

CITIZENS' BILL OF RIGHTS BEFORE THE LAW

PREAMBLE

At the dawn of the 21st Century the Spanish society urgently demands a more open system of Justice, capable of serving the citizens with greater agility, quality, and effectiveness, and which incorporates more modern and advanced methods of organization and procedural instruments. Such an ambitious project can only be contemplated through a broad agreement of all the political forces, assuring the unity and continuity of the effort, and guaranteeing a consensus on the working bases of this State Power. Such was, precisely, the aim and objective of the Government Agreement for Judicial Reform signed on the 28th of May of 2001.

Among the priorities of the Government Agreement featured the drawing up of a Citizens' Bill of Rights before the Law which fulfils the principles of transparency, suitable attention and information services, and which establishes the rights of the users of the Justice System. The same priority is found in the fifth agreement of those adopted by the Sectorial Conference on the matter of Justice Administration, held in Las Palmas on the 22nd of May of 2001.

The present Bill of Rights has been drawn up by a Working Group constituted in the heart of the Monitoring Committee of the Government

Agreement, by unanimous agreement of all the members, in which representatives of the various Parliamentary groups and the Ministry of Justice took part.

This group has gathered the initiatives presented by the political forces in the House of Commons, as well as the opinions and suggestions of institutions and organizations related to the Administration of Justice. A good part of these contributions have been included in the content of this Bill of Rights.

With the aim of achieving a modern system of Justice which is open to the citizens, the first part of the Bill expounds the principles of transparency and appropriate attention and information, envisaged in the Government Agreement, emphasizing the importance of developing a responsible Administration of Justice before the citizens, who may make complaints and suggestions about its running, and demand, when necessary, suitable amendments.

The second part of the Bill focuses on the need to give special care and attention to the relationship between Justice Administration and those citizens who are most vulnerable. In the first place, the victims of crime are considered, especially in reported domestic and gender violence. In the second place, consideration is given to minors, in order to avoid their correct evolutionary

development being affected. Thirdly, individuals who suffer sensory, physical, or psychic handicaps are taken into consideration, to help them overcome their problems of communication and access to judicial premises. And finally, foreign immigrants in Spain are considered, so that the application of the rights and principles expressed in this Bill are extended to them.

The third part of the Bill is concerned with those rights which are characteristic to citizens' relationships with Lawyers and Attorneys, and in this matter, the contributions received from the General Council of the Bar and the General Council of Colleges of Attorneys of the Courts of Spain have been especially useful.

Finally, the Bill of Rights concludes with a provision relating to the necessary conditions for its effectiveness. Along these lines, it proclaims the enforceability of recognized rights and their connection to Judges and Magistrates, Prosecutors, Judicial Secretaries, Lawyers, Attorneys, and other persons and Institutions that cooperate with the Administration of Justice. Likewise, the Committee on Justice and Home Affairs of the Chamber of Deputies is entrusted with the monitoring and assessment of the development and enforcement of this Bill.

I. MODERN JUSTICE AND OPEN TO THE CITIZENS.

Transparent justice.

1. - The citizen has the right to receive general, up-to-date information about the running of courts and tribunals, and about the characteristics and general requirements of the various judicial proceedings.

1.1. Impetus will be given to the creation and equipping of Citizens' Attention Offices, ensuring their nationwide establishment.

1.2. Information about opening hours for public attention will be placed in clearly visible parts of the premises of jurisdictional organs.

2. - The citizen has the right to receive clear information regarding the progress, the activity, and the matters, dealt with and pending, from all the jurisdictional organs in Spain.

2.1. The Ministry of Justice and the Autonomous Communities with competence in the matter, as well as the General Council of the Judiciary, will channel this information to facilitate its consultation with the utmost clarity.

3. - The citizen has the right to know the updated content of Spanish laws, and those of the European Union, by means of an easily accessible electronic data system.

4. - The citizen has the right to know the content and progress of the procedures in which he or she has a legitimate interest, in accordance with what is stated in procedural law.

- 4.1. The interested parties will have access to the documents, books, archives, and judicial registers which are not of a reserved nature.
- 4.2. The authorities and civil servants will give citizens written explanations of the reasons for denial of access to requested information of procedural nature.

Understandable justice.

5. - The citizen has the right to receive notifications, summons, subpoenas, and requests which contain clear, understandable terms, and which avoid the use of unnecessary, intimidating elements.

