Fair Trials is a non-governmental organisation that works for the right to a fair trial according to internationally-recognised standards of justice.

This factsheet covers:

- Definitions of key legal terms;
- Information about criminal proceedings and defence rights in France; and
- Useful Links

We have prepared this factsheet with the assistance of local criminal lawyers, who tried to describe how things happen in reality. Even within one country, however, practice can vary greatly from one place to another and your own experience could 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.

If you think an important question is not covered by this note, please let us know by filling out the sheet attached at the end. We would also appreciate it if you could also take a few moments to give us some feedback about this note. Your comments will help us to improve our services.

“Fair Trials” comprises Fair Trials International and Fair Trials Europe. Fair Trials International is a registered charity (no. 1134586) and in 2010 was incorporated with limited liability in England Wales (no. 7135273). Fair Trials Europe is a registered public foundation in Belgium (registered number 0552.688.677). We were initially founded in 1992 with the name “Fair Trials Abroad”.

DEFINITIONS OF KEY LEGAL TERMS

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

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

**Bar Association (ordre des avocats or barreau):** An organisation whose role is to represent lawyers and help people in their dealings with lawyers.

**Charge/Indictment (accusations):** A statement (often in writing) accusing a person of carrying out an offence. In France, such information is often given orally.

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

**Court of Appeal (cour d’appel):** A court that is competent to hear appeals (i.e. challenges) made to decisions of the lower courts.

**Court of First Instance:** A lower court where a trial is initially heard.
Embassy (ambassade): The office of a government official who resides in a foreign country and represents his/her government’s interests.

European Court of Human Rights (Cour européenne des droits de l’homme): 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).

Fast track proceedings or summary proceedings (comparution immédiate): this is the name given to proceedings that take place very immediately after arrest by the police and police custody. These proceedings are usually only used in simple and straightforward cases.

File (dossier): name given to your case or case file by your lawyer.

Investigative Judge (juge d’instruction): A judge who performs an examining role and actively steers the course of a trial.

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

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

Liberty and custody judge (juge des libertés et de la detention): judge in charge of deciding whether a person must be released or placed in detention pending trial.

Judgment (jugement): A decision on a case provided by a judge or jury in a court of law.

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

Offences (infractions): There are three categories of offences in France: felonies (crimes) which are very serious offences such as murder or armed robbery; misdemeanours (débois) which are less serious offences such as theft, fraud, bribery etc. and petty crimes (contraventions) which are minor offences such as speeding.

Plea Bargain (comparution sur reconnaissance préalable de culpabilité): A procedure which allows the defendant to plead guilty in exchange for a less severe sentence. In France it is only possible in limited circumstances.

Police Custody (garde à vue): Detention of a suspect by the police after arrest.

Power of Attorney (procuration): Written authorisation provided by one person to another, allowing them to make decisions on their behalf. This can include matters of business or private affairs.

Pre-trial Detention (detention provisoire): Detention in police custody or 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 (Procureur de la République): A judge who conducts a case against a person who is accused of a crime

Remand: The act of sending a person, accused of a crime, into police custody.

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

Victim (victime or partie civile)

Warrant (mandat): 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 (témoin)

INFORMATION ON CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN FRANCE

Q1. WHERE DO THE LAWS OF FRANCE APPLY?

The laws of France apply within the whole territory of the French Republic including French Overseas Departments and Territories and French Polynesia.
French criminal law is applicable to any offence punishable under French law if at least part of the offence took place in France regardless of the offender’s nationality. Please note that French criminal law can also apply to some crimes and misdemeanours committed outside France by non-French citizens against French citizens. Specific conditions have to be met:

(1) The French victim needs to complain, or an official complaint needs to be made by the state in which the offence took place; and

(2) The French prosecutor needs to agree to prosecute the suspect.

Q2. WHAT ARE MY RIGHTS UPON ARREST?

After arrest, you can be kept in detention in a police cell. This is called police custody (garde à vue). The general rule is that you cannot remain in police custody for more than 24 hours from the time of your arrest. However, police custody can last another 24 hours in specific circumstances, especially if the offence is punishable by at least one year’s imprisonment, or if the investigation is deemed to require the extra time. The police needs to have the consent of the prosecutor (in the vast majority of cases, the prosecutor will consent). In certain cases involving terrorism, drug trafficking or organised crime, the duration of the police custody can last up to 96 hours.

At the end of police custody, if the decision is made to accuse you of a crime, a judge (juge des libertés et de la détention) will decide whether to order your detention (in a prison) prior to your trial.

(a) Right to information:

(i) Will the police inform me of my rights? Will this be done orally or in writing?

Yes, the police should inform you of your rights. They will do it orally and in writing, with the assistance of an interpreter or translator, if needed.

The writing will consist of a police report in French stating your rights and stating that you were informed of them and that you understood them. You will be required to sign this sheet (known as the Notification of Rights Report) and if you refuse to do so, it will be mentioned by the police officers on the police report.

In practice, you will be immediately informed of your rights when remanded in custody. However, if you are in a state of intoxication at the time of arrest, the notification of your rights may be postponed until the effects of the alcohol/drugs have worn off.

In a nutshell, the rights you will be notified of are:

1. The right to inform a relative and/or your employer (unless this would undermine the conduct of the investigations);

2. The right to be examined by a doctor (this could, in practice, take some time);

3. The right to be assisted by a lawyer during the hearings; including a 30-minute private consultation at the beginning of your time in custody and at each 24 hour renewal;

4. The right to answer the questions you are asked, to remain silent, or to make a spontaneous statement.

(ii) Do I have the right to be informed of the allegations/charges against me?

