

SPAIN

The Spanish Prison System

These notes are only intended to provide general information on the Spanish prison system. They are not meant to be a definitive guide to prison life or a detailed list of a prisoner's rights. Whilst every effort has been made to ensure that the information is accurate, it is provided without any responsibility on the part of the Consulate-General or any department of Her Majesty's Government.

BACKGROUND

Types of Prisons

Prisons in Spain are generally comparable with, and some better than, equivalent prisons in the UK. Within them, there are three types of imprisonment - regimen cerrado, regimen ordinario and regimen abierto (closed, ordinary and open). The first means close supervision, long confinement in cells and minimal privileges whilst the latter is a half-way house to full freedom. The majority of prisoners will serve their sentence under the ordinary regime (albeit in a high security prison if charged with serious offences). Those whose behaviour has been particularly bad or violent will have the closed regime imposed upon them. Only persons who have served two thirds of their sentence and whose behaviour has been exemplary would be eligible for the open regime.

Prisoner Classification

All 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 conviction, 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 can result in being placed at Grade 1 or temporary withholding of a classification. Grade 3 is granted to those who have displayed exemplary behaviour and are approaching the end of their sentence.

Prison Administration

Prisons are administered by a Governor (Director) and managed by the Ministry of the Interior and by the Generalitat's Department of Justice in the case of Catalunya. Insulting or aggressive behaviour towards prison staff is perhaps considered a more serious offence than in the United Kingdom and would result in reclassification and other loss of privileges.

A Prison Board is responsible for the internal affairs of the institution. The Prison Treatment Board regularly reviews individual cases to determine the classification and eligibility for parole of prisoners. Legal matters within the prison are the responsibility of a Visiting Judge (Juez de Vigilancia) who will normally pay regular visits to prisons within his or her district. Under Spanish law, this Judge is charged with ensuring that all prisoners serve the correct sentence, that their rights are observed and that the institution's internal procedures accord with the law.

WELFARE

Each prison has a number of social workers charged with caring for the individual welfare of prisoners. They will liaise with prisoners' families or Consulates, advise on prison procedures and if necessary provide interpreting assistance within the prison's resources.

INFORMING YOUR LOCAL BRITISH CONSULATE

The Spanish authorities require the written consent of a foreign prisoner in order that his/her Consular representative be informed of arrest and continued detention. The British Consulate's role is to protect a prisoner's basic rights (see page 5). Refusal to have the Consulate informed could impede such a protective role which includes taking up any serious complaint with the prison administration, informing next-of-kin of their situation, helping relatives with prison visits and transfers of funds whilst in prison. On committal a prisoner will be asked to indicate by ticking a box on a form 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 social worker or write directly to the nearest British Consulate to reverse the decision.

RECEPTION

On arrival at a prison, whether on remand or after sentence, a detainee will be searched and routinely documented. All money, jewels and/or other valuables should be declared and handed in to the authorities. They can then be collected in person by someone nominated by the prisoner to do so or retained, against a receipt, until release. Any medication must also be declared and the prison's doctor will decide which can be retained by the prisoner or kept by him in the infirmary. The doctor should be told of any on-going medical condition. Prisoners may keep and use their own clothing, after being washed on arrival and if it is considered suitable by the authorities. But if it is deemed unhygienic or contaminated the clothing can be confiscated and the prisoner provided with official issue garments. Basic toiletries are also provided.

TRANSFER TO THE U.K.

Under the provisions of the Council of Europe Convention on the Transfer of Sentenced Persons (Strasbourg 21 March 1983) a British prisoner in Spain may apply to serve the remainder of his/her sentence in the United Kingdom. To be eligible for such a transfer the sentence should be final (i.e. not subject to an appeal). Also there should normally be at least six months left to serve, the offence for which the prisoner was tried must be recognised as a criminal offence in the U.K., and he/she must have no other outstanding court cases in Spain.

