

## Pradžia>Kreipimasis į teismą>Kur ir kaip>Kaip kreiptis į teismą?

### How to bring a case to court

Ispanija

#### 1 Do I have to go to court or is there another alternative?

Disputes can be resolved without going to court by means of mediation - see '[Mediation in Member States - Spain](#)'.

The parties may also seek mediation after legal proceedings have been initiated.

#### 2 Is there any time limit to bring a court action?

The time limit for bringing a court action varies depending on the case. The issue of time limits or limitation periods is legally complex, and you would be best advised to consult a lawyer or a law centre that provides information on access to justice.

As a general rule, and for illustrative purposes only:

- a) the limitation period for claims for contractual debts is 5 years;
- b) the limitation period for claims for non-contractual damages is 1 year.

#### 3 Should I go to a court in this Member State?

If you opt to resolve the dispute through the courts, then you must go to a court in this Member State.

#### 4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

Please see the rules on jurisdiction at '[Jurisdiction of the courts](#)'.

Based on your place of residence:

[Directory of judicial bodies \(Directorio Juzgados\)](#)

#### 5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

Please see the rules on jurisdiction at '[Jurisdiction of the courts](#)'.

#### 6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

As a general rule, in order to go to court in Spain you need to engage:

- a) a court procedural representative (*procurador*), and
- b) a lawyer who will act for you in court.

You do not need to engage these practitioners in the following cases:

Where the amount you are claiming does not exceed EUR 2 000.

In order to lodge an application under a special fast-track procedure known as an 'order for payment procedure' (*monitorio*), provided that you supply documentary evidence of the debt. In these cases there is no limit on the amount of the claim.

In order to apply for urgent measures prior to commencing proceedings. This covers interim provisional measures in annulment, separation or divorce proceedings, such measures being intended to address the most pressing personal and financial needs of the spouses and their children where one of the spouses intends to bring annulment, separation or divorce proceedings (however, the intervention of these practitioners will be necessary for all subsequent written documentation and actions).

#### 7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

The application and documents can be submitted online:

[General access point for the Courts Service \(Administración de Justicia\)](#)

Applications and documents can also be filed with the central court registry (*Juzgado Decano*) for the district or the registry of the court for the location in question. In that case, they will be dealt with by:

- a) the court clerk responsible for the central court registry and general common services, or
- b) the registry official acting under the court clerk's supervision.

Court clerks and officials designated by them are the only people able to confirm the date and time of filing of applications, documents commencing proceedings and any other documents for which there are mandatory time limits.

Civil or commercial claims cannot be lodged with any other public body, including the duty court.

#### 8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

In principle, Spanish must be used in court proceedings. In those Autonomous Communities that have their own language (Catalonia, Valencia, the Balearic Islands, Galicia and the Basque Country), that language may also be used.

Anyone else taking part in the proceedings may use either Spanish or the language of the Autonomous Community where the proceedings are being held, in both written documents and oral proceedings. If someone cannot understand the Autonomous Community language, the court will appoint an interpreter to provide a translation into Spanish. Such appointment will be made either where stipulated by law or on request by the person claiming denial of due process. If someone other than a party gives evidence in a different language because they cannot speak Spanish or the language of the Autonomous Community, the party proposing that evidence will be responsible for providing an interpreter.

Proceedings must always be commenced in writing in a document known as an 'application' (*demanda*), which is straightforward for cases under EUR 2 000. It must contain the following information:

- a) the applicant's personal details and address, and the other party's personal details and address, where known, and
- b) exactly what the applicant is seeking from the other party.

People who do not engage a court procedural representative can choose whether or not to deal with the courts electronically. They can change their chosen method at any time.

[General access point for the Courts Service](#)

All legal practitioners are required to use the Courts Service's electronic or distance filing systems to submit both the initial application and subsequent application documents, as well as other documents, to ensure that filings are genuine and to provide a reliable record that documents have been sent and received in full, as well as the date on which they were sent and received.