Yes, you have a right to be informed of the allegations against you. The police officer must inform you of:

(i) The fact that you have been remanded into police custody (and how long this will last); and
(ii) The nature and the presumed date of the offence that you are suspected to have committed, or to have attempted to commit.

The public prosecutor has the right to amend the charges. Should this happen, you would be immediately notified by a police officer in a language that you understand (with the assistance of a translator / interpreter if needed).

However, if you are in a state of intoxication at the time of arrest, such information may be given to you at a later stage in the process.

(b) The right to inform people:
(i) Do I have a right to have the consulate informed of the arrest?

Foreign nationals arrested in France have the right to have the police notify their consular authorities of the arrest. You need to request it.

(ii) Do I have a right to inform my family of the arrest?

Yes, if you wish to inform a family member and/or your employer of your arrest, you can give the police the contact details of a family member so they can call/notify them for you.

You will not be allowed a call to all of your family. Therefore, you should choose carefully which family member to call.

However, the public prosecutor may delay the notification of your family, if s/he believes this is necessary, for the proper conduct of the investigation (e.g. if there is a risk that they are accomplices or will inform accomplices of your arrest).

If a judge decides to order that you are placed in pre-trial detention, your family must immediately be informed.

(c) Do I have a right to a lawyer?

Yes, any individual who is in custody has the right to be assisted by a lawyer. You can request a lawyer at any time when under police custody, and you will be able to meet him/her in private for 30 minutes. You will also be able to benefit from your lawyer’s assistance during interrogations or confrontations.

However, if needed by the investigation, the public prosecutor has the right to postpone the assistance of a lawyer for up to 12 hours, if requested by the police officer (usually this has to be necessary for the good conduct of the investigations – i.e. because it is urgent to collect evidence - or to prevent another criminal offence from taking place).

If offences are punishable by five or more years’ imprisonment, the public prosecutor may delay the assistance of a lawyer by up to 24 hours, but only with the authorisation of the liberty and custody judge (juge des libertés et de la détention).

This decision cannot be challenged as such, but in some circumstances if the decision was wrongly taken (e.g. the offence was only punishable by less than five years’ imprisonment), then statements given to the police without a lawyer will not be admissible at trial.

(d) Do I have a right to a translator/interpreter?

If you do not understand French, you will be provided with an interpreter. If necessary, a form can be handed out to you in a language you understand to ensure you are aware of your rights whilst the police are waiting for the translator/interpreter to arrive.

Interpreters will be present during police interviews. You may be asked to sign a statement in French, which the interpreter will translate for you orally. You do not have a right to have this statement translated in writing in your mother tongue. If you are not sure that this statement is accurate, ask your lawyer to check its content. You can also ask your lawyer whether you should refuse to sign it.

(e) 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?

You have the right to remain silent during interrogation but this right should be exercised carefully so as not to be harmful to your case. Discuss with your lawyer whether or not you wish to exercise this right.

Q3. WHEN WILL I KNOW ABOUT THE CASE AGAINST ME?

You should be notified immediately of the suspicions or accusations that led to your arrest and detention. Should the accusations against you change whilst you are in custody, the police officers have a duty to notify you of the new accusations immediately.

Your lawyer can ask for access to a report stating that you were notified of your rights (proces-verbal de garde-a-vue: this is the document you were asked to sign when you were informed of your rights by the police), your medical certificate in case you have asked to consult a doctor, as well as all written reports of statements you made to the police. However, the police officer has no obligation to allow your lawyer to see your file and in practice some police officers routinely deny this.
If the prosecutor decides to postpone your right to a lawyer, then neither you nor your lawyer will be able to see these documents during these 12 or 24 hours.

If your case is directly brought before a court for trial by the prosecutor (citation directe du Parquet) or in fast track proceedings, you or your lawyer will have full access to the whole file and a right to take a copy of its contents.

If your case is brought before an investigative judge for further examination, your lawyer will be granted the right to access the whole file, but you will not. The general rule is that your lawyer will request a copy of the file, which you will then be able to consult at his office or in any place where the confidentiality of the discussion between a client and his/her lawyer is secure.

You do not have a right to a copy of the contents of your file unless you have requested and obtained the investigative judge’s authorisation. It is prohibited to communicate any part of an investigation file and this is punishable by a fine of up to €3750. There is an exception to this rule when the communication of the file is needed in order for you to obtain a statement from an expert to support your defence.

Q4. HOW DO I FIND A LAWYER? WHAT IS THE ROLE OF MY LAWYER?

(a) How do I find a lawyer?

French lawyers are members of local bar associations or “bars”.

The list of lawyers for each local bar is available in all municipalities or district courts. Most local bars also provide such lists on the internet.

(b) 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, one can be appointed for you by the court. Subject to certain conditions you can benefit from full or partial legal aid. You will need to prove that you have a low or no income (under 1000 euros/month for full legal aid or under 1500 euros/month for partial legal aid).

With respect to criminal proceedings, any person charged, accused or convicted may benefit from legal aid, even if such person is not a French national or resident.

To benefit from legal aid and assistance, you must contact the local bar association. If you are placed under police custody and you do not know any lawyer to contact, the police will call the local bar association to have a lawyer appointed for that purpose. The lawyer appointed by the bar association will only be able to help you at this stage on legal aid only if you fulfill the relevent income criteria for eligibility.

