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## Defendants (criminal proceedings)

Latvia

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### What are the stages of a criminal investigation?

The purpose of the pre-trial proceedings is to:

find out if a crime has been committed;

who is to be charged with a criminal offence;

whether it is possible to dismiss the case, close it, or take it to court.

The pre-trial criminal proceedings have two stages – investigation and prosecution.

The investigation is carried out by different police authorities including the [State Police](#), [State Security Police](#), [Financial Police](#), [Military Police](#), [Prison Authorities Board](#), [Bureau for the Prevention and Combating of Corruption](#), [State Border Guard](#), customs authorities, captains of vessels on the high seas, commanders of military units of the National Armed Forces deployed on foreign territories. The authority of the jurisdiction in which the crime has been committed undertakes the investigation. The [Prosecutor's Office](#) can also carry out an investigation.

The [prosecuting authorities](#) carry out the prosecution.

### My rights during the investigation

Click on the links below to find out more about your rights during the pre-trial investigation stages of the criminal process:

[Investigation \(1\)](#)

[Prosecution \(2\)](#)

[Certain procedural steps \(3\)](#)

#### Investigation (1)

##### The purpose of the investigation

The purpose of an investigation is to find out whether a crime has been committed; who is to be charged with a criminal offence; if the case can be dismissed. An investigator (usually a police officer) will work with you. During the investigation stage, you can be detained for 48 hours and can be remanded in custody as a security measure.

The total time available for the investigation and prosecution depends on the seriousness of the offence which you are suspected of (from 6 to 22 months with the possibility to extend it for another 6 months). If these time limits are not met, all security measures and limitations on your property rights must be revoked.

##### What will I be told about what is happening?

The police officer who carries out the investigation will tell you what is happening.

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

An interpreter will be provided for you; the police officer/ prosecutor will take care of that. The interpreter will translate everything that might be necessary - documents, what is said by the investigator and the lawyer, as well as your evidence.

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

If you do not speak the local language, you are not obliged to have a lawyer but it is advisable since you may be unfamiliar with the local situation and laws. You can choose a lawyer or you can ask the investigating officer to provide a duty solicitor.

If you are detained a lawyer will be invited to represent you within 48 hours. It is advisable for any foreign lawyer participating in the proceedings to do so together with a local lawyer.

An interpreter will be made available as soon as possible since his/her presence is needed to explain the situation to you and for questioning.

##### Will I be asked to provide information? Should I provide information?

You have the right to give information but it is not an obligation. You have the right to remain silent and this cannot be used against you and interpreted as failure to cooperate with the investigation.

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

Your evidence will be seen together with other evidence in the case. You do not have to incriminate yourself. You have the right to make any statement you consider necessary. You have the right not to testify.

##### Can I contact a family member or friend?

If you are detained you have the right to ask the investigator to inform your immediate family, other relatives, your work place or educational establishment etc.

##### Can I see a doctor if I need one?

Yes - the investigation is carried out with respect for human rights.

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

You have the right to request that your embassy/ consulate be informed.

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

You have to be present during the investigation. The investigating officer decides whether it is possible to participate in the investigation process via video link or telephone conferencing facility.

##### Can I be sent back to my home country?

There is no such requirement in the law but expulsion from the Republic of Latvia is a possible penalty which can be imposed. This can be applied only on the basis of a court ruling.

#### **Will I be held in custody or released?**

The investigating magistrate takes a decision about your detention within 48 hours of your arrest. You can be detained if a custodial sentence is envisaged for the crime you have committed and if no other security measure can ensure that:-

you will not evade the investigation/ court proceedings/ enforcement of the ruling;

you will not obstruct the course of the investigation;

you will not commit another crime.

The investigating magistrate will hear from you before taking the decision regarding your detention. You have the right to submit documents suggesting that your detention would not be reasonable. The presence of a lawyer and an interpreter will be assured for you.

#### **Can I leave the country during the investigation?**

You may leave the country with the permission of the investigating officer (usually in writing).

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

Click on the link to get information [about your rights](#).

#### **Can there be a body search?**

Click on the link to get information [about your rights](#).

#### **Can my home, business premises, car etc be searched?**

Click on the link to get information [about your rights](#).

#### **Can I appeal?**

You have the right to appeal against the decision of the investigating magistrate to the Chairman of the Court. You have the right to appeal against actions taken by the investigating officer/ prosecutor to the supervising prosecutor/ a senior prosecutor respectively.

You should submit complaints about decisions of the investigating officer, prosecutor or investigating magistrate within 10 days but you can complain about their actions throughout the investigation process.

