CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN LITHUANIA

This leaflet covers:

- Information about FTI
- Definitions of key legal terms
- Criminal proceedings and defence rights in Lithuania
- Useful links

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About Fair Trials International

Since 1992 Fair Trial International has worked for the better protection of fair trial rights and defended the rights of people facing criminal charges in a country other than their own. Our vision is a world where every person's right to a fair trial is respected, whatever their nationality, wherever they are accused.

Fair Trials International was established to help people arrested outside their own country to defend their right to a fair trial. Every year we help hundreds of people and their families to navigate a foreign legal system by offering practical advice, including contacts of local lawyers, guidance on key issues encountered by people arrested abroad, and basic information on different legal systems and local sources of support. As a charity, we do not charge for any of the assistance that we provide.

We believe that respect for fundamental rights and the rule of law are the hallmarks of a just society, and that the right to a fair trial is at the heart of this. Sadly too many shocking cases of injustice demonstrate how, time and again, this most basic human right is being abused. We fight against injustice by lobbying for the legal reforms needed to ensure that the right to a fair trial is respected in practice. Working with our clients and international networks, we also campaign for changes to criminal justice laws which are being abused and overused.

To find out more about how FTI can assist you, please contact our legal team (contact details on the back cover).

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DEFINITIONS OF KEY LEGAL TERMS

Appeal (*skundas*): An opportunity to dispute a decision made at trial by asking a higher court to review it. This can result in the decision being overturned or changed.

Arrest Warrant (nutartis / nutarimas): A document authorising the police to make an arrest, search premises, or carry out some other action relating to the administration of justice.

Bail (*užstatas*): The temporary release from police custody or prison of a person accused of a crime and awaiting trial.

Bar Association (*advokatūra*): An organisation whose role is to represent lawyers and help people in their dealings with lawyers.

Charge/Indictment (*kaltinimas*): An official statement accusing a person of committing an offence.

Consulate (*konsulatas*): The section of the embassy whose task is to assist its citizens.

Court of Appeal (apeliacinės instancijos teismas): The court that is competent to hear appeals (i.e. challenges) made to decisions of the lower courts. Appeals from the District Court are made to the Regional Court. If you were tried at the Regional Court in the first instance, your appeal is made to the Lithuanian Court of Appeal

Court of First Instance (*pirmosios instancijos teismas*): A lower court where a trial is initially heard. Depending

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on the seriousness of the accusations against you, the First Instance Court in Lithuania is either the District Court (for minor offences), or the Regional Court (for more serious offence).

Embassy (*ambasada*): The office of a government official who resides in a foreign country and represents his/her government's interests.

European Court of Human Rights (*Europos Žmogaus Teisių Teismas*): The Court is based in Strasbourg, France, and hears human rights cases against the 47 countries which make up the Council of Europe (which is different from the European Union).

Inquisitorial System (inkvizicinė sistema): A system in which the judge plays an active role in conducting the investigations and seeking the truth. This system is followed in France and many other European countries (but not in the UK). Unlike in adversarial systems such as the UK and the USA, the role of the defence lawyer is to ensure that his/her client's rights are respected, but it is not to investigate the case. An important part of the trial can be based on written submissions.

Investigative Judge (*ikiteisminio tyrimo teisėjas*): A judge who performs an examining role and is actively involved in the conduct of investigations.

Judge (teisėjas): A person with authority to hear and decide on cases in a court of law.

Judgment (*nuosprendis*): A decision on a case provided by a judge in a court of law.

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Lawyer (*advokatas*): A person whose profession is to give legal advice and assistance to clients and represent them in court or in other legal matters.

Legal Aid (*teisiné pagalba*): Financial assistance provided to a person who needs a lawyer and who cannot afford to pay for one.

Plea Bargain (*nuoširdus prisipažinimas*): A procedure which allows the defendant to plead guilty in exchange for a less severe sentence. There is no plea bargaining procedure in Lithuania, but a confession could be taken into account for sentencing purposes.