If you choose a lawyer and wish for him/her to assist in your defense, s/he may still choose to turn down your case. If this happens, your must find a lawyer that will accept the work on legal aid, or ask the local bar assocition to provide you with one.

(c) What is the role of my lawyer? Will s/he investigate the case?

Your lawyer will provide you with legal assistance and will present your case in court based on the evidence gathered by the prosecutor or by the investigative judge. In court, s/he has the right to call witnesses.

In principle, the power to investigate a case belongs to the public prosecutor and investigative judge. This means that the lawyer’s power to investigate the case is limited, especially when the case is only under the authority of the prosecutor. If the prosecutor is not doing his/her job, it is sometimes possible to start a civil action against him/her and ask that an investigative judge be appointed.

When the case is in the hands of an investigative judge, your lawyer (and similarly, the lawyer of the victim) has broader powers to request investigation, interviews, confrontations (the act of bringing together the suspect and the victim for a discussion), etc.

(d) 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 can complain about your lawyer and seek to have another lawyer appointed.

You can complain about your lawyer before the president of the relevant bar association (le bâtonnier) by way of a simple letter explaining the reasons for your complaint.
If you are receiving legal aid, you need to request the appointment of a new lawyer to the bar association. When you have the name of that new lawyer and s/he has agreed to take over your case, s/he will contact your previous lawyer to receive your file from his/her colleague. It is recommended that you call your previous lawyer to let him/her know that you have appointed new representation for your case.

Q5. WILL I HAVE TO STAY IN PRISON UNTIL MY TRIAL STARTS? IF SO, FOR HOW LONG?

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

(a) Will I have to stay in prison until my trial starts? What are the alternatives?

You may have to stay in prison until your trial starts. Although there is a presumption that people should be given bail (i.e. should be released pending your trial), in many cases defendants, particularly when they are foreign nationals, are kept in custody.

Reasons for keeping people in custody are to prevent them from:

1) failing to attend their trial (i.e. absconding);
2) tampering evidence or interfering with witnesses;
3) communicating with other suspects;
4) committing another offence; or
5) being in danger of others or themselves.

Note that the time spent in prison prior to your trial will be deducted from your overall sentence.

There is an alternative to detention. It is called bail (contrôle judiciaire) and means that you are released from custody. If you are released pending trial, you may be required to submit to certain obligations/restrictions. These obligations are set by a judge (either the investigative judge and/or the liberty and custody judge) in order to fulfil the investigation’s requirements and in order to ensure your presence before the judge and/or the court for your hearing or when summoned.

Typical bail conditions include:

- Agreeing to give notification of any travel plans;
- Answering summons;
- Being placed under house arrest with, or without, tagging (bracelet électronique);
- Being prohibited from visiting certain places (e.g. the neighbourhood where the victim lives);
- Appearing regularly in a place designated by the judge (e.g. a local police station);
- Refraining from driving;
- Not meeting or making contact with certain people (victims, co-defendants, etc.);
- Submitting to any examination, treatment or care; including hospitalisation, particularly for detoxification;
- Not engaging in certain activities either professional or social; or
- Providing evidence of contribution to family expenses, or the payment of a pension fund.

(b) How and when can I apply for release while waiting for trial?

You can apply for bail at any time of the investigation after you were charged. You will have to promise to attend trial and convince the judge not to place you in pre-trial detention.

Applications for bail can be made by you or your lawyer to the judge hearing your case or conducting the investigation. If the judge denies you bail, you can appeal against his/her decision.

Judges will look at the merits of the case when considering your bail application. The bail decision can be reviewed at any time and as often as requested.

(c) How long can I be kept in prison before my trial starts?

In instances where police custody is over and a judge decides to order that you are kept in jail until your trial, the general rule is that your pre-trial detention (détention provisoire) should not exceed a reasonable amount of time considering the gravity of the case and the complexity of the necessary investigations.

As a general rule, pre-trial detention for minor offences cannot exceed four months. However, depending on the suspected person’s criminal record, personality, and the status and nature of the offence, such detention can be extended to up to one year.
Pre-trial detention can be extended to up to two years for offences committed partly outside of national territory or for organised crime, drug trafficking, terrorism, conspiracy, and other serious crimes. When a serious offence is committed, the general rule is one year of pre-trial detention but when all the possible exceptions to the general rule apply, it can amount to a maximum of four years and eight months.

(d) Can I go back to my home country if I have been released pending my trial?

Yes, unless the judge decides to retain your passport in order to make sure you will not leave the country or s/he asks you to stay at a given address.

(e) What will happen if I breach the conditions of my release?

If you breach your bail conditions, bail will be revoked and you may be remanded in prison. However, this does not constitute a separate criminal offence.

(f) Do I need a lawyer to apply for release?

No, but it is recommended that you have a lawyer present because there are legal considerations which might affect the conditions of your bail.

Q6. HOW LONG BEFORE MY CASE GOES TO TRIAL?

This may vary depending on the complexity of the case and the time needed to complete the investigation. It can be anywhere from one day in the case of fast track proceedings, which provide for an immediate appearance at court (comparution immediate), to several years if a serious crime has been perpetrated. It also varies a lot from court to court and in different parts of France.

France has been condemned by the European Court of Human Rights because of the delays in its criminal justice system.

(a) There are always delays with my case, does that mean my lawyer is doing a bad job?

