

Domov>Sprožitev sodnega postopka>Pravosodni sistemi na ravni EU in držav članic>**Specializirana sodišča v državah članicah**  
National specialised courts

Španija

**Article 117 of the Spanish Constitution of 1978 establishes the principle of jurisdictional unity that is the basis for the organisation and operation of the country's courts.**

Under the Spanish legal system, ordinary jurisdiction is divided into four areas of law: civil, criminal, contentious administrative and social or employment. In addition to the four areas of law under ordinary jurisdiction, the Spanish legal system recognises military jurisdiction, which is an integral part of the State Judicial System (*Poder Judicial del Estado*) and is vested exclusively in the military courts established by law.

Conflicts of jurisdiction between the courts of any area of law under ordinary jurisdiction and the military courts are resolved by a special chamber of the Supreme Court (*Tribunal Supremo*) — the Chamber for Conflicts of Jurisdiction (*Sala de Conflictos de Jurisdicción*) — comprising the Chief Justice of the Supreme Court, two magistrates from the chamber of the Supreme Court for the area of law in which the conflict occurs and two magistrates from the Chamber for Military Matters (*Sala de lo Militar*), all of whom are appointed by the Plenary of the General Council of the Judiciary (*Consejo General del Poder Judicial*).

Within the areas of law under ordinary jurisdiction some courts may specialise in a particular subject matter. Examples include courts dealing with violence against women, commercial courts, courts with special duties in the matter of criminal sentencing, and juvenile courts.

**The Organic Law on the Judiciary (*Ley Orgánica del Poder Judicial* – LOPJ) provides for the existence of the following specialised courts:**

#### **Commercial courts**

The Commercial Courts (*Juzgados de lo Mercantil*), which have been in operation since 1 September 2004, are specialised courts. They form part of the civil jurisdictional system.

#### **Territorial jurisdiction**

Generally speaking, each province has at least one commercial court — based in the provincial capital — with jurisdiction throughout the province. Commercial courts may also be set up in towns or cities other than the provincial capital where population size, the existence of industrial or commercial centres or economic activity so justify it. The extent of these courts' jurisdiction is established according to the requirements of each particular case. Commercial courts may be established with jurisdiction that extends to two or more provinces within the same autonomous community.

#### **Areas of jurisdiction**

Commercial courts hear cases arising in connection with **insolvency**, in the terms specified in their governing law.

**Commercial courts also hear matters which fall under the civil jurisdictional system, including** claims in which rights of action are exercised relating to unfair competition, industrial property, intellectual property and advertising, as well as all those actions which, within this jurisdictional system, are brought under the regulations governing commercial companies and cooperatives.

The commercial courts have jurisdiction to **recognise and enforce foreign sentences and other legal and arbitration rulings** where these relate to matters within their area of jurisdiction, unless they should be heard by another court in accordance with international treaties and other rules.

#### **Appeals**

The Provincial Courts hear the appeals provided for by law against rulings handed down at first instance by the commercial courts, with the exception of those issued in insolvency cases which resolve matters relating to employment, in which one or more of their Sections must be specialised, in accordance with the provisions of the LOPJ.

Other appeals may be lodged as provided for by the LOPJ in those cases set out therein.

#### **Community trade mark courts**

The Community Trade Mark Courts (*Juzgados de Marca Comunitaria*) are the Commercial Courts of Alicante insofar as they exercise their jurisdiction to hear exclusively and at first instance all those cases which are brought within the provisions of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, and Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs.

In exercising this jurisdiction, these courts' jurisdiction extends to the whole of Spain's national territory and for these purposes only they are called Community Trade Mark Courts.

They form part of the civil jurisdictional system.

Furthermore, the specialist Section or Sections of the Provincial Court of Alicante also hears, exclusively and at second instance, all those appeals referred to in Article 101 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, and Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs. In exercising this jurisdiction, these courts' jurisdiction extends to the whole of Spain's national territory and for these purposes only they are called Community Trade Mark Courts.

#### **Courts with special duties in the matter of criminal sentencing**

Courts with Special Duties in the Matter of Criminal Sentencing (*Juzgados de Vigilancia Penitenciaria*) perform the jurisdictional functions laid down in the General Law on Criminal Sentencing (*Ley General Penitenciaria*) in the matter of enforcing custodial sentences and security measures, exercising jurisdictional control over the disciplinary power of the criminal sentencing authorities, protecting the rights and benefits of the inmates of prisons and in other matters as specified by law. They form part of the criminal jurisdictional system.

