

Spain is adhered to the Multilateral Agreement on the transfer of prisoners, agreed in Strasbourg on 21-3-1985 (BOE nº 138, 10-6-1985). Spain also has a number of signed Bilateral Agreements with South American and Asian countries.

In all, it can be said that a person convicted in Spain has the possibility of being transferred to one of more than eighty countries for the completion of their sentence.

The Ramón Rubial Institute has edited this Guide for prisoners in Spain, where information can be found which may be of interest to foreign prisoners as well as to their family members, or friends of people who are held in Spain.

Number of prisoners in detention in Spain (January 2010)	76.000
Foreign prisoners	30%

GUIDE FOR THOSE ARRESTED IN SPAIN

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1. LEGAL ASSISTANCE

1.1 Engagement of Lawyer

A person arrested in Spain and accused of having committed a crime has the right to the legal assistance of a lawyer and to request that he or she be present when statements are made, at identity parades, or at any other stage of the legal proceedings. If the arrested person does not request a lawyer or if the designated lawyer does not appear at the place of detention within eight hours of the College of Lawyers being informed, one will be assigned automatically. The law requires that the defence is in the hands of an authorised lawyer. At the time of contracting a lawyer one must have sufficient information regarding their professional experience as cases have arisen of lawyers who turn up at prisons offering a series of services which they charge for in advance and then are not delivered.

1.2 Free Choice of Lawyer: The choice of professional is a task of fundamental importance and should be undertaken with certain care. When choosing, we recommend that his or her CV is requested, where experience in the particular field can be consulted, for example penal cases, and, wherever possible, references through the College of Lawyers or from the relevant community of the country of origin in Spain. A lawyer from the country of origin may be contracted, although this would make little sense as that lawyer would only be able to work as an assistant to the Spanish lawyer. If the arrested person wishes to contract a lawyer of his or her choice they will have to have sufficient financial resources or to have family members who are willing to pay the costs of the defence. The Spanish government will never pay for the costs of this lawyer nor will it provide loans to pay for the costs of the defence. Normally, contracting a

defence lawyer happens through the accused signing a document which is sent to the judicial body which knows of the case and in which it is shown that its professional is the person who is being contracted. It is advisable that, together with this document, a contract is signed with the lawyer in which the cost structure is made absolutely clear, as well as the tasks to be undertaken by them (reports, visits, court appearances, costs per day of the trial, communication with the family, etc.) and an estimate of the total fees. The tariffs may vary from case to case and may depend on the type and the quantity of the work envisaged, as well as other additional costs such as telephone calls, travel, hotels, etc. It may be possible to negotiate a fixed price for the whole case. Also, there are guidelines for fees produced by the different Lawyers' Colleges which may be consulted for guidance.

It is recommended that fees are not paid as a lump sum but rather in instalments. In the initial phase, the lawyer usually asks for an advance as a provision of funds. There is no problem with bank transfers between Spain and any other country.

1.3 Ex Officio Lawyer: When the accused lacks the financial means, the Instructing Judge will ask the Lawyer's College to assign an ex-officio lawyer, who will be present when the accused makes their statement to the police.

If "justice free of charge" is granted, this lawyer will not charge the accused for his or her services. The Spanish government pays their legal fees.

As custody before trial may be long, the accused could have the impression that their lawyer is not taking much interest in them. In the period between the finalising of inquiries and the trial, the lawyer can do very little. Ex-officio lawyers do not generally visit their clients except when a new stage in the proceedings is reached, or there is a change in the circumstances of the case. Once an ex-officio lawyer has been assigned, if the accused later decides with the financial assistance of a third party to opt for another lawyer, the ex-officio lawyer can ask that the accused to pay their fees for work already undertaken.

1.4 Consular Assistance: Although the Spanish authorities are obliged to notify the Consulate or Embassy of the accused's country of origin should the accused wish them to do so, this may be a slow process and in practice it may be more convenient for the accused to take the initiative and to make contact themselves.

2 DETENTION AND THE JUDICIAL PROCESS.

When the accused or their family receive this information, the process of arrest will already have taken place. Nevertheless, it is useful to explain briefly what this procedure is. If there has been any deviation from the normal order of events it may be useful to mention this to the lawyer.

