

THE SPANISH PRISON SYSTEM

The following is a general guide (not exhaustive) to the prison system in Spain. While every effort has been made to ensure that the information is accurate, it is provided without any responsibility on the part of the Embassy of Ireland, Madrid or the Department of Foreign Affairs and Trade.

How the Embassy/Consulate can assist while in prison

One of the most important functions of Irish Embassies and Consulates is to ensure that the rights of Irish citizens who are arrested or imprisoned abroad are fully respected. The Spanish authorities require the consent of a foreign prisoner in order to inform his/her Consular representative of his/her detention. On committal to prison a prisoner will be asked to indicate by ticking a box on a form, or verbally, as to whether he/she wishes to receive consular assistance. If a prisoner declines and later realises that he/she has done so mistakenly, or wishes to change his/her mind, then he/she should get in touch with the prison authorities (his/her prison social worker for example) and write directly to the Embassy to reverse the decision.

How the Embassy can help:

- Arrange for you family/friends to be informed of your detention
- Visit you or arrange for you to be visited by an Honorary Consul
- Provide you with a list of local English-speaking lawyers
- Advise you about the prison system and about your entitlement to visits, post and other facilities
- Bring details of any medical condition you may have to the attention of prison officials
- Pursue with the prison authorities on your behalf complaints about ill-treatment or discrimination
- Assist your family/friends with any difficulties they may have when transferring money to your prison bank account or arranging visits

What the Embassy cannot do:

- Secure better treatment for Irish citizens than local or other nationals receive
- Give or pay for legal advice
- Investigate a crime
- Interfere with or influence the local judicial system
- Instigate court proceedings
- Provide any financial assistance while you are in prison

The Irish Commission for Prisoners Overseas

The Irish Commission for Prisoners Overseas (ICPO) is a voluntary organisation that provides assistance to Irish prisoners overseas and to their families in Ireland.

Their services include:

- Providing information and support to prisoners in relation to a wide range of issues, including repatriation, deportation, health and legal matters, discrimination and ill-treatment
- Keeping in contact with prisoners through letter writing, newsletters and cards for Christmas and St. Patrick's Day
- A pen friend scheme which involves volunteers in Ireland corresponding on a regular basis with ICPO clients
- Representing prisoners' interests to relevant parties (Irish Embassies and Consulates, welfare agencies, probation and legal officers)

- Monitoring repatriation applications with the Department of Justice and Equality
- Providing assistance to prisoners in preparation for their release
- Visiting prisoners and assisting families with travel and accommodation for prison visits
- Providing support and advice to the families of Irish prisoners overseas

The ICPO can be contacted as follows:

Irish Commission for Prisoners Overseas
Columba Centre
St Patrick's College
Maynooth
Co. Kildare
IRELANDA

Types of prison regime

There are 3 types of prison regime - *régimen cerrado*, *régimen ordinario* and *régimen abierto* (closed, ordinary and open). These vary according to supervision, confinement and privileges granted, the closed is the most restrictive and open is a step towards full freedom. Only persons who have served two thirds of their sentence, and with an excellent record of good behaviour, would be eligible for the open regime.

Prisoner classification

Prisoners are classified into one of three grades. These determine the extent of privileges (temporary leave, work facilities, etc.) that can be obtained within the prison system. Grade 1 carries the least privileges. After sentencing, and usually within two months of the prison authorities having received official notification of an irrevocable sentence, the Prison Board will classify prisoners and most will then be placed in Grade 2. Bad behaviour or the nature of the offence for which an individual has been imprisoned can result in being placed at Grade 1 or the temporary withholding of a classification. Grade 3 is granted to those who have displayed consistent good behaviour and are approaching the end of their sentence.

Arrival

When you arrive in prison, you have the right to immediately communicate your situation to your family /lawyer via a telephone call or other means. However, the free telephone call on arrival can often only be made within Spain. Therefore, if you do not know anyone in Spain and wish to make someone aware of your situation, you can request to use your free telephone call to contact the Embassy or nearest Irish Consulate for assistance. With your permission, we will pass on information to family/friends.

Prisoners are also interviewed by the prison doctor and a social worker on arrival. Any medication must be declared and the prison doctor will decide which can be retained by the prisoner or kept in the infirmary. The doctor should be made aware of any medical condition. Prisoners may keep and use their own clothing if it is considered suitable by the prison authorities. Basic toiletries are also provided.

All money, valuables, medicine and toiletries should be declared and handed in to the authorities. They will be kept in the *valores* department against a receipt given to the prisoner until release or transfer elsewhere. These belongings can also be collected in person by someone nominated by you, usually someone on your visiting list or your lawyer. The Embassy/Consulate cannot collect belongings. To note, it may be possible to deposit the money you have on your person at the time of your detention into your prison account.

