

Defendants (criminal proceedings)

Greece

Can I appeal against the decision and/or the sentence?

You can file an appeal against the conviction. The right to appeal depends on the type and the severity of the sentence, as well as which court it is that has handed it down.

For example:

in the case of the One-member Misdemeanor Court, you have a right of appeal if the sentence consists of a term of imprisonment of more than 60 days or a financial penalty of more than 1.000 euro;

in that of the Three-member Misdemeanor Court and the court which hears appeals against decisions of the latter, you have a right of appeal if you are sentenced to imprisonment of more than 4 months or a financial penalty of more than 1.500 euro;

in the case of the Mixed Grand Jury or the Three-member Court hearing appeals against sentences for felonies, you have a right of appeal if the sentence consists of a term of imprisonment of more than 2 years in the case of felonies, or more than 1 year for misdemeanors).

You may appeal against an acquittal only if you have been acquitted on grounds of genuine remorse or having been vindicated on grounds which reflect on your good name.

How do I appeal?

To file an appeal you have to draw up a Statement of Appeal and submit it to the Registry of the Court that issued the decision, to include the grounds of appeal, your home address and the name of your attorney.

The time limit for the filing of an appeal is 10 days from the court's decision being made, or service thereof if you have been tried in your absence. However if you live abroad and a default judgment has been issued or your place of residence was unknown, the deadline is extended to 30 days from the date of service of the documents.

What are the grounds of appeal?

An appeal can be based either on the facts of the case or on how the law was interpreted.

What happens if I file an appeal?

The case will be re-tried by the court of second instance.

What happens if I am in prison when I file the appeal?

The appeal will be forwarded to the Public Prosecutor's office, a trial date will be set and you will be summoned to appear at the Court. You can ask that the enforcement of the penalty is suspended until the appeal is heard, subject to certain legal conditions.

How long will it be before the appeal is heard?

Usually between 1-3 years depending on the offence, the location of the Court and whether or not the defendant is in custody.

Can I call on fresh evidence for the appeal?

Yes you may call on fresh evidence at the Court of Appeal. The procedure is the same as that at the original trial. The judges who heard the case at the court of first instance cannot try the case at the court of second instance. The questions of whether the appeal has been properly filed and within the specified deadline will be examined.

What happens at the appeal hearing?

If you fail to appear, either in person or through your legal representative, your appeal will be dismissed and the sentence of the lower court will be upheld. If you do appear, either in person or through your legal representative, the case will be retried and you may call fresh evidence.

What can the court decide?

The Court of Appeal has no power to impose a more severe sentence than the one imposed by the lower court. It can however acquit you or reduce the sentence or impose the same sentence as the one imposed by the lower court.

What happens if the appeal is successful/unsuccessful?

If the grounds of appeal are upheld, the Court of Appeal may acquit you or reduce your sentence; otherwise the decision of the court of first instance will remain in place.

Is there a further right of appeal to another or higher court?

No, the only thing there can be is the reversal of the judgment of the court of second instance if there have been legal irregularities.

If the initial decision is proved wrong, will I be entitled to compensation?

There is no provision for any award of compensation in respect of an unsafe conviction by a court of first instance unless you have served prison time and are then acquitted on appeal.

If my appeal is successful, will a record be kept of the conviction?

Only a record of the judgment of the Court of Appeal will be kept. The earlier judgment is struck out.

When does a conviction become final?

A conviction becomes definitive if no appeal on points of law is filed against the decision of the court of second instance or if an appeal has been filed and then dismissed by the Supreme Cassation Court (the Areios Pagos).

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

You may be sent back to your country if the court orders your deportation. In order for you to be deported, you have to have been sentenced to a term of imprisonment of at least 3 months, or the deportation order has to have been made as part of a supplementary penalty, or security measures have to have been imposed. In cases, in particular, of convictions for felonies relating to drugs, deportation is mandatory and is valid for life.

Does removal take place at once?

No, you must first serve your sentence. As an exceptional measure, if you have been sentenced to prison for a period of up to 5 years and an order for your deportation has been made, the court may decide to suspend your sentence and allow your immediate deportation.

Deportation has to be ordered as part of a court judgment where the sentence has not been suspended and has been served.

You may file an appeal if the order has been issued by a court of first instance and you have also been sentenced to a term of imprisonment against which there is a right of appeal. The appeal must be submitted to the Registry of the court of first instance.

Can I be tried again in another Member State for the same offence?

It depends on the legislation of the state in question.

Will information about the charges and/or the convictions affecting me be added to my criminal record?

Only if the decision to convict you is irreversible will it be entered on your criminal record. This information will be officially entered in the Criminal Records Bureau.

Your criminal record is destroyed:

after you die or after you turn 80;

if you are convicted with reprieve it is destroyed 5 years after the end of the period of suspension, provided that it has not been lifted or revoked in the meantime;

when 10 years have elapsed since serving a term of imprisonment of up to 1 month for a premeditated offence or 2 months for an offence involving criminal negligence, provided that you have not been convicted for other crimes in the meantime.

Your consent is not required to keep this information.

If there is any dispute, you may ask the Public Prosecutor to the Court of Misdemeanors for a ruling. You can then file an appeal against this decision to the Misdemeanor Indictment Division within a month of the decision being served.

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