You can submit the complaint in a language you know. The complaint must be reviewed within 10 days of receipt. If the complaint is not written in the official language, the deadline will be counted from the date on which the translation is available; you will be informed of this.

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

You have the right to plead guilty during the investigation/ [prosecution](#) to all / some charges or one charge.

If you plead guilty, it is considered a mitigating circumstance that might lead to a less severe penalty or serve as a basis for terminating the criminal proceedings. If you cooperate with the investigation/ prosecution, it might facilitate the application of less stringent security measures/ release from custody.

#### **Can the charges be changed before the trial?**

The charges against you can be changed if the prosecutor has obtained additional evidence. The initial charges against you must be changed if they have proved to be incorrect - then the prosecutor will terminate the prosecution for that part. The new charges will be presented to you.

#### **Can I be charged with an offence that I have already been charged with in another Member State?**

Charges can be brought against you but you cannot be tried and convicted if you have already been tried or acquitted for the same offence in another state.

#### **Will I get information about the witnesses against me?**

You will receive information about witnesses who give evidence against you. The prosecutor will give you the case file after the completion of the investigation into the case and before it is sent to the court, and you will be able to familiarise yourself with the statements of witnesses.

#### **Will I get information about other evidence against me?**

You will receive the case file and it will contain all the evidence the prosecutor is going to use against you in court. The prosecutor will give you copies of the case file.

#### **I have already been convicted of this crime in another Member State. What happens now?**

You cannot be tried for the same offence in Latvia. The double jeopardy rule (*ne bis in idem*) applies to EU Member States.

#### **Will information be requested about my criminal record?**

Information about your criminal record will be requested.

#### **Prosecution (2)**

##### **The purpose of the prosecution stage**

The purpose of the prosecution is to establish a criminal offence; identify the person who should be charged with that offence; conclude if the case can be dismissed or closed and forwarded to the court. The [prosecutor](#) will work with you.

The total time available for the [investigation](#) and prosecution depends on the seriousness of the offence which you are suspected of (from 6 to 22 months with the possibility to extend it for another 6 months). If these time limits are not met, all security measures and limitations on property rights must be revoked.

##### **What will I be told about what is happening?**

The prosecutor who carries out the investigative measures (probably the same measures as during the investigation) will tell you about what is happening.

##### **Will an interpreter be provided if I do not speak the language?**

An interpreter will be provided for you; the prosecutor will take care of that. The interpreter will translate everything that might be necessary - documents, what is said by the prosecutor and the lawyer, as well as your evidence.

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

If you do not speak the local language, it is advisable to have a lawyer since you may be unfamiliar with the local situation and laws. It is advisable for any foreign lawyer participating in the proceedings to do so together with a local lawyer. You can choose a lawyer or you can ask the prosecutor to provide a duty solicitor.

An interpreter will be made available as soon as possible since his/her presence is needed to explain the situation, for questioning etc.

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

You have the right to give information but it is not an obligation. You have the right to remain silent and this cannot be used against you and interpreted as failure to cooperate.

##### **What happens if I say something that can be used against me in the case?**

Your evidence will be seen together with other evidence in the case. You do not have to incriminate yourself. You have the right to make any statement you consider necessary. You have the right not to testify.

##### **Can I contact a family member or friend?**

If you are detained you have the right to ask the prosecutor to inform your immediate family, other relatives, your work place or educational establishment etc.

**Can I see a doctor if I need one?**

Yes - the prosecution is carried out with respect for human rights.

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

You have the right to request that your embassy/ consulate be informed.

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

You have to be present during the prosecution stage. The prosecutor decides whether it is possible to participate in the investigation process via video link or telephone conferencing facility.

**Can I be sent back to my home country?**

There is no such requirement in the law but there is an additional penalty envisaged - expulsion from the Republic of Latvia. This can be applied only [on the basis of a court ruling](#)

**Will I be held in custody or released?**

The investigating magistrate takes a decision about your detention. You can be detained if a custodial sentence is possible for the crime you have committed and if no other security measure can ensure that you will not evade the investigation/ court proceedings/ enforcement of the ruling; will not obstruct the course of the investigation; will not commit another crime.

The investigating magistrate will hear from you before taking a decision regarding your detention. You have the right to submit documents suggesting that your detention would be unreasonable. The presence of a lawyer and an interpreter will be assured for you.

**Can I leave the country during the investigation?**

You may leave the country with the permission of the prosecutor (usually in writing).

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

Click on the link to get information [about your rights](#).

**Can there be a body search?**

Click on the link to get information [about your rights](#).

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

Click on the link to get information [about your rights](#).

