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## Costs

## Spanyolország

This page provides information about the cost of proceedings in Spain.

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## Regulatory framework governing legal professionals' fees

## Lawyers

In Spain there is only one category of lawyer (*abogado*) who, after becoming a member of their district bar association (*Colegio de Abogados*), can appear in any type of proceedings and before any type of court.

Lawyers set their fees according to guidelines published by their bar association. These guidelines are based on general criteria for drawing up lawyers' bills, such as the complexity of the case, proportionality, etc., and are followed by all lawyers when issuing their bills.

The guidelines always distinguish between the separate court systems in which litigation takes place.

## Fixed costs

## Fixed costs in civil proceedings

## Fixed costs for litigants in civil proceedings

Article 241(1)(1) of the Code of Civil Procedure (*Ley de Enjuiciamiento Civil*) specifically covers the fees charged by lawyers and legal representatives (*procuradores*) for cases where their assistance is mandatory. These fees are included as an item in calculating costs.

The Code of Civil Procedure provides for lawyers to set their fees subject to the rules governing their profession.

Stage in the civil proceedings where fixed costs must be paid:

Clients are always required to pay fees to their lawyers and pay advances on fees to their legal representatives. Clients have a rough idea of the sum involved from the outset, but the exact amount of the bill has to be established once litigation has ended. Lawyers and legal representatives can claim payment from their clients, including through special procedures such as an advance on fees (*provisión de fondos*, while the proceedings last) or a final statement of accounts (*jura de cuentas*, once proceedings are concluded).

In practice, what usually happens is that clients initially pay an amount in advance and then await a decision on costs. In cases where the other party has to pay the fees, lawyers and legal representatives present their fees to the court, and once the fees are approved they are paid by the opposing party.

Since Law 10/2012 came into force, a court fee must be paid.

## What is a court fee?

A court fee is a national tax that must be paid in certain cases, by legal entities, for going to court and making use of the public service of the administration of justice. The Ministry of Finance and Public Administration is legally responsible for managing this tax. The requirement to pay this fee was introduced on 1 April 2003. It is currently governed by Law 10/2012 of 20 November 2012 concerning certain fees in the context of the administration of justice and the National Institute of Toxicology and Forensic Science. Law 10/2012 has been amended twice, first by Royal Decree-Law 3/2013 of 22 February 2013 and later by Royal Decree-Law 1/2015 of 27 February 2015. The main change introduced by the second amendment was the abolition of court fees for private individuals in all jurisdictions and all types of proceedings – private individuals had been required to pay court fees since the entry into force of Law 10/2012.

## Cases in which payment of this fee is mandatory (chargeable event)

Under Article 1 of Law 10/2012, the fee for the exercise of judicial power in civil, administrative (*contencioso-administrativo*) and employment cases is a national fee that is uniformly chargeable throughout Spain in the circumstances provided for by that Law, without prejudice to the fees and other taxes charged by the Autonomous Communities in the exercise of their respective financial powers. These may not be levied on the same chargeable event.

Under Article 2, the chargeable event for the fee is the exercise of judicial power generated by the following procedural steps:

- bringing of an action in any type of proceedings for a full judgment and proceedings for the enforcement of out-of-court enforceable instruments in civil cases, the filing of a counterclaim and the initial application for the order for payment procedure and the European order for payment procedure;
- filing for compulsory insolvency and ancillary claims in bankruptcy proceedings;
- lodging of proceedings in administrative court cases;
- lodging of an extraordinary appeal for breach of procedure in civil proceedings;
- lodging of appeals (*apelación* or *casación*) in civil and administrative court cases;
- lodging of appeals (*suplicación* or *casación*) in employment cases;
- objection to the enforcement of judicial instruments.

## Who is required to pay the court fee?

Article 3 states that anyone who instigates the exercise of judicial power that produces the chargeable event is liable for payment of the fee.

For the purposes of the preceding paragraph, a single chargeable event is deemed to have occurred when the document instituting the procedural step that constitutes the chargeable event covers several main actions that do not originate from the same instrument. In this case, the amount of the fee is calculated by adding together the amounts for each of the joined actions.

The fee can be paid by the legal representative (*procurador*) or lawyer (*abogado*) in the name and on behalf of the taxable person, in particular if the latter is not resident in Spain. A non-resident need not obtain a tax identification number with a view to self-assessment. Neither the legal representative nor the lawyer bears tax liability for this payment.