No. Delays happen at each stage of the proceedings and courts are known to be overwhelmed, which causes cases to be fairly slow to reach a conclusion. This is not necessarily the result of poor quality work from your lawyer. Sometimes, your lawyer will even ask for the postponement of some hearings so s/he will have more time to prepare your defence.

Q7. CAN I PLEAD GUILTY? WHAT ARE THE CONSEQUENCES OF PLEADING GUILTY?

Yes, you can plead guilty to offences that are punished by a fine and up to a maximum of five years in prison. In this procedure, the assistance of a lawyer is compulsory.

This procedure (comparution sur reconnaissance prealable de culpabilité) is not applicable if you are younger than 18 years of age or in the case of some offences, such as violation of press laws, manslaughter, political misdemeanours and offences provided by specific laws.

This procedure can only be offered at the prosecutor's own discretion or at your request or the request of your lawyer.

In such a case, the prosecutor may suggest a plea bargain. For offences punishable by imprisonment, the duration of proposed imprisonment in the plea bargain cannot exceed one year or half the punishable sentence (whichever is the lower). If the plea bargain is accepted by the accused (with the assistance of his/her lawyer), it has to be approved by a judge. The judge may refuse to accept the plea deal.

If the procedure fails, it has no consequences on the case, which will be heard in court in the normal way. No mention of an attempted guilty plea will remain in the file and the prosecutor is not allowed to mention it to the court during trial.

Q8. WHAT HAPPENS AT TRIAL?

The hearing can take place before:

- The police court (tribunal de police) or jurisdiction of proximity (juridiction de proximité), which deals with petty offences;
- The correctional court (tribunal correctionnel) which deals with misdemeanours; or
- The criminal court (cour d’assises) which deals with felonies (e.g. murder).

What happens at trial before each court may differ, but in outline (and in order) the trial will be organised as followed:
The court will ask the accused a few questions on his/her status (identity, record, etc.);
The court will summarise the charges against the accused;
The court will question the accused on the facts. You can remain silent;
Witnesses will be called and examined;
The court will ask the prosecution, the defendant and, if present, the victim if they have further questions and the prosecution has an opportunity to recommend a punishment for the accused.
Finally, the parties will each argue their case in the following order:
(i) The victim’s lawyer (see below more information about the role of the victim in criminal proceedings);
(ii) The public prosecutor; and then
(iii) The defence lawyer.

Once this procedure has been followed, the court will ask the accused if s/he has anything to add to what his/her lawyer said.
A judgment will then be made.

(a) Are there fast-track trials?

Fast-track proceedings (called comparutions immediates) cannot be requested by the defendant. They are chosen by the public prosecutor; he can only use them in straightforward cases. They result in your case being heard immediately at the end of the police custody (garde a vue).

It usually gives you very little time to prepare your defence; however you have the right to request some time to better prepare your defence. If your application is successful, your trial should take place in no less than 10 days and no more than 2 months. You could be detained in the meantime.

Fast track proceedings can have a serious impact on the outcome of your trial and you should seek legal advice urgently if the prosecutor decides that your case should be fast-tracked.

If you are faced with such a procedure, the local bar association will provide you with a lawyer.

(b) Do I have to be present?

In principle, yes and it is recommended. However you can, in practice, be represented by your lawyer only, unless the court specifically requests your presence.

As a general rule your absence does not prevent the court from trying the case. If you have not asked for a postponement and you are not represented by a lawyer who asks for this postponement on your behalf, the court is unlikely to postpone and will try the case in your absence.

(c) Can I ask for the trial to take place in my home country?

No.

(d) Is there a jury?

There only are jurors at the criminal court (cour d’assise), which deals with felonies. There are three judges and six or 9 jurors in appeal proceedings. Jurors are lay people chosen from residents who are allowed to vote, i.e. who are over 18 years old.

(e) Can my lawyer call and cross-examine witnesses?

Yes, your lawyer can call witnesses. If a witness is not attending court willingly, your lawyer can ask the judge to summon the witness (i.e. to force him/her to come to court) to give evidence at your trial. However, this is at the discretion of the judge, you have no right to summon witnesses.

Your lawyer can also cross-examine witnesses. However, since such cross-examination is supervised by the court, the court may set limits to your lawyer’s cross-examination.

(f) I don’t speak the language of the court, do I have a right to an interpreter? Is it free?
Yes, you have a right to an interpreter who will be appointed by the court. The assistance of an interpreter is free.

(g) **Will the written evidence be translated for me?**

You do not have a right to have the whole file translated into your own language, and the investigating judge will decide which documents will be translated.

(h) **Will the interpreter also help me if I need to talk to my lawyer?**

Yes.

(i) **Why is the victim taking part in the trial?**

Victims are often called as witnesses. If the alleged offence has caused damages to the victim, the criminal court can order damages to be paid to the victim without the need for a separate legal case on the civil courts. For this reason, victims often decide to take an active (although limited) part in the trial, but they have no obligation to do so.

(j) **Will I be informed of the decision of the court on the day of the trial?**

It depends on the complexity of the case. If the case is simple, the court can choose to deliver its decision on the day of trial.

However, courts can choose to postpone the delivery of their decisions to a later date, which they will notify the parties of orally at the end of your trial.

(k) **Can I receive a copy of the judgment in my mother tongue?**

In principle, no. However, your lawyer may provide you with a translation if s/he speaks your language.

(l) **I was tried in my absence and was not informed of this, what can I do?**

If you have not been informed of your trial, the court will issue a default judgment (which cannot be executed until you are made aware of it and which gives you right to a re-trial).