6. – The citizen has the right that, in hearings and court appearances, while respecting the necessary technical requirements, the language used will be understandable to citizens who are not specialized in law.

6.1. The Judges and Magistrates who supervise the procedural functions will ensure the safeguarding of this right.

7. – The citizen has the right that sentences and other judicial decisions will be written in such a manner as to be understandable to the addressees, using straightforward syntax and structure, without affecting the technical rigor.

7.1. The exercise of these rights should be especially facilitated in those procedures where the appearance of a Lawyer or Attorney is not compulsory.

8. – The citizen has the right to have the necessary forms for exercising his/her rights before the tribunals made freely available to him/her when the appearance of a Lawyer and Prosecutor is not compulsory.

Attentive justice before the citizen.

9. – The citizen has the right to be attended to in a respectful manner and in accordance with his/her psychological, social, and cultural circumstances.

10. – The citizen has the right to demand the utmost punctuality in the judicial proceedings in which his/her appearance in court is obligatory.

10.1. The Judge or Clerk of the Court must inform the citizen of the reasons for delay or suspension of any judicial proceedings to which he/she had been summoned.

10.2. The citizen will be informed about a suspension, except in circumstances of force majeure, sufficiently in advance to avoid his/her journey.

11. – The citizen has the right for his/her appearance in person before an organ of the Administration of Justice to be as least costly as possible.

11.1. The appearance of the citizens in person before jurisdictional organs can only be demanded when it is strictly essential according to the law.

11.2. Every endeavour will be made to concentrate into a single day the various appearances that a person has to make before the same judicial organ.

11.3. Economic compensation due to the citizen for travelling expenses in order to attend judicial proceedings will be given priority and processed with maximum swiftness.

11.4. The rooms of judicial premises accessible to the public, such as waiting rooms, courtrooms, or forensic medicine clinics, should fulfil the necessary conditions to ensure correct attention to the citizen.

12. – The citizen has the right to be adequately protected when testifying as a witness or collaborating in any other way with the Administration of Justice.

13. – The citizen has the right to know the identity and status of the authority or official who is attending to him/her, with the exception –for security reasons – of the cases of criminal proceedings.

13.1. The data will be shown in a clearly visible area of the workplace.

13.2. Whoever answers the telephone or communicates via e-mail should always identify him/herself to the citizen.

14. – The citizen has the right to be attended to personally by the Judge or by the Clerk of the Court with respect to any incident relating to the running of the judicial organ.

14.1. Statements and testimonies, trials and hearings, as well as court appearances for hearing the parties before pronouncing sentence, will always take place in the presence of a Judge or Tribunal, in accordance with what is stated in the laws.

15. – The citizen has the right to be attended to in a timetable that includes mornings and afternoons in the judicial premises of those organs where, due to their nature or volume of matters to deal with, it proves to be necessary and within the legally envisaged terms.

16. – The citizen has the right to use the official language that he/she chooses when dealing with the territorial Administration of Justice of his/her Community, and to be attended within the terms established by the Organic Law of the Judiciary, and the Statutes of Autonomy and its development regulations.

Responsible justice before the citizen

17. – The citizen has the right to make claims, complaints, and suggestions relating to the malfunction of the Administration of Justice, as well as to receive a prompt reply to the same, and always within the period of one month.

17.1. The complaints and suggestions can be presented to the actual Court or Tribunal, its government organs, the Citizens' Attention Offices, The General Council of the Judiciary, the Ministry of Justice, and, where applicable, to the Administrations of the Autonomous Communities.

17.2. The Public Administrations with competence will introduce systems to guarantee the exercise of this right via e-mail.

17.3. The forms required for exercising this right will be available to the citizen, in a visible and clearly indicated place, in all the Justice Administration premises.

18. – The citizen has the right to demand that responsibility is taken for judicial error or for the malfunctioning of the Administration of Justice.

18.1. Any damages caused to citizens' assets or rights will result in compensation which can be claimed by the person(s) affected, in accordance with the provisions of the Law.

18.2. Compensation claims will be given priority and dealt with swiftly.

Agile and technologically advanced justice

19. – The citizen has the right to have the matters that affect him/her dealt with in an agile manner, and to have them resolved within the legal time period, and, in the event of delay, to know the reason for the delay.