**Can I appeal?**

You have the right to appeal against the decision of the investigating magistrate to the Chairman of the Court. You have the right to appeal against the actions of the prosecutor to a senior prosecutor.

You should submit complaints about the decisions of the prosecutor/ investigating magistrate within 10 days. Complaints about the actions of the prosecutor can be submitted throughout the investigation process.

You can submit the complaint in a language you know. The complaint must be reviewed within 10 days of receipt. If the complaint is not written in the official language, the deadline will be counted from the date on which the translation is available; you will be informed of this.

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

You have the right to plead guilty during the investigation / prosecution to all / some of the charges or one charge.

If you plead guilty, it is considered a mitigating circumstance that might lead to a less severe penalty. If you plead guilty and cooperate with the investigation/ prosecution, this might help in establishing less stringent security measures/ release from custody.

If you plead guilty, the criminal proceedings may be brought to an end. Possible outcomes are:-

a conditional discharge from criminal liability;

the prosecutor's order for the applicable penalty;

an agreement with the prosecutor about you pleading guilty and the applicable penalty, which will then be validated by the court, etc.

**Can the charges be changed before the trial?**

The charges against you can be changed if the prosecutor has obtained additional evidence. The charges against you can be changed if the prosecutor recognises they have proved not to be correct - then the prosecutor will terminate the prosecution for that part of the charges. The new charges will be presented to you.

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

Charges can be brought against you but you cannot be tried and convicted if you have already been tried or acquitted for the same offence in another state.

**Will I get information about the witnesses against me?**

You will receive information about witnesses who give evidence against you. The prosecutor will give you the case file with the witness statements after the completion of the investigation and before the case is sent to court.

**Will I get information about other evidence against me?**

You will receive the case file and it will contain all the evidence the prosecutor is going to use against you in court. The prosecutor will give you copies of the case file.

**I have already been convicted of this crime in another Member State. What happens now?**

You cannot be tried for the same offence in Latvia. The double jeopardy rule (*ne bis in idem*) applies to EU Member States.

**Will information be requested about my criminal record?**

Yes, information about your criminal record will be requested.

**Certain procedural actions (3)****Will I be asked for fingerprints, samples of my DNA (e.g. hair, saliva) or other bodily fluids?**

You can be asked to give fingerprints or samples of your DNA. Samples of other bodily fluids can be requested and taken if it is necessary for the investigation of a particular offence.

You have the right to acquaint yourself with a decision about an examination by an expert before it is forwarded for execution, provided the examination concerns you. You have the right to ask questions about the examination by an expert before the examination takes place.

You are obliged to submit to an expert examination. You have the obligation to give samples for a comparative examination or to allow them to be obtained.

If you give samples for a comparative examination willingly, that will be noted. You have the right to be told about information that is recorded and can ask to add anything you consider necessary before signing the record. If you do not allow samples to be taken for a comparative examination, they will be obtained using coercive measures on the basis of a decision by the investigating magistrate.

**Can there be a body search?**

Your body can be visually examined if there are traces of criminal activity on it, any specific markings or characteristics, etc. Only a person of the same sex / medical specialist can perform a visual examination of your body. A written record is made of the visual examination and you have the right to be told about it and to comment on it.

Your body can be searched if items or documents significant to the investigation are concealed in your clothes, belongings, body or its open cavities. Only a person of the same sex can search your body in the presence of a medical professional. A decision to perform a body search is not required if you are in detention. A decision to perform a body search is not required if it is performed during the searching of a room or area and you are present at that time.

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

Your home, business premises, car etc. can be searched. The investigating magistrate or court takes the decision about the search but the investigator's decision, approved by the prosecutor is enough in urgent cases.

You or an adult member of your family have the right to be present during the search especially if it is performed at your official residence/ work place; except if you are under arrest. If you or an adult member of your family cannot be present during the search a representative of the local municipality, manager/ governor of the premises/ building must be invited.

You have the right to be told about the decision about the search before the search takes place, and the investigator has the duty to present the decision to you. All items found and seized during the search must be shown to you, recorded and wrapped and sealed, if appropriate.

You have the right to request that the site of the search be returned to its previous state if that is practically possible. You have the right to be told about the records of the search, express remarks and request that they are entered in the records. You have the right to a lawyer and interpreter during the search.

**Related links**

[Law on criminal proceedings](#)

[Criminal law](#)

[State Police authorities](#)

[Public Prosecutor's Office](#)

[Law on the register of penalties](#)

[Law on detention procedures](#)

[Law on custodial procedures](#)

[Law on the bar association](#)

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