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Honourable Commissioner, dear Ms Jourová,

On 30 September, the European Commission's report on the rule of law in Spain highlighted the need to renew the General Council of the Judiciary (*Consejo General del Poder Judicial*, CGPJ), which has been in office since 2018. In the same report, the Commission recalls the numerous recommendations and warnings made to our country by the Council of Europe's Group of States against Corruption (GRECO), also pointing out the importance of ensuring that the CGPJ is not perceived "as an institution exposed to political influence".

Precisely, the main causes of the blockage of the CGPJ have always been political, never legal, and have their origin in an already highly politicised election system that is considerably contrary to the constitutional spirit. As you know, Constitution of Spain limits the number of CGPJ members elected by the *Cortes Generales* to eight, whereas the current model makes all appointments (20) dependent on political majorities. Furthermore, the parties have always attempted to ensure that there is an unacceptable ideological link between the members of this judicial body and their political acronym.

This has led to a system of political pie-allocation with which the parties have lived very comfortably without thinking of judicial independence, nor of reforming the system of election of the CGPJ, despite the numerous warnings of international institutions and the growth of populist formations. In Spain, the only party that demands the professionalism, independence and depoliticisation of the judiciary, and which does not enter into this political market, is the reformist centre, represented by Ciudadanos. In in this same legislature, Ciudadanos has brought to Parliament a real reform to guarantee that it is the judges, and not the politicians, who elect the judges who must then judge the politicians.

The fact that the election of members of the CGPJ depends on a political majority of three fifths already entails problems, such as the aforementioned blockade, or - more importantly - political interference. But the judicial counter-reform announced by the parliamentary groups that support the government so that a simple majority is sufficient to appoint all CGPJ judges is a step in a very dangerous direction that constitutes a frontal attack on the separation of powers. Probably an irreparable one.

In April, the Spanish government wrote guidelines for the report on the rule of law recently presented by the European Commission, stressing that: "This requirement for a qualified majority of three-fifths guarantees the convergence of different political forces and prevents the establishment of a CGPJ that responds to a concrete and circumstantial parliamentary majority, reinforcing its independence from political power".

As I have pointed out, the system has deteriorated over time. Although judges perform their daily work independently in Spain despite the interference -as evidenced by numerous

judgments not always favourable to the political interests at play-, the growing politicisation is becoming a temptation to aspire to total control of the highest judicial body.

The proposal registered by the parties that support the Spanish Executive, PSOE and Unidas Podemos, foresees that, if a three-fifths majority is not reached, the 12 members of the judicial career can only be elected by an absolute majority -six in Parliament and six in the Senate-. This intensifies the problem until it becomes a risk for the rule of law in Spain.

I would like to point out that in 2018 Article 326 of the Organic Law of the Judiciary was amended to give greater weight to the rules of merit and capacity. The reform would also render this principle of common sense obsolete.

Dear Commissioner, the basic principle of the separation of powers, which underpins the entire democratic architecture, is at stake, and I urge you to take on board how highly worrying this decision by the Spanish government is.

Such a populist drift is part of the destabilising plan revealed on many occasions by the second vice-president of the government, whose political party, Unidas Podemos, is accused of very serious crimes, and Pablo Iglesias himself faces a difficult judicial future with criminal accusations on which the Supreme Court will have to rule. The urgency of appointing those who, in the future, may be able to judge the vice-president could have very serious consequences for the democratic quality of Spain. For this reason, I humbly ask you to take action on this matter, and even to take the case to all possible bodies for the assessment of draft laws, as is the case with the Venice Commission.

Yours sincerely,

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a long horizontal stroke that tapers to the right.

Maite Pagazaurtundúa

Vice Chair of the Committee on Civil Liberties, Justice and Home Affairs in the European Parliament