Welfare

Each prison has a number of social workers (*trabajadores sociales*) charged with caring for the individual welfare of prisoners. They explain prison procedures to the prisoner, will pass on messages to family or to the Embassy, and are charged generally with welfare issues.

Medical and dental treatment

You are entitled to medical treatment provided by the Spanish public health service. Access to the prison medical team, including doctor, can be gained by adding your name to the list available on each wing. Prisons have their own infirmary facilities, however, for more specialised treatment or tests a prisoner may be escorted outside of the prison to another medical facility.

Emergency dental treatment and extractions are covered under the Spanish public health service; additional dental work must be paid for by the prisoner.

Visits by a private doctor/dentist may be authorised and the costs will be covered by the prisoner. To request a visit by a private doctor/dentist you should submit a request (*instancia*) to the Prison Director with the full details of the private doctor, including his/her registered number (*número de colegiado*). You may wish to discuss the requirement to be seen by a private doctor with the prison doctor.

Should you have any special dietary requirements, for religious or other valid reasons including medical, you should communicate this to the prison authorities and prison doctor.

Letters, parcels and telephone calls

A prisoner may receive and send as many letters as he/she wishes. Letters should have the sender's name and address printed on the reverse side of the envelope, as well as the prisoner's full name and prisoner number (NIS) printed on the front of the envelope. For security reasons, prisons will not accept parcels sent by mail to prisoners (or indeed mail sent by courier service). Any sent in this way will be returned without explanation. However, if the sender can deliver them in person, a prisoner may receive up to two parcels of up to approximately 5 kilos a month, containing clothes or reading material (except hardback books). Foodstuffs, medicine, toiletries, blankets, bed sheets, padded clothing are not accepted. A list of non-permitted items is displayed on the notice boards in the prisons. The parcel must be opened by the prisoner in the presence of a prison officer. It is regretted that, because of these strict controls, the Embassy/Consulates cannot deliver parcels on behalf of family or friends who cannot visit.

A prisoner may apply to make telephone calls and are usually allowed to submit a list of up to ten names and numbers (which should ideally include their solicitors and nearest Consulate). The prisoner will need original telephone bills in order to apply. Relatives should send the bills for landlines or contract mobiles directly to the prisoner. Some prisons may allow a one-month grace period at the beginning where the prisoner will still be allowed make telephone calls before having to provide the bills for each number. Usually a specific number of calls per week is permitted (e.g. between 2-8 for approximately 5 minutes each call). In order to make telephone calls, a prisoner should purchase a telephone card with the money they have in *peculio* (prison bank account).

Money

Family members or a prisoner's lawyer can send small sums of money to a prisoner by international transfer directly to the prison account. Before making the transfer the family member's identity (via his/her passport) and kinship (via birth/marriage certificates) must be verified by the prison. The family member can send copies of their passport, together with copies of the birth/marriage certificates, directly to the prisoner by post, who in turn requests via an *instancia* that the family

member be included in the prisoner's list. This process will usually have to be repeated if the prisoner is transferred to a different prison. The Embassy/Consulate can assist prisoners and their families with this process.

When making the bank transfer it is important that the recipient's name and prisoner number (NIS), as well as the sender's passport number, is stated in the 'concept/observation'. When the money arrives at a prison, an account is opened in the prisoner's name (in *peculio*). It may take time for the transfer to clear and lodge in a prisoner's account. The Embassy/Consulate can assist in obtaining bank details for the prison and explain to a family how the transfer can be carried out. Most prisons will only accept a maximum of two bank transfers a month. In some prisons cash can also be deposited for a prisoner at the time of a visit; visitors should always ask for a receipt (*recibo*). Cash should never be sent through the post as this is not permitted. Sending cash may result in the prisoner being sanctioned and the money being confiscated.

A prisoner is usually able to hold any amount of money in his/her account, but he/she will only have access to a fixed weekly amount (approximately €100). The money is topped up on a personalised plastic card for use in the prison shop. Top-ups take place once a week, which means that if money is received at the prison the day after the top-up day, the prisoner will have to wait a full week for the money to appear on his/her card. If a prisoner is moved to another prison, the balance is forwarded to the new prison, although it may not arrive for some days after the prisoner arrives. If a bank transfer arrives after the prisoner has already been moved, it is normally returned to the sender by the prison.

There are no Embassy funds to provide financial assistance for prisoners.