19.1. The Ministry of Justice and the General Council of the Judiciary will draw up a program forecasting the due duration of the various proceedings of all jurisdictional orders, which will be widely publicized.

20. – The citizen has the right to not be asked to submit documents which are in the possession of the Public Administrations, except when procedural laws specially require them.

21. – The citizen has the right to communicate with the Administration of Justice via e-mail, video conference, and other electronic means, in accordance with the provisions of procedural laws.

21.1. The authorities will promote the use and application of these means in the development of the activity of the Administration of Justice, as well as in their relations with citizens.

21.2. Documents issued by the Justice Administration organs and by private individuals through electronic media and data transmission systems, in whatever nature of support, will have full validity and effectiveness, provided that their integrity and authenticity have been confirmed, in accordance with the requirements demanded by the laws.

II. A JUSTICE SYSTEM THAT PROTECTS THE WEAKEST

The protection of victims of crime.

22. – The citizen who is the victim of a crime has the right to be clearly informed about his/her intervention in the penal process, the possibilities of obtaining reparation for damages, and also about the course of the trial.

22.1. It will be guaranteed that the victim has a true knowledge of those decisions which affect his/her security, especially in cases of violence within the family.

22.2. The tasks of the Offices for Attention to the Victim will be strengthened and their functions expanded with the aim of achieving a comprehensive service to the citizen affected by the offense, with the assurance of rendering service in the entire national territory.

23. – The citizen who is the victim of a crime has the right to have his/her privacy protected when appearing in person before a Court or Tribunal, and that such appearance takes place in an adequate manner, respecting his/her dignity.

23.1. The necessary measures will be adopted so that the victim does not coincide with the aggressor when both are present in judicial premises, waiting for the practice of any procedural act.

23.2. The authorities and officials will especially ensure the safeguarding of this right in cases of domestic or gender violence, giving the victims the protection they require.

24. – The citizen who is a victim of a crime has the right to be protected by the Courts and Tribunals, in an immediate and effective way, especially from whoever carries out physical or psychic violence within the family.

24.1. The use of technical means for the due protection of the victim, such as instruments for monitoring persons, telecare and other similar services, will be made available.

25. – The citizen who is the victim of a crime has the right to be protected from unwanted publicity about his/her private life, in all kinds of judicial acts.

25.1. Judges and Magistrates, as well as the Public Prosecutor, will ensure the adequate exercise of this right.

The protection of minors

26. – Minors have the right that their appearance in person before the judicial organs takes place in an adequate manner with respect to their situation and evolutionary development.

26.1. Technical elements such as closed-circuit television, videoconference, or similar means, may be used to comply with this right.

26.2. Efforts will be made to avoid the repetition of the appearance of minors before the organs of the Administration of Justice.

27. – Minors who have sufficient judgement have the right to be heard in any judicial process which directly affects them, and which may lead to a decision that affects their personal, family, or social sphere, as well as having the right to the various judicial acts being carried out in conditions that guarantee the understanding of their content.

27.1. The Prosecution Service will safeguard the effectiveness of this right, giving minors the help they require.

28. – Minors have the right to due discretion from the authorities and officials of the Administration of Justice regarding acts related to them, and, in all cases,

carried out in such a way as to preserve their privacy and their right to their own image.

The protection of the handicapped

29. – The citizen who is affected by any kind of sensorial, physical, or psychic handicap may fully exercise the rights recognized in this Bill and in the procedural laws.

29.1. They only have to appear in person before a judicial organ when it is strictly necessary according to the law.

29.2. Judicial premises should be provided with the auxiliary services which facilitate access and time spent there.

30. – The citizen who is deaf, mute, or has a visual handicap or blindness, has the right to use a sign language interpreter or the technological means which allow for obtaining the requested information in an understandable manner, and to perform adequately the acts of communication and other procedural processes in which he/she participates.

30.1. The use of technical means such as videotexts, telephone texts, Braille translation of documents, sound recording, or similar means, will be promoted.

30.2. Special attention will be given to ensure that the act of communication has reached the effective knowledge of the addressee, and, if necessary, the content of the act will be read aloud.

The immigrants before the law

31. – Foreigners have the right to be attended to by everyone who renders service to the Administration of Justice, in accordance with what is established in this Bill, and without suffering any discrimination due to race, language, religion, or beliefs, especially in the case of minors, and in accordance with the provisions of the international agreements ratified by Spain.

