Slovaquie

These factsheets explain the procedure of law enforcement authorities if you are suspected of or accused of a crime.

Summary of the criminal process

The following is a summary of the normal stages in the criminal process in the Slovak Republic.

The pre-trial process consists of the following stages:

steps prior to initiation of criminal prosecution;

pre-trial preparations (investigation).

The trial process consists of the following stages:

examination and preliminary hearing of the indictment;

main trial;

appeal process (ordinary appeal [*odvolanie*] to a higher-instance court, further appeal [*dovolanie*] to the Supreme Court of the Slovak Republic [*Najvyšší súd Slovenskej Republiky*], reopening of the case);

enforcement process, carrying out the sentence and protective measures.

Click on the links below to find the information that you need

My rights during the investigation

My rights during trial

My rights after trial

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My rights during the investigation

A) If I am a foreign national, does it affect the investigation?

If you as the accused person declare that you do not speak the language in which the proceedings are conducted, you have the right to an interpreter and translator.

B) What are the stages of an investigation?

i) Evidence gathering phase / Power of investigators

The criminal process begins with pre-preparatory steps prior to criminal prosecution consisting primarily in receiving criminal or other reports, which are then verified and a decision is made on further action.

If you are to testify as a person who, based on certain findings, allegedly committed a crime, you have a right to remain silent and you are entitled to legal aid.

If there are grounds for initiating criminal prosecution, the criminal process moves on to the pre-trial preparation stage. Depending on the gravity of the crime, pre-trial preparations can take the form of investigation, summary investigation or what is known as ‘super-fast’ investigation.

Subsequently, charges may be brought against you. These must be notified to you without delay and you as the accused person may file a complaint against these charges within three business days.

When charges are brought against you, you as the accused person have certain rights including the right to provide a statement on all facts you are accused of and on the related evidence, but you also have the right to remain silent. You may state facts, propose, submit and obtain evidence in your defence, and file motions, applications and appeals.

You have the right to choose and consult a lawyer, including during procedural steps carried out by law enforcement authorities or by a court. However, when being questioned, you cannot consult the defence lawyer on how to answer a question you are being asked. You may request that your lawyer be present during the questioning and that the defence lawyer also participate in other procedural steps involved in pre-trial preparation.

You may exercise your rights personally or through your defence lawyer.

If you cannot afford a defence lawyer, you are entitled to free defence or defence at a reduced fee. However, you must prove that you are entitled to such free defence or to a reduced defence fee.

Law enforcement authorities and the court must always advise you of your rights, including the significance of confession, and ensure that you can fully exercise your rights.

ii) Police custody

Police custody is a procedural step involving a short-term restriction of freedom of a person charged with a crime.

As an accused person, you may be placed in police custody as part of the criminal process if one of the grounds for pre-trial detention apply and, due to the urgency of the matter, the decision on detention cannot be obtained in advance. You will be placed in custody by a police officer, who must advise you of the reasons for custody and question you without delay.

If you are to be placed in pre-trial detention afterwards, the motion must be filed by the public prosecutor within 48 hours (or 96 hours in the case of a terrorist offence). Subsequently, a court has to take a decision within 48 hours, or 72 hours in cases of especially grave crimes.

iii) Questioning

During questioning, you may not be forced to confess in any unlawful manner.

As an accused person, prior to questioning you must be advised of your right to testify or remain silent. You must be advised that no one may force you to confess. You must also be advised of the option to choose a defence lawyer, or request that one be appointed for you and be present during the questioning. You must be allowed to submit a detailed response to the charges brought against you and offer evidence for your statements.
You may be asked questions supplementing your testimony or to clarify omissions, ambiguities and inconsistencies. Questions must be asked in a sensitive and comprehensible manner. You may not be asked leading questions, deceptive questions or questions containing facts that are to be established based on your testimony. The questions must not unduly infringe upon your privacy, except to establish the motivation for the act committed.

iv) Pre-trial detention

You can only be placed in pre-trial detention if charges have been brought against you, provided that the findings of fact suggest that a criminal act has occurred, that you committed and one of the grounds for pre-trial detention applies to you. Such grounds include the risk of absconding or flight, the risk that you will try to influence witnesses or accomplices etc. or that you would continue committing the offence.
You must be questioned before the decision on pre-trial detention is taken. You may file a complaint against the decision on detention, which will be heard by a superior court.
You have the right to request to be released. You may make a fresh request for release 30 days after a final decision on detention was issued.
During pre-trial preparations, you may be held in pre-trial detention for a maximum of 7 months (if you are prosecuted for a misdemeanour), 19 months (if you are prosecuted for a crime) or 25 months (if you are prosecuted for an especially serious crime).