Police Custody (laikinas sulaikymas): Detention of a suspect by the police after arrest

Pre-trial Detention (*suémimas*): Detention in prison during the investigations (and often during the trial itself as well), which happens before the decision on guilt or innocence is made by the court.

Public Prosecutor (*prokuroras*): A person who conducts a case against a person who is accused of a crime.

Remand (*užkardymas*): The act of sending a person, accused of a crime, into prison until the trial.

Sentence (*bausmé*): The punishment assigned to a person convicted of a crime as fixed by a court of law.

Victim is known as "nukentėjusysis" in Lithuanian.

Witness is known as "liudytojas" in Lithuanian.

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INFORMTION ON CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN LITHUANIA

We have prepared these notes with the assistance of local criminal lawyers, who tried to describe how things happen in practice, i.e. in the real world. Even within one country, however, practice can vary greatly from one place to another and it is therefore possible that your experience will sometimes differ from the descriptions below. This document does not constitute legal advice and only provides general information. If you need advice in relation to your specific case, or if you are concerned about a possible violation of your rights, you should discuss this with your local lawyer.

1. LEGAL SYSTEM

Q1. Where do the laws of Lithuania apply?

The laws of Lithuania apply throughout Lithuania.

- 2. ARREST AND INVESTIGATION
- I. What are my rights upon arrest?
- (a) Right to information:
- Q2. Will the police inform me of my rights? Will this be done orally or in writing?.

Yes. You should be informed of your rights immediately after your arrest, and this is done orally. You should also

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be given information about your rights in writing before you are questioned by the police.

Q3. <u>Do I have a right to be informed of the allegations/charges against me?</u>

Yes. You should be informed in writing of the allegations against you before you are questioned. Information about the accusations against you is usually handed to you in writing before you are interviewed.

(b) Right to inform people:

Q4. <u>Do I have a right to have the consulate informed of my arrest?</u>

If you are not a Lithuanian citizen, you have right to request your embassy or consulate to be informed of your arrest.

Q5. <u>Do I have a right to inform my family of the arrest?</u>

You have the right to ask the police officer to inform one person (either your family or a friend) of your arrest on your behalf.

Q6. <u>Do I have a right to a lawyer?</u>

Yes. You have the right to access a lawyer before you are questioned, and you should be informed of this right. If you do not speak Lithuanian, you may be appointed a lawyer on legal aid automatically.

Q7. Do I have a right to a translator/interpreter?

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You are entitled to the services of an interpreter for free if you do not speak Lithuanian.

Q8. <u>Do I have to talk to the police or can I remain silent during police interrogation? Will it work against me if I am silent?</u>

You have the right to remain silent. However, you should seek advice from your lawyer before deciding whether or not to exercise this right.

Q9. When will I know about the case against me?

You are entitled to make requests to the prosecution to grant you access to the evidence against you at any stage of the investigations. The prosecution may refuse your request if it believes that you may interfere with the investigations.

Once the prosecution is satisfied that there is enough evidence to convict you, you will then be entitled to access the evidence against you, and to also make requests for further investigations to be carried out. When all the investigations have been concluded, you will be formally charged, provided that the prosecution still believes that there is sufficient evidence to secure your conviction.

Q10. How long can I be kept in prison before my trial starts?

Following your arrest, you can be detained for an initial period of up to 48 hours, during which you need to be

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brought before the court. The court may then decide whether or not to extend your detention.

Your trial should take place within 6 months of your arrest, but it may take longer if you have been charged with a very serious crime, or if investigations are particularly complicated. In such cases, the court may extend your detention by another three months, and it may subsequently extend your detention by three months repeatedly. The maximum period for which you can be held in detention before trial is 18 months.

3. LEGAL REPRESENTATION

For general information on why and how to appoint a local lawyer, please refer to FTI's "Arrested in Another Country?" leaflet.

Q11. How can I find a lawyer?

You can get in touchy with the Council of the Lithuanian Bar Association, which may be able to help you identify a suitable lawyer. If you are not a Lithuanian citizen, your embassy or consulate may also be able to provide some help.

