The Platform has submitted inputs to the 2021 Rule of Law Consultation in order to offer a comprehensive assessment of the present problems of the Spanish Justice from a neutral and technical point of view, regardless of the political or corporative interests in which political parties or other partisan groups are often linked to.

Here we are the full text:

2021 Rule of Law Report
Targeted stakeholder consultation

Please insert an URL towards your organisation's main online presence or describe your organisation briefly.

Civic Platform for Judicial Independence https://plataformaindependenciajudicial.es/ (Twitter: @PCIndepJudicial)

Association formed by legal scholars and civil society professionals concerned about the politicization of the Spanish justice system. Its sole objective is the defence of the Rule of Law and the independence of the Judiciary, in accordance with European and international standards.

It promoted the "Manifesto for the depoliticization and judicial independence" endorsed by more than 1,400 Spanish judges. It has created the "Observatory of Appointments", publishing prestigious reports on arbitrariness and politicization in the appointment of senior judicial positions.

It is a pioneer in denouncing attacks on judicial independence in Spain before international and European bodies. Its latest report compiles the attacks of the political power against Justice.

https://plataformaindependenciajudicial.es/2021/01/26/denuncia-ante-el-parlamento-europeo/

https://plataformaindependenciajudicial.es/2021/02/07/complaint-of-the-platform-adressed-to-the-european-union/

Please provide any relevant information on horizontal developments here.

1.- Spain is in a serious and anomalous situation in terms of judicial independence. Poland and Spain are the only two countries in the entire Union where the appointment of all the members of their Councils of Justice, which are subsequently responsible for the appointment of the highest judicial bodies, is not subject to the same conditions, are in hands of Parliament and, in practice, depending on political parties.

Numerous recommendations issued by the Council of Europe, specifically from the “Group of States Against Corruption” (GRECO), urge the Spanish State to modify the system of election of 12 of the 20 members of the General Council of the Judiciary, so that the political authorities do not intervene in any phase of their appointment.

Spain’s flagrant failure to comply with European rules on judicial independence is even more evident in the light of the latest rulings of the CJEU in the various infringement proceedings against Poland [judgment of 24 June 2019, Commission v Poland C-619/18, EU: C: 2019:531, paragraph 58 and judgment of the CJEU of 19 November 2019, C-585-18).

2.- We alert the institutions of the European Union to the processing in Spain of a whole series of structural legislative reforms that will represent a real assault on the independence of the Spanish Judiciary by the Executive branch of the Regime. All these legislative reforms are being processed as a matter of urgency.

In order to speed up the process, the mandatory hearing process that must be granted to all the sectors involved (CGPJ, European Commission for Democracy through Law [Venice Commission-Council of Europe], judicial associations, prosecutors, unions of the Administration of Justice, Autonomous Communities) has been dispensed with. Such prior hearing procedure is mandatory, as expressly indicated in the case law of the CJEU and in the recommendations of the European Commission 2017/1520 and 2018/103.

These reforms affect (i) the manner of appointment of the CGPJ so that 20 out of 20 members are elected by the Parliament by simple majority (which will be of the same political colour as the Government); (ii) the CGPJ with expired mandate so that it cannot appoint Supreme Court

judges until it is not renewed by the Parliament; (iii) to the criminal investigation, which is foreseen to be reassigned from judges to the prosecutors, keeping them under the hierarchical dependence of the Government; (iv) to the unipersonal judges, because the Courts of Instance are created and all of them depend on a president appointed by the CGPJ, which is the projection of the Parliament (or Government).

3. – The intervention of the European institutions is urgent, necessary and indispensable.

COMPLAINT OF THE PLATFORM ADRESSED TO THE EUROPEAN UNION

Justice System – Spain

Independence

Appointment and selection of judges, prosecutors and court presidents.

