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Spanish

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National ordinary courts

Spain

Article 117 of the Constitution states that the principle of the unity of the judicial power is the basis for the organisation and operation of the courts. This principle results in the existence of a single judiciary making up the ordinary courts. Numerous courts exist, among which the work is distributed according to criteria 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.

Ordinary courts - introduction

The 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.

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 (*unidad jurisdiccional*) 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.

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 high courts in Spain's autonomous communities (*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 Contenciosoadministrativo*) have nationwide 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 high courts of the autonomous communities 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 **high courts** of the Autonomous Communities (*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 (*Oficina Judicial*)

The Organic Law on the Judiciary describes the Courts Office as the 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 León, 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.

The [Constitution](#) lays down the principles governing judicial activities and provides for the unity of the judicial power, while maintaining the special provision for military courts within the strictly military sphere and in cases of siege, always subject to the constitutional principles set out in Article 117.5 of the Constitution.

In peacetime the jurisdiction of the military courts is confined to the strictly military sphere, namely hearing cases relating to conduct classified as an offence in the military criminal code, with its jurisdiction being extended to any kind of offence in the case of troops stationed abroad. In times of war, Organic Law 4 /1987 on the Jurisdiction and Organisation of Military Courts permits a change in scope, although that decision has to be taken by Parliament (*Cortes Generales*) or, if it is so authorised, by the government.

The military courts are made up of professional military personnel, members of the armed forces and representatives of the Ministry of Defence.

The system of military courts consists of: the regional military courts (*Juzgados Togados Territoriales*), the central military courts (*Juzgados Togados Centrales*), the higher regional military courts (*Tribunales Militares Territoriales*), and the Central Military Court (*Tribunal Militar Central*). Nevertheless, at the pinnacle of the military court system is the Fifth Division of the Supreme Court.

The creation of a military division within the Supreme Court, subject in terms of its procedures and the status of its members to the same rules as the other divisions, means that there is unity at the apex of the two court structures that make up the judicial power.

The members of this division come from both the ordinary and the military courts, which is a guarantee of balance in judicial proceedings at the highest level: the division is usually called upon to act in assessing appeals on points of law and reviews, though of course it may also have jurisdiction in particular cases involving personnel who hold high military office.

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.

In the analysis below of the four judicial systems in Spain, we will look at the jurisdiction of the various courts concerned.

Civil justice system

Division 1 of the Supreme Court (*Sala I del Tribunal Supremo*), the civil and criminal division of the autonomous communities' high courts (*la Sala de lo Civil y Penal del Tribunal Superior de Justicia*), the civil divisions of the provincial courts (*las Secciones Civiles de las Audiencias Provinciales*), the courts of first instance (*los Juzgados de Primera Instancia*), the justice of the peace courts (*los Juzgados de Paz*) and certain specialist courts (family courts (*Juzgados de Familia*), commercial courts (*Juzgados Mercantiles*), community trademark courts (*Juzgados de Marca Comunitaria*), courts dealing with violence against women (*Juzgados de Violencia sobre la Mujer*)) all have jurisdiction in the civil justice system.

Commercial courts, community trademark courts and courts dealing with violence against women are examined in detail on the factsheet on specialised courts in Spain.

Criminal justice system

Division 2 of the Supreme Court (*la Sala 2ª del Tribunal del Supremo*), the Criminal Division of the National Court (*la Sala de lo Penal de la Audiencia Nacional*), the civil and criminal division of the autonomous communities' high courts (*la Sala Civil y Penal de los Tribunales Superiores de Justicia*), the criminal sections of the provincial courts (*las Secciones Penales de la Audiencias Provinciales*), the criminal courts (*los Juzgados de lo Penal*), the investigating courts (*los Juzgados de Instrucción*), the juvenile courts (*Juzgados de Menores*), the courts responsible for the welfare and supervision of prisoners (*Juzgados de Vigilancia Penitenciaria*), the courts dealing with violence against women (*Juzgados de Violencia contra la Mujer*) and the justice of the peace courts (*Juzgados de Paz*) all have jurisdiction in the criminal justice system.

Juvenile courts, courts responsible for the welfare and supervision of prisoners and courts dealing with violence against women are examined in detail in the factsheet on specialised courts in Spain.

Administrative justice system

The courts with jurisdiction in the administrative justice system are Division 3 of the Supreme Court (*Sala 3ª del Tribunal Supremo*), the Administrative Division of the National Court (*Sala Contencioso-Administrativa de la Audiencia Nacional*), the administrative division of the autonomous communities' high courts (*la Sala Contencioso-Administrativa de los Tribunales Superiores de Justicia*) and the administrative courts (*los Juzgados de lo Contencioso Administrativo*).

Labour justice system

The labour justice system is made up of Division 4 of the Supreme Court (*la Sala 4ª del Tribunal Supremo*), the Labour Division of the National High Court (*la Sala de lo Social de la Audiencia Nacional*), the labour division of the autonomous communities' high courts (*la Sala de lo Social de los Tribunales Superiores de Justicia*) and the labour tribunals.

The jurisdiction of all of the above-mentioned courts is laid down in the [Organic Law on the Judiciary](#).

Related links

[GENERAL COUNCIL OF THE JUDICIARY IN SPAIN](#)

[ORGANIC LAW ON THE JUDICIARY](#)

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