

A scenic view of a bay with mountains in the background and a rocky shore in the foreground. The water is calm, and the mountains are covered in dense vegetation. The sky is clear and blue.

# **The criminalisation of boat drivers in Spain and the Canary Islands**

**Patrones Project, 2025**

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# 1. Aggregate data for Spain

(data extracted from Arencibia’s database, updated 18.02.2025)

We have two types of data regarding the number of people charged with the crime of facilitating migration in Spain.

Firstly, lawyer [Daniel Arencibia](#) **has systematised in a database** the information contained in the **rulings of judgments against alleged boat drivers** in Spain published by the General Council of the Judiciary (CENDOJ) since 2018. The database is updated on a permanent basis and is available [here](#). It is not possible to determine whether all existing judgments have been published by CENDOJ, so the amount of people affected could be slightly higher.

On the other hand, **the Ministry of Interior reported** in August 2024 the **number of persons arrested and investigated each year for this crime**. The data published by the Ministry may be under-reported. For example, in 2021, [police sources reported in the press that 202 persons were arrested](#), but the Ministry’s data only shows 37 for that year (see Table 1).

Province	Source	2018	2019	2020	2021	2022	2023	2024	TOTAL	
Las Palmas (Canary Islands)	Ministry of Interior	12	4	7	32	63	108	n.a.	226	21%
	Arencibia	13	17	17	50	92	35	44	268	25%
SC Tenerife (Canary Islands)	Ministry of Interior	2	2	3	5	3	28	n.a.	43	4%
	Arencibia	3	0	6	15	20	21	9	74	7%
Balearic Islands	Ministry of Interior	2	0	1	11	49	21	n.a.	84	8%
	Arencibia	0	0	0	0	11	21	24	56	5%
Almería	Ministry of Interior	9	12	44	72	54	52	n.a.	243	23%
	Arencibia	8	22	33	27	66	57	33	246	23%
Ceuta	Ministry of Interior	29	45	19	17	40	28	n.a.	178	17%
	Arencibia	6	15	17	15	41	14	17	125	12%
Murcia	Ministry of Interior	7	19	10	70	103	77	n.a.	286	27%
	Arencibia	5	6	16	56	73	80	60	296	28%
Total (Ministry of Interior)	arrests-investigations	61	82	84	207	312	314	n.a.	1060	
	anual increase (%)	-	34%	2%	146%	51%	1%	n.a.	415%	
Total (Arencibia)	court rulings	35	60	89	163	303	228	187	1065	
	anual increase (%)	-	71%	48%	83%	86%	-25%	-18%	434%	

Table 1. People criminalised in the provinces of Spain with the highest incidence (2018-2024).

From the available data it is concluded that:

- Since 2018, more than 1,000 people have been tried in Spain on charges of ‘facilitating irregular migration’ (for entries by sea and land). The number of arrests increased between 2018 and 2023-2024 by more than 400%. The largest increases were in the years 2020-2021 and 2021-2022.
- As of 2022, approximately 300 people have been arrested each year. The Autonomous Communities (main administrative divisions) with the highest number of arrests are Murcia (27%), the Canary Islands (25%), Almería (23%), Ceuta (17%) and the Balearic Islands (8%).
- Of the total number of persons investigated and tried since 2018, 95% have been convicted. The conviction rate varies depending on the year and the province, but every year it has been above 90% and in every province always above 80% (Figure 1&2).



Figure 1&2. Persons indicted, persons convicted and conviction rates (%) in each province (Figure 1, left) and for each year (Figure 2, right) (2018-2024).

- The main countries of origin of the accused varies according to the Autonomous Community. In Almería, Murcia and the Balearic Islands, mainly people from Algeria are arrested. In the Canary Islands (Las Palmas and Tenerife) those arrested are mainly from Morocco, Senegal or Gambia, which corresponds to the different migratory routes. Only in Ceuta are significantly more Spanish people arrested (50% of them).

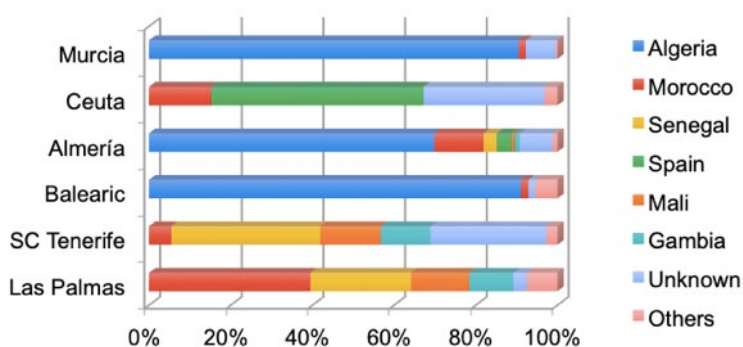


Figure 3. Countries of origin of defendants by province (2018-2024).

