

Defendants (criminal proceedings)

Malta

A. Where will the trial take place?

The trial takes place at the Courts of Justice in Valletta. Depending on the seriousness of the charges against you, procedures are brought against you before the Court of Magistrates as a Court of Criminal Judicature if the offence falls within its jurisdiction, or before the Court of Magistrates as a Court of Inquiry, if the offence does not fall within the jurisdiction of the Court of Magistrates as a Court of Criminal Judicature.

Once the inquiry is completed in the Court of Magistrates as a Court of Inquiry, it will be decided whether the offence is to be judged by the Court of Magistrates as a Court of Criminal Judicature or by the Criminal Court, i.e. by a jury. In any case, a judgment will be delivered which will either sentence the person found guilty to the relevant punishment or acquit them.

B. Can the charges be modified? If so, what is my right to information in this regard?

Yes, the charges can be modified. If this happens, generally, and the changes are significant, new charges will be issued against the person and a new examination will be carried out in Court. Evidence is presented again unless a waiver is given by the person.

C. What are my rights during my appearance in Court?

Your rights during your appearance in court are to be assisted by a lawyer of your choice and, if you do not have the means, to have a Legal Aid lawyer assigned to you. You may also choose to defend your own case. Another right is that you are presumed to be innocent until a court rules that you are guilty. You have the right to be assisted by an interpreter and to cross-examine the prosecution witnesses and examine your own witnesses. You also have the right to choose not to testify in the proceedings brought against you.

i. Should I be present in Court? What are the conditions for me to be absent during the court case?

Yes, you should always be present at court sessions, since our system does not recognise trials *in absentia*. If you are unable to attend due to illness or travel or for any other reason, you should file an application in court through your lawyer.

ii. What is my right to an interpreter and to translated documents?

If the magistrate is conversant in the language spoken by the witness, they may translate the testimony into the language in which the written proceedings are conducted; in any other case, or upon your request, a sworn interpreter will be engaged.

Do I have the right to a lawyer?

During the hearing of the court case, one of your rights is to be assisted by a lawyer of your choice at your own expense, or by a lawyer appointed by the court as a Legal Aid lawyer.

If you do not have the financial means to pay the lawyer of your choice, you should submit your request either to the adjudicator, who will record it in the case-file, or to the Legal Aid Malta Agency, who will file an application on your behalf for assistance by a Legal Aid lawyer.

In summary cases, the adjudicator, after hearing your request, orders you to be assisted by the Legal Aid lawyer who happens to be working on the day. In compilation of evidence proceedings and/or criminal trials, requests for a Legal Aid lawyer may be made to the adjudicator, who will refer the request to the Legal Aid Agency, who in turn will file a note specifying the lawyer who will assist you. Otherwise, you can ask the Legal Aid Agency to file an application on your behalf. The Legal Aid lawyer may not be changed unless there is a legitimate impediment.

iv. Which other procedural rights should I be aware of? (e.g. appearance of suspects before the Court)

A person has the right to summon their witnesses to testify. Any person of sound mind can be summoned as witness, unless a plea is raised against their competence.

Regarding the rights of suspected or accused persons, more information is available in Articles 534A-534AG of the

[Criminal Code, Chapter 9 of the Laws of Malta](#). Besides all that has been mentioned concerning the arrest or detention of a person at any stage of criminal proceedings, any document in the possession of the police relating to the specific case, and which is essential for an effective challenge to the legality of the arrest or detention, should be made available to the person under arrest or their lawyer.

D. Possible sentences

The sentences that may be handed down if you are found guilty are:

imprisonment;
solitary confinement;
interdiction;
a fine.

If you are found guilty of a contravention, the punishments that may be handed down are:

detention;
a fine;
a reprimand or admonition.

Alternative sanctions may also be handed down, such as: probation, suspended sentence, and community orders.

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