

CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN LATVIA

This leaflet covers:

- Information about FTI
- Definitions of key legal terms
- Criminal proceedings and defence rights in Latvia
- 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 (*apelācija*): 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 (*izmeklēšanas tiesneša lēmums*): A document authorising the police to make an arrest, search premises, or carry out some other action relating to the administration of justice.

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

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

Charge/Indictment (*lēmums par saukšanu pie kriminālatbildības*): An official statement accusing a person of committing an offence.

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

Court of Appeal (*apelācijas instances tiesa*): The court that is competent to hear appeals (i.e. challenges) made to decisions of the lower courts

Court of First Instance (*pirmās instances tiesa*): A lower court where a trial is initially heard.

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

European Court of Human Rights (*Eiropas Cilvēktiesību tiesa*): 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 (*apsūdzības process*): 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 (*izmeklēšanas tiesnesis*): A judge who performs an examining role and is actively involved in the conduct of investigations.

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

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

Lawyer (*advokāts*): 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 (*valsts nodrošinātā juridiskā palīdzība*): Financial assistance provided to a person who needs a lawyer and who cannot afford to pay for one.

Plea Bargain (*vienošanās process*): A procedure which allows the defendant to plead guilty in exchange for a less severe sentence.

Police Custody (*aizturēšana*): Detention of a suspect by the police after arrest

Pre-trial Detention (*pirmstiesas apcietinājums*): 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 (*prokurors*): A person who conducts a case against a person who is accused of a crime.

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

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

Victim is known as “*cietušais*” in Latvian.

Warrant (*izmeklēšanas tiesneša lēmums*): A document issued by a legal or government official authorising the police to make an arrest, search premises, or carry out some other action relating to the administration of justice.

Witness is known as “*liecinieks*” in Latvian.

INFORMTION ON CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN LATVIA

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 Latvia apply?

Latvian law applies across the whole territory of the Republic of Latvia, regardless of the nationality of the accused.

2. ARREST AND INVESTIGATION

Once arrested, the investigator or prosecutor must decide whether to recognise you as a suspect (i.e. to formally accuse you), or release you within 48 hours. If the investigator or prosecutor decides not to release you within this 48 hour period, you should be taken to investigative judge, who should decide whether or not to keep you in detention.

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, the police should inform you in writing of your rights immediately after you are arrested, and this information should be given in a language you understand.

Q4. Do I have a right to be informed of the allegations/charges against me?

Yes, the police should inform you of the allegations against you immediately after you have been arrested.

(b) Right to inform people:

Q5. Do I have a right to have the consulate informed of my arrest?

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

Q6. Do I have a right to inform my family of the arrest?

Yes, you have a right to inform your family. According to Latvian law, you have the right to request a relative close to you, an educational institution, or an employer be notified regarding the detention "at the moment of actual arrest".

Q7. Do I have a right to a lawyer?

Yes, you have a right to legal representation. Latvian criminal procedure law gives you the right to have access to a lawyer “without delay”. This right includes the right to be interrogated in the presence of a lawyer, and the right to confer with a lawyer in private. If you are detained, a lawyer should be made available to assist you immediately.

Q8. Do I have a right to a translator/interpreter?

Yes, the police should provide an interpreter for you. The interpreter should translate everything, including oral communications, written documents, and evidence relevant to your case. The interpretation is provided for free.

Q9. 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?

Yes, you have the right to remain silent. Your silence cannot be used against you in the investigation or trial.

Q10. When will I know about the case against me?

You will be informed in general about the case against you as soon as you are informed that you are the person against whom a case is initiated or when you are recognised as a suspect.

You / your lawyer should get access to the case file / evidence that supports the accusations against you after the end of pre-trial process, when the case is handed over to the court, or when the case is dismissed during pre-trial process. It is not defined by the law how long pre-trial process can last, but in practise it can take from few days to several years.

In general, defence lawyers have no access to the case file until the pretrial process is completed, so they cannot directly influence the course of investigations themselves. However your lawyer may be able to request certain investigations to be carried out in according to your instructions.

Q11. How long can I be kept in prison before my trial starts?

The maximum period for pre-trial detention depends on seriousness of the crime you are alleged to have committed.

- If you are accused of a ‘criminal violation’ (an offence for which you face between 15 days and 3 months in prison), you can be detained for up to 20 days;
- If you are accused of a ‘less serious’ offence (an intentional offence for which you could face between 3 months and 3 years in prison, or if committed negligently, a possible term in prison for up to 8 years), you could be held for up to 4 months (7 months if you are accused of a sexual offence against a minor);

- If you are accused of a ‘serious’ offence (an intentional offence for which you could face between 3 years and 8 years in prison, or if committed negligently, more than 8 years’ imprisonment), you can be detained for up to 9 months; and
- If you are facing particularly serious accusations (for which you face more than 8 years in prison), you could be held in detention for up to 18 months before your trial can begin.