1. The CGPJ (General Council of the Judicial Power) carries out the appointment of the highest levels of the judiciary in Spain, not only of the presidents of the regional High Courts of Justice and their Chambers, of the presidents of the Provincial Courts and of the National High Court and their Chambers, but also of the magistrates of the Supreme Court and of other high-ranking positions in the different services of the CGPJ.
2. The appointment of the judges of the Second Chamber of the Supreme Court is of special importance, since this is the court entitled to investigate and judge criminal cases against members of the Government and members of Parliament, due to the special privileges that they enjoy.
3. The appointment of the judges of the Third Chamber of the Supreme Court, of the contentious-administrative jurisdiction, is also important, since it is competent to judge the acts of both the central and regional governments and, in short, to judge the acts of management of the Government.
4. Discretionary appointments have become a way of rewarding and retaliating the trajectory of judges. It is a source of institutional corruption.
5. “Discretion” becomes “arbitrariness” because it is not the most competent and capable for the position that is chosen, but the most loyal or the most partisan. To this end, the terms and conditions of the call for the position are generic and focus on a personal interview and the defence of a program of action. Something very subjective. The candidate is chosen and then a motivation is created.
6. The GRECO (Groups of States against Corruption), after the reform by Organic Law 4/2018 of Article 326.2. LOPJ and its subsequent regulatory development, continues to denounce that Spain does not comply with the requirement to avoid the appearance of partiality in appointments, since no prior and public rules are established for the appointment of judges according to each class of court.
7. The Platform has prepared reports on these discretionary appointments reaching devastating conclusions.

Nombramiento Sala 3ª TS: informe del acuerdo del CGPJ de 12/09/19

8. Likewise, the Platform has elaborated a basis for the reform of the current regulation of discretionary appointments in order to render them objective https://plataformaindependenciajudicial.es/2016/07/09/propuesta-al-cgpj-bases-nombramientos-discrecionales/.

The irremovability of judges and magistrates in Spain is a guarantee of the independence and impartiality of judges. There are important anomalies in the system:

The tenure of many of the high judicial positions have a short duration (Presidencies of the autonomous high courts and presidencies of chambers, presidencies of the Provincial Courts, the members of the CGPJ, the magistrates of the Constitutional Court).

This short term of office generates exchanges of favours between high judicial officials and politicians, which is very dangerous for the impartiality of the appointed judges. Re-election depends on majorities and political exchanges, creating a series of dependencies on political power.

It is an exchange of cards between the party in government and the opposition party.

https://www.cope.es/actualidad/espana/noticias/estos-son-los-candidatos-presidir-cgpj-llega-acuerdo-para-renovacion-20201026_963588

The system allows the so-called revolving doors, and favours the emergence of “gowned politicians”: judges can move directly from politics to the jurisdictional exercise and vice versa under a reform introduced in 2011 by LO 12 /11 of September 22.

Judges may hold any political office or position of trust in the central or regional government or be deputies and senators, through the regime of special services, which adds up for the purposes of seniority in the judicial career ladder. They can spend 20 or 30 years without passing judgments and then, by virtue of the contacts acquired in politics, they can be promoted to the top of the judicial career through the discretionary appointments made by the CGPJ. For example, the current Minister of Justice, who has not handed down any judicial rulings since 2000 because he is on special services, could be appointed as a Supreme Court judge when he returns to the judicial career.

Secondments. The CGPJ decides when a vacant judicial position is filled not by means of a transfer competition but by means of secondment, which is an opaque competition and not subject to prior or objective rules for choosing the candidate. They are widely used in the Audiencia Nacional and to reward like-minded judges.

https://www.elmundo.es/espana/2021/01/21/600962bbfdddffe79c8b45fc.html

https://okdiario.com/espana/lesmes-busca-desesperada-magistrados-mas-antiguos-que-mercedes-alaya-cubrir-plaza-mata-6605220

Promotion of judges and prosecutors.

1. The ordinary system of recruitment of judges is the “competitive examination” (knowledge tests) and subsequent Judicial School training in a practical phase. It guarantees the principles of equality, merit and ability. The system ensures a high level of legal preparation and guarantees the independence of judges at the base of the career.

This system greatly facilitates the incorporation of women into the judiciary. They are already a majority in the Judicial Career. In recent years, more than 70% of fresh judges are women.

In the Government Agreements presented by “PSOE” political party and “Unidas Podemos” political party, they propose the modification of this system. They intend that the selection be made on the basis of an opinion or practical test and greater importance is given to the personal interview. An ideological profile of judge can be chosen. This new system implies a politicization of judges from the beginning.