If you have been detained for questioning, you can ask for a lawyer to be appointed on your behalf before the interrogation starts. You may be appointed a lawyer automatically by the police or the prosecutor, if you are a foreigner who does not speak Lithuanian.

Q12. What is the role of my lawyer? Will s/he investigate the case?

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The main role of your lawyer is to make sure that your rights are protected, and to help you exercise your rights in criminal proceedings.

Your lawyer may also help you gather evidence, and may ask to question specific witnesses during the investigation and in court, and s/he may submit documents and evidence. Your lawyer can ask for permission to read the case file, analyse the investigation material and help you to prepare your defence strategy.

If necessary, your lawyer can prepare appeals to dispute the decisions made by the investigator, the prosecutor or the judge, by asking to review them. This can result in the decisions being overturned or changed.

Your lawyer can prepare various applications and submissions over the remand measures (detention, bail, house arrest, etc.) to be changed or even removed.

It is also your lawyer's role to give you advice about your legal proceedings, including the possible sentences your may face, and ways to influence investigations.

Q13. I cannot afford to pay for a private lawyer, what should I do? (Is there legal aid? How should I apply? What are the criteria to be eligible? What is covered by legal aid?)

If you cannot afford to pay for a lawyer you can ask the legal aid office in Lithuania for a legal aid lawyer to be appointed for you. Whether or not you are eligible for

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legal aid depends on your income level and the value of your assets.

If you do not speak Lithuanian, you may be appointed a lawyer on your behalf automatically on legal aid, regardless of your financial means.

You do not get to choose which specific lawyer gets to represent you on legal aid, but your preference for a specific lawyer may be taken into consideration by the legal aid office.

Q14. I am unhappy with my lawyer: How can I change lawyer? How can I complain about my lawyer?

You are allowed to refuse from the services of private lawyer according to your wishes.

Although it is possible to ask to change your legal aid lawyer by making an application to the legal aid office outlining the reasons (such as conflict of interests or other serious grounds) why you wish to have a different lawyer appointed, there is no guaranteed that you will be given a different lawyer on legal aid. As a general rule the same lawyer continues to assist you on legal aid.

If you are unsatisfied by the services of the lawyer, you have the right to apply to the Court of Honour of the Bar Association. If you are unhappy with the decision of the Court of Honour, or if you do not wish to apply to the Court of Honour, then you can apply to the civil court.

4. PRE-TRIAL MATTERS

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4.1 Pre-trial matters: detention

The information given below is specific to Lithuania. For general information and tips about how to obtain your release prior to your trial, please refer to the note of advice on "Release Pending Trial".

Q15. Will I have to stay in prison until my trial starts? Are there alternatives to detention pending trial?

Not necessarily. You may be released or kept on house arrest before your trial begins.

The conditions of your release can vary, but could include one or more of the following:

- To deposit bail money with the court;
- Not to leave your place of residence without the permission of the investigation officer or the court:
- To give up your identity documents, such as your passport;
- Not to contact certain individuals or go to certain places; and
- To agree not to leave Lithuania

Q16. How and when can I apply for release while waiting for trial?

If the court has ordered your detention, you can appeal against this decision to a higher court within 20 days of the decision.

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Q17. Can I go back to my home country while on bail?

If you are not a Lithuanian citizen, the court may decide to confiscate your passport, or prohibit you from leaving the country, as a condition of your release. You should speak to your lawyer to find out whether your bail conditions allow you to return to your home country before your trial begins.

Q18. What will happen if I breach my bail conditions?

If you violate the conditions of your release, the court may impose harsher conditions, and you may end up in custody. You will also not be able to recover the bail money you deposited with the court as a condition of your release.

Q19. Do I need a lawyer to apply for bail?

There is no legal requirement to have a lawyer to represent you for your bail application, so you may apply for bail yourself. Your chances of getting released could be undermined in the absence of your lawyer, who has the necessary knowledge of local laws, legal proceedings and court practice.