Most importantly, it should be stressed that remand for accusation of a serious crime is not quickly resolved, and patience should be observed. The case may not come to trial until several months, or even one or two years later. As in most countries, justice can be a slow process, and contracting private lawyers is expensive.

2.1 Detention. A large number of countries, such as EU (European Union) and OEA (Organisation of American States) member countries have signed up to the Consular Treaty of Vienna of 1963, and as such the authorities of these countries are obliged to inform the consular authorities about the arrest of one of its subjects *when the accused wishes it to do so*. Unfortunately, the authorities usually take their time in informing Consulates of the arrest. To be sure of rapid contact with the Embassy or Consulate *it is necessary to take the initiative*.

At the time of the arrest, the accused must be informed of the acts with which they are presumed to be implicated and of the reasons for their privation of liberty, as well as their rights. It is possible that after their arrest the courts agree that, for one reason or another, the accused be kept incommunicado without transgressing their right to defence.

Habeas Corpus

It is the right of every citizen, accused or imprisoned, to appear immediately and publicly before a judge or tribunal to establish whether their arrest was legal or not, and whether an appeal should be lodged.

The accused may request this in the following cases:

- When in the arrest the legal requirements have not been met.

- When the accused has been in police detention for more than 72 hours, which in certain cases could be extended a further 48 hours, if a judge so decides.
- When certain of the accused's rights have been violated (interrogation without the presence of a lawyer, torture, etc.)

Identity Parade (Article 369 of the Criminal Justice Law)

This consists of putting the suspect in view of the victim of the crime together with, at least, two others with similar physical characteristics, to establish recognition.

The accused's lawyer will be present as well as the victim and the police.

2.2 Personal Belongings : At the police station all personal belongings are withheld, together with passport and other identity documents. A receipt will be given. On entering custody, a thorough search of the personal effects is carried out, and objects which are not allowed in prison are withheld. If necessary, hygienic measures are adopted, and the prisoner may be given clothes which are appropriate for the time of year (Article 313 of the General Penitentiary Regulation). After completion of the sentence and the payment of fines, aforesaid articles will be returned, although it may be that there is a problem with belongings which were connected with the crime. If the prisoner's passport is no longer valid, their Embassy or Consulate will organise a document of safe-conduct for the return journey. This is a temporary document which is only valid for return to the person's country of origin.

2.3 Interrogation. Following arrest, the police may carry out one or more interrogations and the law prohibits this taking place without the presence of the lawyer.

The suspect is not obliged to co-operate. He or she may decline to give information without prejudicing or altering normal procedure.

2.4 Interpreters. The suspect may request the help of an interpreter for appearances in the police station, before the tribunal, and in court. The interpreter's services are free of charge to the accused. Experience has shown that it is difficult to obtain competent interpreters especially in the smaller cities. Sometimes the interpreter speaks the language fairly competently, but is not able to communicate the conversation exactly. If a person held on remand is required to sign their statements, their contents should be clarified before signing.

2.5 Remand. If the Instructing Judge, taking into account the accusation, believes that the suspect should be held in prison for a longer period of time, he can pronounce remand in a detention centre. In making this decision the judge will consider the following:

- Whether a crime appears to have been committed.
- The possible length of sentence (more than six months' imprisonment).
- Whether the accused has previous convictions.
- If the Judge considers the accused to live at a fixed address. Generally, in the case of foreign nationals, it is considered that they pose a very high risk of escaping.

Usually, the period of remand before trial is carried out in a penitentiary near to where the trial will take place. At this stage, requests for transfer are not usually granted. It is also highly unlikely that the accused or their family might influence the decision of being placed on remand.

2.6 Limits of Remand. In Spain the maximum period that a person may be kept in prison while awaiting trial is:

- 3 months, when the crime in question carries a custodial sentence of between one month and a day, and six months.
- 1 year, if it entails a sentence of between six months and one day, and six years imprisonment.
- 2 years, when the crime carries a longer sentence.

Where circumstances dictate that the case may not be heard within the aforesaid period, this can be extended from 2 to 4 years respectively.

The preparation of a case and bringing it to trial is usually a slow process on the part of the Public Prosecutor while it draws up the accusation, and it also depends on the complexity of the case and the number of witnesses.

Every so often the remand prisoner will have to appear before a judge, and the date of the subsequent appearance will be set at that time.