2. The system of discretionary (or handpicked) appointment of high judicial positions causes the division of the judicial career by an invisible horizontal line between the grassroots judges, by opposition, impartial and independent, and the judicial leadership of the high courts, who are in charge of media cases, corruption cases and judicial issues involving high political officials. Their rulings are perceived by citizens as decisions mediatized by spurious interests.
3. Proof that only the best connected, and not the best and most capable, reach the top is the scarce presence of women in the upper echelons of the judicial hierarchy (15%), despite the fact that they represent an increasing proportion (60%). It is also a proof that almost all of those who reach the top are associated with certain Judicial Associations (APM, conservative, and JJyDD, progressive). Certain Associations become a means to let politicians know the degree of loyalty, fidelity or ideological profile.
4. The PCIJ has prepared a report on the relevance of introducing the horizontal career of judges, not only to motivate and stimulate a very hopeless career at the grassroots in the face of the reality that only a few prosper (political judges), but also to promote the improvement and acquisition of new professional skills through performance evaluation.

> Judges would not have to meddle up to the highest judicial levels to achieve adequate remuneration and recognition of their professional competence and merits.

https://confilegal.com/20190420-la-carrera-horizontal-la-solucion-para-el-futuro-de-la-judicatura-espanola/

CARRERA HORIZONTAL JUDICIAL II

Allocation of cases in courts.

The entry into force of the new Law of Organizational Efficiency, which provides for the configuration of the so-called Courts of First Instance, establishes a discretional and politicized appointment of the Presidents of such Courts, which may alter the general rules of

allocation of cases.

The judges of each Court of First Instance may be called to a Plenary Session by the President in order to unify criteria; they may be removed from a case and may be assigned specific cases. They would have a sort of hierarchical dependence on the president of the Court of First Instance, who is a judge handpicked by the CGPJ.

The judges would be organized like the current Prosecutor's Office, with a pyramidal and hierarchical structure with instructions given from the top.

Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary).

1. The spirit of the Spanish Constitution of 1978 was transferred to a 1980 law regulating a mixed system of appointment of the CGPJ: 12 judge members were elected by the judges and 8 jurist members were elected by the Parliament.
2. The Organic Law of 1985 modified the system: 12 members judges would be elected by the Parliament by a 3/5 majority. Thus, 20 out of 20 are elected by the Parliament.
3. The Constitutional Court (STC 108/1986) endorsed the system, but warned of the risk that the 12 out of 20 members would be elected not by Parliament but by two political parties (the one that wins the elections and the main opposition party). This would not be constitutional.
4. What the Constitutional Court said was unconstitutional has been happening in Spain for decades. 20 out of 20 members are elected by two parties in a trading of cards.
5. Poland and Spain are the only two countries in the entire Union in which the appointment of all the members of their Councils of Justice (which subsequently will be responsible for the appointment of the highest judicial bodies) are appointed entirely by politicians.
6. Numerous recommendations issued by GRECO urge the Spanish State to modify the system of election of the CGPJ.
7. A Proposition of Organic Law for the reform of the procedure for the election of the

Members of the CGPJ has recently been introduced. The reform modifies the appointment of the twelve judicial members of the CGPJ (12 out of 20), reducing the qualified majority of three-fifths (3/5) of the legislative chambers to the simple requirement of an absolute majority.

https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-120-1.PDF#page=1.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability.

1. The independence of Spanish judges is also seriously threatened through the system of disciplinary responsibility, since the disciplinary files of Spanish judges and magistrates are handled by the "Promoter of the Disciplinary Action", chosen by the CGPJ in a totally discretionary manner. The CGPJ can order the initiation or the continuation of the file against its criteria. Resolves the file the Disciplinary Commission of the CGPJ, formed by a majority of vocal judges, but they are elected by politicians, so that Spain is in the same line of non-compliance as the one pointed out by the ECHR judgment of June 21, 2016 in the case Nunes Carvalho v. Portugal.
2. In addition, the Promoter of Disciplinary Action can use the informative proceedings without subject to a time limit to bully judges belligerent with the CGPJ.
3. The CGPJ in turn, in a discretionary manner, appoints all of the judges that make up the 6th Section of the Administrative Chamber of the SC, in charge of reviewing disciplinary sanctions imposed on Spanish judges and magistrates.
4. We find ourselves in the same situation as Poland with regard to the disciplinary liability of judges.

Independence/autonomy of the prosecution service.

The Spanish Prosecutor's Office does not have the minimum guarantees of independence and impartiality: the appointment of the State Attorney General is made by the Government. The appointment of the Public Prosecutor's Council and the senior officials of the Prosecutor's

Office is made in a discretionary manner, but without objective and regulated criteria (Article 22 and subsequent articles). Organic Statute of the Public Prosecutor's Office https://www.boe.es/eli/es/l/1981/12/30/50/con).