## 2. The criminalisation of boat drivers in the Canary Islands

(data extracted from Arencibia's database, updated 18.02.2025)

More than 100 people were arrested in the Canary Islands alone in 2024. As mentioned for all regions, **the conviction rate is extraordinarily high**. Of the 342 people charged between 2018 and 2024, 319 have been convicted, **resulting in a conviction rate of 93%**. But the **vast majority of defendants agree to plead guilty following the prosecution's plea bargain** and the trial does not go ahead (see section 2.2. for further information). Among those convicted, 262 pleaded guilty i.e. **82% of those convicted**.

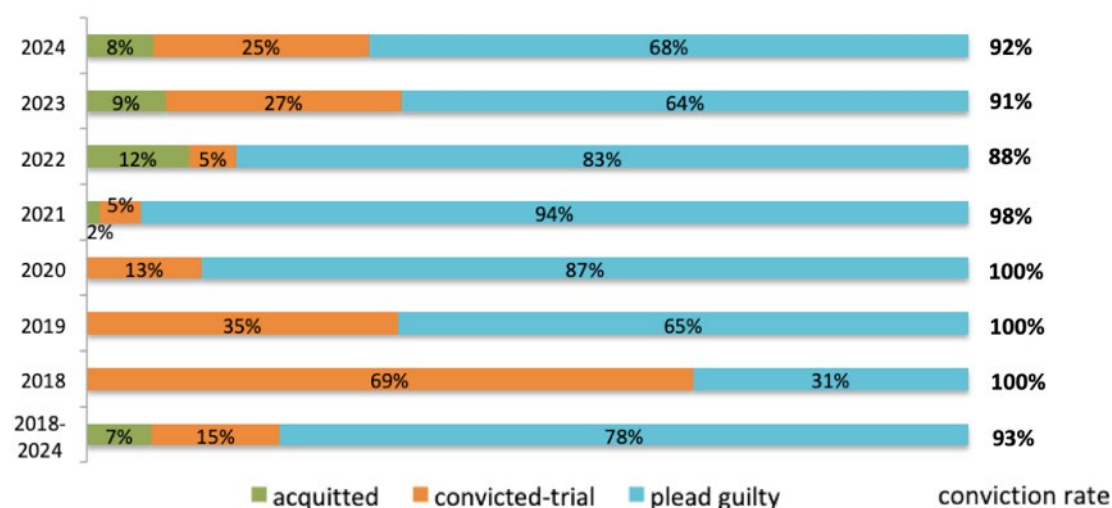


Figure 4. Percentage of defendants who were acquitted, convicted at trial or signed a plea bargain, together with conviction rate data (right) (Canary Islands, 2018-2024).

This **high conviction rate and guilty pleas** is due, among other reasons, to **difficulties in accessing legal support for the defence case**. Most of the accused have state appointed lawyers, who are not familiar with the processes and migration, and who do not have sufficient resources to study and assess the cases individually.

## 2.1. Irregularities during the investigation and judicial proceedings

As specialised lawyers such as Loueila Mint, Daniel Arencibia and Sara Trigo have long denounced, **investigations and trials are plagued by irregularities, violations of fundamental rights and due process**. Most of the judicial proceedings against ‘boat drivers’ in the Canary Islands share the following elements:

- a) **The accusations are based on the testimony of one or two persons** who were travelling in the same boat, **who become protected witnesses**.
- b) The **police and Frontex exert pressure** to obtain these accusatory statements and, as stated in the report by Irídia and Novact, **offer regularisation of the administrative situation** (a frequent practice in the case of protected witnesses), although *‘however, (...) on many occasions these two elements remain without effect’* (Irídia y Novact, 2024).
- c) The testimony of these witnesses is often **the only and main evidence** against the accused persons, which **contravenes the jurisprudence of the European Court of Human Rights**, based on Article 6(3)(d) of the European Convention on Human Rights, and was taken up **by the Spanish Supreme Court** (STC 75/2013, S.1a, 08/04/2013, FJ3-FJ5; for an in-depth description of the requirements established by ECtHR jurisprudence see Arencibia’s report). Moreover, it is often given by deposition, ensuring its use in the trial even in the absence of these protected witnesses.
- d) **In the event that there is other evidence**, this is often dubious or obtained during the **confiscation of the mobile phone without the express consent of the accused or their lawyer**.
- e) The proceedings are conducted **without adequate legal representation or qualified interpreters**.