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.

Q12. How can I find a lawyer?

The investigator (police officer), prosecutor, and the judge involved in your case are obliged to arrange a lawyer for you upon your request.

Alternatively, the Latvian Bar Association should also be able to assist you with finding a lawyer. If you are not a Latvian citizen, your consulate may be able to provide you with a list of lawyers who speak your language.

In certain cases, suspects are required by law to be assisted by a lawyer. These include cases in which the accused is a minor, illiterate, or disabled.

Q13. What is the role of my lawyer? Will s/he investigate the case?

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Your lawyer's role is to provide you with legal advice and defend you during the pre-trial stages of your criminal proceedings, and in the court.

Your lawyer has no power to conduct investigations of his/her own, but s/he can ask the investigator to order specific investigation activities to be carried out.

Q14. 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 are in need of a legal aid lawyer, you should ask the investigator to appoint one for you. Legal aid covers all complaints during the pre-trial and trial period, representation and defence at pre-trial and trial stages, as well as legal advice before the court hearings.

Legal aid is provided to everyone, regardless of their income, but if you are convicted, the state of Latvia will reclaim the costs for legal aid (except in cases when the presence of lawyer was mandatory, and certain other circumstances). You cannot ask to have a particular lawyer to be appointed to you on legal aid.

Q15. I am unhappy with my lawyer: How can I change lawyer? How can I complain about my lawyer?

A good first step is to speak to your lawyer about your concerns. If that does not resolve the issue, you may wish to look into the possibility of finding a different lawyer to assist you.

If you appointed your lawyer privately, you only need to inform him/her that you want to change lawyer and appoint a new one.

You can refuse your legal aid lawyer at any time by informing the investigator about your decision. However, the investigator is not obliged to change your lawyer if s/he believes there are no serious reasons for your complaint.

You can submit complaints about lawyers to the Latvian Bar Association.

4. PRE-TRIAL MATTERS

4.1 Pre-trial matters: detention

The information given below is specific to Latvia. 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”.

Q16. Will I have to stay in prison until my trial starts? Are there alternatives to detention pending trial?

Your detention may be ordered if it is believed that:

- You may try to avoid your criminal proceedings;
- You might commit another crime; or
- You might interfere with ongoing investigations.

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Alternatively, you could be released with various conditions, including the following:

- To notify changes to your address;
- To appear at a police station on a regular basis;
- To be subject to a restraining order; and
- To deposit bail money

You may be released under supervision, and you could also be confined to your place of residence.

Q18. How and when can I apply for release while waiting for trial?

You have the right to apply for release every two months, or at any point there are changes to your circumstances that could affect the outcome of such an application.

Q19. Can I go back to my home country while on bail?

If you are not detained, and you have not been explicitly prevented from leaving Latvia as a condition of your release, you will be allowed to leave the country. In most cases, you may only leave the country with the written permission of the investigating officer.

Q20. What will happen if I breach the conditions of my release?

If you violate the conditions of your release, you may be detained, and the bail money you deposited could be confiscated.

Q21. Do I need a lawyer to apply for release?

No, you do not need a lawyer to apply for release.

4.2. Pre-trial matters: timing

Q22. How long before my case goes to trial?

There are no laws in Latvia that specify how quickly your case must be heard by a court. The time it takes for your case to reach trial depends on a number of different factors, including the seriousness of crime; the extent of the required investigations; and the need for international cooperation. It could take anything from a few weeks to several years for your trial to go ahead.

Q23. There are always delays with my case; does that mean my lawyer is doing a bad job?

Lawyers are usually not responsible for the delays in their own clients' cases. The main reasons for delay are listed above.

4.3. Pre-trials matters: pleading guilty

Q24. Can I plead guilty? What are the consequences of pleading guilty?

Yes, you can plead guilty at any time. In most cases admission of guilt could be taken into account as a factor that could reduce your penalty. If you plead guilty, you are still entitled to a full trial if you want, but alternatively, you can accept a plea bargain, or opt for a trial under simplified procedures.

5. THE TRIAL

Q25. What happens at the trial?

The hearing starts with the presentation of the accusations against you by the prosecutor. The evidence presented by the prosecutor (including oral witness statements) will be examined, and after that, the evidence presented by your lawyer in support of your defence will be examined.

The trial ends with prosecutor and your lawyer making speeches in support of their respective cases, and you will be given the last word.

Q26. Do I have to be present?

As a general rule, you have to be present during your criminal trial, but there are some exceptions for criminal violations and less serious offences (offences in which the maximum sentence you can face is 3 years, if committed intentionally, or 8 years if committed through negligence).

Q27. Can I ask for the trial to take place in my home country?