#### **Territorial jurisdiction**

Within the criminal jurisdictional system, each province has one or more Courts with Special Duties in the Matter of Criminal Sentencing.

The city of Madrid has one or more Central Courts with Special Duties in the Matter of Criminal Sentencing with jurisdiction for the whole of Spain.

#### **Areas of jurisdiction**

Courts with Special Duties in the Matter of Criminal Sentencing perform the jurisdictional functions laid down in the General Law on Criminal Sentencing in the matter of enforcing custodial sentences and security measures, exercising jurisdictional control over the disciplinary power of the criminal sentencing authorities, protecting the rights and benefits of the inmates of prisons and in other matters as specified by law.

#### **Appeals**

The Provincial Courts hear the appeals provided for by law against rulings handed down by the provincial Courts with Special Duties in the Matter of Criminal Sentencing.

Other appeals may be lodged as provided for by the LOPJ in those cases set out therein.

#### **Juvenile courts**

##### **Territorial jurisdiction**

Each province has at least one Juvenile Court (*Juzgado de Menores*) — based in the provincial capital — with jurisdiction throughout the province.

The city of Madrid has a Central Juvenile Court with jurisdiction for the whole of Spain which hears those cases allocated to it by the legislation governing the criminal liability of minors.

##### **Areas of jurisdiction**

Juvenile Courts have jurisdiction to hear cases involving alleged crimes committed by persons aged between 14 and 18.

Judges in Juvenile Courts perform the functions laid down in the laws relating to minors who have committed actions classified as crimes, as well as performing those functions that, in relation to minors, are allocated to them by law.

##### **Appeals**

The Provincial Courts hear the appeals provided for by law against rulings handed down by the provincial Juvenile Courts.

Other appeals may be lodged as provided for by the LOPJ in those cases set out therein.

#### **Courts dealing with violence against women**

##### **Territorial jurisdiction**

Each district has at least one Court Dealing with Violence against Women (*Juzgado de Violencia sobre la Mujer*) — based in the district capital — with jurisdiction throughout the province. They take their name from the municipality where they are based.

The Government, at the proposal of the General Council of the Judiciary and, where applicable, subject to a report by the government of the autonomous community in the cases where the administration of justice has been devolved to that autonomous community, can by Royal Decree extend the jurisdiction of specific Courts Dealing with Violence against Women to two or more districts within the same province.

The General Council of the Judiciary may agree, subject to a report by the Governing Chambers (*Salas de Gobierno*), that in those jurisdictions where so required and according to the case-load, cases dealt with by these Courts may be heard by a Court of First Instance and Preliminary Investigations (*Juzgado de Primera Instancia e Instrucción*) or a Local Criminal Court (*Juzgado de Instrucción*), as applicable.

In districts where there is only a Court of First Instance and Preliminary Investigations, it will be this court which hears matters falling under the jurisdiction of the Courts Dealing with Violence against Women.

They form part of the criminal jurisdictional system.

##### **Areas of jurisdiction**

Courts Dealing with Violence against Women hear, under the criminal system and in accordance in each case with the procedures and appeals provided for by the Code of Criminal Procedure (*Ley de Enjuiciamiento Criminal*), the following matters, *inter alia*:

Investigation of criminal liability claims arising out of the offences listed in the titles of the Criminal Code (*Código Penal*) relating to homicide, abortion, bodily harm, bodily harm to a foetus, deprivation of liberty, offences against moral integrity, against sexual liberty, against the right to privacy and the protection of personal image and reputation or any other offence committed with violence or intimidation, where these offences have been committed against the current or former wife, or a woman who is or has been in a comparable sentimental relationship with the offender, whether living together or not, as well as those committed against the descendants of the offender or of the wife or cohabiting partner, or against minors or legally recognised disabled persons living with the offender or under the *de facto* authority, protection, guardianship, care or safekeeping of the wife or cohabiting partner, including where an act of gender-based violence has occurred.

Investigation of criminal liability claims arising out of any offence against the rights and duties of the family, when the victim is any of the persons referred to in the preceding paragraph.