Superior prosecutors can give orders to hierarchically subordinate prosecutors; they can call a prosecutor to their presence and can give him/her specific instructions and remove them from their positions and replace them with other prosecutors in the handling of cases. Prosecutors depend on their superiors not only for the endorsement of their reports and procedural positions in the particular proceedings, but also in terms of their working conditions (leave, vacation, etc). Senior prosecutors also have disciplinary powers over their subordinates.

All this implies a strong politicization of the institution, which has worsened in recent times with the appointment of the Minister of Justice as Attorney General of the State, Ms Dolores Delgado. Public opinion and citizens perceive the Prosecutor's Office as an institution strongly linked to the Government.

4. The Draft Bill of the Criminal Procedure Law, approved by the Council of Ministers on November 24, 2020. https://www.icaib.org/anteproyecto-de-ley-de-enjuiciamiento-criminal/

It involves the complete structural modification of the Spanish criminal procedure. The criminal investigation is attributed to the prosecutors, maintaining its pyramidal structure under the orbit of the State Attorney General appointed by the Government.

The following considerations stand out in relation to this reform:

-The important thing is not who investigates but how the investigation is performed. It makes no difference whether the investigators are judges or prosecutors. What is important is that the investigating body be independent, impartial and irremovable. An independent criminal investigation subject only to legality is a prerequisite for guaranteeing equality before the law and legal certainty; only in this way can basic fundamental rights be guaranteed.

– These procedural reforms cannot be justified under the pretext of making the criminal

investigation more efficient and effective, because very useful reforms can be made to the criminal process to make it more efficient and speedy that would not involve such strong politicization. For example, ensuring the unnecessary repetition of police actions before the judicial authority, restricting the possibility of filing an appeal for reform in actions of mere formality during the investigation, speeding up the preparation of expert reports by increasing the number of Forensic Doctors, expert psychologists, psychosocial teams or expert accountants.

-The reform does not foresee the possibility of challenging the appointment of prosecutors for an investigation in particular, unlike what currently happens with the investigating judge.

https://www.dykinson.com/libros/libro-verde-sobre-la-investigacion-criminal/9788413770994/

5. Criminal investigation cannot be attributed to the Public Prosecutor's Office without having previously reformed its Organic Statute, in order to provide it with the necessary independence and impartiality. However, no legislative reform has been presented for this purpose. It is even necessary to reform the appointment of the State Attorney General.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary.

Public opinion and citizens perceive the Prosecutor's Office as an institution totally dependent on political power. The expressions of the President of the Government, Mr. Pedro Sánchez, in an interview on "Radio Nacional de España" (Public Broadcasting Service) were very unfortunate and went around the country for days:

"-Who does the Prosecutor's Office depend on? -asks Sánchez.

-From the Government," answered the journalist hesitantly.

-Well, that's it," says Sánchez".

https://youtu.be/bbDsPfoE_a4

The leak of a controversial WhatsApp message sent by the senator of the Popular Party, Mr.

Ignacio Cosidó, in which he boasted about the agreements reached with the PSOE for the renewal of the CGPJ. Indicating how the magistrates of the Second Chamber of the Supreme Court were going to be controlled. Content of one of the WhatsApp " Controlling the Second Chamber from behind and presiding over the 61st Chamber. It has been a move that I have lived from the front line".

https://elpais.com/politica/2018/11/20/actualidad/1542735737_970930.html

https://www.lasexta.com/noticias/nacional/enorme-malestar-entre-los-jueces-del-supremo-por-el-mensaje-filtrado-de-cosido-es-bochornoso-es-indigno-para-representar-a-la-democracia-video_201811195bf30fdb0cf2265d3006b7f9.html

Revealing confessions of magistrates in charge of the instruction of media cases about the pressures they received from the political powers, in one of the TV programs of maximum audience.

This is how they tried to pressure Judge Castro to abandon the Nóos case: from wanting to buy his son to being locked up in the Zarzuela (Royal Palace).

https://www.lasexta.com/programas/salvados/mejores-momentos/asi-intentaron-presionar-al-juez-castro-para-abandonar-el-caso-noos-de-querer-comprar-a-su-hijo-a-encerronas-de-zarzuela_20210124600ddae56f8ead000182d1cb.html

Judge Torres reveals how he was sent the inspection from the CGPJ I think it was to continue investigating César Alierta.

https://www.lasexta.com/programas/salvados/mejores-momentos/el-juez-torres-desvela-como-le-mandaron-una-inspeccion-desde-el-cgpj-creo-que-fue-por-seguir-investigando-a-cesar-alierta_20210124600ddd3f6f8ead000182d41b.html

The Supreme Court refuses to file the case on the appointment of Dolores Delgado as Attorney General of the State. Doubtful legality of her appointment.

https://www.vozpopuli.com/espana/tribunal-supremo-dolores-delgado-pp.html

Accessibility of courts (e.g. court fees, legal aid, language).

