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## 2 - My rights during the investigation of a crime (before the case goes to court)

### What is the purpose of a criminal investigation?

The investigation collects evidence either to prove or deny an assumption that a person has committed a crime. An investigation can be caused by a complaint to the investigating authorities about a crime committed, or by information in the possession of those authorities, suggesting a crime. If the police catch someone in the act of committing a crime, that can also start an investigation.

Usually, all stages of the investigation are carried out by the police. Some cases are dealt with by investigating magistrates or prosecutors. But it is only a prosecutor that can guide and control an investigation.

### What are the pre-trial stages?

#### Investigation (including bringing charges and questioning)

The investigating authorities seek to collect evidence which will prove or deny an assumption that a crime has been committed. If they collect enough evidence to support the assumption that a specific person has committed the crime, the investigating officer must notify that person in writing. The person must sign the notification. Right after that, the accused person is questioned.

#### Arrest

If the police find evidence suggesting that a person has committed a crime, the police can arrest and hold that person, but for not more than 24 hours. Only a prosecutor can decide whether the detention should be extended, but for not more than 72 hours. Otherwise, the detained person should be released. The purpose of the police detention is to establish whether a person should be accused. The prosecution detention is to ensure the first court appearance of the accused person.

#### First court hearing

In principle, the prosecutor determines what [measure to prevent evasion of prosecution](#) is to be imposed on the defendant. But if the prosecutor decides that the [measure to prevent evasion of prosecution](#) should be detention or house arrest, the prosecutor files such a request to the court and ensures that the defendant appears before the court.

#### Detention or release

If the defendant is brought to court, only the court can decide whether the [measure to prevent evasion of prosecution](#) will be detention or house arrest, or whether the detainee must be released.

#### Preparation of the case by the prosecution

When the investigation is completed, the investigating officer sends the collected evidence to a prosecutor. The prosecutor examines the evidence and decides whether the assumption that a crime has been committed has been proven beyond a reasonable doubt. Only then can the prosecutor file charges in court. Otherwise, the prosecutor dismisses the case.

#### Preparation of the case by the defence

Once they are informed of the charges, the defendant and the defence lawyer can produce proof in the defendant's favour. After the end of the investigation, if requested by the defendant and the defence lawyer, the investigating officer must make all the collected evidence available to them and give them enough time to examine the evidence.

## My rights during the investigation

Please note that the stages "arrest", "first court hearing" and "detention" are possible but not necessary. Follow the links below to find out more about your rights at each stage.

- [Investigation \(incl. bringing charges and questioning\) \(1\)](#)
- [Arrest \(including European Arrest Warrant\) \(2\)](#)
- [First court hearing \(3\)](#)
- [Detention or release \(4\)](#)
- [Preparation for trial by the prosecution \(5\)](#)
- [Preparation for trial by the defence \(6\)](#)
- [Measures to prevent evasion of prosecution \(7\)](#)
- [Ban on leaving Bulgaria \(8\)](#)

## Investigation (including bringing charges and questioning) (1)

What will I be told about what's happening?

If enough evidence is found against you, the investigating officer will call you and notify you in writing of the crime which he is accusing you of. Immediately after that, the officer must advise you of your rights during the investigation. You will sign a document stating that you have been informed of your rights.

Will an interpreter be provided if I don't speak the language?

Yes. You may refuse to sign the paper notifying you of the charge if an interpreter has not been provided to you. The interpreter will assist you during the entire investigation. You do not have to pay for the interpreter.

At what stage will I be able to speak to a lawyer?

[here](#)

Will I be asked for information? Should I provide information?

As soon as you are told about the charges, the investigating officer will question you. You can either speak or remain silent in connection with the charges. You can also provide explanations later at any time during the investigation.

What happens if I say something which is bad for my case?

Your confession could lead to a lighter penalty. Keeping silent cannot make your situation worse. The court cannot convict you on the basis of your confession only.

I am from another country. Do I have to be present during the investigation?