## 2.2. Plea bargain

Before the trial, **the prosecution offers a plea bargain (called ‘conformity’)**: if the accused pleads guilty the prosecution often asks for **3 years in prison (see Figure 5)**. **In such cases, there will be no trial**. If the defendant **does not accept** the agreement, the prosecution most often asks for a sentence of **8 years** at trial.

This difference is partly due to the fact that the prosecution only applies the sentence reduction established for cases where the accused is himself a migrant (Circular 5/2011 of the State Prosecutor’s Office) in the event that he pleads guilty, a condition that is not covered by the Circular. Therefore, in order to qualify for reduced sentences defendants are forced to

**renounce a full trial and plead guilty without the evidence being examined.** In turn, the reduction **does not apply when the defendant chooses to fight for his innocence,** thus penalising those who choose to defend themselves at trial.

According to many of those convicted, the **threat by the prosecution** not to apply this reduced sentence, together with the **difficulty of relying on the testimony of witnesses who have been deported by order of the state itself** (which makes their defence more difficult), **leads many innocent defendants to plead guilty to acts they did not commit.**

### 2.3. Pre-trial detention

**Delays in the trial,** and the **psychological state of people in detention,** also influence the high percentage of persons who agree to plead guilty. **The accused are arrested and placed in pre-trial detention until the trial is held,** in application of a precautionary measure provided for in procedural legislation, with both the prosecution and the judge automatically assuming that the mere fact of being an unauthorised migrant (and undocumented, in many cases) is *per se* a flight risk. **The average number of days of pre-trial detention for 2023 was 254 days in Las Palmas and 519 days in Tenerife.**

If, by the time the trial is held, the person has already been in prison for two or two and a half years, he may prefer to plea guilty because it means that he only has 6 months left, rather than keep fighting it and not knowing when the acquittal will come (if it comes). On the other hand, as one of the studies on the criminalisation of boat drivers in the Canary Islands states, *‘when they are behind bars, isolated, in an environment whose language they do not understand and under the weight of uncertainty, the only thing these young people want is to regain their freedom as soon as possible, even if they are innocent.’*

