Defendants (criminal proceedings)

Španjolska

These factsheets explain what happens when a person is suspected or accused of a crime which is dealt with by a trial in court.

The Spanish Constitution recognises 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 the 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 the party under investigation/accused in criminal proceedings are specifically set out in the Spanish Code of Criminal Procedure (*Ley de Enjuiciamiento Criminal*), which:

uses the term 'party under investigation' (*investigado*) to refer to the person under investigation for their connection with a crime.

uses the term 'accused' (*encausado*) to refer, in general, to a person who, once the investigation of the case has been completed, is formally accused by the judicial authority of having participated in the commission of a specific criminal offence.

continues to use the Spanish terms '*acusado*' [usually the person against whom an accusation has been made in oral proceedings] and '*procesado*' [usually the person against whom an accusation has been made in a specific type of criminal proceedings], both of which can be translated as 'accused' in English, and which may be used interchangeably with the Spanish term '*encausado*' in the appropriate stages of proceedings.

If you are the victim of a crime, you can find detailed information about your rights here.

Summary of the criminal proceedings

Commencement

The proceedings can be initiated:

By filing a complaint with the competent authority (police, public prosecutor's office or duty court).

By means of a complaint filed by any person whether or not they were the victim of the crime.

By means of a police statement.

By the investigating judge of their own motion.

Investigation stage

Following the commencement of the criminal proceedings, a 'pre-trial' judicial investigation stage is opened, in which the steps taken to prepare for the trial are carried out, investigating and proving the perpetration of any offences that may have been committed with all the circumstances that may influence their classification, and the guilt of the offenders, securing the persons and their pecuniary liabilities.

End of the investigation

The completion of the 'pre-trial' investigation may lead to the following:

The dismissal and closure of the proceedings if there is no evidence of a criminal offence or where there is no known perpetrator.

The continuation of the proceedings by entering into what is known as the 'intermediate stage', the purpose of which is to determine whether the investigation is complete and whether it is appropriate to file charges.

After the submission, where applicable, of the relevant bill of indictment and statement of defence, the parties are summoned for the trial.

Trial

The trial, which is public (with some exceptions), is held before a judge or court other than the one that conducted the investigation and ends with a judgment that may be:

A judgment against the defendant

A judgment for the defendant

In both cases, an appeal against the judgment may be filed by either party with a higher court.

Factsheets

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 - My rights during the investigation

2 - My rights during trial

3 - My rights after the trial

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