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3 - My rights in court

Where will the trial be held?

The trial will be held in the local city court and will be open to the public. If you have admitted that you have committed the offence or offences with which you are charged, the prosecution will ask for proceedings on an admission of guilt. In that case, the court will only consist of one professional judge. The same applies if the only penalty claimed is a fine.

If you have not admitted your guilt, your case will also be heard by lay judges, and the court will then consist of one professional judge and two lay judges.

If the prosecutor demands imprisonment for four years or more, the case will be heard by a jury. The court will then consist of three professional judges and six jurors. Exceptions are cases concerning narcotics-related crime and economic crime, which are heard by professional and lay judges regardless of the sentence demanded.

Can the charges be changed during the trial?

If the case is to be heard as a guilty plea case, it can be agreed that the charges will be adjusted to fit the crime that you can plead guilty to.

As soon as the trial against you has begun, only minor elements of the charges may be changed. The charges may not be extended without your consent.

What are my rights during the trial?

You must be present during the entire trial. The court may allow you to leave a hearing when you have made your own testimony.

If you have been notified of a hearing, but fail to attend court without a lawful excuse, the court may decide that the witnesses are to be examined in your absence. The court may give its decision in your absence if the prosecution has asked for imprisonment for up to six months and you have given your consent that the trial may be concluded. If you receive an unconditional sentence of up to three months of imprisonment, the case may be concluded even without your consent.

Since 1 November 2009 it has been possible to attend legal proceedings by means of a video link if the maximum sentence asked for is a fine or imprisonment for up to one year. However, not all courts have installed the equipment needed to give you this option.

If you do not speak and understand the language of the court, you have the right to the help of an interpreter during the entire trial. The interpreter will also assist you if you need to speak with your lawyer during a hearing.

If you do not already have a lawyer, the court will appoint one for you if you plead not guilty to the charges made against you, and if the sentence asked for is more than a fine. If you plead guilty in a case in which the prosecution asks for a prison sentence, the court will appoint a lawyer for you if you ask for one. If you disagree with your lawyer or for some other reason wish to have a new lawyer, your wish will usually be granted.

You do not have to answer any questions during the trial or to tell the truth. You cannot be punished for giving untruthful evidence during the trial. Your lawyer can advise you on whether your interests are best served if you make a statement in your case.

What are my rights in relation to the evidence against me?

The use of written evidence during trial is governed in detail by law. Other than that, there are almost no rules, and you are free to produce any kind of evidence. You and your lawyer can challenge the admissibility of witnesses or evidence, in particular if they are irrelevant to your case or if evidence has been unlawfully obtained. The court decides whether or not to admit such witnesses or evidence challenged by you. In most cases, unlawfully obtained evidence will be declared inadmissible in court. The court will consider the weight of the evidence in question after having heard the other evidence.

You can ask for certain witnesses to be called to testify at a hearing or for a certain piece of evidence to be produced in support of your case. This could for example be a passenger list which shows that you were not at the scene of the crime when it was committed. If the prosecution disagrees with the relevance of certain evidence, the court will decide on the matter.

The party who called a witness will examine the witness first. Afterwards, the other party will have an opportunity to cross-examine the witness. When deciding on its verdict, the court will assess the certainty and reliability of the witness statements given during the trial.

Will my criminal record be taken into account?

Information about previous convictions will be taken into consideration if it follows from the description of the offence that it is a repeat offence. In rare cases, information about the mode of operation used in a previous case can be invoked to substantiate guilt or innocence in the pending case. It will normally affect the length of your sentence if you have previously been convicted of a similar offence, or if you committed the offence during the probation period following a suspended sentence or during release on parole.

Normally, no inquiries will be made about any previous convictions you may have in another Member State.

What happens at the end of the trial?

The case ends with the court's ruling. The outcome can be one of the following:

- Acquittal
- Fine
- Suspended sentence, which may also be an order for treatment or an order for community service
- Unconditional prison sentence

In case of a suspended sentence, the court will normally fix a prison sentence that you will not be required to serve if you do not commit another offence during the probation period, which is typically one or two years. As conditions for probation, the court may require that you remain under the supervision of a probation officer, are treated for alcohol abuse or other types of abuse, receive psychiatric treatment and/or perform a certain number of hours of unpaid community service determined by the court.

There are special sanctions for juvenile offenders (offenders under the age of 18).

What is the role of the victim during the trial?

The victim is considered a witness like all other witnesses. However, in certain cases the victim has the right to a lawyer who is separately appointed by the court and/or to be awarded damages during the trial, provided that the claim for damages is simple and well documented and that the court's award of damages does not cause any material inconvenience.

Related links

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