Exemptions:

Exemptions for categories of action:

bringing of an action and lodging of subsequent appeals involving proceedings specifically set up to protect fundamental rights and public freedoms, and also appeals against the conduct of the election administration;

filing for voluntary insolvency by the debtor;

lodging of the initial application for the order for payment procedure and the request for a full judgment to claim the amount involved where it does not exceed EUR 2 000 – this exemption does not apply when the claim in these procedures is based on a document that takes the form of an out-of-court enforceable instrument pursuant to Article 517 of the Code of Civil Procedure (Law 1/2000 of 7 January 2000);

lodging of administrative court proceedings challenging the administration's failure to respond or lack of action;

bringing of an action for the enforcement of awards decided by the Consumer Arbitration Boards (*Juntas Arbitrales de Consumo*);

actions which, subject to authorisation by a Commercial Court (*Juez de lo Mercantil*), are brought by the insolvency administrators in the interest of the insolvency estate;

proceedings for judicial division of estates, except in cases where an objection is raised or there is dispute over the inclusion or exclusion of assets – the fee is payable for the hearing and for the amount disputed or that arising from a challenge to the distribution of the estate by an opponent; if both parties object, each is charged for their respective amount.

Exemptions for categories of persons:

private individuals;

legal entities who are entitled to legal aid and can demonstrate that they meet the statutory requirements;

the public prosecutor's office (*Ministerio Fiscal*);

the General Administrations of the State and of the Autonomous Communities, the local authorities and all public bodies under their authority;

the Spanish Parliament and the Legislative Assemblies of the Autonomous Communities.

#### **Fixed costs in criminal proceedings**

##### **Fixed costs for litigants in criminal proceedings**

This is governed by the Code of Civil Procedure.

Any parties who are charged with a punishable offence, have been subject to arrest or any other precautionary measure or are to be brought to trial may exercise the right of defence, acting in the proceedings, whatever they may be, as soon as they are advised of their existence, and accordingly will be informed of this right.

In order to exercise this right, the parties concerned must be represented by a legal representative (*procurador*) and defended by a lawyer (*abogado*), who are appointed by the court where the parties concerned have not appointed any themselves and make a request to that effect, and in any case where the parties have no legal competence to do this.

All those who are party to a case and whose right to legal aid has not been recognised will be required to pay the fees of the legal representatives who represent them, those of the lawyers who defend them, those of the experts who advise at their request and the compensation for witnesses who may appear in court, where experts and witnesses, at the time of testifying, have filed their claim and the court accepts it.

They will not be required to pay the other costs of proceedings, either during the case or after it has finished, unless they are ordered to do so by the court.

Any legal representative appointed by the parties in a case and who agrees to represent them will be required to pay the fees to the lawyers whom the clients have appointed for their defence.

Parties entitled to legal aid may also appoint a lawyer and legal representative of their choice. However, in this case, the parties will be required to pay their fees, as in the case of parties who are not entitled to legal aid, unless the freely appointed legal professionals waive their fees as provided for in Article 27 of the Legal Aid Act (*Ley de Asistencia Jurídica Gratuita*).

##### **Stage of the criminal proceedings where fixed costs must be paid**

Clients are always required to pay the bills that are issued once the proceedings have ended. There is no advance payment of money when court-appointed lawyers are used because legal aid is normally processed at the same time.

It should be noted that court-appointed lawyers are very widely used. So, if clients are entitled to legal aid, they do not have to pay the lawyer's fees and the State will pay the bill unless the clients' financial situation improves within a period of three years (usually they do not pay anything).

##### **Prior information to be provided by legal representatives**

##### **Rights and obligations of the parties**

As the representative of the party, the legal representative (*procurador*) has a duty to inform the client of all the procedural steps.

Both the lawyer and the legal representative have a duty to inform the client as often as the client so requests.

#### **Costs**

##### **Where can I find information on costs in Spain?**

There is no specific website where information can be found on the cost of legal proceedings in Spain. Nevertheless, there are web pages, such as those of the bar associations, which provide information on the fees of their members.

##### **In which languages can information on costs in Spain be obtained?**

The information is usually provided in Spanish. It is also possible to find information in the official languages of the Autonomous Communities.

Some pages also provide certain information in English.

##### **Where can I find information on mediation?**

The Register of Mediators and Mediation Institutions (*Registro de Mediadores e Instituciones de Mediación*) is an information database that can be accessed by the general public, free of charge, through the website of the Ministry of Justice. The Register publishes details of professional mediators and mediation institutions to make it easier for members of the public to access this form of dispute resolution.

You can access its search engines via the following links:

<https://remediabuscador.mjusticia.gob.es/remediabuscador/RegistroMediador>

<https://remediabuscador.mjusticia.gob.es/remediabuscador/RegistroInstitucion>

#### **Mediation**

Whatever name is used to describe it, mediation is a form of dispute resolution where two or more parties voluntarily attempt to reach an agreement themselves, assisted by a mediator.

#### **Mediator**

Private individuals can become mediators if they enjoy full exercise of their civil rights, as long as they are not prevented from performing this role by any legislation to which they may be subject in the practice of their profession.