During the period of imprisonment as a remand prisoner, the prison authorities have responsibility for the physical integrity and general health of the accused. They are obliged to comply with any orders or privations which the judge might decree, (for example medical assistance, isolation).

2.7 Bail. In principle, bail may be granted in Spain for minor offences. The decision to grant bail can only be taken by the Instructing Judge and in certain cases, on payment of a sum of money. Clearly, such a decision is only made where there is sufficient reason to believe that the accused will not use bail as an opportunity to evade justice, and that he or she will meet the requirements of the legal authorities to appear in court at the appropriate time. It is not easy to obtain bail conditions for foreign prisoners who do not live in Spain due to the lack of a fixed address in that country and their lack of economic means, as it is difficult to find paid employment if no residence permit is held.

2.8 Penal Procedures. The penal process consists of three parts:

- Where all the evidence is gathered for the judge to be able to decide whether or not the trial against the accused should go ahead.
- In which the charges and the court or tribunal which will hear the case are laid out, and against which the accused's lawyer will defend his or her client. At this stage, both parties will list the evidence which they intend to use in the trial.
- The trial. The defendant does not have to prove his or her innocence. It is up to the prosecution to show proof of guilt. It is important that the suspect explains everything which might have a bearing on their defence to the lawyer. It may even be beneficial to plead guilty if this results in a reduction of sentence.

If the accused does not appear before the court, in the case of being on bail he or she may be declared a fugitive and an international arrest warrant will be issued, as well as a request for extradition being sent to the corresponding country of origin of the suspect.

In Spain there are different judicial procedures, depending on the crime or the person being detained (special procedures). But the two procedures which are most often used are the ordinary judicial procedure and the abbreviated judicial procedure.

- Ordinary Procedure

This is the procedure established for crimes which carry a sentence of at least 12 years and one day.

The Instructing Judge opens summary proceedings, all investigations are carried out, and if the judge considers that sufficient "rational indications of criminality" exist, an indictment will be issued. Once summary proceedings have been completed, they are sent to the Provincial Court which will set a date for trial, and where sentencing may be passed.

- Abbreviated Procedure

This is a quicker process to bring to trial crimes which carry sentences of up to twelve years. The abbreviated judicial procedure cuts out some bureaucracy and simplifies some of the formalities. Indictment is not used. The defendant is notified of the use of the Abbreviated Procedure, the necessary formalities required to maintain the prosecution are conducted, and after summoning the accused he or she will be given the Public Prosecutor's Bill of Accusation which the defence lawyer will reply to with a written plea of defence which will later be cited in court.

If the maximum penalty is less than 2 years, court proceedings may take place in the defendant's absence.

Trial will take place before the Penal Judge, or before the Provincial Court at the request of the Public Prosecutor.

2.9 Trial. It is difficult to say precisely when cases will be brought to trial. Sometimes it is within 3 months, 1 year, or even 2 years of the arrest, depending on the complexity of the case and the number of people involved. Normally, cases where the accused are being held in prison go ahead quicker than those cases where the accused are on bail.

The abbreviated judicial procedures of Penal Courts are quicker than summary proceedings which are judged in the Provincial Court. The latter are not usually heard before 1 year or 18 months.

During the trial the defence lawyer and, if necessary, the interpreter, must be present. The lack of an interpreter may be sufficient reason to request that the trial be heard at a later date. If the accused was supposed to be present but does not appear in court, and the sentence asked for by the Public Prosecutor is not greater than two years imprisonment, the trial would go ahead in the defendant's absence. If the defendant was cited to appear and the prosecution had asked for a sentence of more than two years' imprisonment, the trial would be suspended and a warrant for the arrest of the accused would be issued. Finally, if the accused has not been cited to appear, proceedings are suspended and a new date for the trial is set. In these cases an international arrest warrant may be issued.

2.10 Sentencing

Custodial Sentences. The sentence will depend on the crime. In Spain, sentences for drug trafficking are particularly severe. The judge will determine, taking into account any mitigation presented by the defence, both the sentence and the minimum time to be served in prison. For example, in Spain, sentences of between 3 and 13 ½ years are passed for the trafficking of "hard drugs" (those causing serious damage to health). Sentences of between 3 and 9 years are handed down when the quantity of drugs involved is not considered to be highly significant, and between 9 and 13 ½ years when the quantity is particularly large. In the case of "soft drugs" (which do not pose great risks to health) sentences are imposed of between 1 year and 4 ½ years. Sentences of between 1 year and 3 years for smaller quantities, and 3 to 4 ½ years when large quantities are involved.