If you are being accused of committing a crime in Latvia, your case will be heard by the Latvian court, and you cannot ask for your trial to be heard in your home country.

Q28. Is there a jury?

No, Latvian criminal trials are not heard by a jury. Most cases are heard by a single judge. If you are facing serious accusations, your trial may be heard by a panel of three judges.

Q29. Can my lawyer call and cross-examine witnesses?

Yes, your lawyer will have the opportunity to call and cross-examine witnesses during the trial.

Q30. I don't speak the language of the court; do I have a right to an interpreter? Is it free?

Yes, an interpreter will be provided for free.

Q31. Will the written evidence be translated for me?

You should be entitled to an interpreter, free of charge, to help you understand the contents of the evidence in your case.

Q32. Will the interpreter also help me if I need to talk to my lawyer?

Yes.

Q33. Why is the victim taking part in the trial?

Victims can play an active role in criminal trials. They can, for example, influence investigations by submitting applications, and demand compensation for the harm they suffered without the need to resort to separate civil proceedings. The victim may also present his/her opinion about your sentence and where appropriate, appeal against the judgment in your case.

Q34. Will I be informed of the decision of the court on the day of the trial?

You will not necessarily be informed of the court's decision immediately. The judge must inform you about the day when the judgement will be announced, but the period cannot be more than 14 days from the end of your trial.

Q35. Can I receive a copy of the judgment in my mother tongue?

Yes, you will be able to receive a copy of the judgment in your mother tongue. Translation will be provided for free.

Q36. I was tried in my absence and was not informed of this, what can I do?

The court could try you in your absence (*in absentia*), if you are outside Latvia, and your whereabouts are unknown, or if it is not possible to secure your attendance in court. If your case is tried in your absence, you can submit an appeal after you receive the judgment.

6. APPEALS

Q37. I am not happy with the decision, can I appeal against it?

Yes, you have the right to appeal against the decision of the court. You can appeal against both the verdict and sentence.

Q38. How do I appeal?

Once you have received the court's decision in writing, you have 10 days to appeal against it. The court may set a longer timeframe for your appeal, but not for more than 20 days.

The appeal must be submitted to the court whose decision you are appealing.

Q39. Do I need to pay my lawyer more money if there is an appeal?

This will depend on your agreement with your lawyer. If you are on legal aid, the appeal proceedings will be supported by legal aid as well.

Q40. What is the time frame for the appeal to take place?

The time frame for the appeal process is not specified by Latvian law. However, in principle cases should be reviewed within a "reasonable time". In practice hearing of appeal takes place within 3-6 months.

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Q41. Could things get worse during the appeal?

Things can only get worse for you during an appeal if the appeal is also submitted by the prosecution, or by the victim to seek a less favourable outcome for you.

Q42. If I am acquitted, can the prosecution appeal?

Yes, the prosecution may bring an appeal against your acquittal.

7. PRISON CONDITIONS

Q43. Do I have rights as a prisoner? Where can I find out about my rights?

Your rights and obligations as a prisoner should be explained to you soon after you are detained in prison.

Q44. What can I do if my rights are violated? Where can I get assistance regarding my welfare issues? Regarding abuse and mistreatment?

You can submit a complaint to prison administration and the courts to outline your concerns. You should seek advice from your lawyer to find out how to do this. You may also be able to register your complaint with the Ombudsman, who may carry out further investigations.

If you are not a Latvian citizen, your embassy or consulate may also be able to help.

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8. POST-TRIAL MATTERS

Q46. Can I get my sentence reduced?

It is not possible to get your sentence reduced after you have been convicted and you have exhausted your appeals. However, it might be possible for you to get early release.

Q47. What would help me get an early release?

If you have been sentenced to serve time in prison, you could be released prior to the completion of your punishment, if you can show that you are not at risk of reoffending.

Your eligibility for conditional release depends on the seriousness of the crime with which you have been convicted:

- If you were convicted of a less serious offence, you are eligible after serving half of your sentence;
- If you were convicted of a serious offence, or if you have previous convictions, after serving two-thirds of your sentence;
- If you were convicted of a particularly serious offence, or you were convicted of a criminal offence whilst on conditional release for another crime, after serving three-quarters of the punishment imposed; or

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- If you are serving a life sentence, after serving twenty-five years in prison.

The following are amongst the factors that could help you get early release:

- Demonstrating that you have been rehabilitated;
- Compensating the victim voluntarily for the harm caused by your crime;
- Showing that you are capable of supporting yourself financially after release by lawful means;
- Committing to receive treatment for substance addiction and/or mental health problems.

Q48. I have been sentenced to pay a fine, what will happen if I don't pay it?

If you do not pay the fine, it could be replaced with a prison sentence. You could end up facing anything between a few days and five years in prison, depending on the amount you have been fined.