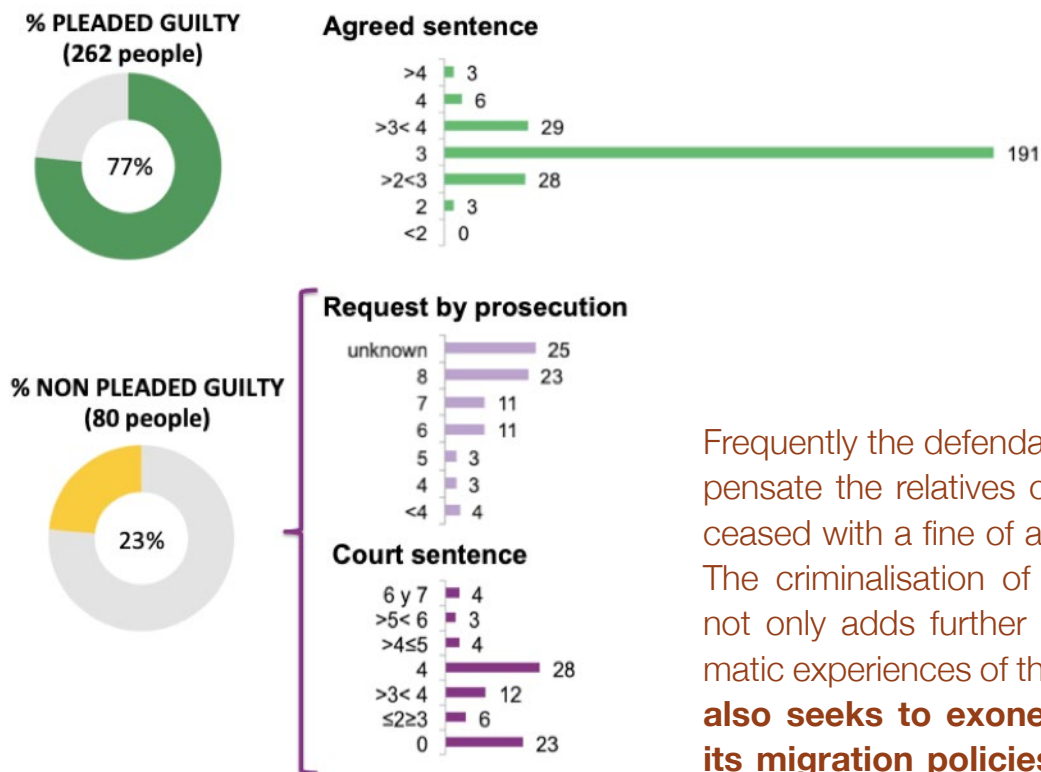
### 2.4. Unidentified minors

**Finally, there have been multiple reports of arrests of minors** who, not having been identified as such, **are deprived of their liberty and tried as adults.** In the Canary Islands, there is evidence that **at least 15 minors have been imprisoned since 2022,** according to the report by Irídia and Novact based on interviews with lawyer Sara Rodríguez Trigo. **Some of these minors are still in prison and most of them are still in the process of having their real age recognised.**



## 2.5. Sentences

The data collected by Daniel Arencibia allows us to analyse the **most frequent sentences**:



**56% of persons accused of facilitation offences in the Canary Islands are sentenced to 3 years imprisonment.** The sentence most frequently requested by the prosecution in case of non-conformity is 8 years (29% of cases), although the prosecution's request is unknown in 31% of cases. Since 2018 there were **80 people who refused to plead guilty**. Of these, **30% of them (23 people), after trial were found not guilty.**

**These convictions only include convictions for the offence of facilitation, and not for other offences such as involuntary homicide, injury, etc.** In the case of the boat arriving in the Canary Islands with the bodies of deceased persons, **the usual sentence is 1 additional year for each deceased person**, but generally no more than 4 extra years.

Frequently the defendant is obliged to compensate the relatives of each identified deceased with a fine of around 100.000 EUR. The criminalisation of alleged boat drivers not only adds further violence to the traumatic experiences of those who survive, **but also seeks to exonerate the state and its migration policies from responsibility for the deaths of those who do not make it.**

For those who are convicted, the consequences go beyond prison time. **Once they have served their sentence, they cannot regularise their administrative situation in Spain for several years.** When the sentence is 3 years, which as we will see below is the most common sentence, the person will have a criminal record for 5 years, during which time they will not be able to regularise their administrative situation. But in addition to this, **most of them are subject to administrative expulsion procedures.** Moreover, lawyers have observed that these expulsion procedures are imposed more or less automatically in prison around 4-5 months before the end of the person's sentence. This is so even in cases where the person has an open application for international protection.



### 3. Resistances

There is resistance to the criminalisation of the alleged boat drivers and solidarity networks that support them. Alongside **lawyers such as Loueila Mint and Sara Rodríguez Trigo**, who are committed to defending the alleged boat drivers, or those who have worked on the gathering and systematisation of data such as the lawyer **Daniel Arencibia**, there are **organisations or collectives that visit and support those imprisoned**. For example, the organisation Derecho y Justicia (Lanzarote) regularly visits people in detention and offers them legal advice. The Asamblea de Apoyo a Migrantes (Tenerife) is also in contact with and supports people in detention. The Pastoral de migraciones and the Federación de Asociaciones Africanas de Canarias (FAAC) also visit and support people in prison in Gran Canaria.

At the beginning of 2025, we started the **‘Patrones Project’, a collective of lawyers and activists specialised in the criminalisation of boat drivers in the Canary Islands**. We are part of the **Captain Support Network**. We aim to **improve the quality of the defence of alleged boat drivers**, as well as **structural changes in the practices of systematic violations of rights in the courts of the Canary Islands**. To do this we want to **increase the capacities of lawyers working on the islands**, increase the **awareness** of the reality of the criminalisation of alleged boat drivers in Spain, and **strengthen links with existing coordination networks**.