Being a defendant, you should be available to the investigating authorities. For that purpose, [a measure to prevent evasion of prosecution](#) can be imposed on you. An investigation can be held in your absence from the country when:

- your place of residence is unknown;
- you cannot be summoned for other reasons;
- having been summoned, you did not appear and or give any valid reasons for not doing so.

[here](#)

You can be questioned by video-link if you are out of the country and that would not hinder the investigation. In

that interrogation, you will have the same rights as those outlined earlier in this factsheet.

Can I be sent back to my home country?

Yes, but under the conditions specified in the [Criminal Procedure Code](#). You will need a lawyer's advice.

Will I be held in custody or be released?

You may be held in custody. For more detailed information see [First court hearing \(3\)](#) and [Detention or release \(4\)](#).

Can I leave the country during the investigation?

You can if you are not held in custody but you should inform the investigating authority. If they think that there is a risk of your evading investigation, you may be [banned from leaving the country](#).

Will I be asked for fingerprints, samples of my DNA (e.g. hair, saliva) or other bodily fluids?

You can be asked for such samples if they cannot be obtained in any other way. You must provide them. If you refuse, they will be taken by force with the court's permission. If sample taking requires penetration of your body, it is performed by a doctor. You have the right to be informed about the procedure by the investigating officer.

Can there be a body search?

The investigating officer can order a body search to collect evidence or seize objects that may hinder the investigation or help you run away. The search should be sanctioned by a warrant of the court or would require subsequent court approval. You are entitled to see both the search protocol and the court decision.

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

The answer is the same as above.

Can I plead guilty to all or some of the charges before the trial?

You can plead guilty during the first interrogation after you hear what you are accused of. About confessing and your rights in that context, see the information earlier in this factsheet.

Can the charges be changed before the trial?

If new evidence is collected, the charges can be changed. You should be notified immediately of any new charges and, questioned in that connection.

Can I be charged with an offence which I have already been charged with in another Member State?

Yes, unless provided for otherwise under an effective international agreement to which Bulgaria is a party.

Will information be requested about my criminal record?

Yes, whether or not you wish this.

## Arrest (including European Arrest Warrant) (2)

What will I be told about what's happening?

The arrest (police detention) is ordered by a police officer. You may not be held for more than 24 hours. The grounds for detention are specified in the arrest warrant. You have the right to know the grounds, see the warrant and sign it.. The police authorities should release you as soon as there is no longer a reason for your detention.

Will an interpreter be provided if I don't speak the language?

If you don't speak the language, you are entitled to know the reasons for your arrest right away. An interpreter will be provided for free.

At what stage will I be able to speak to a lawyer?

[here](#)

Will I be asked for information? Should I provide information?

You may be asked to provide information in connection with the detention. You may but don't have to provide information.

What happens if I say something which is bad for my case?

At that stage, any information provided by you is not accepted as evidence. Therefore, it cannot be used against you. Only the information provided by you during an interrogation held once you know the charges can serve as evidence. For more details see [Investigation \(incl. bringing charges and questioning\) \(1\)](#).

Can I contact a family member or a friend?

You can. The police officer must immediately notify a person suggested by you of your arrest.

Can I see a doctor if I need one?

You are entitled to medical aid if you need it. The police will get a doctor for you.

Can I contact my Embassy if I am from another country?

You can contact the consular office of your country. The detaining authority should immediately read that right to you.

Can there be a body search?

After you are arrested, there will be a body search. The court should later give its approval for the personal effects found on you to be used as evidence. You have the right to see the search protocol.

Can I appeal?

You can challenge the legality of the police detention by appealing before the court. The court will immediately decide your appeal.

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

If a Member State issues a [European Arrest Warrant](#) against you, you can be detained in another Member State and turned over to the issuing State after a hearing by a judge. You are entitled to a lawyer and an interpreter, if you need one, at the hearing.

## First court hearing (3)

Why does the first court hearing take place?