C) What are my rights during the investigation?

i) What is my right to an interpreter and translations?

You have the right to an interpreter if you do not speak the language in which the proceedings are conducted. You have the right to use a language you understand in criminal proceedings. If any important documents, records or decisions need to be translated, a translator will also join the proceedings.

ii) What are my rights to information and access to the case-file?

Once the investigation or summary investigation is completed, you and your lawyer have the right to study the entire file. You may then file a request for additional investigation.
During pre-trial preparations and the trial, you and your defence lawyer have the right to consult the file and to take extracts and notes and make copies.

iii) What is my right of access to a lawyer and to have a third party informed of my situation?

If you have been placed in custody or arrested, you have the right to make a 20-minute telephone call to a person you specify.
You have the right to choose a defence lawyer and consult the lawyer during the individual steps of the criminal process. However, you may not ask the lawyer about how to respond to a question. You are entitled to request that your lawyer be present during questioning and other procedural steps.
If you are placed in pre-trial detention or serving your sentence, you have the right to speak with the defence lawyer without other persons being present.

iv) What is my right to legal aid?

You may hire a defence lawyer at your own expense. In some cases, you have the right to be provided with a defence lawyer.

v) What is important to know regarding:

a. Presumption of innocence

Any person against whom criminal proceedings are conducted is considered innocent until convicted by final judgment by a court of law.

b. Right to remain silent and not to incriminate oneself

Besides the right to make statements during the proceedings, you also have the right to remain silent. No one may force you to testify or confess.

c. Burden of proof

Law enforcement authorities have a duty to obtain evidence. You as the accused person, on the other hand, have the right to obtain evidence, but you are not required to do so.
Law enforcement authorities must clarify both factors counting against you and factors in your favour.

vi) What are the special safeguards for children?

Criminal prosecution may not begin, or it may not continue and must be discontinued, if the accused person is a person who is not criminally liable because of being under age.
A legal representative of a juvenile may make steps on the juvenile's behalf, such as choosing a lawyer and filing motions, applications and appeals. The legal representative is entitled to be present during all procedural steps to which the accused person is a party.
A juvenile must have a defence lawyer after he/she is charged; if the juvenile cannot choose a lawyer on his/her own, a lawyer will be appointed for him/her.
In the case of a juvenile who is under fifteen years of age at the time of the act, his/her ability to recognise the illegality of the act and to control his/her behaviour must always be examined. If the above conditions are not met, the juvenile is not criminally liable.
Even if there are legal grounds, a juvenile may be detained only if the purpose of detention cannot be achieved by other means.
The competent court may transfer the case to a court in whose jurisdiction the juvenile resides or to another court where the proceedings are likely to best achieve their purpose.

vii) What are the specific safeguards for vulnerable suspects?

Vulnerable persons in the context of criminal proceedings are those who are not capable of understanding the criminal proceedings on account of their age, or mental or physical condition and cannot effectively participate in such proceedings.
They may not be discriminated against in any manner in exercising their procedural rights.
Persons with severe mental or physical/sensory disabilities must be presumed to be vulnerable.
Vulnerable persons and their legal representatives (such as their guardian appointed by the court) or suitable adults (such as relatives) must informed of any special procedural rights.
Video and audio recordings must be made of police questioning.
Deprivation of freedom of vulnerable persons prior to conviction must be used only as a last resort. It should be proportionate and carried out in conditions suitable in terms of their special needs.
During the entire criminal proceedings, the privacy, personal integrity and personal data of such persons must be protected.

D) What are the legal time limits during the investigation?

You have the right to have your case heard within a reasonable period of time.
Investigation should be completed within two, four or six months in the case of a misdemeanour, crime or an especially serious crime, respectively. However, compliance with those time limits is not legally enforceable.
You can file a complaint with the prosecutor asking for the police conduct to be reviewed and the delays in the investigation to be removed. The prosecutor must inform you about the results of such a review.

E) What are the pre-trial preparations, including alternatives to pre-trial detention and possibilities for transfer to the home state (European Supervision Order)?

