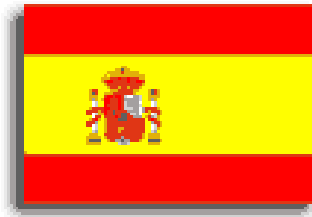




(Map source: Europa)

Spain



Population: 40 900 000 inhabitants
Surface area: 505 957 Km²
Capital: Madrid
Currency: Euro
Official language: Spanish (Catalan)
Form of government: Monarchy
Membership in the EU: 1986
Membership in the UIHJ: 2001

The Procuradores

Who are the professional officers charged with the enforcement of court judgments, the service of writs, or with debt collection?

There are a number of professional officers to carry out those functions. The enforcement is ordered and directed by the judge. The latter commonly entrusts this task to the Law Officer of the Court. The task may equally be entrusted by delegation to the Chief Clerk. The Law Officer of the Court is charged with the preparation and the presentation of the dossiers for the courts for the lawyers' account. A reform is in progress to allow also the judicial officer to execute the enforcement of a judgment. By judge's delegation, the Chief Clerk is charged with the service of the writs. He may delegate this function to an official court officer (Oficial), who, in turn, may likewise delegate it to assistant officers of the judicial administration. The judicial officer also serves documents, within the framework of his monopoly of representing the parties.

What is the status of these professional officers?

The Law Officer of the Court, the official court officer, and the court assistant (Auxiliar) are functionaries of the courts. The judicial officers are independent professionals that have been accorded a liberal status. The profession of judicial officer and admission to it are strictly regulated. The judicial officers are subject to deontological, disciplinary, and professional rules of the profession, for which they are

required to take out liability insurance coverage.

How are the judicial officers organised?

The judicial officers are approximately 8900 in number, amongst whom 60 to 70% women, spread over the whole of the territory (approximately 1 judicial officer for every 4500 inhabitants). They operate only on an individual basis. Barring exception, the judicial officers possess only a competence that is limited to jurisdiction over the district of their domicile (the districts are territorial entities made up of one or several neighbouring municipalities within the same province). The **Consejo General de Procuradores** represents the profession at the national level.

Contact:

Consejo General de Procuradores
Barbara de Braganza, 6
28004 Madrid -Espagne
Internet Site: www.cgpe.es

How can one join the profession ?

Aside from holding the Spanish nationality and being of an exemplary moral character, the candidate for judicial officer must have a licentiate in Law (4 years of university studies), and be appointed by the Ministry of Justice. The creation of an ongoing training course for judicial officers and their collaborators is currently being contemplated.



The enforcement of court judgments

Who is charged with the enforcement of court judgments in Spain ?

At the present time, enforcement of a judgment is generally carried out by the Law Officer of the Court, following the delegation by the judge, at the location of the attachment.

Only the judicial officers are empowered to enforce court judgments as well as instruments and writs of execution in the matter of claims exceeding 900 euros. Below that amount, the parties involved may proceed on their own. The judicial officers are further entitled to conduct public auction sales within the context of the enforcement act.

Can one contact a judicial officer directly to have a court order enforced?

The creditor, or his legal counsel, must direct themselves to the judge, who will issue the different mandates of execution, eventually with the assistance of a judicial officer. As a general rule, the orders and communications issued to the debtor are made up by the Chief Clerk or the Official Judicial, while the enforcement measures are drawn up by the Law officer of the Court.

Is the judicial officer empowered to enforce execution against the entire debtor estate?

Enforcement may include the whole of the debtor's estate (movable or immovable possessions, tangible and intangible both) with the exception of the goods that are exempt from seizure.

Is the judicial officer responsible for carrying out the enforcement act ?

It is the judge who assumes responsibility for the good order of the enforcement act with accommodation for delegation to other court functionaries.

Is it possible for the judicial officer to obtain personal information about the debtor and his estate?

Barring exception, the court issues an order of execution by which the debtor is required to indicate possessions and entitlements and rights adequate to cover the amount ordered to pay. The debtor who fails to comply with this order is liable to a penalty. The Law Officer of the Court charged to proceed with the seizure may be authorised to question diverse entities in order to obtain information on the debtor's estate.

Who pays for the judicial officer's intervention costs?

The debtor assumes the costs for the intervention within the context of the enforcement act. In the event that the debtor is insolvent, it is the creditor that must assume the expense.

The service of writs

Are judicial officers entitled to proceed to the service of writs ?

The Chief Clerk assumes charge of the documents of communication and their material enforcement, with possibility of delegation to the official court officers, court assistants, or officers of the judicial administration. The judicial officers in turn may proceed likewise, notably in the context of representing the parties for the duration of the action.

What are the physical steps involved in serving a writ?

When the parties are represented by a judicial officer in the context of an action, the writs are handed over to this professional officer, at the court office or at the joint service for the receipt of writs organised by the College of Judicial Officers.

In the other instances, the presentation is made by mail, with or without proof of receipt. When proof of receipt by the addressee has not been established, the next step may be a physical handing-over, either at the court office or at the domicile of the addressee. At the domicile address, the writ may be left with an individual that is present

there, in case the addressee himself is not at home. If the former cannot and does not want to accept the writ, an announcement is placed on the bulletin board of official Government gazette. In the event that the addressee has departed without leaving a forwarding address or is without a known address, a search for his domicile is started, a notice is posted at the court and, eventually, an announcement is published in an official newspaper.

What is the force in law of a writ?

The judicial officer draws up a report of all the actions he has undertaken. The form of the document is formal and has the status of an official certificate.

Does the judicial officer's intervention fall within the framework of the Council regulation (EC) N° 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters?

The Clerk of the individual judges and courts is the transmitting agency. The Clerk of the Presiding Judge Juzgado Decano is the receiving agency.



Debt collection

Is the judicial officer empowered to proceed towards the collection of debts?

Yes.

Yes.

How much will the creditor be charged to have a debt collected?

Is it possible to contact a judicial officer directly for the purpose of collecting a debt?

The rate is not a fixed one.

Other areas of intervention

May the judicial officer arrange for sales by public auction?

Yes, for the judicial officer, it is his principal activity.

No.

Is the judicial officer entitled to offer legal advice?

May the judicial officer engage in formulating legal findings and observations, such as statements of facts?

The judicial officer may offer legal advice.

No.

Is the judicial officer entitled to engage in other activities?

May the judicial officer represent the parties before the courts?

No.