Issuing of the corresponding protection orders to victims, without prejudice to the authority of the Duty Judge (*Juez de Guardia*).

Hearing and ruling on the minor offences for which they have jurisdiction under law, when the victim is one of the persons referred to in the paragraph above.

Issuing and enforcement of the mutual recognition instruments relating to criminal rulings within the European Union for which they have jurisdiction.

Investigation of criminal liability claims arising out of the breach provided for and sentenced by Article 468 of the Criminal Code when the person harmed by the offence whose sentence, precautionary measure or security measure has been breached is the current or former wife, or a woman who is or has been in a comparable sentimental relationship with the offender, whether living together or not, as well as those committed against the descendants of the offender or of the wife or cohabiting partner, or against minors or legally recognised disabled persons living with the offender or who are subject to the authority, protection, guardianship or care of the wife or cohabiting partner.

Courts Dealing with Violence against Women may hear, under the civil system, in accordance in each case with the procedures and appeals provided for in the Code of Civil Procedure (*Ley de Enjuiciamiento Civil*), the following matters, *inter alia*:

Those relating to parentage, maternity and paternity.

Those relating to annulment of marriage, separation and divorce.

Those relating to father/child relationships.

Those intended to adopt or modify measures relating to family matters.

Those relating exclusively to the custody of children or to maintenance payments claimed by one progenitor against the other on behalf of children.

Those relating to the need for approval of adoption.

Those intended to challenge administrative decisions regarding the protection of minors.

Courts Dealing with Violence against Women have exclusive and exclusionary jurisdiction under the civil system when the following conditions coincide:

In the case of civil proceedings relating to any of the matters specified in the previous paragraph.

Where one of the parties to the civil proceedings is the victim of acts of gender-based violence.

Where one of the parties to the civil proceedings is charged with being the perpetrator, instigator or accomplice necessary for carrying out acts of gender-based violence.

Where criminal actions have been brought before the Courts Dealing with Violence against Women in respect of crimes or petty offences resulting from an act of violence against women, or a protection order has been issued in respect of a victim of gender-based violence.

When the judge holds that the actions made known to the court do not unquestionably constitute an expression of gender-based violence, the judge may reject the claim, referring it to the relevant court.

**In all these cases mediation is not permitted.**

##### **Appeals**

The Provincial Courts hear the appeals provided for by law against rulings handed down by provincial Courts Dealing with Violence against Women.

Other appeals may be lodged as provided for by the LOPJ in those cases set out therein.

#### **Specialised courts created by resolution of the General Council of the Judiciary**

In Spain, and without affecting the principle of jurisdictional unity insofar as they form part of the five jurisdictional systems, specialised courts can not only be set up by the Organic Law on the Judiciary, as is the case with the Commercial Courts, Juvenile Courts or Courts Dealing with Violence against Women, but can also be set up by the General Council of the Judiciary pursuant to Article 98 of the aforementioned law, as is the case with Family Courts (*Juzgados de Familia*), Mortgage Enforcement Courts (*Juzgados de Ejecución Hipotecaria*) and Enforcement Courts (*Juzgados de Ejecutorias*).

#### **Other specialised courts**

Article 117, Title VI, on the judiciary, of the Spanish Constitution of 1978 establishes the principle of jurisdictional unity that is the basis for the organisation and operation of the country's courts.

This principle is reflected in the existence of a single jurisdiction made up of a single body of judges and magistrates who constitute the ordinary jurisdiction.

The Spanish Constitution lays down that justice emanates from the people and is administered on behalf of the King by the judges and magistrates members of the judiciary who shall be independent, shall have fixity of tenure, shall be accountable for their acts and subject only to the rule of law.

Judges and magistrates may only be dismissed, suspended, transferred or retired on the grounds and subject to the safeguards provided for by the law.

The exercise of judicial authority in any kind of action, both in ruling and having judgements executed, is vested exclusively in the courts laid down by the law, in accordance with the rules of jurisdiction and procedure which may be established therein.

Courts shall not exercise any powers other than those indicated in the foregoing subsection and those which are expressly allocated to them by law as a guarantee of any right.

Outside the judiciary, the Constitution itself provides, under different Titles, for the existence of two constitutional courts. These enjoy full independence and impartiality and are subject solely to the rule of law.

These are the Constitutional Court (*Tribunal Constitucional*) and the Court of Audit (*Tribunal de Cuentas*).