Fines. As well as a custodial sentence, the courts may impose a fine. Being a drug addict is not considered a crime. Nevertheless, the consumption of illegal drugs in public certainly can result in a fine.

Costs. The convicted criminal may also be required to pay court or tribunal costs. The sum is non-negotiable.

Expulsion. Foreign nationals who have been sentenced to less than six years may have their sentence rescinded by repatriation. A similar situation applies to prisoners whose sentence is greater than six years when at least ¾ of the sentence has been served. Foreign nationals who have been repatriated may not return to Spain within a period of between 3 and 10 years.

If the expulsion order is judicial, by virtue of Article 89 of the Penal Code, the measure would not take effect as it would be a case of the substitution of a custodial sentence for repatriation, and if this did not exist the expulsion could not be carried out. On the other hand, if expulsion were administrative, on being freed from prison the person may be interned in a detention centre for foreign nationals for up to 40 days, within which time his or her expulsion from Spain must be ordered, and if it is not then the person will be freed.

Expulsion to a third country can only be considered when the authorities of that country confirm in writing that they are prepared to accept the person. When the person being repatriated has the financial means, he or she will pay for the costs of repatriation, and when this is not the case the state prescribing sentence shall pay: in this case, Spain.

2.11 Appeal. In the case of misdemeanours, the accused has five days after the notification of sentence to present in writing any mitigating circumstances which they may consider opportune, as well as supplying evidence which was not available at the time of the hearing before the Instructing Judge. In all other cases it is necessary to contact the lawyer who has been dealing with the case, even if ex-officio, so that they can present in writing that they do not agree with the sentence, and in this case formally asking for a new lawyer and solicitor to deal with the appeal. There is a limit of five days to present it to the Supreme Tribunal, and 10 days in the case the Provincial Courts.

2.12 Pardon. Partial or total pardon may be applied for through the Ministry of Justice when a sentence has been passed. The relative information is to be presented (Court or Tribunal which handed down the sentence, case number, name and number of the Instructing Judge) and details of all circumstances to be taken into account, for example serious illness suffered by the prisoner or a close relative, old age, etc., or breaches of legal procedure which are alleged. It is not necessary for a lawyer to draw up such a petition, as this can be done by the prisoner, their family, or other representatives.

Pardon is granted in very few cases, and it is best not to be too hopeful in order to avoid disappointment. The last exceptional case of reprieve in Spain was in 2000, affecting approximately 1,400 prisoners, on the occasion of the Silver Jubilee of King Juan Carlos I.

3. PRISON

3.1. General information about prison. Prisoners should receive written information about their rights and responsibilities, the rules of the Penitentiary, disciplinary regulations and the complaints and requests procedure upon entry. They are given an identity card and unauthorised objects are withheld.

Foreign nationals should also be informed of how to request the application of international treaties or agreements which apply in Spain, as well as the legal framework which may give them the chance to have sentences rescinded or reduced in favour of expulsion from national territory.

Sometimes this information is written in Spanish, which the prisoner may not be able to understand. For foreign nationals, the assistance at this stage from their Consul or Embassy in providing the relevant information will obviously be of great help.

Conditions in Spanish prisons are quite reasonable, although the number of people held is beginning to exceed capacity. Cells are usually shared.

Prisoners are able to carry out certain activities such as studying or keep-fit, and work is available although this is unlikely to be paid work.

If any prisoner feels threatened, he or she may ask for protection which takes the form of isolation from the rest of the prison population.

It may be possible to be transferred to another prison in Spain which is closer to the prisoner's country of origin to make visiting less inconvenient for the family. If this is to be requested, the consular authorities should be informed and they should be able to support the request to the Penal Authorities. It is recommended that the Consulate be informed of any transfer arrangements.

3.2. Visits. The regulations regarding prison visits are part of the General Penitentiary Regulation and the rules regarding times of visits are set by each individual centre. There may be differences from one centre to another. To avoid disappointment, it is recommended that family members obtain full details from the consular authorities before travelling. The Consulate should be able to ask for the authorisation of the visitors and to provide information regarding their approval. Sometimes it may be necessary to provide evidence that the visitor is a member of the prisoner's family (through official documentation).