Work, study and recreational facilities

Integration into prison life is encouraged and is looked upon positively by the prison authorities in general and by the Court, in particular the Prison Board (*Junta de Tratamiento*), which regularly reviews individual prisoners to determine their classification and eligibility for parole.

You can apply for jobs within the prison, some of which are paid, however preference may be given to sentenced prisoners over prisoners on remand. Prisons have educational facilities and foreign prisoners are strongly recommended to do a Spanish course, which can greatly assist a foreign prisoner in adapting to prison life. Other recreational facilities, including a gym and library, are also available in most prisons, as well as a range of cultural and social activities.

Visits

Glass visits (for family and close friends): Prison regulations allow one 40 minute visit per week. These are usually on Friday afternoons or at weekends and take place in a booth (*locutorio*) with a glass partition. The actual days and times for visiting are decided by the particular prison. Each *módulo* (wing) of a prison has its own set days and times for glass visits. On the very first visit, the visitor's fingerprints and photograph will be taken and recorded at the prison and personal and passport details recorded on the prison computer. A maximum of four people including children and infants are allowed access to glass visits. In some prisons, authorisation for the very first glass visit must be requested in writing by the prisoner; the application should include passport numbers of family members. In other prisons, family members may turn up on the appropriate visiting day for that *módulo* with documentary proof of their relationship with the prisoner (original birth/marriage certificates – translations of same are usually not required) and their ID and wait until a booth becomes available. Once family members have been registered on the prison computer, they can phone a twenty-four hour telephone number +34 913356099 (Mon – Wed), or go online at <http://www.iipp.es/web/portal/home/citaPrevia.html>, to arrange a time and date for a subsequent glass visit. This service is only available in Spanish and visitors must enter their passport or other ID

number and the prisoner's number (NIS). First glass visits by close friends (not family) require prior authorisation from the Prison Director. Therefore, the prisoner will have to submit a request in writing (*instancia*) including the friend's details and passport/ID number.

Open visits (for family only): A monthly conjugal visit, a monthly family visit (called "vis-à-vis" for a maximum of four people including children and babies) and a quarterly extended family visit for immediate family can be authorised by the Director. These take place in a private room without direct supervision by warders. All requests for open visits must be initiated by the prisoner who must submit an *instancia* to the prison officer on his/her wing. He/she must provide a choice of three possible dates on the form along with the details and passport numbers of the family members. On the first open visit, all family members must provide proof of relationship with the prisoner, in addition to their passport, on arrival at the prison. Failure to do so may result in access to the visit being denied.

In the case of non-marital relationships, the visitor is expected to provide proof that the prisoner and he/she were partners in a relationship before the prisoner's committal to prison. Those who have not registered their co-habitation status with the local Spanish authorities (and as such do not possess a certificate of *empadronamiento*), have to provide documents which bear both names and their address – e.g. rental contracts, deeds of a house, utility bills, bank account statements, birth certificates of any children as long as the birth certificate bears both the partners' names as the parents.

While visit requests usually have to be made by the prisoner, if you have any difficulties with this process, please contact the Embassy/nearest Consulate, or request your family/friends to contact the Department of Foreign Affairs and Trade in Dublin, so that we can assist in providing a fax to the prison which is essentially a letter of introduction for the visitor, giving their details and the details of their relationship to you.

If a prisoner is transferred to another prison, the prison visitor registration process may have to be completed again.

In addition to visits from family members and friends, a prisoner can receive visits from his/her lawyers, as well as Embassy/Consulate officials. If you wish to receive a visit from the Embassy/Consulate, please contact us by letter or phone.

How to make a complaint about mistreatment

All prisoners have the right to make petitions and complaints regarding their treatment, the prison regime, and any other matter relating to the prison administration.

Petitions and complaints may be made verbally or in writing to the prison staff, the Prison Director, and other prison authorities. The Prison Director will take the appropriate measures to resolve the situation or he/she will refer your petition/complaint to the relevant authorities.

Independently of this, prisoners can directly formulate petitions or complaints, or file an appeal, before the Prison Judge (*Juez de Vigilancia*), in relation to the prison regime and treatment where it affects their fundamental and/or prisoners' rights and benefits. Written petitions or complaints may be made in open *instancia* or in a sealed envelope. The Prison Judge is in charge of safeguarding prisoners' rights, monitoring the way in which sentences imposed are carried out, and rectifying, if necessary, any abuses or violations that may occur.

In addition to the Prison Judge, a prisoner may address matters in defence of his/her legitimate rights and interests to the Ombudsman (*Defensor del Pueblo*), the Spanish Constitutional Court, and ultimately before the European Court of Human Rights.