4.2. Pre-trial matters: timing

Q20. How long before my case goes to trial?

This depends on the nature of the accusations against you. Under Lithuanian law, pre-trial investigations need to be completed within 3, 6, or 9 months, depending on

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the severity of the crime. These periods however, can be extended, if for example, your case is particularly complicated, or there are other good reasons as to why the investigations should take longer

If the investigation takes for too long (6 months or more), you have the right to apply to the investigative judge asking to end the investigation.

Q21. There are always delays with my case; does that mean my lawyer is doing a bad job?

Delays can happen for a number of different reasons, so you cannot assume that your lawyer is at fault.

4.3. Pre-trials matters: pleading guilty

Q22. <u>Can I plead guilty? What are the consequences of pleading guilty?</u>

You may plead guilty to some or all the accusations against you. However this will not bring your legal proceedings to an end, you may still be required to give evidence, and any outstanding investigations in your case may continue.

Your trial will continue as normal if you are facing a sentence of 6 years or more in prison, but you may be subject to a simplified procedure where no other evidence is considered, if you have been accused of a serious crime, and there are no disputes regarding the facts of your case. The rules on your eligibility for the simplified procedure are complicated, so you should check with your lawyer to find out if it could apply in your case.

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5. THE TRIAL

Q23. What happens at the trial?

Not all cases go to trial. The prosecutor may decide to drop the charges. This could happen even if s/he believes that you are guilty, but feels that a trial is not appropriate or necessary due to your age, or because you have committed only a minor offence.

Certain minor offences can also be handled by simplified or written procedure, which means that there is no oral hearing in court.

If your case does go to trial, it will normally be heard in the District Court in the area where the crime was committed. The Regional Courts tend to hear more serious cases (if you are facing a prison sentence of 6 years or more).

Oral hearings in criminal cases begin with the prosecutor explaining the charges brought against you. The victim's claims may also be outlined.

You will then plead guilty or not guilty, after which you will be asked to give your explanations in relation to the accusations you are facing (remember that you have the right to remain silent). Then court, prosecutor, your lawyer, victim and expert may ask you questions. You also have the right to ask the court to give your explanations, after all witnesses and victims give theirs.

The court will question witnesses, victims, experts, and examine the evidence, including the documents relevant to your case.

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After the evidence in your case has been examined, the prosecutor, the victim, your lawyer, and you will be asked to provide your final speeches. You are given the final word, after which the court will make the decision.

Q24. Do I have to be present?

Yes. You need to attend your trial, but if you are outside Lithuania, and the court thinks that you are deliberately avoiding your trial, the court may try you in your absence.

Q25. Can I ask for the trial to take place in my home country?

No.

Q26. Is there a jury?

No. There are no jury trials in Lithuania. You will be tried by a single judge, unless you are facing life imprisonment, in which case you will be tried by a panel of judges.

Q27. <u>Can my lawyer call and cross-examine</u> witnesses?

You or your lawyer can make requests to the court to call witnesses, and question them at your trial.

Q28. I don't speak the language of the court; do I have a right to an interpreter? Is it free?

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You should be entitled to an interpreter, whose services should be provided for free.

Q29. Will the written evidence be translated for me?

Not all written materials are translated, but the interpreter should help you understand the content of important documents. You should receive translated versions of certain key documents like the written charges against you.

Q30. Will the interpreter also help me if I need to talk to my lawyer?

Yes, but only during the investigation proceedings and court hearings.

If you are assisted by a lawyer on legal aid, the interpreter will also help you to communicate with your lawyer, and the costs are covered by legal aid. However an interpreter is not provided for your private meetings with a private lawyer.

Q31. Why is the victim taking part in the trial?

The victim has the right to make a civil claim against you, asking the court award monetary compensation, and may take part in your criminal proceedings for this purpose.

Q32. Will I be informed of the decision of the court on the day of the trial?

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If your crime is minor, then the decision is usually announced on the day of the trial. If you were tried for a more serious crime, the court sets aside a date on which the decision will be handed down. This should happen within 45 days of the last day of your trial.

