

Dear Mrs. Jourová, Vice-President of the European Commission,

We are writing to draw your attention to the recent [statement](#) released by the governing body of the Spanish Judiciary, known as the "Consejo General del Poder Judicial" (CGPJ). The statement, adopted by nine votes in favor, five against, and one abstention, raises concerns regarding several violations of basic standards of the rule of law.

Firstly, the CGPJ blatantly violated Article 395 of the Spanish Organic Law on the Judiciary, which prevents judges from publicly supporting or rejecting acts of political authorities, by issuing a political assessment regarding an Amnesty Law proposition that was not yet presented to the Spanish Parliament.

Additionally, a parliamentary group has presented a law proposal to the Spanish Parliament as the government is unable to present any legislative projects as per Article 21.5 of the Law on the government, prevents caretaker governments from doing so. This impedes the CGPJ from issuing a preliminary non-binding report on the legislative file, in accordance with Article 561.1.8 of the Spanish Organic Law on the Judiciary, which stipulates that CGPJ reports can only be issued when legislative files are initiated by the government. In this regard, the CGPJ states that "*it is absurd that we are requested to wait for something we would not be able to do because there has been a deliberate choice for a way that prevents us from doing so*". By saying this the CGPJ acknowledges that although it is not allowed to issue any preliminary report on law propositions initiated by the parliament, it may release a political statement anyway.

Secondly, in another blatant violation of its legal attributions, the CGPJ assesses the future law's compatibility with the Spanish Constitution, while such assessment is reserved to the Spanish Constitutional Court according to Article 161 of the Spanish Constitution. The CGPJ states that "*the adoption of an Amnesty Law, regardless of its objective and subjective aspects, conflicts with several constitutional principles*". It also affirms that "*the concession of an amnesty in our legal order is a serious violation of fundamental rights and the division of powers*", and that "*there is no Law of Amnesty in the Spanish legal order*", clearly omitting the fact that the 1977 Amnesty Law, is currently in force, and that Article 666 of the Spanish Criminal Procedural Code establishes amnesty as one of the causes for the extinction of criminal responsibility.

Thirdly, the statement directly questions the capacity of the Spanish parliament to enact laws when the CGPJ considers such laws to be in violation of the separation of powers. The CGPJ says that "*we cannot accept an initiative that so blatantly violates the fundamental rights of citizens and the powers that the Constitution reserves to the Judiciary*", which can be interpreted as justification for taking further steps beyond the rule of law. Furthermore, the statement exhibits an overt bias against the Catalans. The CGPJ not only disputes the existence of a political conflict in Catalonia, referring to it as the "*alleged Catalan Conflict*", but even refers to our party, Junts per Catalunya, as a party "*led by a fugitive*", which is clearly not a neutral way of referring to a political party.

Last but not least, the statement from the CGPJ contains a declaration that should be of great concern for any democrat. It openly says that the CGPJ had to “*raise its voice as democracy, fundamental rights and the rule of law are in danger*”. In a state structure where Spanish nationalism is so deeply rooted, this could be read as a call for some kind of action outside the usual limits of democracy. In addition, Jueces para la Democracia, the professional association of progressive judges, issued [a statement](#) on the CGPJ meeting sharing many of the criticisms hereby expressed, particularly regarding the lack of legality of the declaration and the lack of rights of the CGPJ to judge the constitutionality of any legislative proposal.

The events that have taken place in Catalonia since 2012 are political in nature, and the use of the Penal Code to resolve a political conflict was an unwise decision. As the Commission can see, the ideological bias of the Spanish judiciary and its hierarchy, instead of complying with a democratic reading of the rule of law, have throughout these years adopted a view that subordinates the respect for fundamental rights to their Spanish nationalist ideology. This statement proves that an amnesty is in fact in the general interest, in order to overcome the current situation and return a political issue to politics.

We therefore believe that you should carefully consider this statement for inclusion in the forthcoming Annual Report on the Rule of Law. In addition, events such as these highlight the need to improve the methodology of this report and to consider the impartiality of the judiciary and its structural ideological bias, as this is the issue that has led to the publication of this statement.

It is important to note that in Spain, approximately 85% of the judges belong to conservative judicial associations, while only 15% belong to progressive associations.¹ Since this political bias has severe consequences, we believe that such a fact should be investigated in the next annual report on the rule of law and that the methodology should be updated in this regard. It is also worth noting that the renewal of the hierarchy of the Spanish judiciary has been blocked for more than five years, despite the recommendations of the Council of Europe.

Best regards,

Carles Puigdemont

Toni Comín

¹ <https://www.poderjudicial.es/cgpj/es/Temas/Estadistica-Judicial/Estadistica-por-temas/Estructura-judicial-y-recursos-humanos--en-la-administracion-de-justicia/Asociaciones-Profesionales-Judiciales/>