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# 4. Research and press articles

## Research

Arencibia, Daniel: [“Boats, protected witnesses and mobile phones. Notes for the defence of persons under investigation as boat skippers when they sought their own migration \(art.318bis PC\).”](#)  
(English available)

Novact e Iridia (2024): [“Vulneración de derechos humanos de las personas migrantes en canarias 2024: criminalización, detención e infancia.”](#) (*“Human rights violations of migrants in the Canary Islands 2024: criminalisation, detention and children”*). (English available soon)

Arencibia, Daniel: [“Some conclusions from the analysis of sentences 318 bis 2022-2023”](#)  
(English available)

UNODC (2024): [“Northwest African \(Atlantic\) route: key findings.”](#) (English)

## Articles in press - Cases

Ismael Ouattara (Tenerife): [Los cinco días en los que Ismael perdió a su hija, a su pareja y su libertad: “No sé cómo pude superarlo sin volverme loco”](#) (*The five days in which Ismael lost his daughter, his partner and his freedom: ‘I don’t know how I got through it without going crazy’*).  
Natalia G. Vargas, January 2025, El Diario.es

Ismael Ouattara (Tenerife): [Una patera en la que Ismael lo perdió todo: “Pasaron cinco días entre la muerte de mi hija y mi ingreso en prisión”](#) (A boat in which Ismael lost everything: ‘Five days passed between the death of my daughter and my admission to prison’). Ebbaba Hameida, December 2024, RTVE

Moha (Fuerteventura, 15 years old): [Los niños de los cayucos que acaban en prisión: “Decían que yo era el patrón”](#) (*The children of the cayuco boats who end up in prison: ‘They said I was the boat driver’*).  
Natalia G. Vargas, December 2023, Eldiario.es

La Gomera (4 convicted): [Condenados a cuatro años y medio de cárcel cuatro patrones de cayuco en el que falleció un migrante](#) (*Four drivers of a cayuco in which a migrant died sentenced to four and a half years in prison*). Efe, December 2023, Eldiario.es

Ablaye (Tenerife, 16 years old): [Llegó a Canarias en patera con 16 años y entró en prisión acusado de ser patrón: ahora está en libertad provisional pendiente de juicio](#)  
(*He arrived in the Canary Islands by boat at the age of 16 and went to prison accused of being a boat driver: he is now on provisional release pending trial*). Nayra Bajo de Vera, December 2023, Eldiario.es

Tenerife (10 convicted): [Decretan prisión para diez migrantes acusados de capitanear cuatro cayucos llegados a Canarias](#) (*Prison sentences for ten migrants accused of driving four cayucos that arrived in the Canaries*). Agencias, December 2023, Público

Fuerteventura (9 indicted): [Spain charges nine migrants with ‘mutiny’ after dramatic scenes at sea](#). Info-migrants, October 2023

## Research articles

[Los patrones de cayuco se enfrentan a un sistema legal que les culpa sin pruebas](#) (*Boat drivers face a legal system that accuses them without evidence*). Sara Toj, February 2025, Canarias 7

[La justicia zozobra con las pateras](#) (*The justice system is floundering with the migrant boats*). Domingo Marchena, January 2015, La Vanguardia

[Who is the captain of the cayuco?’, the question behind the growing number of migrants in Spanish prisons](#). Isabella Carril-Zerpa y Ngone Ndiaye, October 2024, Público

[La creación de un crimen para defender la necropolítica migratoria europea](#) (*The fabrication of a crime to defend European migration necropolitics*). Inés Marco, July 2024, El Salto

[“España se equivoca: gastamos millones en meter a pescadores pobres en prisión”](#) (*Spain is mistaken: we are spending millions on jailing poor fishermen*). Interview to Daniel Arencibia, March 2024, Diario de Lanzarote

[La Audiencia de Las Palmas ordena la liberación de un menor senegalés que llevaba 82 días encarcelado en Gran Canaria](#) (*The Court of Las Palmas orders the release of a Senegalese minor who had been imprisoned in Gran Canaria for 82 days*). Guillermo Vega, March 2024, El País

[La ONU ampara al menor senegalés recluido en una cárcel canaria](#) (*UN protects Senegalese child held in Canary Islands prison*). Redacción, March 2024, Público

[La criminalización de los capitanes de cayucos](#) (*The criminalisation of the boat captains*). Taina Tervonen, December 2023, El Salto

[“Todo el mundo me pedía que tomara el timón”](#) (*Everyone asked me to take the wheel*). Fabien Perrier y Taina Tervonen, December 2023, Contexto

[Tot el pes de la llei contra activistes i migrants: el delict de desafiar l’Europa fortalesa](#) (*Full force of the law against activists and migrants: the crime of defying Fortress Europe*). Inés Marco, December 2024, La Directa