law.

The court decides the appeal at a court hearing or in an open session (see below). You will have the chance to appear in person before the appeal court, unless the court decides on its ruling at a council meeting (in the presence of only the judges). This happens rarely, usually when a decision favourable to you as the accused can be passed (e.g. acquittal or ordering the court of the first instance to execute a new procedure due to the violation of some procedural rule).

The date of the appeal hearing must be fixed within 60 days from the date when the appeal court receives the documents relating to the case. The hearing must take place on the earliest date possible.

There is no difference in the handling of the appeal if you are under preliminary arrest at the time of the appeal. Although theoretically, such cases should be heard quickly, in practice, this is not always the case.

What happens before the appeal court?

Production of evidence at the appeal court is only possible in cases where the court of the first instance failed to uncover the facts of the case, or if producing evidence might correct some breaches of procedural rules by the court of first instance.

If there is no need to take evidence, an open session is held. The regulations are the same for court hearings and open sessions, and you have the same rights as during the procedure at the court of the first instance,. The only difference is that both the open session and the court hearing can be held in your absence if you do not appear despite of having been summoned.

The appeal court can make a variety of decisions. It confirms the sentence of the court of first instance if it does not have to be annulled or amended. The appeal court can only amend the judgment of the court of first instance if legal regulations were applied incorrectly or if the appeal court finds that the judgement of court of the first instance was unfounded and this fault can be corrected by taking evidence at the appeal court.

The court can also overrule the sentence of the court of first instance. In this case, it will either terminate the

proceedings or order the court of first instance to conduct new proceedings (e.g. in the case of serious breaches of procedural rules or if the judgment of first instance is largely unfounded). It is important for you to know that the severity of your original sentence can only increase if an appeal is lodged to your disadvantage (e.g. by the prosecutor). That is, you cannot end up in a worse situation as a result of an appeal in your favour.

What happens if the appeal is successful/unsuccessful?

If the appeal is unsuccessful, the appeal court upholds the first-instance decision. If it is successful, it changes the decision (acquits you or reduces the punishment), annuls it and ends the procedure, or orders the court of first instance to conduct new proceedings.

The decision of the appeal court is final; you cannot appeal against it unless you were acquitted at the court of first instance but sentenced by the appeal court. In this case, you can appeal to the court of third instance. The prosecutor can also appeal to the third-instance court if, for instance, you were sentenced at the first instance but were acquitted by the appeal court.

The case can be reopened if a new fact or evidence emerges, or review before the Supreme Court can take place if there has been a serious legal error.

You are not automatically entitled to compensation if the appeal is successful and you are acquitted. You can ask for damages against the court which sentenced you. You will have to prove that the court acted unlawfully. If, you were under preliminary arrest or house arrest, during the criminal process and later you were acquitted, you are entitled to compensation. You have to begin a court action in this case as well, but in this event all you have to prove is the amount of your damages and not that the court process was unlawful.

After you have been finally acquitted, no trace of the fact that there was a criminal procedure underway against you earlier can appear in any record.

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

Nobody can be tried again for the same crime.

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

If you are not a Hungarian citizen, and come from another Member State of the European Union, you can be extradited from Hungarian territory if you are sentenced as a result of committing a crime that is punishable by imprisonment of 5 years or more.

If you have been living in the country lawfully for at least 10 years, are a juvenile or your family lives in Hungary, your expulsion can be ordered only in cases involving the most serious crimes. Expulsion can be final in the case of the most serious crimes, but normally it is for not more than 10 years. The decision can be appealed in the normal way.

Information about the charges/sentence

The Criminal Records Office of the Central Office of Administrative and Electronic Public Services can record details about you in several cases (e.g. if there is a criminal procedure underway against you, if a coercive measure has been applied against you, or if you are sentenced).

This can be done in criminal cases without your consent and you will not be told that the information is being recorded. How long the information is held depends on the nature of the crime and the sentence which you received. Normally information is held for at least 3 and not more than 12 years. If you object to the fact that information about you is being held, you can complain to the Criminal Records Office in writing, or you can ask the data protection ombudsman to consider your complaint.

Related links

The Hungarian Criminal Procedures Law

The law on criminal records

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