Faced with the measures adopted in recent years aimed at preventing, limiting or hindering citizens' access to justice (such as, among others, the establishment of court fees in 2012, an excessive amount to appeal to another judicial instance, or the creation of unipersonal bodies to hear abusive clauses, which has led to their collapse), an increasingly citizen-cantered administration of justice, accessible and close to the citizen, is necessary.

For this reason:

Any economic barrier that prevents, limits or hinders the citizen's free access to justice must be eliminated.

In this sense, and beyond the improvements that may be agreed for access to free legal aid and in terms of the benefits it includes or that court fees for SMEs and NGOs should be eliminated, it should not be forgotten that, being the right to defence and effective judicial protection a fundamental right provided for in the Constitution, legal services provided in relation to such rights should be exempt from VAT (as are medical services, dentists, psychologists, etc..) or, failing that, subject to the reduced VAT rate, at least when the recipient is a natural person (since the latter cannot deduct it, unlike companies) and when it is a question of services in the framework of a judicial process (since then we are dealing with a fundamental right).

As for the system of procedural costs, it should be excluded in any case of imposition on the litigant administered in favour of the administration and the consumer who intervenes in his condition as such, given his condition of weaker party, in principle.

– The creation of specialized bodies for the knowledge of certain matters should not lead to their being of uniprovincial scope and distant from the citizen, thus increasing the burdens on the litigant. Specialization yes, but not centralization.

It would be convenient the creation of citizen attention offices in the courts or legal guidance services with agreements with Bar Associations and consumer prosecutors, in order to

facilitate access to justice for any citizen and bring justice closer to ordinary matters that affect a generality of people.

– Judicial offices must be designed with universal accessibility criteria, without physical, sensory or cognitive barriers, and judicial decisions must be dictated in a language that is easy and understandable for the defendant. Receiving a ruling in accordance with the cognitive needs of each person means guaranteeing their rights and making decisions as relevant to their lives as who will be their guardian, how they will exercise that guardianship, whether they can vote or not, etc., understandable.

Resources of the judiciary (human/financial/material).

The Administration of Justice is a competence transferred to some Autonomous Communities (Regional Governments). The resources of the courts are unequal in the Autonomous Communities territories and those other courts based in the State territory. Different computer software and applications do not allow interconnectivity in many cases. Spain devotes less than 1% of GDP to Justice. The ratio of judges per inhabitant is 11 judges/100,000 inhabitants, one of the lowest in Europe.

The contraction of economic activity resulting from the global epidemic will bring an avalanche of lawsuits that threatens to collapse the courts. No measures have been taken to increase the ratio of judges per inhabitant.

The Spanish justice system suffers from a lack of personal, material and structural resources necessary to provide an adequate, effective and efficient service. To give some data: according to the report of the CGPJ for 2018, the judicial staff is still deficient in at least 361 judicial units (95 magistrate and 266 judge positions). The European Commission, in the 2018 scoreboard and already in a 2016 report of the European Commission for the Efficiency of Justice (CEPEJ) in which it analysed the judicial systems of the different countries, highlighted that Spain has half the number of judges and prosecutors than the European average (21 judges and 11 prosecutors per 100,000 inhabitants) and, with respect to spending on justice, it is indicated that it is decreasing in Spain and is around €80 per person, between 0.3% and

0.4% of GDP. In 2010, this investment was close to €100 per person and fell to around €80 in 2016. Compared to other European countries, in Germany the expenditure stands at €150/person and in Luxembourg it reaches €200/person.

Improvements at the level of demarcation and judicial plant (such as the creation of more judges, new bodies such as district or municipal courts), at the organizational and work management level and of the means (such as review and redefinition of functions with reduction of administrative tasks for judges and workload, greater specialization, enforcement courts, etc.), at the technological level (such as substantial improvements in the communications system and its control by an independent CGPJ, digital file, interconnection between the computer systems of the different courts and administrations), at the procedural level (such as the simplification of some processes and reasonableness in the setting of appointments) or the promotion of alternative means such as mediation or arbitration.

