

Dear Mr. Reynders

On behalf of the association “Plataforma Cívica por la Independencia Judicial” (PCIJ), I hereby request a personal interview with you in order to ask for an immediate intervention by the European Union authorities.

The General Council of the Judicial Power (CGPJ), the highest governing body of the Spanish judiciary, has been exercising its functions in an interim manner for more than two and a half years, having expired its mandate in December 2018. Such anomaly responds to the inability of the parliamentary groups to reach an agreement on the candidates who are to integrate it. In open contravention of the principles of the Council of Europe and the European Union, the members of the Council are appointed entirely by the Parliamentary Chambers, without allowing the Spanish judges to democratically elect even a minimum fraction of its members when, according to the aforementioned supranational criteria, they should choose at least half of the members.

The Kingdom of Spain and the Republic of Poland are the only two States in the Union where the composition of the Council of the Judiciary depends entirely on political power. Thus, the political parties, after secret negotiations known as “exchange of cards”, agree on the names of the future members even before they are submitted to parliamentary debate, which is reduced to a mere ritual task of submissive ratification of the compromises previously concocted by political cliques. This chronification of vices has led to the loss of confidence in the democratic functioning of the system, to the point of appearing as a mere “electoral farce”. Candidates are selected on the basis of their ideological affiliation and affinity to various interest groups, which favors the formation of an oligarchy of judges eager to get close to politics to promote their personal promotion (*cursus honorum*). These are the so-called “gowned politicians” who, despite the rejection they arouse among the vast majority of their colleagues, who are repulsed by the bargaining of positions, are the model for those who aspire to improve their professional situation. The great majority of the appointments are made by magistrates affiliated to some judicial association, regardless of the fact that almost half of the Spanish judiciary does not belong to any of them. In this way, the

associative fitting is often equivalent to an ideological label that guides political negotiators in the delicate assembly of the balances of power. The consequence is the contamination of the Spanish judicial architecture from the top, since the CGPJ is in charge of providing the highest judicial institutions of the country, such as the Supreme Court or the presidencies of the regional courts.

Given this background, it is not surprising that some judicial associations and political parties, together with other interest groups, are pushing for the CGPJ to be renewed as soon as possible; without, however, undertaking the prior legislative reform required by Europe. In other words, a reform that would re-establish a harmony of powers immune to both judicial corporatism and politicization, since the governing body of the Judiciary should then have an internal structure with the joint participation of the Legislative and Judicial Branches, not just one of them. This would ensure a “double legitimacy”, which does not exist now because of the current parliamentary monopoly. Monopoly that, as we have explained, does not even really fall on the legislative chambers, since these are controlled by the Government and the political establishment, holders of the real power as opposed to the official farce.

On the other hand, even if we look exclusively at the Spanish internal regulations, the renewal of the CGPJ in the terms in which it is proposed would be illegal, since the process has already expired. Let's remember that the proceedings started in 2018 so, due to the current paralysis, the legal deadlines that then began to run have already expired. Moreover, the promotions of new judges incorporated since then to the career are deprived of participating. The current regulations stipulate that each of the candidates must be endorsed before the parliamentary vote by a minimum of twenty-five of their peers, which correspond to an already outdated judicial demography.

The Spanish situation is no less serious than that of Poland, so that a possible European intervention generates great concern among certain interest groups. Some judicial associations have enjoyed for years a quota in the distribution of positions higher than that which would correspond to them according to their proportion of affiliates, so that the democratization of the system would reduce their institutional weight to that of their true

numerical representativeness. The same happens with some political parties that move skillfully between the interstices of the system to place their own candidates thanks to maneuvers that, in another scenario, with a transparent model, would be extremely difficult. A national government deprived of the ability to control the legislature by using practices that violate the separation of powers would face similar difficulties. The groups interested in politicization are working against the clock to secure a GGPJ that would shield their position at least for the next four years, the ordinary term of office of the Spanish Council.

The PCIJ, not being a judicial association but a cross-cutting citizens' organization that includes among its ranks not only judges but also lawyers, university professors, as well as other jurists and citizens in general from civil society, therefore has the advantage of being detached from corporate interests that lead others to hide significant data in the description of the problem. To this end, we have prepared a series of legal reports on the issues raised and which are listed at the end of the text.

For this reason, Commissioner, we ask you to receive us, so that we can inform you in greater detail at a meeting about the real state of affairs in Spain. In these crucial moments, the European authorities are the last guarantee for the preservation of a Rule of Law in danger due to a legal corruption that is entrenched in the hard core of our institutions. It is fair to say that not only judges and the rest of the Spanish people look to Europe with hope, but also many honest politicians trapped in a stagnant system that needs an external stimulus to regenerate itself. The situation must be tackled with haste, so we await your news.

Jesus Manuel Villegas Fernandez

Secretary General of the Civic Platform for Judicial Independence.

Documentary annex:

Page of the Civic Platform for Judicial Independence.

Plataforma Independencia Judicial

Report on the election of judicial members of the General Council of the Judiciary.

**INFORME SOBRE LA ELECCIÓN DE LOS VOCALES JUDICIALES DEL
CONSEJO GENERAL DEL PODER JUDICIAL**

Report on the expiration of the renewal process of the General Council of the Judiciary.

Comunicado sobre la nulidad de la renovación del Consejo General del Poder Judicial

Legal comparison between the situation of the Kingdom of Spain and the Republic of Poland.

TJUE Polonia y España (Comunicado)

White Paper on the politicization of the Spanish Judiciary.

<https://www.dykinson.com/libros/libro-blanco-para-la-despolitizacion-de-la-justicia-espanola/9788413241708/>