Legal entities providing mediation services – whether they are professional companies or any other kind of legal entity provided for by law – must appoint an individual to act as a mediator; this individual must meet all the criteria laid down by law.

#### **Requirements for becoming a mediator**

To practise mediation, mediators must have an official university degree or advanced vocational training, as well as special training acquired by following one or more specific courses taught by appropriately accredited institutions; the training provided by these institutions is valid for the practice of mediation anywhere in the country.

Mediators must also take out insurance or a similar guarantee to cover the civil liability arising from their actions in the disputes that they mediate.

#### **Insolvency mediator**

An insolvency mediator (*mediador concursal*) is an individual who meets both the requirements to be a mediator and the requirements to be an insolvency administrator set down in Article 27(1) of the Insolvency Act (*Ley Concursal*, Law 22/2003 of 9 July 2003). Insolvency mediators may be appointed by notaries or commercial registrars in the out-of-court payment agreements referred to in Title X of the Insolvency Act. Legal entities can also act as insolvency mediators as long as they carry out their insolvency mediation activities through an individual who meets the above criteria.

#### **Mediation institution**

Mediation institutions may be Spanish or foreign public or private bodies or public-law organisations whose purposes include the promotion of mediation. These institutions facilitate access to and administration of mediation, which includes appointing mediators; they must ensure transparency when making these appointments. If the purposes of these institutions also include arbitration, they must take measures to keep the two activities separate. Mediation institutions cannot provide mediation services directly, nor can their involvement in mediation be greater than what the law provides.

#### **Value-added tax**

##### **How is this information provided?**

The Spanish Tax Agency (*Agencia Tributaria*) provides this information on its [web page](#).

##### **Which rates are applicable?**

The Spanish Tax Agency provides this information on its [web page](#).

#### **Legal aid**

##### **What is it?**

Pursuant to Article 119 of the Spanish Constitution, legal aid is a procedure whereby those who can demonstrate a lack of sufficient financial means are granted a series of benefits mainly consisting of exemption from payment of lawyers' and legal representatives' fees and costs arising from expert testimonies, guarantees, etc.

Broadly speaking, the right to legal aid includes the following benefits:

- free advice and guidance prior to the start of proceedings;
- access to a lawyer by the person under arrest or the prisoner;
- free defence and representation by a lawyer and legal representative during the legal proceedings;
- free publication in the course of the proceedings of announcements and edicts that must be published in official gazettes;
- exemption from the payment of deposits for the lodging of appeals;
- free assistance from experts during proceedings;
- free procurement of copies, testimonies, instruments and notarial certificates;
- 80% reduction in fees for certain notarial actions;
- 80% reduction in fees for certain actions carried out in relation to the Land and Commercial Registers.

For cross-border disputes only (after the Legal Aid Act was reformed by Law 16/2005 of 18 July 2005, bringing it into line with Directive 2003/8/EC), the following items have been included in the above rights:

- interpretation services;
- translation of documents;
- travel costs where an appearance in person is required;
- defence by a lawyer and representation by a legal representative even where unnecessary, if the court requires this in order to guarantee equality of the parties.

##### **Who can request it?**

In general, it can be requested by citizens who are involved in or about to initiate any kind of legal proceedings and who lack sufficient financial means to carry out the litigation.

Private individuals are deemed to have insufficient resources when they can provide evidence that all the components of their annual resources and revenue, calculated by family unit, do not exceed twice the Public Index of Income (*Indicador Público de Renta de Efectos Múltiples*, IPREM) applicable at the time of application.

For legal entities to qualify for legal aid, their taxable base for corporate tax must be lower than the equivalent to three times the annual calculation for the IPREM.

In any case, other external signs that demonstrate the actual financial capacity of the applicant will be taken into account.

There are exceptions for private individuals based on disabilities and/or other family circumstances that allow the above income limits to be exceeded.

(Under the terms of the Twenty-Eighth Additional Provision of the General State Budget Act (*Ley de Presupuestos Generales del Estado*) for 2009, the IPREM stood at EUR 7 381.33 per annum in 2009).

Specifically, the following are entitled to legal aid:

- Spanish citizens, nationals of other Member States of the European Union and any foreigners resident in Spain, where they can show that they lack sufficient means for litigation;
- the Social Security Managing Bodies and Common Services;
- the following legal entities, where they can show that they lack sufficient means for litigation:
  - non-profit organisations;
  - foundations registered in the corresponding administrative register;
- in employment proceedings: all employees and beneficiaries of the social security system;
- in criminal proceedings: all citizens, including foreigners, who can show that they lack sufficient means for litigation, even where they do not legally reside in Spain, are entitled to legal aid and defence and representation free of charge;
- in administrative court proceedings: all foreign citizens who can show that they lack sufficient means for litigation, even where they do not reside legally in Spain, are entitled to legal aid in all proceedings (including preliminary administrative proceedings) relating to applications for asylum and the Foreign Nationals Act (*Ley de la Extranjería*).