In order to have a re-trial, you need to ‘oppose’ the judgment within 10 days (if you live in continental France) or within a month (if you live abroad) fro the day you were made aware of that judgment.

However, if you gave an incorrect address or if you moved without informing the court, the summons/citation will be considered as though it had been properly served and the trial will take place in your absence. As long as the summons is properly served or considered so, trials in your absence will not give you a right to a re-trial. Nevertheless, you do not lose your right to appeal against the decision, provided you respect the deadline.

If you are absent but you are represented by a lawyer, then the trial is considered to have taken place in your presence.

Q9. **I AM NOT HAPPY WITH THE DECISION, CAN I APPEAL AGAINST IT? HOW DO I APPEAL?**

You should always seek advice from your lawyer if you want to make an appeal. In theory, you can make an appeal without the assistance of a lawyer. However, where possible, it is advisable to get legal advice because it is a very technical matter.

If you are detained, your application to appeal must be lodged through a statement filed with the prison authorities (the person in charge is called the greffe de la prison). Alternatively, your lawyer can file an appeal on your behalf with the registrar of the court (greffe du tribunal). The time limits run from the time the service of the judgement is passed:

- 10 days, if you reside in continental France;
- one month if you reside outside continental France (i.e. abroad or in the French territories).

(a) **Do I need to pay my lawyer more money if there is an appeal?**

Yes, your lawyer can ask for more money if there is an appeal (unless s/he initially agreed that his/her fees would cover the appeal).

If you are entitled to legal aid, it will cover the cost of your appeal.
(b) What is the time frame for the appeal to take place?

It is difficult to predict the time frame for an appeal. Generally, an appeal will take place quickly if the accused is detained in jail and will happen within a year if s/he is free.

(c) Could things get worse during the appeal? If I am acquitted, can the prosecution appeal?

Yes, you can be given a longer sentence on appeal, but only if the prosecutor lodged an appeal.

The prosecutor can appeal and, if s/he does so, your acquittal can be overturned, or your sentence increased.

The victim can also appeal against an acquittal, but if s/he is the only one to appeal (i.e. the prosecutor does not appeal), then the only thing that s/he can obtain is a declaration by the appeal court that, although you are acquitted, you have committed the offence and the appeal court may order that you pay damages to the victim.

Q10. I HAVE EXHAUSTED ALL LEGAL REMEDIES. WHAT OPTIONS DO I HAVE?

(a) Is it possible to get my case reviewed?

Yes, there is a review mechanism but it is very rarely used.

It is subject to very strict conditions i.e. new facts, which were unknown to the court on the day of trial, must have been discovered that raise doubts as to your guilt. In practice, it is very rare that a case actually gets reviewed.

Revision may be applied for by the Minister of Justice, by the convicted person, or by his/her legal representative. The application for revision is sent to a special commission composed of five Court of Cassation judges (i.e. judges from the French Supreme Court). If the judges consider it necessary, they will call for further investigations and refer any application they consider admissible to the criminal division of the Court of Cassation (which rules as a revision court). This is the court of last resort.

You can also take your case to the European Court of Human Rights (ECtHR) after you have exhausted all your domestic remedies (i.e. all legal avenues available in France). The ECtHR cannot overturn your conviction but can recommend that you receive a retrial or that you are offered damages.

(b) Can I apply for a pardon?

Yes, the French President may grant pardon if:

1. All legal remedies are exhausted; and
2. The conviction is final and binding.

However, pardons are only granted under very exceptional circumstances.

Q11. WHAT RIGHTS DO I HAVE AS A PRISONER?

(a) Do I have rights as a prisoner? Where can I find out about my rights?

A guide to prisoners’ rights should be given to you when you arrive in prison. These include:

- The right to health;
- The right to a lawyer;
- The right to work/education;
- The right to a private and family life;
- The right to information;
- The right to safety;
- The right to freedom of expression and religion; and
- The right to contact family and legal representatives.

The guide should be explained to you orally. Free legal advice should be available to you in every prison.

(b) What can I do if my rights are violated? Where can I get assistance regarding my welfare issues, regarding abuse and mistreatment?

You can personally complain to the prison warden and may ask to be heard by the person in charge of inspecting the prison (usually a judge). It is also possible to bring a complaint before the administrative authority that defends
people’s rights against public administrations (Défenseur des Droits). Your lawyer should also be able to assist you.

Q12. CAN I GET MY SENTENCE REDUCED?

Fine sentences may be reduced by 20 per cent (up to a maximum discount of €1500 or approximately £1310) if paid within the month following the decision.

If you are convicted for a period of one year or less in prison, it is possible to ask the judge for a ‘planning penalty’ (amenagement de peine) directly after the decision. This means that if you have strong warranties like familial or a job you will not go to jail.

A sentencing judge (Juge d’application des peines) may reduce your sentence as a result of your good behaviour and take into consideration the time you have already served. This usually happens after you have served half of your sentence, but re-offenders have to serve two-thirds of their sentence.

For information about when exactly you may be entitled to an early release, you should ask your lawyer.

Note that time served in pre-trial detention will be deducted from your overall sentence.

(a) What would help me get an early release?

Prison sentences may be reduced for inmates who show serious signs of social readjustment/good behaviour and who have paid compensation to those claiming against them.

(b) I have been sentenced to pay a fine, what will happen if I don’t pay it?

A total or partial default payment may lead to your imprisonment. Please note that if you have limited financial resources, you may be able to pay a fine in instalments. You need to request this.