Q33. <u>Can I receive a copy of the judgment in my</u> mother tongue?

Yes. If you do not speak Lithuanian then all official court documents that have to be given to you must be translated into a language that you understand.

Q34. I was tried in my absence and was not informed of this, what can I do?

You could be tried in your absence if you are outside Lithuania, and you are believed to be refusing to participate in your trial. If this happens and you are not satisfied with the court's decision, you should try to appeal the decision as soon as you find out about it. If your trial took place in your absence because you were not informed about it, you may be able to get a re-trial.

6. APPEALS

Q35. I am not happy with the decision, can I appeal against it?

You can appeal against the verdict and/or the sentence. You can even appeal against your own acquittal if you wish to challenge the reasons for the acquittal.

Q36. How can I appeal?

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Appeals should be lodged with the court where you were tried within 20 days from the date that the judgment is announced.

Q37. <u>Do I need to pay my lawyer more money if there is an appeal?</u>

This depends on the lawyer. Usually, if there is an appeal, it means there are more documents must be prepared, more court hearings to attend, and more evidence to be examined. This means that lawyer will have to work more, therefore it is likely that you will have to pay more money.

Q38. What is the time frame for the appeal to take place?

There is no legal timeframe in which appeal hearings must take place. However there is a requirement for the court to hear appeals within a reasonable time.

Q39. Could things get worst during the appeal?

You could end up with a harsher sentence, if this is specifically requested by the prosecution or the victim.

Q40. If I am acquitted, can the prosecution appeal?

Yes.

7. PRISON CONDITIONS

Q41. <u>Do I have rights as a prisoner? Where can I find out about my rights?</u>

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Your rights as a prisoner depend on the category to which you have been assigned. However, everyone should be given basic rights to food and basic necessities, as well as the right to communicate with the outside world.

Q42. What can I do if my rights are violated? Where can I get assistance regarding my welfare issues? Regarding abuse and mistreatment?

Your relations with the prison authorities are regulated by administrative law, therefore you could make a written complaint to the administrative court.

You should contact your lawyer for more advice and assistance. If you are not a Lithuanian citizen, your consulate or embassy may also be able to help.

8. POST-TRIAL MATTERS

Q43. Can I get my sentence reduced?

You can appeal against your sentence to get it reduced, but you may also be eligible for early release.

Q44. What would help me get an early release?

You could be released after serving a half, two-thirds, or three-quarters of your sentence, depending on the seriousness of the offence for which you were convicted.

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Good behaviour in prison may help you get early release. Compensating the victim for the harm caused by your crime could also help.

In certain cases, you could be released earlier, if you have young children.

Q45. I have been sentenced to pay a fine, what will happen if I don't pay it?

Fines are administered by the State Tax Inspectorate. Your assets in Lithuania could be seized to finance your fines. If you do not have any assets in Lithuania, your assets in other parts of the world could also be seized. If the authorities cannot recover the fine from your assets, the court may instead replace the fine with a different form of punishment.

Q46. Can I ask for a transfer to my home country?

If your sentence is final, you can be transferred to your country, as long as there is an agreement between your home country and Lithuania that allows this. For more information, please refer to our 'Prisoner Transfers' note of advice.

Q47. <u>I have exhausted all legal remedies, is it still</u> possible to get my case reviewed?

If you have new evidence not available at the time of your trial that strongly supports your defence, you can apply to get your case reviewed.

Q48. I have exhausted all legal remedies; can I apply for a pardon?

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The President of Lithuania has the power to grant pardons, but in practice, they are rarely granted.

Q49. <u>Can I be expelled instead of serving my</u> sentence?

No, but you can ask for being transferred to your home country in order to serve your sentence there.

Q50. <u>Is there a risk that I will be deported after serving my sentence?</u>

Depending on you legal status in Lithuania, the court may decide to order your deportation. This could happen if you are not a Lithuanian or EU citizen, and you do not have valid visa or residence permit.

