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National justice systems

Spain

This section provides a general overview of the court system in Spain.

Organisation of justice. System of courts.

Administration of justice

In terms of contemporary legal systems, the Spanish system follows what is known as the continental model.

The basic features of this model are:

a separation between the public and private sectors of the legal system, which is divided into sections covering constitutional, criminal, administrative, tax, civil, commercial, labour and procedural matters;

primacy of statute law and written law, within the system of sources as defined in the Civil Code, namely statute, custom and the general principles of law;

hierarchical organisation of the judiciary with a system of judicial appeals.

Types of courts – brief description

The Spanish Constitution of 1978 states that Spain is a social and democratic state subject to the rule of law, which advocates liberty, justice, equality and political pluralism as the overriding values of its legal system.

The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards, and it recognises and guarantees the right to selfgovernment of the nationalities and regions of which it is composed, and solidarity among them all.

Title VI of the Constitution is given over to the judiciary, with Article 117 stating that the principle of the unity of the judicial power is the basis for the organisation and operation of the courts.

All these principles inform the organisation of the courts in Spain, resulting in the existence of a single judiciary making up the ordinary courts.

Numerous courts exist, among which the work is distributed according to criteria for determining jurisdiction – subject matter, amount, person, function or region – since the unity of the judicial power does not preclude the existence of different courts with different areas of jurisdiction.

The ordinary courts are those regulated by the Organic Law on the Judiciary provided for in Article 122 of the 1978 Constitution.

A distinction must be made between three fundamental aspects:

the territorial aspect;

whether it is a single judge or a bench of judges who sit in the court;

jurisdiction.

The territorial aspect

In accordance with the explanatory memorandum to Organic Law 6/1985 of 1 July 1985 on the Judiciary, the State is divided **territorially**, for judicial purposes, into municipalities, districts (*partidos*), provinces and autonomous communities, with jurisdiction over them being exercised by justice of the peace courts (*Juzgados de Paz*), courts of first instance and preliminary investigations (*Juzgados de Primera Instancia e Instrucción*), administrative courts (*Juzgados de lo Contencioso-Administrativo*), labour tribunals (*Juzgado de lo Social*), courts responsible for the welfare and supervision of prisoners (*Juzgados de Vigilancia Penitenciaria*) and juvenile courts (*Juzgados de Menores*), provincial courts (*Audiencias Provinciales*) and the autonomous communities' high courts (*Tribunales Superiores de Justicia*). The National Criminal and Administrative Court (*Audiencia Nacional*), the Supreme Court (*Tribunal Supremo*), the central courts of preliminary investigations (*Juzgados Centrales de Instrucción*) and the central administrative courts (*Juzgados Centrales de lo Contencioso-administrativo*) have nation-wide jurisdiction.

Single judge or bench of judges

A single judge sits in all the courts with the exception of the Supreme Court, the National Criminal and Administrative Court, the autonomous communities' high courts and the provincial courts.

The **Supreme Court** comprises its president, the divisional presidents (*presidentes de sala*) and the judges (*magistrados*) assigned by the law to each division. There are five divisions: civil, criminal, administrative, labour and military.

The **National Criminal and Administrative Court** (*Audiencia Nacional*) consists of a president, the divisional presidents and the judges assigned by the law to each division (appeals, criminal, administrative and labour).

The autonomous communities' **high courts** (*Tribunales Superiores de Justicia*) comprise four divisions (civil, criminal, administrative and labour). They consist of a president, who is also the president of the civil and criminal divisions, the divisional presidents and the judges assigned by the law to each division.

The **provincial courts** (*Audiencias Provinciales*) comprise one president and two or more judges. They hear civil and criminal cases. There may be sections with the same composition.

The Courts Office

The Organic Law on the Judiciary defines the Courts Office (*Oficina Judicial*) as an administrative organisation which acts as a support for the judicial work of judges and courts.

It was designed to improve the efficiency, effectiveness and transparency of judicial proceedings, to streamline the resolution of cases, and to encourage cooperation and coordination between the various administrations. The launch of this Office is thus a response to the undertaking to ensure a quality public service that is close to the people, complies with constitutional values and is in keeping with the actual needs of citizens.

It is a new organisational model that introduces modern management techniques based on a combination of different administrative units: units providing direct support for judicial procedures equivalent to the old courthouses (*juzgados*), which support the judge in his judicial duties, and common procedural

services headed by registrars (*Secretarios Judiciales*), which carry out and decide on all the tasks that are not strictly judicial such as receiving documents, handling summonses, enforcing decisions, non-judicial proceedings, admission of a petition for trial, notification of parties, remedying of procedural shortcomings, etc.

There are three types of common procedural services:

Common General Service

Common Case Management Service

Common Enforcement Service.

The new organisational model was launched in Burgos and Murcia in November 2010. In February 2011, the Courts Office was established in Cáceres and Ciudad Real, and in Leon, Cuenca and Mérida in June 2011. It will also be established in Ceuta and Melilla in 2013. This model coexists alongside the former model of courthouses (*juzgados* and *tribunals*) which is found elsewhere in Spain.

Jurisdiction

In addition to the territorial aspect, the matters or issues that can come before the courts are of different kinds, and are dealt with by **four systems of courts**:

Civil courts: deal with disputes not explicitly assigned to another class of court. They can therefore be described as ordinary courts.

Criminal courts: criminal cases and proceedings must be dealt with in the criminal system. In Spanish law, however, civil action arising out of a criminal offence can be brought at the same time as the criminal action. In such a case, the appropriate damages to be paid in order to make good the loss caused by the offence or misdemeanour will be determined by the criminal court.

Administrative courts: examine the legality of acts carried out by the authorities and financial claims made against them.

Labour tribunals: deal with claims made under labour law, both in individual disputes between workers and employers arising from the employment contract, and in relation to collective bargaining, as well as social security claims or claims against the state when it bears liability under employment legislation.

In addition to these four court systems, there are also **military courts in Spain**.

The military courts are an exception to the principle of the unity of the judicial power.

For further information please consult the factsheet on ordinary courts in Spain.

In Spain no system of extraordinary courts exists; however, in the context of the judicial systems mentioned, **special courts have been created for specific matters, for example courts dealing with violence against women, courts responsible for the welfare and supervision of prisoners and juvenile courts. These are ordinary courts but are specialised in a particular area. For more information, see the factsheet on specialised courts in Spain.**

Hierarchy of courts

The system of appeals gives rise to a hierarchical structure of courts within the appeal system.

You must find out what the Spanish legal system says as regards the jurisdiction of each court in order to see what possibilities of appeal exist and before which court an appeal must be lodged. **For further information, see the factsheet on ordinary courts in Spain.**

Data bases on law

Is access to the data bases free of charge?

Yes, access is free of charge.

Brief summary of contents

Data bases on legislation. [Spanish Official State Gazette](#).

Data bases on case law. [Centre of Court Documents](#).

Related links

GENERAL COUNCIL OF THE JUDICIARY

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