All transfers must be requested by the prisoner, and agreed by the local authorities and the relevant authorities (initially the Ministry of Justice) in the U.K. Requests should normally be made direct to the Spanish Prison Governor. Alternatively, the prisoner may wish to write to the nearest British Consulate who would pass the letter on to the Ministry of Justice in London. The Ministry of Justice (NOMS) would then deal directly with the Spanish Ministry of Justice. The cost of the fare back to the UK must be met by the prisoner but arrangements can be made to pay it back at a later date once in the UK.

The EU Council Framework Decision of 27 November 2008 on the Transfer of Sentenced Persons will come into force on 5 December 2011 and will replace the Convention mentioned above – It will only affect those people sentenced after that date (December 2011) as the Decision is not retrospective.

Those prisoners who will be automatically transferred to the UK are those who are normally resident in the UK and those who would be deported at the end of their sentence. Those who are **registered** as resident in the country where they are imprisoned are unlikely to be transferred. During the period until December 2011 individual member countries are looking at implementation. Therefore it is the Ministry of Justice in each country who will have to advise on how they intend to implement the provisions of the Decision and therefore in the case of Spain, enquiries should be directed to the Traslado de Personas Condenadas of said Ministry.

EXPULSION

Foreign prisoners may be encouraged to apply for expulsion instead of serving short sentences in

Spain. The possibility is only open to those sentenced to less than six years imprisonment or whose charges could not result in a longer sentence. It is important to note that this is not an entitlement and is only granted at the discretion of the courts. Prisoners should seek advice from their lawyer.

LETTERS, PARCELS AND TELEPHONE CALLS

Letters: The privacy of a prisoner's mail is guaranteed by the Spanish Constitution. But a prison officer can require that a particular letter be opened in his/her presence to prevent contraband. Prisoners may receive and send as many letters as they wish. There is an exceptional provision for censorship against a specific court order which could limit the amount of correspondence a prisoner may receive. This may also result in a delay in the sending or receiving of mail as censored correspondence may be sent to the Central Prison Board for translation into Spanish before being passed to the prisoner. This is, however, exceptional and has to be the result of a Court Order issued by a Judge. Prisons do not accept letters sent by registered post or recorded delivery. The sender's address should be clearly visible on the back of the envelope. Any envelope containing more than just the actual letter e.g. photographs, paper clips, etc. may not pass the security checks and may be sent directly back to the sender by the prison authorities.

Parcels: For security reasons prisons **will not accept parcels sent by mail or by courier service** to prisoners. Any sent in this way will be returned without explanation. Provided the sender can deliver them in person, a prisoner may receive up to two parcels a month of up to around 5 kilos, containing clothes (no navy blue or black clothes which are similar to the prison staff's attire) or reading material (no hard back books). Foodstuffs, medicine and toiletries are not accepted). The parcel must be opened by the prisoner in the presence of a prison officer. Any prohibited items are retained by the prison staff for collection in person by the prisoner's friend/family/legal representative. Items which are not collected within a stipulated amount of time are usually destroyed. It is regretted that, because of these strict controls, Consulates cannot deliver parcels on behalf of family or friends who cannot visit but it is possible that the Red Cross may be able to offer assistance in some cases. Prisoners can ask the local Consulate if they know of local British residents who would be willing to receive and deliver parcels **but Consular Officers cannot undertake to deliver parcels on behalf of family/friends**. Family or friends in the UK may wish to seek help from Prisoners Abroad (see below).

Telephone calls: Prisoners can apply to make **telephone calls** and are allowed to submit a list of up to ten numbers and names. This list should ideally include their lawyer and the nearest Consulate. On arrival and after handing in the list, prisoners have one month in which to hand in an original copy of a telephone bill providing proof of subscribership i.e. name, address and telephone number otherwise the number will be deleted from the prison telephone computer and the prisoner will not be able to make calls to that person. Relatives should send original telephone bills direct to the prisoner. Please note that pay-as-you-go mobile telephone numbers will be refused. Landlines and contract mobiles are accepted. Reverse charges calls are no longer possible. A minimum of two calls per week are allowed and in some prisons the maximum amount is eight. Extra telephone calls can sometimes be earned taking on unpaid work in the prison.