Length of proceedings.

The excessive length of proceedings and pendency are due to the lack of judges.

During the months since March 14, 2020 when the state of alarm was declared in Spain, the Executive paralyzed Justice for three months. Furthermore, it has not taken any measures to increase the ratio of judges per inhabitant from 11/100,000 inhabitants to 20/100,000 inhabitants, which represents the European average.

The significant drop in the GDP of the Spanish State will mean an increase in the number of cases entering the Social Courts of more than 100%, of more than 150% in the Contentious-Administrative Courts and in the Commercial Courts of more than 200% in the year 2021-2022. It is necessary to guarantee an adequate functioning of the Commercial Courts, with the objective that many of the companies in insolvency proceedings do not disappear definitively, and thus, in the Council Recommendation of July 20, 2020, file:///C:/Users/73563302X/Downloads/Z00054-00061.pdf, it is expressly established in its point 28 the need to adopt measures to preserve the capacity of the judicial system to

efficiently deal with insolvency proceedings.

The process for preparing and enacting laws.

Throughout the month of December 2020 and January 2021, the Commissioner of Justice, Mr. Didier Reynders, has been expressly questioned in various meetings with the Spanish Ministers of Justice and Foreign Affairs, as well as by the spokesman for Justice of the European Commission, in which they have expressed the need to obtain prior favourable reports from the Venice Commission to carry out the reforms in process. https://www.abc.es/espana/abci-bruselas-advierte-politizacion-amenaza-cgpj-202012100215_noticia.html

The Platform, in view of this flagrant violation of Community law, presented a complaint to the Commission and the European Parliament.

La Plataforma acude a Europa

Another legislative reform that does not respect the procedures of transparency and hearing is the Draft Bill of the Organic Law of Organizational Efficiency Measures of the Public Service of Justice, with imminent approval by the Council of Ministers after having passed the public consultation process.

In the public consultation process, which has already been carried out, the draft or positive text was not published, but only a mere explanation of the objectives of the reform, and no public consultation with guarantees was carried out.

https://confilegal.com/wp-content/uploads/2020/11/Consulta-publica-APLO-Eficiencia-Organizativa-FORMATO.pdf

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

The seriousness of the health crisis resulting from the pandemic led the Spanish Government to issue Royal Decree 956/2020, of November 3, extending the state of alarm declared on

October 25, 2020 until May 9, 2021, thus limiting in an extraordinary and exceptional way the exercise of the fundamental rights of the Spanish people, as well as the parliamentary activity itself. In this sense, the accountability of the President of the Government is reduced to his appearance before the Parliamentary Chamber every two months.

In view of the concurrence of extraordinary circumstances in all the Member States of the European Union, the European Commission has recommended to the national governments not to carry out structural reforms during this period of time.

However, the Spanish Government, acting contrary to the recommendations of the European Commission, has initiated a series of structural legislative reforms of the Administration of Justice and the Judiciary during the state of alarm. This is a far-reaching reform, framed in the so-called “Agenda Justice 2030”, which is a real assault on the independence of the Judiciary and the separation of powers, under the excuse of modernizing Justice.

Regime for constitutional review of laws.

1. This review of laws is carried out by the Constitutional Court (TC).
2. The TC is composed of 12 members, 4 appointed at the proposal of the Congress by a 3/5 majority; 4 at the proposal of the Senate, with the same majority, two at the proposal of the Government, and two at the proposal of the CGPJ. (art. 159.1. C.E.). Recalling that all the members of the CGPJ are elected by the Parliament.

Thus, all the members of the TC are elected by the Legislative and Executive Power.

In practice, there is a concentration of powers in the political party that forms the Government.

3. The appointment of the magistrates and the President of the TC is not for life but temporary. The term of office of the magistrates of the TC is 9 years and that of the President of the TC is 3 years.
4. The temporary nature of the mandate, together with the totally discretionary appointment by the political groups, affect their impartiality in the exercise of their functions, since their

decisions will not be based exclusively on the legal criteria applicable to the case, but there is another series of interests, such as being re-elected again by the political parties to occupy another new high judicial or even political or governmental position.

5. At present, matters of great political importance are pending resolution by the TC. For example, an appeal of unconstitutionality has been filed against the Royal Decrees of State of Alarm and its extensions. Many of its members and President are running for other high positions.