The following organisations and individuals are also required to deal with the courts electronically:

- a) legal entities;
- b) entities without legal personality;
- c) professionals working in areas requiring registration in a professional organisation for any formalities and actions that they carry out with the Courts Service when exercising their professional activities;
- d) notaries and registrars;
- e) representatives of an interested party that must have electronic dealings with the Courts Service; and
- f) public administration officials, for any actions and steps that they carry out because of their position.

#### **9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?**

There are standard forms and printed documents for lodging claims for amounts not exceeding EUR 2 000, and also for financial claims submitted under a special procedure known as an 'order for payment procedure'. There is no limit on the amount that can be claimed under the order for payment procedure, but you must provide documentary evidence of the debt.

These forms (together with user guides) are available on the internet at:

[Oral trials \(\*Juicio Verbal\*\) \(for small claims\)](#)

[The payment procedure \(\*Juicio Monitorio\*\) \(for the special procedure\)](#)

They are also available to the public at the central court registry and common procedural services offices for each court district.

For claims not exceeding EUR 2 000, this is a very simple document. All it needs to contain are the applicant's personal details, the other party's personal details, where known, and a precise description of what the claimant is asking for.

For claims of more than EUR 2 000, the document is more complicated and must be drafted by a lawyer because it must also include a description of the facts of the case, the legal grounds for the application, and an ordered list clearly identifying the documents and other evidence submitted.

In both cases, the initial application must be accompanied by all the documentary evidence in support of the application, plus any expert witness reports or other evidence relating to the case. In general, these documents cannot be submitted at a later date, except in very special cases.

#### **10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?**

Individuals do not have to pay a fee.

Legal entities (companies, foundations, associations) must pay a fee in order to bring an application before the civil, commercial or contentious administrative courts, and to appeal against a judgment handed down in the social courts. No fees are payable in the criminal courts. More information is available at:

[Court fees \(\*Tasas judiciales\*\)](#)

In the Autonomous Community of Catalonia, legal entities (but not individuals) must pay a fee:

[Autonomous Community of Catalonia \(\*Comunidad Autónoma de Cataluña\*\). Fee](#)

There are no standard tariffs for lawyers' fees. Both the level of fees and the method of payment are set by mutual agreement with the client.

There is a standard tariff for the fees charged by court procedural representatives.

[Fee for court procedural representatives \(\*Arancel Procuradores\*\) \(standard tariff\)](#)

Legal practitioners generally ask for an up-front payment to cover initial costs, which is offset against the total fees. Proceedings are divided into stages, and practitioners can ask their clients to pay the corresponding percentage of the total fees at the start of each stage.

Practitioners do not usually ask for full payment of fees until the case is completed.

#### **11 Can I claim legal aid?**

People who can prove that they do not have the means to go to court are entitled to legal aid.

[Legal aid \(\*Justicia Gratuita\*\)](#) (Ministry of Justice)

People's means are assessed using an index known as the IPREM (*indicador público de renta de efectos múltiples*, public basic-level income index).

An individual is deemed to lack the means to go to court where their annual household income from all sources is no more than:

- a) twice the IPREM applicable at the time the application is made, for individuals who are not part of a family unit.
- b) two and a half times the IPREM applicable at the time the application is made, for individuals who are part of any of the types of family unit with fewer than four members.
- c) three times the IPREM, for individuals who are part of a family unit with at least four people.

For 2023, the annual IPREM is EUR 7 200.00 (twelve instalments).

[IPREM 2023](#)

Certain not-for-profit organisations may also qualify for legal aid.

#### **12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?**

An action is officially considered to have been brought from the date on which it was filed, once it has been submitted to the clerk's office and an order has been issued admitting the application to process, following confirmation that the matter falls within the court's jurisdiction.

You will be notified of the court's decision to admit the application to process and of all subsequent decisions via your court procedural representative, if you have one. Where a court procedural representative is not needed, you will be notified directly by recorded delivery to the address given in the application.

If the application contains an error that means it cannot be admitted to process, the court will allow you a period of time in which to correct it. If the error cannot be corrected, the court clerk will inform the judge, who will decide whether or not to allow the application to proceed.

#### **13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?**

The parties will be notified immediately of all stages or events in the proceedings, either directly or through their court procedural representative where they have one.

As a general rule, there is no set timetable for proceedings, but there are time limits that have to be met.

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