Q13. CAN I GO BACK TO MY HOME COUNTRY?

(a) Can I serve my prison sentence in my home country?

Yes, you can ask for a transfer if France and your home country have signed a treaty dealing with this matter. If there is no such treaty a transfer may still be possible but will be more difficult to obtain. Before you can transfer you must renounce your right to any further appeals.

Please refer to our ‘Prisoner Transfers’ note of advice for more information.

(b) Can I be expelled instead of serving my sentence?

No.

(c) Is there a risk that I will be deported after serving my sentence?

Yes, in some situations you may be automatically escorted to the border at the end of your prison sentence. You should speak to your lawyer about this.

USEFUL LINKS

<table>
<thead>
<tr>
<th>ORGANISATION</th>
<th>MANDATE</th>
<th>CONTACT DETAILS</th>
</tr>
</thead>
</table>
| Le Conseil National des Barreaux | Le Conseil National des Barreaux (The National Bar Council) represents & governs all lawyers practicing in France. It overviews the provision of free legal assistance (legal aid) and helps people in their dealings with lawyers. Languages: French | Website: cnb.avocat.fr  
E: cnb@cnb.avocat.fr  
T: +33 (0)1 53 30 85 60  
Legal Aid: +33 (0)1 44 32 76 61 |
| French Bar Association  |                                                                                   |                               |
### Ordre des Avocats de Paris

**Paris Bar Association**

The Paris Bar works to represent all lawyers practicing in Paris, and to deal with any complaints made against them.

When a detainee requires a lawyer, the police may contact the Bar Association to request one.

**Languages:** French

**Website:**

www.avocatparis.org

**E:**

deliegationgenerale@avocatparis.org

**T:** +33 (0)1 44 32 76 61

11, place Dauphine
75003 Paris Cedex 01
T: 01 80 27 19 20

**Legal Aid:**

Bureau d'Aide Juridictionnelle,
1 quai de Corse,
75004 Paris.

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### OMBUDSMEN

**Le Défenseur des droits**

**Defender of Rights**

Le Défenseur des droits (the Defender of Rights) is an independent constitutional authority that enforces the rights and freedoms of any person. S/he is nominated by the President of the Republic. The Defender of Rights replaces the Ombudsman, HALDE (Anti-discrimination and racism body) and the CNDS (National ethics committee on security) as of 1 May 2011.

It aims to protect childrens and human rights, protect against discrimination and is also aimed at policing any legal/ethical impropriety by those persons involved in the security of the country, e.g. the police, prison officers, customs agents, private security agencies, etc.

**Languages:** French

**Website:**

www.defenseurdesdroits.fr

**T:** +33 (0)9 69 39 00 00

7, rue Saint-Florentin,
75008 Paris

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### NGOs

**LEGAL ADVICE**

**Conseil departemental de l'acces au droit de Paris**

This organisation specialises in providing Pro-bono Legal advice to clients.

**Website:**

www.cdad-paris.justice.fr

4, bd du Palais
75001 Paris

**SOS Avocats**

A telephone service manned by lawyers to answer general legal questions.

Phone calls are charged at €0.15/minute. Otherwise, it is a free service.