VISITS: GLASS VISITS AND SPECIAL OPEN VISITS

Glass visits: Prison regulations normally allow one 30-45 minute visit per week. These are usually on Friday afternoons or at weekends and take place across a counter 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 period for visits. Authorisation for the very first glass visit must be requested in writing by the prisoner. Once authorised, family or friends can telephone the prison to arrange a time and a date for the glass visit. Once friends or family have attended the **first glass visit** and their details have been entered on the prison computer, subsequent visits can be arranged on the day of the visit or by telephone by family or friends. If making arrangements by telephone for glass visits, visitors should check with the prison or the nearest Consulate as to what time the visits department (departamento de comunicaciones) is able to take calls to arrange a visit. Visitors are usually required to book a visit at least 24 hours in advance with the appropriate visits department. A maximum of **four** people including children and babies are allowed in to glass visits.

Open visits: 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 and children under ten years old, can also be authorised by the Governor but would depend on the prisoner's good behaviour and record. These take place in a private room without direct supervision by warders.

All requests for open visits (family visits) must be initiated by the prisoner by submitting an application form "Instancia" to the prison officer on his wing. He/she must provide a choice of three possible dates on the form in order to assist the prison authorities in being able to grant a visit on a chosen date.

On the first 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. Once personal details of the visitor and the relationship with the prisoner have been accredited on the prison computer, family members are not usually expected to provide proof of relationship on subsequent visits unless the prisoner is transferred to another prison, in which case the whole process will have to be completed again. For those who do not possess the Spanish *Libro de Familia*, proof of relationship consists of original copies of relevant birth and marriage certificates e.g. the mother of a prisoner would be expected to show her son/daughter's original birth certificate as proof that she is the prisoner's mother. Prisons do not expect these certificates to be translated into Spanish but they must be original copies. The British Consulates in Spain are able to assist by issuing a *Letter of Introduction* in Spanish explaining the visitor's relationship to the prisoner and the time of the visit for production on arrival at the visits department on the day of the visit. Please note that a Letter of Introduction does not guarantee access to the prison and cannot be issued until the open visit has been authorised by the prison and the prisoner has informed his family as such with a date and a time. Family members in Spain should contact the nearest Consulate to obtain a Letter of Introduction. Family members in the UK should contact Spain Desk Consular Directorate. Please note that Consular Officers cannot arrange or get involved in changing open visits.

In the case of common-law relationships, the visitor is expected to provide proof that the prisoner and him/herself were partners in a relationship before the prisoner's committal to prison. Those people who have not registered their co-habitation status with the local Spanish authorities, have to provide documents which bear both names and their address such as: rent 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. Common-law relationships are sometimes refused. If the prison is not satisfied that a longstanding sentimental relationship was in existence before committal to prison, the Governor may authorise glass visits instead of open visits for a set period of time and then open visit requests are then subsequently reviewed at the end of this period.

Because of staffing shortages and the number of prisoners in custody the larger prisons (mostly in the principal cities) are very strict in observing visiting regulations. Please note that prison visits are approved normally for direct family only, although recent changes allow close friends to visit at the Governor's discretion.

There are some slight differences in visiting arrangements between Spanish prisons therefore if in doubt visitors may like to check with the nearest British Consulate or with Spain Desk for specific information.

UK lawyers will need to obtain prior permission from the local (provincial) Law Society. UK Lawyers should make arrangements via the prisoner's Spanish Lawyer and the local "Colegio de Abogados" .

PAROLE AND REMISSION

Subject to good behaviour, undertaking such routine tasks as may be required by the authorities (e.g. on cleaning rosters) and participation in any specified education or welfare programmes, all prisoners will become eligible for parole (conditional release) on completion of three quarters of their sentence (or two-thirds if exceptionally well behaved). Parole is granted, on the

recommendation of the Prison Board and Madrid Central Prison Board approves third grade, by the Visiting Judge (Juez de Vigilancia) who also decides on any conditions for it. Failure to observe these, which could include regular reporting to the Court, would usually result in re-arrest to complete the sentence and possibly attract further charges. For foreigners who were not resident prior to detention the normal procedure is direct expulsion on achieving conditional release, paid for by the Spanish authorities.

