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Spanish

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Defendants (criminal proceedings)

Spain

The Spanish Constitution recognizes the dignity of people, their inviolable rights, free development of personality, respect for the law and for the rights of others. The Constitution itself includes people's fundamental rights and freedoms, reflecting the Universal Declaration of Human Rights and international Treaties and agreements on human rights ratified by Spain. The general fundamental rights contained in the Spanish Constitution are developed in national law. The rights of defendants are set out in specific laws governing each type of case (Code of Criminal Procedure, for criminal cases, Code of Civil Procedure, for civil cases, etc.). These factsheets explain what happens when a person is suspected of or accused of a crime which is dealt with by a trial in court. For more information on minor offences like road traffic offences, which are usually dealt with by a fixed penalty like a fine, go to Factsheet 5. If you are the victim of a crime, you can find full information about your rights here.

Summary of the criminal process

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

Commencement

Facts that could be considered crimes appear:

Through an arrest made by the police;

Through a report made to the police;

Through a court complaint.

The person under arrest goes to the police station to make his/her statement to the police, if he or she wishes to do so. If he or she wants, he or she will be taken to the court to give his/her declaration.

Opening the criminal proceedings

The criminal investigation department conducts an investigation into the facts of an event which might constitute a crime under the control of the Judge in charge of the preliminary investigation and the inspection of the court's prosecutor.

At the end of the investigation there are two possible outcomes:

No crime has been committed. The investigation is closed and so are the proceedings. The proceedings end without holding a trial;

Evidence points to the existence of a criminal offence. Criminal investigations are opened.

Trial

The proceedings are sent to the [Public Prosecutor's Office](#) to file a bill of indictment and to the counsel for the defence so that he/she can file a statement of defence. Afterwards, the judge sets a date for trial.

When the trial has come to an end, the judge delivers a judgment, which may be:

a judgment against the defendant

a judgment for the defendant

An appeal may be filed with a Higher Court against the judgment. This is the end of the procedure.

Details about all of these stages in the process and about your rights can be found in the factsheets. This information is not a substitute for legal advice and is intended to be for guidance only.

Role of the European Commission

Please note that the European Commission has no role in criminal proceedings in Member States and cannot assist you if you have a complaint. Information is provided in these factsheets about how to complain and to whom.

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

[1 – Getting legal advice](#)

[2 – My rights during the investigation of a crime](#)

Arrest

Police questioning

Statement before the judge

[3 – My rights during the trial](#)

[4 – My rights after the trial](#)

[5 – Road traffic and other minor offences](#)

Related links

[Spanish Constitution](#)

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