You may wish to instruct your lawyer to take up any matters referred to in this section with the relevant authorities, and you can also inform the Embassy/Consulate of any issues you are having in the prison.

Transfer to Ireland

Irish people who are imprisoned overseas may apply to serve the remainder of their sentences in Ireland. This is done under the provisions of the Transfer of Sentenced Persons (Amendment Act) 1997.

In order for a transfer to take place, there must be a three-way consent involving the prisoner and the Irish and Spanish authorities, and there are a number of conditions to be met before a transfer takes place:

- 1) The offender seeking a transfer is regarded as a national (or long term resident) of the State to which the transfer is sought
- 2) The order or judgment under which the sentenced person was sentenced is final and sentenced person has no other outstanding court cases (in Spain)
- 3) There is, at the time of the receipt of the request for transfer, at least six months of the sentence remaining to be served
- 4) The sentenced person consents to the transfer
- 5) The act or omission constituting the offence would also constitute an offence in the administering State
- 6) Both States consent to the transfer

The transfer should be requested by the prisoner in writing to either the Prison Director or the Minister for Justice and Equality in Ireland at: 94 St. Stephen's Green, Dublin 2. The Department of Justice and Equality will then deal directly with the Spanish Ministry of Justice.

There is currently a freeze on prisoner transfers pending the Irish State's response to a judgment of the Supreme Court of Ireland. This judgment has implications for the continuance in its present form of the process operated by the Irish Prison Service for transferring prisoners from other States to Ireland. The practical effect of this judgement and whether it will necessitate legislative and/or administrative changes is being examined by officials of the Irish Prison Service and the Department of Justice and Equality, in consultation with Attorney General. Given the complex nature of the review being undertaken, it is not possible at this stage to indicate a time frame for its conclusion. This said, prisoners can still express their interest for a transfer by submitting a request to the Prison Director or the Minister for Justice and Equality in Ireland in the manner outlined above.

To note, sentenced prisoners can request a transfer to another prison within Spain, for example to be closer to family who live in Spain or who are traveling to Spain. These requests should be made directly in the prison.

Useful vocabulary and phrases in Spanish

Módulo	Wing
Trabajador/a social	Social worker
Educador/a	Educator
Funcionario/a	Prison guard

Director/a	Prison Director/Governor
Médico	Doctor
Jurista	Prison legal advisor
(Prisión) preventivo	On remand
Condenado	Sentenced
Libertad condicional	Parole
Permiso	Permission (leave permit)
Sanción	Sanction/penalty
Abogado	Lawyer
Asistencia jurídica gratuita	Free legal aid
Instancia	Written request in prison
Peculio	Accounts (money) department
Economato	Prison shop
Lo siento, no entiendo	I am sorry, I do not understand
No hablo español, hablo inglés	I do not speak Spanish, I speak English
Me gustaría pedir/comprar	I would like to order / buy
El teléfono no funciona	The telephone is not working
Es urgente	It is urgent
Necesito ver a mi abogado	I need to see my lawyer
No me encuentro bien	I do not feel well
¿Qué debo hacer para ser transferido/a a otra prisión?	What must I do to get transferred to another prison?
¿Me podría decir cuánto tiempo durará mi sentencia?	Can you tell me how long my sentence is?
¿Me podría decir la fecha en que mi sentencia terminará?	Can you tell me the date my sentence finishes?
¿Me puedo cambiar a la celda del Sr/de la Sra....., ya que habla inglés?	Can I move to Mr/Ms.....'s cell as he/she speaks English?
¿Tengo mucho frío, me das otra manta por favor?	I am very cold, can I have an extra blanket please?
¿Cuánto dinero tengo en mi cuenta?	How much money do I have in my account?
¿Podría comprar un diccionario de inglés/español?	Could I buy a Spanish/English dictionary?
Me gustaría conseguir un trabajo en la prisión	I would like to get a job in the prison
¿Puede contactar el consulado irlandés para mí?	Can you contact the Irish Consulate for me?
Quiero poner una queja	I want to make a complaint
¿Cómo puedo solicitar una visita para mi familia?	How can I request a visit for my family?
¿Podría confirmar qué día ha reservado mi familia para visitarme?	Can you confirm what day my family has booked to visit me?
¿Podría pedir una visita más larga, ya que no recibo muchas visitas y mi familia tiene que viajar desde el extranjero/desde Irlanda?	May I have an extended visit as I do not get many visits and my family has to travel from abroad/from Ireland?
Podría ir a las clases para aprender...?	Could I go to the classes to learn....?
Hay algún interno que pueda hacer de interprete?	Is there any prisoner that can act as interpreter?