MEDICAL

A prisoner is entitled to the full facilities provided by the Spanish Health Service. But there are important differences between these and those which are available in the UK - particularly regarding dental treatment. On this, the only free facilities are for emergency treatment and extractions. Any fillings, caps, false teeth etc must be paid for privately. A prisoner can obtain such treatment, against payment, although it may sometimes be necessary to transfer him or her temporarily to another establishment which has the appropriate facilities. A prisoner may request a visit to the prison by a private dentist of his/her choice, providing that the treatment is not available from the usual prison dentist. Visits by a private Doctor may also be authorized. In both cases the costs/fees must be covered by the prisoner and a request "instancia" should be submitted to the Prison Director, quoting the name, address, DNI number and Professional Association of Dentists/Doctors number (número de Colegiado) of the Dentist/Doctor concerned. Routine access to a prison doctor can be obtained by the prisoner adding his/her name to a list displayed in each Wing. Most prisons have their own infirmary facilities but, as in the UK, there are provisions for accommodating serious cases in special wards of State hospitals. If you do not wish to attend a medical/hospital appointment outside the prison, you should refuse to do so well in advance and in writing. Sanctions can be imposed by the prisoner authorities on those who refuse to attend appointments without giving prior notification. If the hospital appointment coincides with a family visit, you should request for the time of the visit to be changed to a later time on the same day.

MONEY

There are no official funds to provide financial assistance for prisoners. However, the Foreign and Commonwealth Office (FCO) operates a "Prison Comfort" system for money transfers to prisoners in Spain. Family or friends can send small sums of money (a maximum of £100 per month) free of charge by sending either a Postal Order, Building Society Cheque or Bankers Draft (pounds sterling only) payable to "**The Foreign and Commonwealth Office**". All Prison comfort funds should be addressed to:

Consular Directorate (Spain Desk)
Foreign and Commonwealth Office
Attn: Room WH4.5
King Charles Street
London
SW1A 2AH

Tel: +44 (0) 207 008 8770

It is important to include a short note to confirm how much is enclosed, who the money is for (full name and surname of the prisoner) and where they are being held. If possible you should find out the way the prisoner's name is registered in the prison as this may differ from the correct spelling or order. This will help ensure the prisoner receives the money on time. Please enclose a stamped addressed envelope if you would like a receipt.

Consular Directorate process Prison Comfort money transfers once a month and will accept payments up to the 8th of a given month. On or around the 10th of the same month, Consular Directorate will forward the money to the nearest British Consulate to the prison where a person is held. The money can take up to 15-20 days to clear into a prisoner's "peculio" account, which is an account opened in the prisoner's name. A prisoner is able to hold any amount of money in his/her account but he/she will only have access to a fixed amount of 80 euros/week maximum. Cash and bank notes etc are not permitted in prison and the money is topped up on to a personalized plastic card for use in the prison shop. Top-ups take place once a week usually on

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Tuesdays or Wednesdays. Please note that this 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 card. If a prisoner is moved to another prison, the balance is forwarded by banking channels between the two prisons. The money may not arrive at the new prison up until ten days later after the prisoner's arrival. Cash can also be deposited with the prison for a prisoner at the time of a visit, but if visitors do so, they should ask for a receipt (recibo) from the prison. **Cash of any kind should never be sent through the mail direct to the prison as this may cause the prisoner to be sanctioned and the money confiscated.**

Please note that from 1 January 2010 the Foreign and Commonwealth Office will process just one free transfer per month of up to 100 pounds sterling. Any subsequent transfers in the same month, even under the 100 pounds threshold will incur a charge as set out in the sliding scale below.

Sliding scale of charges for prison comfort transfers

Amount	Charge
One monthly payment up to £100	Free
Any further payments in the same month £0-£50	£8
Any further payments in the same month £51-£100	£16
Any Single Payments of	
£101-£500	£32
£501-£1500	£74

These new charges came into effect from 1 January 2010 and we will review our policy a year later.