For family and friends who are travelling from abroad, it is recommended that a special request is made to the prison, who will take into account the visitors' distance from the centre and the prisoner's behaviour. Only those persons named in the special visit will be able to attend. The Governor may impose restrictions on the normal rules of visits for security reasons, or to facilitate preliminary investigations, if the prisoner is on remand.

During remand, the defendant may receive visits which are approved by the prison authorities and they may ask for their identification (by the forwarding of photocopies of passports). The concession of visits and the type of visit (open, or in the visiting room), while always supervised by officers, will depend on the classification which has been assigned to the prisoner and on their behaviour. The final decision lies with the Governor.

Penal Law stipulates that normal oral communication minimums are two 20-minute visits per week, although in most centres it is possible to exchange this for one forty-minute visit which usually takes place at weekends. Authorised visitors must reserve a time for the visit by telephoning the prison beforehand. These visits are generally in the visiting room, where prisoner and visitor are separated by a glass screen.

As well as ordinary visits, the law allows for face-to-face visits which may be in private (in the case of partners or family members), as well as co-habitational visits for partners who fulfil certain requirements. These kinds of visits are usually held every month.

3.3 Clothing. Uniforms are not issued, and therefore prisoners may continue to use their own clothes and bedding during their stay in prison. Should the prisoner not have adequate clothing, they will be given clothes free of charge by the authorities. Family members may leave clothing for them in the prison reception. A laundry service is carried out in the prison without charge.

3.4 Phone Calls and Correspondence. During their stay, prisoners may send and receive a limited number of letters and they may also make up to five telephone calls per week at the prisoner's own expense. Emergency calls, such as advising the lawyer of any new

circumstances in the procedure of the case, letting family members know of transfer to another centre, etc., are not included in the five calls and their cost will be covered by the prison. Prisoners are only allowed to receive incoming calls in emergencies and with the prior notification to the prison Governor. If the authorities consider it necessary, correspondence may be withheld for security reasons.

3.5 Money and Parcels. Each centre has their own regulations regarding money transfers, which are normally in the form of Postal Orders, Bank Transfer, or via the consular authorities. The Name, Surname and details of the prison where the person is being held must be detailed in order that any money can be paid into the holder's account. During certain visiting periods, cash can be deposited by visitors through the prison office.

The prisoner does not have access to their money directly, as the use of legal tender is prohibited in prison. He or she must request that money is deducted from their account for purchases from the prison shop.

The prison authorities are responsible for providing food and there are various types of menu adapted to medical, religious and ethical requirements. There are also shop facilities for additional items of food. If a prisoner is completely without funds, the prison administration will provide some means of meeting such minor expenses.

Prisoners may receive clothing, footwear or reading materials from outside. They may not receive food or toiletries. Up to two packages per month may be handed in in person, but for security reasons postal packages will not be accepted.

The consular authorities of some countries may provide, at the request of the prisoner, money for the purchase of essential items, as well as providing financial help in some exceptional circumstances.

3.6 Education / Work. The prison authorities may offer opportunities for self-improvement (educational, cultural, and sporting) free of charge, and the possibility of work although the latter will probably be unpaid. Also, support is available for prisoners who wish to follow a distance-learning programme.

3.7 Reading / Leisure. Most prisons are equipped with a library with legal and literary texts, although these will usually be in Spanish. Family members may send books, magazines and newspapers. Inside cells, prisoners may buy a television and radio.

3.8 Social, Medical and Spiritual Assistance. All penitentiary centres have social workers whose job is to deal with welfare issues of individuals. The prisoner is expected to make contact with them if necessary.

Medical Assistance: The quality of medical care varies from one institution to another. There is a medical check on entry, and the prisoner may visit the medical centre in person. It is important that prisoners who need special medication inform the prison doctor so that authorisation for their purchase can be obtained as soon as possible. A medical certificate from the prisoner's own doctor may be necessary in some cases to justify a specific course of medicinal treatment.

Spiritual help. Every prison has a catholic chaplain who deals with religious services.