#### **Further information**

##### **Requirements for applying for legal aid**

## Private individuals

All the components of the individual's annual resources and revenue, calculated by family unit, must not exceed twice the IPREM applicable at the time of application.

The Legal Aid Commission (*Comisión de Asistencia Jurídica Gratuita*) may exceptionally decide to grant the right to legal aid where the resources exceed double the IPREM but do not exceed four times the IPREM, taking into account the circumstances of the applicant's family, number of dependent children or family members, state of health, disability, financial obligations, costs arising from the initiation of the proceedings or other circumstances, and in any case where the applicant holds the status of relative in the ascending line of a special-category large family.

The litigant must be defending their own rights and interests.

## Legal entities

The legal entity must be a non-profit organisation or foundation registered in the corresponding administrative register.

Its taxable base for corporate tax must be less than the equivalent to three times the annual calculation of the IPREM.

With the entry into force of Organic Law 1/2004 of 28 December 2004 on Comprehensive Protective Measures against Gender-Based Violence (*Ley Orgánica 1/2004 de Medidas de Protección Integral contra la Violencia de Género*), women who are victims of gender-based violence are granted full legal aid immediately, not only in all court proceedings but also in administrative procedures (police inquiries are therefore included) opened on grounds of gender-based violence, until such time as a judgment is delivered, without being required to apply for legal aid beforehand. This means that the issue of legal aid will never hinder the right to defence to effective judicial protection, which will be offered to the victim regardless of whether an application for legal aid has been filed. However, this is on the understanding that such legal aid is given only where the party concerned can demonstrate, subsequently or during the course of the legal proceedings that the circumstances actually exist for entitlement to legal aid, as required by the general rules contained in the Legal Aid Act and accompanying Regulations, amended to this effect by the Sixth Final Provision of Organic Law 1/2004.

## When does the losing party have to pay the costs of the proceedings?

Articles 394 to 398 of the Code of Civil Procedure cover the order to pay costs in civil proceedings.

In actions for a full judgment, the costs of first instance are payable by a party whose claims have all been dismissed, unless the case raises serious matters of fact or de jure to be clarified.

If claims are granted or dismissed in part, each party pays its costs and half the joint costs, unless there are grounds for imposing them on one of the parties because of frivolous litigation.

Where the costs are imposed on the losing party, that party will be required to pay, for the part corresponding to lawyers and other legal professionals not subject to rates or scales, only a total amount of no more than one third of the sum at issue for each of the litigants that have secured the decision. For these purposes only, claims on which no value can be put will be valued at EUR 18 000, unless the court determines otherwise because of the complexity of the case.

The provisions in the preceding paragraph do not apply if the court declares that the litigant ordered to pay the costs has acted frivolously.

Where the party ordered to pay the costs is entitled to legal aid, he or she will be required to pay the costs occasioned by the defence of the interests of the opposing party only in cases specifically indicated in the Legal Aid Act.

In no circumstances will costs be imposed on the public prosecutor's office in proceedings to which it is party.

## Experts' fees

Experts used in court proceedings are known as *peritos*. A Register of Legal Experts (*Registro de Peritos Judiciales*) can be found at each High Court (*Tribunal Superior de Justicia*).

Article 241(1)(4) of the Code of Civil Procedure covers, as a specific item to be included in calculating costs, the 'fees of experts and other payments which may have to be paid to persons playing a part in the proceedings'. This refers to costs incurred by persons who, although not a party to the proceedings, have certain expenses as a result of attending the proceedings to provide some service.

Article 243 of the Code of Civil Procedure stipulates that in all proceedings and actions, costs are calculated by the clerk of the court that heard the case or appeal. Any fees corresponding to writs and documents relating to proceedings which are unnecessary, superfluous or not authorised by law, or items in lawyers' fees which are not listed in detail or which refer to fees that have not been earned in the litigation are not included in the calculation.

The court clerk will reduce the amount of lawyers' and other legal professionals' fees that are not subject to rates or scales if the fees claimed exceed one third of the sum at issue and the litigant who was ordered to pay the costs was not found to have acted frivolously.

The costs of actions or incidental steps for which the winning party has expressly been ordered to pay by the decision on costs in the main proceedings are not included either.

## Translators' and interpreters' fees

There is no official rate applicable to sworn translation and interpretation services. Sworn interpreters are free to set the fees charged for their interpretation services but they are required to inform the language interpretation office and the corresponding Government Sub-Delegation of their rates. This information must be provided in January of each year.

## Related links

[Spanish National Tax Administration Agency / VAT](#)

## Related documents

[Spanish report on the Study on the Transparency of Costs](#)  (640 Kb) 

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