Pre-trial preparations are a part of the criminal process lasting from the beginning of criminal prosecution until an indictment is filed, a plea bargain is proposed, or a final decision on the substance of the case is made by a law enforcement authority.
Pre-trial preparations mainly involve gathering and securing of evidence and preparation of materials serving as the basis for further decision-making.
Criminal prosecution begins either with the issuing of an order initiating prosecution or with execution of a securing operation, non-recurring operation or peremptory operation.
Alternatives to pre-trial detention include a guarantee, a pledge or supervision. Such alternatives are possible only in the case of detention imposed because of a flight risk and preventive detention. The court may use these alternatives if an association of citizens or a reputable person guarantees your good behaviour, or if you make a written pledge to lead a law-abiding life, or if the purpose of detention can be achieved by means of supervision by a probation officer.
A court may also accept a financial guarantee (bail) as an alternative to flight-risk detention or preventive detention. If you break the rules, the financial guarantee will be forfeited to the State and you will be placed in pre-trial detention.
If you are granted alternatives to pre-trial detention, the court may impose on you reasonable obligations or restrictions (such as a ban on leaving the country, leaving a certain area, meeting certain persons, driving a vehicle, etc.).
The European Supervision Order aims at enhancing the protection of the general public by enabling you as a person resident in one Member State, but subject to criminal proceedings in a second Member State, to be supervised by the authorities in the State in which you are resident whilst awaiting trial.
It is an alternative to detention whereby the supervision measures are monitored by the Member State of residence. If they are breached, the Member State returns the person to the Member State of origin.
While this decision covers all crimes and is not restricted to particular types or levels of crime, supervision measures should generally be applied in the case of less serious offences.
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My rights during trial

A) Where will the trial take place?

The main trial is generally held at a district court. In some cases, the trial can be held before the Special Criminal Court [*Špecializovaný trestný súd*] or a district court in the regional capital.
The trial is held before the court in whose jurisdiction the crime was committed.
Alternatively, the trial can be held before a court in whose jurisdiction the accused person lives, works or is habitually present, or before the court in whose jurisdiction the prosecutor filed the indictment.

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

If the prosecutor wishes to reclassify the act as a different crime than the police, he/she must advise you of this fact before the indictment is filed and ask you whether you wish to supplement the investigation.
If, after the main trial commences, it comes to light that you have committed another criminal offence, the court will return the case to the prosecutor for further pre-trial preparations and additional investigation if the prosecutor so requests.
If the court plans on convicting you of a crime under a more stringent provision of the law than the prosecution suggested, it can do so. However, the court must advise you of that possibility before declaring the evidence-taking stage complete.
The court will provide you with a time limit to prepare your defence and will postpone the main criminal trial by at least 5 business days if you so request.

C) What are my rights during the court appearances?

i) Am I required to be present in the court? What are the conditions for me to be absent during the court case?

You have the right (not the duty) to be present at the trial. The court may hear the case without your presence if you so agree, or if you refuse to be present, or on other grounds as defined by the law. The same applies to appeal proceedings.

ii) What is my right to an interpreter and translations?

You have the right to an interpreter if you do not speak the language in which the proceedings are conducted. If any important documents, records or decisions need to be translated, a translator will also join the proceedings.

iii) Do I have the right to a lawyer?

During the entire criminal process, you have the right to be represented by a defence lawyer of your choosing or one who has been assigned to you.
You must have a defence lawyer from the moment the charges are brought against you, or if you are placed in detention, serve a sentence or are under observation in a healthcare institution, if your legal capacity has been restricted, if the case involves an especially serious crime, if you are a juvenile or if proceedings are being conducted against you as a fugitive.
If you do not have a defence lawyer in cases where you must have one, you will be given timeframe within which to choose your lawyer. If you fail to do so within the time allowed, a defence lawyer must be assigned to you without delay.
If you lack sufficient means to pay for the defence lawyer and you apply for one to be assigned to you, the court must appoint an attorney as your defence lawyer even in cases where having a defence lawyer is not mandatory. You have to prove that you lack sufficient means.

iv) Which other procedural rights should I be aware of? (e.g. presentation of suspects in front of the court)

You have the right to plead ‘guilty’ or ‘not guilty’ when the trial commences. If you plead guilty, the court will only examine evidence needed to decide on the punishment and/or compensation for damage.
During the trial, the defendant, witnesses, and experts are questioned by the prosecutor. You or your defence lawyer can also ask questions. Your witnesses are questioned by your defence lawyer or you. You have the right to object to the manner of the questioning.
Once the court concludes the examination of evidence, you can make your final statement. After the prosecutor’s final statement, the court can give the opportunity for the victim, your lawyer and other persons to speak. Your statement is always the last one to be heard. Your rights include the right to

challenge the indictment, the evidence taken, and the offence you are charged with, offer mitigating circumstances, and question the sentence. The court may interrupt your final statement only if you make statements not related to your case. After the final statements, you also have the right to make a closing statement during which you must not be interrupted.

D) Possible sentences

Imprisonment – according to the seriousness of the crime, ranging up to life imprisonment. The death penalty is not possible. If you are sentenced to 2 or 3 years, the court can give you a suspended sentence with or without probation and it will set a period of between 1 and 5 years during which you must lead a law-abiding life. If you breach the court-imposed obligations and restrictions, you will have to serve your sentence in prison.