When you are told about the charges against you as "a defendant", the prosecutor may ask that you be held in custody on remand, or placed under house arrest, as [a measure to prevent evasion of prosecution](#). Each of these two measures is imposed by the court as proposed by the prosecutor. As such a measure cannot happen in your absence, you should be brought to court which will decide on the measure.

Who plays what role?

The prosecutor's role is to ensure that you appear before the court. While you are held by the police, the prosecutor can extend your detention but for not more than 72 hours. The only purpose of that detention is to secure your appearance before the court within those 72 hours. The court will hear you out, examine the collected evidence and decide, pursuant to the law, whether to detain or release you.

What will I be told about what's happening?

You have the right to be told by the prosecutor why you are detained and when you will be brought to court.

Will an interpreter be provided if I don't speak the language?

If you don't speak the language, you can have an interpreter, free of charge, at the court hearing.

At what stage will I be able to speak to a lawyer?

[here](#)

Will I be asked for information? Should I provide information?

The court will ask you to confirm your personal details. You have the right to be heard by the court as to whether you should be detained or released. Your lawyer will give you advice about what to say.

What happens if I say something which is bad for my case?

At that stage, any information provided by you is not accepted as evidence. Therefore, whatever you may say cannot be used against you.

Will I get information about the evidence against me?

Both you and your lawyer have the right to see the evidence on which the prosecutor has asked for your detention. You will have enough time to examine the evidence before the court hearing.

Will information be requested about my criminal record?

The court will ask to see your criminal record no matter what you want.

## Detention or release (4)

What will I be told about what's happening?

After the court examines the collected material and hears out the prosecutor, your lawyer and yourself, you will know the court's decision at the same court session.

At the first hearing, the court can:

- determine a [measure to prevent evasion of prosecution](#)– for you to be held in custody on remand or to be placed under a house arrest;
- decide on a lighter [measure to prevent evasion of prosecution](#) and release you;
- release you without imposing any [measure to prevent evasion of prosecution](#).

At that hearing, the court will not decide on how well-founded the charges against you are.

Can I contact a family member or a friend?

If the court orders that you be held in custody, your family will be notified immediately.

Can I see a doctor if I need one?

If you are held in custody, you are entitled to medical aid when you need it.

Can I contact my Embassy if I am from another country?

If you are detained, the court will order that the Bulgarian Ministry of Foreign Affairs be notified immediately so that it can contact the consular office of your country.

Can I appeal?

You can appeal against the court decision on your detention or release within 3 days from the day it is made. The

Court of Appeal will consider your appeal within 7 days from the pronouncement of the first instance decision. Its decision will be final.

## Preparation of the case by the prosecution (5)

What is the purpose of this stage?

This stage comes after the investigation is completed (for more about the investigation see [here](#)). The purpose is for the prosecutor to examine the collected evidence and decide whether the assumption that a crime has been committed has been proven beyond any doubt. Only then can the case be taken to court to start a criminal process.

Who has a leading role?

The prosecutor. At this stage, the prosecutor decides whether to take the case to court. Also, the prosecutor can terminate pre-trial proceedings when that is provided for by the law. Then the case is not taken to court. Further, the prosecutor can suspend pre-trial proceedings if allowed by law until the reasons for suspension are no longer valid and then the proceedings are resumed. If the prosecutor finds anything incorrect in the way the investigation material is examined by the defendant, the prosecutor can refer the case back to the investigating officer to correct it or can do that himself.

How will I know what's happening?

If the charges against you are filed in court, the court will send you a copy of the indictment. If the prosecutor terminates or suspends the proceedings, the prosecutor will send you a copy of the decision.

Can I appeal?

You can appeal, before the court, against the prosecutor's decision of termination within 7 days from the receipt of the copy. The court of first instance will examine the appeal within 7 days from the day it is filed. The court's decision can be appealed before the Court of Appeal which will make a final decision. You can also appeal, before the court, against the prosecutor's decision of suspension. Then the court's decision will be final.