Q49. Can I ask for a transfer to my home country?

Yes, so long as there is an agreement between Latvia and your home country that allows such transfers to take place.

For more information, please refer to our 'Prisoner Transfers' note of advice.

Q50. I have exhausted all legal remedies, is it still possible to get my case reviewed?

There are several circumstances in which your case could be reviewed, and you should seek advice from your local lawyer to find out whether or not there are grounds on which your case could be reopened.

You could request a review of your case if, for example, there are new circumstances or evidence that strongly supports your defence (including any court judgments showing that key evidence was falsified), and subsequent decisions made by the Constitutional Court or an international tribunal (such as the European Court of Human Rights), which affects your case.

A public prosecutor also has the right to renew criminal proceedings in connection with newly disclosed circumstances under certain circumstances.

Q51. I have exhausted all legal remedies; can I apply for a pardon?

Clemency petitions can be submitted to the President of Latvia. In most cases the application can be submitted at any time after the sentence has become final.

If you are serving a prison sentence for a serious crime, your application may only be submitted after you have served half of the sentence. If you have been convicted of a particularly serious crime, the clemency petition may be submitted after serving two-thirds of the

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sentence. If you have been sentenced to life imprisonment, you can only make your application after 20 years of imprisonment.

Approximately 5% of all clemency requests are granted.

Q52. Can I be expelled instead of serving my sentence?

No, you cannot be expelled instead of serving your sentence.

Q53. Is there a risk that I will be deported after serving my sentence?

Yes, there is a risk that you will be deported once you have served your sentence. You can only be deported on the basis of a court ruling, and you should seek legal advice on how your conviction might affect your immigration status in Latvia.

USEFUL LINKS

ORGANISATION	MANDATE	CONTACT DETAILS
LAW GOVERNING BODIES		
<p>Latvian Council of Sworn Advocates</p> <p><i>Latvijas Zvērinātu advokātu padome</i></p>	<p>The Latvian Council of Sworn Advocates acts as the bar association in Latvia, and it is the professional body that regulates and represents local lawyers.</p> <p>The Council has an online database of local lawyers, and it can also receive complaints about individuals who have failed to act in compliance with their professional duties.</p> <p><u>Languages:</u> Website available in Latvian and English</p>	<p>Website: www.advokatura.lv</p> <p>E: padome@advokatura.lv</p> <p>T: +371 (0)67358487 F: +371 (0)67358488</p> <p>Elizabetes iela 63 Rīga LV-1050</p>
LEGAL AID		
<p>Legal Aid Administration</p> <p><i>Juridiskās palīdzības administrācija</i></p>	<p>The Legal Aid Administration is the body responsible for examining individual applications for legal aid, and to pay out funds for legal aid providers. It also pays out compensations to victims of criminal offences in certain cases.</p> <p><u>Languages:</u> Website available in Latvian and English</p>	<p>Website: www.jpa.gov.lv</p> <p>E: jpa@jpa.gov.lv</p> <p>T: +371 (0)80001801 F: +371 (0)67514209</p> <p>Pils laukums 4 Rīga LV-1050</p>
OMBUDSMEN and COMPLAINTS COMMITTEES		
<p>Ombudsman</p>	<p>The Ombudsman monitors the conduct of public authorities of</p>	<p>Website: www.tiesibarqs.lv</p>

<p>Tiesībsargs</p>	<p>Latvia, in order to ensure that they comply with the principles of good administration and human rights.</p> <p>The Ombudsman can receive individual complaints about actions taken by public authorities, and may then investigate the complaints. The Ombudsman's office is open to the public for face-to-face consultations.</p> <p><u>Languages:</u> Website available in Latvian, English, and Russian.</p>	<p>E: tiesibsargs@tiesibsargs.lv</p> <p>T: +371 (0)67686768 F: +371 (0)67244074</p> <p>Baznīcas iela 25 Rīga LV-1010</p>
<p>NGOs</p>		
<p>HUMAN RIGHTS</p>		
<p>Latvian Centre for Human Rights</p> <p>Latvijas Cilvēktiesību centrs</p>	<p>The Latvian Centre for Human Rights ('LCHR') works to promote fundamental rights in Latvia. LCHR can provide assistance to victims of human rights abuses, and it also monitors places of detention, including police stations and prisons.</p> <p><u>Languages:</u> Website available in Latvian, English, and Russian</p>	<p>Website: http://cilvektiesibas.org.lv</p> <p>E: office@humanrights.org.lv</p> <p>T: +371 (0)67039290 F: +371 (0)67039291</p> <p>Alberta iela 13, 7. stāvs Rīga, LV-1010</p>

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

FAIR TRIALS

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

THANK YOU

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www.fairtrials.org/get-involved/supporters/

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