#### **The Constitutional Court**

The Spanish Constitutional Court is located outside the judiciary.

It is the supreme interpreter of the Constitution, independent of the other constitutional bodies and is subject solely to the Constitution and the corresponding Organic Law.

It is unique in its jurisdiction, which extends to the whole of Spain.

#### **Composition**

It comprises twelve magistrates appointed by the King. Four of those magistrates are proposed by the Congress of Deputies (*Congreso de los Diputados*), requiring a three-fifths majority of its members; four are proposed by the Senate (*Senado*), requiring the same majority; two are proposed by the Government and two are proposed by the General Council of the Judiciary. The magistrates appointed elect a Chief Justice and a Deputy Chief Justice from among their ranks.

#### **Areas of jurisdiction**

The Constitutional Court hears cases in the manner and as determined by the law, including:

Appeals on matters of unconstitutionality against laws, regulatory provisions or acts with the force of law.

Appeals relating to violation of civil rights and liberties as listed in Article 53(2) of the Constitution.

Constitutional conflicts of jurisdiction between the State and autonomous communities or between autonomous communities.

Conflicts between the constitutional bodies of the State.

Declarations on the constitutionality of international treaties.

For more information, see: [The Constitutional Court](#)

#### **Court of Audit**

The Court of Audit is the supreme audit body for the accounts and economic management of the State and public sector.

Without prejudice to its own jurisdiction, the Court of Audit forms part of the Legislature and reports directly to the Spanish Parliament (*Cortes Generales*).

#### **Composition**

It comprises twelve members, known as Auditors (*Consejeros de Cuentas*), six of whom are appointed by the Congress of Deputies and six by the Senate.

They enjoy the same independence and fixity of tenure, and are subject to the same rules on incompatibility of office, as judges.

#### **Functions**

Two functions are assigned to the Court of Audit:

The audit function, characterised by being external, permanent and consumptive, consists of checking whether the economic and financial activity of the public sector complies with the principles of legality, efficiency and economy.

The jurisdictional function is that of hearing cases of fiscal liability against persons in charge of public property, revenues or effects, and is intended to compensate public funds harmed by misappropriation, by failure to provide full or proper substantiation or by other causes or actions.

For more information, see: [Court of Audit](#).

#### **Courts of customary law**

Article 125 of the Constitution recognises these as one of the means of public participation in the administration of justice.

Article 19 of the Organic Law on the Judiciary recognises as courts of customary law (*tribunales consuetudinarios*) the Water Tribunal of the Plain of Valencia (*Tribunal de las Aguas de la Vega Valencia*) and the Council of Wise Men of Murcia (*Consejo de Hombres Buenos de Murcia*). Both are customary-law institutions dealing in matters relating to water management.

Since 2009, these two Spanish customary-law courts have been included on the Representative List of the Intangible Cultural Heritage of Humanity and constitute living proof of the capacity of human groups to democratically establish complex institutions drawn from among their own members.

#### **Water tribunal of the Plain of Valencia**

This is the oldest judicial institution in Europe.

Its acts within the territory of Valencia.

It consists of eight members elected democratically by the farmers of the Huerta Valenciana (a fertile region of Valencia). Its areas of jurisdiction are the equitable distribution of water between the various landowners, the resolution of disputes arising between the farmers and the imposition of penalties for breaches of the Irrigation Regulations.

#### **Council of Wise Men of Murcia**

The Council of Wise Men of Murcia dates back to mediaeval times. It has been institutionalised and regulated since 1849 as the supreme court of justice for the Huerta de Murcia (a fertile region of Murcia). The Council consists of a chair, a secretary and five members.

The Council of Wise Men of Murcia holds its hearings publicly every Thursday in the chambers of the local authority and resolves each case in that day's session or by no later than the following hearing. Rulings are issued outright and on a majority vote basis, although in the event of a tie the chair has the

casting vote. The penalties resulting from the rulings of the Council of Wise Men of Murcia are exclusively monetary in nature. Decisions issued by this court are final, firm and enforceable.

For more information, see: [Council of Wise Men](#).

**Related links**

[Spanish General Council of the Judiciary](#)

[Spanish Constitutional Court](#)

[Spanish Court of Audit](#)

[Spanish Court of customary law](#)

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