

Domov>Sprožitev sodnega postopka>Kje in kako>Predložitev zadeve sodišču

How to bring a case to court

Španija

### 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 during the course of proceedings.

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

The time limit for bringing 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:

- The limitation period for claims for contractual debts is five years.
- The limitation period for claims for non-contractual damages is one 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](#)'.

### 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 employ:

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

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

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

In order to lodge an application under a special fast-track procedure known as an 'order for payment procedure', 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. The measures are 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 (the intervention of these professional individuals 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?

Applications must be filed with the Court Registry for the location in question. The application will be dealt with by:

- the Court Clerk responsible for the Registry and general common services, or
- the Registry official appointed to act under the Clerk's supervision and responsibility.

Court clerks and officials designated by them are the only people able to confirm the date and time at which claims, documents commencing proceedings and any other documents for which there are mandatory time limits have been filed.

Civil or commercial claims cannot be filed 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. An 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 a 'claim' (*demanda*). Where the amount of the claim does not exceed 2 000 euros, this can be a simple document that must contain the following information:

- The claimant's personal details and address, and the other party's personal details and address, where known.
- Exactly what the claimant is seeking from the other party.

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

All legal practitioners are required to use the courts' electronic or distance filing systems to submit both the initial application and subsequent claim 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:

- Legal entities.
- Associations without legal personality.
- Anyone carrying on a professional activity requiring mandatory membership of a professional body for procedures and dealings with the courts undertaken in the course of their professional activity.
- Notaries and registrars.
- Anyone representing someone who is required to deal with the courts electronically and

f) Public officials, for procedures and dealings carried out in the course of their official duties.

### **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 filing claims for amounts not exceeding 2 000 euros 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:

<http://www.poderjudicial.es/cgpj/es/Servicios/Atencion-Ciudadana/Modelos-normalizados/El-juicio-verbal->

<http://www.poderjudicial.es/cgpj/es/Servicios/Atencion-Ciudadana/Modelos-normalizados/El-proceso-monitorio>

They are also available to the public at the Court Registries and Central Services for each court district. Where no form exists or it cannot be used, you must submit a written claim to the court.

For claims not exceeding 2 000 euros this is a very simple document. All it needs to contain are the claimant'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 2 000 euros, the document is more complicated because it must also include a description of the facts of the case, the legal grounds for the claim, and an ordered list clearly identifying the documents and other evidence submitted.

In both cases, the initial claim must be accompanied by all the documentary evidence in support of the claim, 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 a claim in 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:

[Tasas judiciales](#) (court fees).

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

[Comunidad Autónoma de Cataluña - Tasa](#) (Autonomous Community of Catalonia).

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.

[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.

[Justicia Gratuita \(Ministerio de Justicia\)](#) (legal aid).

People's means are assessed using an index known as the IPREM (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 a family unit containing fewer than four people.
- c) Three times the IPREM, for individuals who are part of a family unit containing at least four people.

For 2020, the annual IPREM is EUR 6 454.03 (twelve instalments).

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 submitted, once it has been submitted to the clerk's office and an order has been issued admitting the claim 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 claim 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 claim.

If the claim 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 Clerk to the Court will inform the Judge, who will decide whether or not to allow the claim 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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