31.1. The use of an interpreter will be guaranteed when the foreigner who does not know Spanish, or the official language of the Autonomous Community, has to be questioned or make a statement, or when it is necessary to let him/her know personally about some decision.

32. – Foreign immigrants in Spain have the right to receive adequate protection from the Administration of Justice, with the objective of ensuring that they understand the meaning and legal implications of the procedural acts in which they, for whatever reason, take part.

32.1. Judges and Tribunals, as well as the Director of Public Prosecutions, will ensure that this right is observed at all times.

III. A RELATIONSHIP OF CONFIDENCE WITH LAWYERS AND ATTORNEYS

Deontological correct conduct.

33. – The citizen has the right to the provision of a professional, quality service from the Lawyer who carries out the defence task with which he/she is entrusted, as well as the same from the Attorney who represents his/her interests before the jurisdictional organs.

34. – The citizen has the right to report any conduct which is contrary to professional deontology before the Bar Associations or Associations of Attorneys, and to know the result of the report through a sufficiently reasoned decision.

35. – The citizen has the right to know, through the corresponding Professional Association, whether a Lawyer or Attorney has been the object of some disciplinary sanction, not cancelled, owing to some professional act.

35.1. The respective Associations will establish a system whereby the citizen can be effectively informed about the disciplinary sanctions, not cancelled, imposed on a professional, in the entire national territory.

36. – The citizen has the right to the professionals who represent, advise, or defend him/her keeping strict secret about what is revealed or confided in the exercise of those functions.

An informed client

37. – The citizen has the right to know in advance the approximate fees that the chosen professional will charge, as well as the form of payment.

37.1. Lawyers and Attorneys will be required to give their clients a prior estimate which contains the afore-mentioned main points. They will adjust themselves accordingly to this purpose and promote the use of professional assignment sheets.

37.2. The client can ask his/her Attorney for a detailed presentation of accounts for the matters entrusted to him/her.

38. – The citizen has the right to obtain specific, detailed information from his/her Lawyer and Attorney about the state of the procedure and pronounced decisions.

38.1. The professional should hand over to his/her client copies of all the written documents presented, and of all the relevant judicial decisions issued.

38.2. The citizen may consult his/her Attorney about the consequences of any act before a jurisdictional organ.

38.3. The Legal Guidance Services, dependent on the Bar Associations, will be strengthened, and their functions will be broadened to include informing citizens about their rights in their relationship of confidence with their lawyer.

39. – The citizen has the right to be informed by the Lawyer and by the Attorney, prior to the exercise of any claim before a judicial organ, about the consequences

of being ordered to pay the costs of the proceedings, and about its estimated amount.

39.1. The various professional Associations will prepare a study forecasting the approximate average costs of each process, depending on both the kind of procedure and its degree of complexity, which will be periodically updated.

Free quality justice

40. – The citizen has the right to be advised and defended, free of charge, by a sufficiently qualified Lawyer, and to be represented by an Attorney in the case of having the legal right to free legal aid.

40.1. The various Associations will ensure the correct carrying out of this function by the appointed professional.

41. – In the event of free legal aid, the citizen has the right to demand that the professional appointed by the turn of office has had high quality training.

41.1. The Bar Associations will adopt the necessary measures to ensure compliance with this right.

EFFICACY OF THE BILL OF RIGHTS

1. – Citizens have the right to demand compliance with the rights recognized in this Bill. Judges and Magistrates, Public Prosecutors, Judicial Secretaries, medical forensic scientists, public civil servants, Lawyers, Attorneys, and other individuals and Institutions that cooperate with the Administration of Justice are bound by this Bill.

2. – The Ministry of Justice and the Autonomous Communities with competence in the matter, the General Council of the Judiciary, the Director of Public Prosecutions, and the competent professional Associations will adopt the appropriate measures and provide the necessary means to guarantee the effectiveness and full respect of the rights recognized in this Bill.

3. – The Chamber of Deputies, through the Committee for Justice and Home Affairs, will carry out a follow-up monitoring and continuous evaluation of the evolution of, and compliance with this Bill, to which effect they will be regularly informed by the Government and the State Organs and Public Institutions, whenever they request such information. The annual report submitted by the GCJ to the General Courts will include a specific and sufficiently detailed reference to the claims, complaints, and suggestions made by citizens about the running of the Administration of Justice.