3.9 Complaints. Complaints may be verbal or in writing, the latter being addressed to the prison management or the Penitentiary Observation Judge (judicial control) or through the Penitentiary Inspectorate (administrative control). If the outcome is not satisfactory, the Spanish Ombudsman may be contacted. The consular authorities may also become involved.

3.10 Prison Environment. The environment is different in every detention centre, depending on the regulations, the building, the guards and the prisoners themselves. Up to a point, prison is a reflection of society and of its negative aspects. Being forced to live together with a number of others in a small space, with little hope for an improved quality of life or with a great deal of uncertainty surrounding the reaction of loved-ones is not easy to cope with.

For those incarcerated, life is suddenly reduced to enclosed spaces within which they must find their way. For most, this is made more difficult due to the language barrier. Misunderstandings and mistrust can easily arise. Distress can result when uncertainty, boredom and a lack of hope are dominant features of life. A person stripped of responsibility loses confidence and self-respect. In an environment

where small privileges become all-important, theft, jealousies and aggressive behaviour become habitual. In such a situation it is important that somebody provides support to the prisoner, and correspondence and visits are of enormous value.

Quite often the family feels the need to express disappointment either for what has occurred, or their feelings about life and their own situation outside prison. Prisoners also feel the need to express themselves emotionally regarding their situation in prison. It is up to everyone to decide to what extent these emotions should be vented during conversation. It should be borne in mind that after the conversation both the person who returns to their cell and those who return home will have to digest what has been said, usually without the guidance or help of others.

3.11 Women's Prisons. There are women's prisons and also separate wings in mixed prisons. The law states that women may have their children with them until they are three years old. It is best for children to visit with other family members, and in contact visits, not separated by glass screens. Conjugal visits with the partner may also be possible, under certain circumstances.

3.12 Reduction of Sentence. Sentences cannot be reduced for work, the passing of exams, or for good behaviour.

The risk of accidents at work in prison are covered by the Spanish State. In principle, foreign prisoners are not included in the social security regulations for unemployment in force in Spain.

3.13 The Spanish Penitentiary System.

In Spain there are three possible grades of prison classification which can be assigned once sentence has been passed and which are reflected in different prison systems

- First Level: Isolation, only for extremely dangerous cases or for a manifest failure to adjust.
- Second Level: Normal Regime, which applies to most prisoners who are able to live communally but who do not qualify for open prison.
- Third level: Open Prison. This allows for part of the day to be spent outside prison. It may be conceded to the terminally ill, for example, but as a general rule it is granted for good conduct, approaching the end of the sentence and with an offer of employment outside prison.

After studying the individual case, the Processing Committee will draw up an initial proposal for classification within 2 months of sentencing. The Penitentiary Centre will issue the proposal, with reasons, in writing, and the prisoner will also be notified of their right to appeal before the Penitentiary Observation Judge.

Every six months, as maximum, prisoners must be individually assessed in consideration of their criteria for classification which may become progressive or regressive depending on how the individual is responding.

For classification, not only will individual personality and prison, family, social and criminal history be taken into account, but also the length of the sentence, the environment in which they will probably find themselves on re-classification, and the resources which are available to the prisoner.

3.14 Permission for Leave. These are granted as preparation for life outside prison, and may be applied for once a quarter of the sentence has been completed. (Article 47 of the Penal Code).

3.15 Parole or Conditional Liberty. This may be granted to those prisoners who are in Third Level who have completed three quarters of their sentence and who have shown good behaviour and whose successful rehabilitation has been predicted. It is granted by the Penitentiary Observation Judge who may impose certain rules of conduct or controls. It is also they who may revoke this favour.

In certain cases, parole may be granted before $\frac{3}{4}$ of the sentence has been completed if certain criteria have been met in Third Level, and if there has been good conduct and successful rehabilitation is predicted:

- When $\frac{2}{3}$ of the sentence has been completed and as long as continual working, cultural, or occupational development has been observed.

- For those who would have reached the age of 70 if their sentences were fully served.
- For those prisoners who have medical reports confirming that they are extremely and incurably ill.

3.16 Unconditional Liberty. This will be proposed by the Prison Governor two months before completion of the sentence. Upon release, prisoners are given certification confirming the length of time they were incarcerated or given parole, as well as copies of reports concerning their health and any proposal for therapy.