Will I get any further information?

Where the prosecutor finds anything wrong in the way you examined the investigation materials and refers the case back to the investigating officer to correct the breach or corrects it himself, you have the right to be informed of those further acts.

## Preparation of the case by the defence (6)

What is the purpose of this stage?

The purpose is for you and your lawyer to examine all the evidence collected during the investigation, after it is completed, including material that is in your favour. Thus you will know what evidence would support the prosecutor in filing charges against you in court. That will help you and your lawyer to organize your defence during the trial.

How will I know what's happening?

When the investigation is over and if you, or your lawyer, so request, the investigating officer, before sending the collected material to the prosecutor, will let you and your lawyer know the place, date and time for you to examine the evidence. You and your lawyer are entitled to have enough time to do that.

Will an interpreter be provided if I don't speak the language?

If you don't speak the language, you should examine the evidence in the presence of an interpreter. You don't have to pay for the translation.

Will I be asked for information? Should I provide information?

At that stage, you will not be questioned and don't have to provide any information on the case.

What information will I get?

You can see all the collected evidence and read all witness testimonies. Your lawyer will explain to you the meaning of the evidence collected.

What are my rights after I see the evidence?

Assisted by your lawyer, you can ask for new evidence and make comments on, or objections to, any acts related to the investigation. The investigating officer will record your requests, comments and objections while the prosecutor will decide whether or not they are justified.

What happens if my requests, comments and objections are justified?

The prosecutor will instruct the investigating officer to take further action about the investigation. You have the right to be notified of such action and new evidence, if any, under the procedure described so far.

## Measures to prevent evasion of prosecution (7)

Coercive measures may be imposed on you if it can be reasonably assumed, on the basis of the evidence, that you have committed the crime you are accused of. The measures aim to prevent you from going into hiding, committing a new offence or hindering the enforcement of a possible sentence.

Measures to prevent evasion of prosecution are:

- Signing - you assume the obligation to not leave your place of residence without permission of the competent authority.
- Bail - you pay a certain amount of cash or securities. If you go into hiding, that amount is seized and a more severe measure is imposed on you.
- House arrest - you are prohibited from leaving your home without permission.
- Custody on remand - you are forcefully kept in isolation.

A person is held in custody on remand on police premises or in prison.

You have the right to know, against your signature, of the measure to prevent evasion of prosecution against you. Signing and bail are imposed by the prosecutor. House arrest and custody on remand are determined by the court as requested by the prosecutor. The measure is based on the gravity of the charge, the evidence and your personal status. It can be decided, on the basis of those factors, not to impose any such preventive measure on you.

No measure preventing evasion of prosecution can be imposed in your absence. The court has to consider any application filed by you for changing the measures "custody on remand" and "house arrest" to more lenient ones.

Police arrest and detention ordered by a prosecutor for up to 72 hours are preparatory measures and are not, by law, measures to prevent evasion of prosecution.

## Ban on leaving Bulgaria (8)

If you are charged with a crime, punishable by imprisonment for more than 5 years, a prosecutor may ban you from leaving Bulgaria without their permission. The border checkpoints will be immediately notified of the ban. The measure is aimed to prevent you from evading the investigation.

You or your lawyer can request the prosecutor to allow you to leave the country once for a fixed period of time. The prosecutor will reply within three days from the date of receipt of your request. If it is denied, you are entitled to appeal before the court. The court will immediately consider your request without a hearing. The court may confirm the prosecutor's denial or permit you to leave the country for a certain period. That decision will be final.

In the same way, you and your lawyer can request the court to lift completely the ban on leaving Bulgaria. The court will do so if it decides that there is no risk that you will go into hiding abroad.

In the above court procedures, the grounds of the charges against you will not be considered.

## Related links

[Criminal Procedure Code](#)

[Ministry of the Interior Act](#)

[Extradition and European Arrest Warrant Act](#)

[Regulations on the Enforcement of the Ministry of the Interior Act](#)

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