**Languages:** French

**Website:**


**T:** 0825 39 33 00 (from France)
<table>
<thead>
<tr>
<th><strong>HUMAN RIGHTS</strong></th>
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<tbody>
<tr>
<td><strong>Observatoire international des prisons</strong></td>
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<tr>
<td><strong>International Observers of Prison</strong></td>
</tr>
<tr>
<td>OIP is an independent organisation with consultative status with the UN. It campaigns for the fundamental rights of prisoners including better conditions in prisons. It also works to ensure prisoners are aware of their rights.</td>
</tr>
<tr>
<td>OIP provides its publications, such as it's Prisoner's Guide, for free to prisoners. Information for prisoners is also available on the website and you can sign up to their newsletter for free.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French</td>
</tr>
<tr>
<td><strong>Website:</strong> <a href="http://www.oip.org">www.oip.org</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:contact@oip.org">contact@oip.org</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0) 1 44 52 87 90</td>
</tr>
<tr>
<td><strong>F:</strong> +33 (0) 1 44 52 88 09</td>
</tr>
<tr>
<td>OIP Section Française 7 bis rue RIQUET 75019 Paris</td>
</tr>
<tr>
<td><strong>Ligue des Droits de l'Homme</strong></td>
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<tr>
<td><strong>French Human Rights League</strong></td>
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<tr>
<td>Independent organisation promoting and campaigning for human rights and equality.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French</td>
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<tr>
<td><strong>Website:</strong> <a href="http://www.ldh-france.org">www.ldh-france.org</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:ldh@ldh-france.org">ldh@ldh-france.org</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 56 55 51 00</td>
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<tr>
<td><strong>F:</strong> +33 (0)1 42 55 51 21</td>
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<tr>
<td>138 rue Marcadet,</td>
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<td>75018 Paris</td>
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<tr>
<th><strong>GENERAL ADVICE FOR PRISONERS</strong></th>
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<tbody>
<tr>
<td><strong>Association Nationale des Visiteurs de Prison (A.N.V.P.)</strong></td>
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<tr>
<td><strong>The Association of Prison Visitors</strong></td>
</tr>
<tr>
<td>A charity which organises a team of volunteers to travel to French prisons to provide moral/technical support to the prisoners / those accused of crimes. Their goal is to provide assistance to prisoners and their families during their time in prison and to assist prisoners with their rehabilitation into society when released.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French</td>
</tr>
<tr>
<td><strong>Website:</strong> <a href="http://www.anvp.org">www.anvp.org</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:accueil@anvp.org">accueil@anvp.org</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 55 33 51 25</td>
</tr>
<tr>
<td><strong>F:</strong> +33 (0)1 55 23 09 38</td>
</tr>
<tr>
<td>1 bis, rue du Paradis,</td>
</tr>
<tr>
<td>75010 Paris</td>
</tr>
<tr>
<td><strong>F.A.R.A.P.E.J.</strong></td>
</tr>
<tr>
<td><strong>Fédération d’Associations pour Réfléchir et Agir sur la Prison et la Justice</strong></td>
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<tr>
<td><strong>Association of Prison and Justice action groups</strong></td>
</tr>
<tr>
<td>A federation of charitable and volunteer organisations working together on issues concerning prisons. There are 60 organisations across France, made up of approximately 3000 volunteers and 300 employees. FARAPEJ helps trains volunteers in its member organisations and publishes a magazine (Prison Justice). It also aims to intervene in public debate on issues concerning prisons and justice.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French</td>
</tr>
<tr>
<td><strong>Website:</strong> <a href="http://www.farapej.fr">www.farapej.fr</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:farapej@farapej.fr">farapej@farapej.fr</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 55 25 23 75</td>
</tr>
<tr>
<td><strong>F:</strong> +33 (0)1 55 25 23 76</td>
</tr>
<tr>
<td>68 rue de la Folie Régnauld,</td>
</tr>
<tr>
<td>75011 Paris</td>
</tr>
<tr>
<td><strong>F.N.A.R.S.</strong></td>
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<tr>
<td><strong>Fédération nationale des associations d'accueil et de réinsertion sociale</strong></td>
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<tr>
<td><strong>Association of social welfare groups</strong></td>
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<tr>
<td>Federation bringing together 870 organisations and public bodies to assist the rehabilitation and reintegration of prisoners and other disadvantaged persons. The federation is concerned with all aspects of the social sector and includes organisations concerned with housing, employment, training and health. Although it’s head office is in Paris, the FNARS has 22 offices all over France.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French</td>
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<tr>
<td><strong>Website:</strong> <a href="http://www.fnars.org">www.fnars.org</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:fnars@fnars.org">fnars@fnars.org</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 48 01 82 00</td>
</tr>
<tr>
<td><strong>F:</strong> +33 (0)1 47 70 27 02</td>
</tr>
<tr>
<td>76 rue du Faubourg Saint-Denis,</td>
</tr>
<tr>
<td>75010 Paris</td>
</tr>
<tr>
<td><strong>Secours Catholique</strong></td>
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<tr>
<td><strong>Catholic Relief</strong></td>
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<tr>
<td>Secours Catholique has 84regional teams specialising in helping and supporting prisoners and their families. It is particularly active in highlighting and trying to counteract the poverty that affects almost all the prisoners and prisons in France. It also provides financial assistance and is committed to defending the dignity and rights of prisoners.</td>
</tr>
<tr>
<td><strong>Languages:</strong> French. Website partially available in English.</td>
</tr>
<tr>
<td><strong>Website:</strong> <a href="http://www.secours-catholique.org">www.secours-catholique.org</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 45 49 73 00</td>
</tr>
<tr>
<td><strong>F:</strong> 106 rue du Bac,</td>
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<tr>
<td>75341 Paris Cedex 07</td>
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<tr>
<th><strong>PRISONER WELFARE</strong></th>
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<tr>
<td><strong>Auxilia</strong></td>
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<tr>
<td>Charitable organisation offering education (knowledge or skills training) to prisoners and certain others in difficult situations in order to prepare them for their reintegration into society. CLIP aims to give prisoners a teaching tool that allows them to aid their own recovery, as well as providing moral support.</td>
</tr>
<tr>
<td><strong>Website:</strong> <a href="http://www.auxilia-formation.org">www.auxilia-formation.org</a></td>
</tr>
<tr>
<td><strong>E:</strong> <a href="mailto:auxiliab@club-internet.fr">auxiliab@club-internet.fr</a></td>
</tr>
<tr>
<td><strong>T:</strong> +33 (0)1 46 04 56 78</td>
</tr>
<tr>
<td><strong>F:</strong> +33 (0)1 46 04 18 22</td>
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</tbody>
</table>