3.17 Escape. When prisoners escape from prison or during leave they risk having their sentences extended. The police will notify details of the escapee on an international arrest warrant. If the escapee is outside Spain, through application of the European Warrant they may be extradited back to Spain for the completion of their sentence.

4. TRANSFER TO A PRISON IN THE COUNTRY OF ORIGIN

Where there is a signed agreement between Spain and the prisoner's own country, a transfer may be requested for the completion of sentence in that country.

4.1 Completing sentence in the country of origin.

Conditions:

- the prisoner must have received a fixed sentence, without any appeals in progress.
 - the prisoner must have at least six months sentence remaining to be served.
 - the prisoner must have the nationality of their country of origin.
- If fines were imposed, they must have been paid, as well as any civil compensation for which the prisoner is liable, or his or her insolvency has to be proven.

4.2 Procedure

- The prisoner must expressly request the transfer to a prison in the country of his or her origin through the prison authorities. The Consulate or Embassy can advise on this, although it is a very straightforward process.
- The Spanish Ministry of Justice receives the request and contacts the home country with the transfer request, indicating:
 - Name, date and place of birth.
 - Address in home country.
 - Details of the acts which led to conviction.
 - Type, length, and date of commencement of sentence.
- The Ministry of Justice of the country of origin (The Home Office) informs Spain whether or not it is prepared to consider the transfer request.
- If the provisional response is positive, the Ministry of Justice may have the prisoner sign a declaration confirming that they agree to the transfer and to the judicial consequences which may arise from it, and this is sent to the country of origin together with:
 - a copy of the sentencing documentation and the applied legal arrangements.
 - An indication of how much of the sentence has been served and circumstances relative to this.
 - Any medical or social reports pertaining to the prisoner and, if necessary, recommendations for steps to be taken after transfer.

- The Home Office makes its decision and informs the Spanish authorities.
 - If the decision is favourable, the Spanish Ministry of Justice may request from the country of origin:
- Certification of the prisoner's nationality.
 - A copy of the country's laws which indicate that the crime committed in Spain is also a crime in the country of origin.
 - A declaration of how the sentence is to be served once the prisoner has been transferred.
 - When the Home Office receives approval, it instructs the police to organise, along with the Spanish police, the carrying out of the transfer.
 - On the day of the transfer, the Spanish police will normally take the prisoner to the airport where they will be handed over to the police of the country of origin and then transferred to a Penitentiary Centre there.

The whole process, from the request being made to the actual transfer, usually takes about eighteen months.

5. MORE INFORMATION:

Consult the Strasbourg Agreement on the Transfer of Convicted Prisoners or the Bilateral Agreement applicable to your country in our web page, Atención a presos > Información y Asesoría Jurídica > Convenios > Países del Convenio de Estrasburgo 112.pdf, <http://www.espanolesenelmundo.org/index.php?o=files&i=61> y

- Otros Convenios Bilaterales firmados por España

ACCREDITED EMBASSIES IN MADRID. <http://internacional.universia.net/espanya/embajadas/espanya.htm>,
http://www.informajoven.org/info/tiempolibre/E_4_2_1.asp,

PRESS AND USEFUL ADDRESSES:

- **Spanish Press** <http://www.prensaescrita.com/espana.php>, <http://www.tnrelaciones.com/anexo/laprensa/>
- **Spanish Ministry of Justice** <http://www.mju.es>. Here can be found, amongst other things, information about the right to free judicial assistance, reprieve, and documents of interest such as the Charter of Citizens' Right to Justice.
- **Departamento de Justicia de la Generalitat de Cataluña**, prisons in Cataluña, <http://www20.gencat.cat/portal/site/Justicia>
- **Ministry of the Interior. General Board of Penal Institutions.** <http://www.mir.es/instpeni/index.htm>. This gives information about penitentiary centres in Spain and about conditions and life in prison.
- **Lawyers Association** in Madrid <http://www.icam.es/proteccion.jsp>
- **Trabajo Penitenciario y Formación para el Empleo** penitentiary work <http://www.mir.es/INSTPEN/TRABPENI/index.html>
- **Colectivo Moraga**, del Centro Penitenciario de Alhaurin de la Torre (Malága), colectivo creado por un grupo de internos y personal del centro <http://www.colectivomoraga.com/sobre-colectivo-moraga>
- **Revista del CP de Daroca** in Zaragoza <http://www.revistalaocaloca.com/>