Home confinement – up to 1 year for a minor offence. You are required to restrict your movements to your place of residence and lead a law-abiding life. Should you breach those conditions, you will have to serve your sentence in prison.

Community work – from 40 to 300 hours for a minor offence, but only with your prior consent. You must engage in community work in your free time with no compensation. If you fail to perform community work at the specified time and to the specified extent, the court will convert each 2 hours of unperformed community work into 1 day of imprisonment.

Fine; forfeiture of property; the punishment of forfeiture of items is imposed by the court for intentional criminal offences through which you have gained property or caused damage. A fine can range from EUR 160 to EUR 331 930. Property forfeiture applies to all assets which you acquired unlawfully. Forfeiture of items can be imposed if you used the item to commit the crime.

Disqualification – from 1 to 10 years – forbidding you from certain types of activity, such as the profession, job, function or other activity (such as driving a vehicle) in the course of which you committed the crime.

Residence ban – forbidding you from residing in a certain place, from 1 to 5 years.

Ban on participation in public events – from 1 to 10 years – forbidding you from participating in the sporting, cultural or other public events at which you committed the crime.

Loss of honorary titles and distinctions, whereby you lose distinctions and other honorary titles awarded according to special legislation.

Demotion or loss of your military or other rank.

Expulsion from the territory of the Slovak Republic. You can be punished by 1 to 15 years of expulsion, but not if you are a Slovak citizen, or a citizen of any other EU Member State, or a citizen of a State party to the Agreement on the European Economic Area, or if you have been granted asylum. This does not apply if you represent a threat to national security or law and order. You cannot be expelled to a country where your personal freedom or life would be under threat on the grounds of race, nationality, religion, political affiliation, or similar reasons.

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My rights after trial

A) Do I have the right to appeal the court's decision?

After the indictment is filed, the court may take a decision in the form of a penal order without a trial. If the court issues a penalty order, you may lodge an objection within 8 days of being notified. If you lodge an objection, the penal order is cancelled and a court hearing will be held.

You can appeal against the judgment of the court of first instance directly after the sentence has been announced or within 15 days from that date. If you were not present at the court, you must appeal within 15 days from receiving the decision in writing to the court which issued the judgment. You may appeal against the judgment as a whole or only a part of it.

If you appeal, the judgement will not become final and enforceable until an appellate court issues a decision.

The appeal court will dismiss your appeal if you file it after the time limit for appeal, if you have waived your right of appeal, or if it considers the judgment of the court of first instance to be correct and lawful. The decision of the court of appeal is final and enforceable.

Alternatively, the court of appeal may annul the judgment and return the case to the lower court for further proceedings, or rule on the case itself.

B) What other recourse options do I have?

You cannot appeal against a decision of the appellate court.

You can file a Supreme Court appeal [*dovolanie*], petition the Minister of Justice to file a Supreme Court appeal, or file a motion for the case to be reopened. However, the final decision of the appellate court remains valid and enforceable. If you were sentenced to imprisonment without the possibility of probation or parole, you must start serving your prison sentence.

You can file a Supreme Court appeal with the court which decided the case in the first instance within 3 years from the date when you received the written final decision in the case. A Supreme Court appeal can be filed only on the specific grounds set out in the Code of Criminal Procedure.

You may file a motion requesting reopening of the case if new facts that were not known during the trial have come to light and these new facts are so significant that they could reverse the final decision.

C) What are the consequences if I am sentenced?

i) Criminal record

If you were found guilty, that information will be retained in the criminal register. It can be requested by different state authorities, for example for the purposes of other criminal proceedings. A copy [*odpis*] from the criminal register shows all convictions, while an extract [*výpis*] from the criminal register does not show expunged convictions.

v) Execution of sentence, transfer of prisoners, probation and alternative sanctions

When the court decision by virtue of which you have been sentenced to imprisonment becomes enforceable, the court will order you to report to prison to serve your sentence, or it will order that you be escorted to prison.

You may ask the court to postpone imprisonment if you become seriously ill. If your prison sentence does not exceed 1 year, the court may postpone it for up to 3 months (or for longer, in exceptional circumstances) for important reasons.

If you are given a suspended sentence with probation, you are required to submit to the probation officer’s supervision and the court will monitor your behaviour during the set probation period. The court may issue a decision stating that you have met the conditions of probation or that you failed to meet those conditions, in which case you will be ordered to serve your sentence in prison.

Alternative sanctions are penalties that serve as an alternative to imprisonment. Their aim is to ensure protection of society while allowing the convicted person to stay out of prison.

Alternative penalties are as follows: home confinement, community work, fines, a suspended sentence and a suspended sentence with probation.

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