USEFUL LINKS

ORGANISATION	MANDATE	CONTACT DETAILS	
LAW GOVERNING BODIES			
Lithuanian Bar Association Lietuvos Advokatūra	Mandate: The Lithuanian Bar Association is the governing body for lawyers in Lithuania. Additional Information: Website has a directory of local lawyers. Languages: Website available in Lithuanian, English, and Russian	Website: www.advoco.lt E: info@advoco.lt T: +370 (0)5 262 4546 Tilto str. 17 / Radvilų str. 4 LT-01101 Vilnius	
LEGAL AID			
State Guaranteed Legal Aid Service Valstybės Garantuojama Teisinė Pagalba	Mandate: The State Guaranteed Legal Aid Service has 5 offices throughout Lithuania, and they are responsible for assessing eligibility for legal aid, and appointing legal aid lawyers.	Website: www.teisinepagalba.lt Local Offices: Vilnius E: vilniausvgtpt@infolex.l	

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You can find out more about criminal and civil legal aid by visiting the website of the State Guaranteed Legal Aid Service.

T: +370 (0)5 2647 480 Odminių g. 3, LT-01122 Vilnius

Languages:

English.

Website available in Lithuanian and

Kaunas

E:

kaunovqtpt@infolex.lt T: +370 (0)37 408 601 Kęstučio g. 21, LT-44320 Kaunas

Klaipėda

E: kl.vgtpt@infolex.lt T: +370 (0)46 256 176 Herkaus Manto g. 37, LT-92236 Klaipėda

OMBUDSMEN and COMPLAINTS COMMITTEES

The Seimas Ombudsmen's Office

Seimo Kontrolierių Įstaiga

Mandate:

The Seimas Ombudsmen investigate allegations of abuse of power made by public authorities and of violations of human rights. The Ombudsmen cannot investigate alleged violations of procedure made by prosecutors and police officers, unless they relate to violations of human rights.

Additional Information:

Complaints are usually made in writing, and need to be submitted within one year of the event on which the complaint is based.

Languages:

Website available in Lithuanian and

Website: www.lrski.lt

E: ombuds@lrs.lt

T: +370 (0)706 65105

F: +370 (0)706 61538

Gedimino pr. 56, LT-01110 Vilnius

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	English.		
NGOs			
HUMAN RIGHTS			
Human Rights Monitoring Institute ('HRMI') Žmogaus teisių stebėjimo institutas	Mandate: HRMI works to ensure that all national laws and policies in Lithuania comply with international human rights standards, and to encourage individuals to exercise their rights. HRMI is active in a wide range of human rights issues, including criminal justice and migrants' rights. Languages: Website available in Lithuanian and English	Website: www.hrmi.lt E: hrmi@hrmi.lt T: +370 (0)5 2314 676 F: +370 (0)5 2314 679 Didžioji str. 5 LT-01128 Vilnius	
BRITISH PRISONERS			
Prisoners Abroad	Mandate: Prisoners Abroad is a small UK-based charity dedicated to supporting British citizens imprisoned overseas. They also provide assistance to those affected by imprisonment, and help exprisoners start a new life free of crime after their release. Criteria to receive assistance: The person in prison must be a British Citizen – that is they hold a full British passport – and they must not hold a passport for the country in	Website: www.prisonersabroad. org.uk E: info@prisonersabroad. org.uk T: +44 (0)20 7561 6820 Helpline: 0808 172 0098 (this is free from all UK landlines)	

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which they are detained.

Cost:

Free

Additional information:

For prisoners, PA can make grant payments for food and other essentials, depending on where they are held and what other support they receive. PA can send magazines and newspapers, information about prison and their rights, and PA may be able to help if they need medical treatment in prison.

Languages: English F: +44 (0)20 7561 6821

Prisoners Abroad 89-93 Fonthill Road Finsbury Park London N4 3JH

Opening hours:

10am-4pm, Monday to Friday

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If you think that an important question is not covered in this fact sheet, please let us know.



Vision: A world where every person's right to a fair trial is respected.

THANK YOU

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