This note is intended to be for information purposes only and does not constitute legal advice. Take local legal advice on your specific situation.
<table>
<thead>
<tr>
<th>Organisation</th>
<th>Description</th>
<th>Contact Information</th>
</tr>
</thead>
</table>
| Initiation et formation des détenus à l'informatique | Organisation providing computer training to prisoners with a view to aiding their rehabilitation and reintroduction to society. | Languages: French  
Website: [wwwassoclip.sitego.fr](http://wwwassoclip.sitego.fr)  
T: +33 (0)1 45 65 45 31  
F: +33 (0)1 45 88 94 62  
12-14 rue Charles Fourier, 75013 Paris |
| Le Courrier de Bovet Association nationale de correspondance avec les détenus | A charitable association that provides moral support to prisoners by providing penpals. It aims to help prisoners re-establish a link to the outside world in order to provide them with moral support and to prepare them for their reintegration into society. | Languages: French  
Website: [www.associationlecourrierebovet.perso.neuf.fr](http://www.associationlecourrierebovet.perso.neuf.fr)  
E: secretariat@courrierdebovet.org  
Foreign prisoners: detenusetrangers@courrierdebovet.org  
T: +33 (0)1 40 67 11 98  
Foreign prisoners: +33 (0)6 84 15 78 45  
F: +33 (0)1 40 67 11 37  
Le Courrier de Bovet, BP 70039, 75721 Paris CEDEX 15 |
| G.E.N.E.P.I. Groupement étudiant national d’enseignement aux personnes incarcérées | GENEPI is a charity made up of higher-education students whose aim is to assist the rehabilitation and reintegration of prisoners into society by: - teaching in prisons; and - raising public awareness of the problems facing prisoners. | Languages: French  
Website: [www.genepi.fr](http://www.genepi.fr)  
E: president@genepi.fr  
T: +33 (0)1 45 88 37 00  
F: +33 (0)1 45 88 96 87  
12, rue Charles Fourier, 75013 Paris |
| PRISONERS' FAMILIES UFRAMA Union nationale des fédérations régionales des associations de maisons d'accueil de familles et proches de personnes incarcérées | National federation of regional non-profit organisations with the aim of developing initiatives in order to help maintain families ties with prisoners. The UFRAMA's purpose is to help maintain family ties by creating a network to share experiences between the organisations. UFRAMA also identifies issues affecting the rights of prisoners' families and liaises with other groups concerned with prisoners and their families. | Languages: French  
Website: [uframa.listoo.biz](http://uframa.listoo.biz)  
E: uframa@wanadoo.fr  
T: +33 (0)5 46 92 11 89  
F: +33 (0)5 46 92 11 89  
8, Bridge Passage Amilion, 17100 Saintes |

Fair Trials would like to thank the law firms and individual practitioners, including Alexandre Gillioen and Marie d'Harcourt, who have generously given their time and expertise to help produce these legal guidance notes.

For a full list of our funders see [www.fairtrials.org/get-involved/supporters/](http://www.fairtrials.org/get-involved/supporters/)
Fair Trials aims to help people accused of crimes to understand and exercise their fair trial rights by providing information and referrals. We do not charge for any of our assistance.

If you complete this form, we may be able to:

- Send you general information, including advice about the local legal system that could be helpful to you;
- Provide answers to any specific questions you might have; and
- Refer you to local sources of support (for example, referrals to local lawyers, if appropriate).

We cannot provide any legal advice or representation that is specific to your case, and we are also unable to provide any welfare support or financial assistance.

Please fill out this form and send it back to:

**By Post:** Fair Trials, Temple Chambers, 3/7 Temple Avenue, London, EC4Y 0HP, United Kingdom

**By Fax:** +44 (0)20 7822 2371

All information will be treated confidentially, and in accordance with our privacy notice set out overleaf.

### A) Personal Information

<p>| | |</p>
<table>
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<tr>
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<tbody>
<tr>
<td>Full Name</td>
<td></td>
</tr>
<tr>
<td>Nationality</td>
<td></td>
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<tr>
<td>Your current address (your prison address, if you are in custody)</td>
<td></td>
</tr>
<tr>
<td>Prisoner Number (if applicable)</td>
<td></td>
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</tbody>
</table>

### B) Legal Representation

Would you like referrals to local lawyers? Yes □ No □

Are you able to pay for a lawyer? Yes □ No □

Depending on the country, you may not be able to choose your own specific lawyer, if you cannot pay for one.

### C) Fair Trials

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>How did you hear about us?</td>
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<tr>
<td>How did you receive this form?</td>
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<tr>
<td>If you have already seen any of our materials (e.g. 'Arrested – Practical Guidance'), please let us know, and tell us which you have seen.</td>
<td></td>
</tr>
</tbody>
</table>
D) Further Information / Questions

We have printed materials on a range of topics where we are most often asked for help. Please tick on any of the following topics on which you would like further information.

<table>
<thead>
<tr>
<th>Applying for Release Pending Trial</th>
<th>Prisoner Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>The European Arrest Warrant ('EAW')</td>
<td>Criminal Records in the European Union</td>
</tr>
<tr>
<td>INTERPOL Red Notices</td>
<td></td>
</tr>
</tbody>
</table>

Use the space below to:

- Request clarifications on any information from us that you have already seen;
- Highlight any specific information, or referrals that you believe could be helpful to you; and
- Give us feedback or comments

Please be specific with any questions or requests you have.

E) Nominated Contact

It can sometimes be difficult for Fair Trials get in touch directly with people in prison. In such cases, it can be helpful if we are provided with the name and contact of a family member or a friend whom you are happy to nominate as Fair Trials’ point of contact. Please provide their details below:

| Full Name: | ……………………………………………… | Relationship to you: | ……………………… |
| Address: | …………………………………………………………………………………………………………………………………………………………………………………………… |
| Telephone: | …………………………………………… | Email: | …………………………………………… |

F) Privacy Notice

We collect information about you when you complete and return this form. We use this information to assist you and otherwise provide support in relation to your case. Fair Trials will retain your information for up to six years after: 1) if we are notified about the end of your legal proceedings, from the date of notification; or 2) if we are not notified, the date of the last correspondence with you about your case.

For more information about how we handle your personal information, please see the privacy policy on our website (www.fairtrials.org/privacy-policy). Please sign here to confirm that you have read and agree to the Privacy Notice in this form.

Full Name: ……………………………………………… Signature: ………………………………………………

This note is intended to be for information purposes only and does not constitute legal advice. Take local legal advice on your specific situation.