Money may also be transferred direct from a UK bank account to a prison bank account which in most cases takes less time than via the Foreign and Commonwealth Office but obviously incurs bank charges - please check with your bank for details. Bank account details for every prison in Spain (except those in Cataluña) is attached to this leaflet. You will need to know the full name of the prisoner and quote if possible their prisoner number. If you do not know these details please contact either Spain Desk (see above) if you are in the UK, or the nearest British Consulate in Spain to the prison.

When filling out bank transfer details the following information must be included:

BANCO SANTANDER CENTRAL-HISPANO
Name and surname of prisoner (obligatory)
Account number: XXXX-XXXX-XX-XXXXXXXXXX
CENTRO PENITENCIARIO (add name of prison) Peculio

For bank transfers made from the UK you will also need the **IBAN number of the account.**

SHOPPING

Cut price store/shop facilities are available in most Spanish prisons. Authorised food items, cakes, chocolates, refreshments, coffee, milk, cigarettes, toiletries, etc, can be purchased. A list of the items on sale, with prices, is published regularly and is available in the prison wings. Most prisons also operate a messenger service whereby other authorised items such as TVs or clothing not on sale within the prison can be bought from outside shops as long as the prisoner has enough money in his peculio account to cover the cost.

FOOD/DIET

Prison regulations establish that an inmate is entitled to 3 meals a day with a total of 3000 calories for healthy people and 3,500 for those under 21 or over 60. Special diets for the sick are

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available when prescribed by the prison doctor. Any prisoner with special dietary requirements because of religious or other valid reasons may ask the doctor to prescribe these. Alcohol is strictly forbidden.

EDUCATION

Most prisons have some facilities to study. If these are insufficient, or do not meet the prisoner's needs, the authorities will normally accept arrangements for postal studies (at the moment only through the UNED). British Consulates will normally try to pass on second hand reading material in English during routine visits if requested to do so.

PRISONERS ABROAD

Prisoners Abroad is a charitable organisation in the UK which exists to offer advice and assistance to British prisoners overseas and to their families.

Address: 89-93 Fonthill Road, London N4 3JH

Tel: +44 (0)20 7561 6820

Fax: +44 (0)20 7561 6821

E-mail: info@prisonersabroad.org.uk)

RELIGION

Most prisons will have a resident Spanish speaking Roman Catholic priest. Any British prisoner who would like to be visited by an English-speaking priest should make their wishes known to the nearest Consulate who will try to arrange this on their behalf.

CONSULATES AND CONSULAR OFFICERS: WHAT THEY CAN AND CANNOT DO

A Consular officer will visit all British prisoners in his or her district. This would normally be as soon as possible after being notified of first arrest and once every twelve months for remand prisoners and once after sentencing or in case of genuine need. Consular Officers **cannot** give legal advice; investigate a crime; instigate court proceedings; get better treatment for a British national than is provided for local or other nationals, or intervene in the Spanish judicial process to obtain the release of a British prisoner.

Consular Officers **can** take up with the authorities any instance of alleged discrimination or ill-treatment raised by the prisoner, contact family or friends if the prisoner is having difficulties communicating and try to help secure any entitlement that may be unreasonably denied.

LEAVE

Prisoners who have been classified at Grade 2 and have someone resident in Spain who will stand as their guarantor may apply for permission to take short breaks away from the prison. These are a privilege rather than an entitlement and granted solely at the discretion of the visiting "Juez de Vigilancia". These breaks will not normally be longer than 3 or 4 days and never more frequent than once a quarter. The prisoner must then always stay at the address specified on the relevant permission.

RELEASE

Release on full completion of sentence will usually be unconditional, unless specified otherwise at the time of the trial, and the prisoner will be free to remain in Spain or return to the U.K as long as he is not subject to an expulsion order. Consular Officers would be grateful if the prisoner or his/her family could let the British Consulate or Spain Desk, Consular Directorate know when he/she is released or expelled as it would help keep Consular records up to date.

BRITISH CONSULATE-GENERAL MADRID Revised January 2010