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*Brussels,
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Dear Honourable Member,

Thank you for your letter of 16 October 2020, in which you draw my attention to a draft law tabled in the Spanish Parliament that aims to amend the election system of the judges-members of the Spanish General Council for the Judiciary ('the Spanish Council'). In your letter, you express concerns that the draft law could be detrimental to the rule of law, by contributing to the politicisation of the Spanish Council.

Allow me to start by emphasising my commitment to upholding the rule of law as one of the EU's common values under Article 2 of the Treaty on European Union.

Regarding the draft law you refer to, the Commission has expressed its position, calling on the Spanish authorities to ensure that the Spanish Council is not perceived as being vulnerable to politicisation. The Commission has recalled that Member States should take into account European standards to ensure that judicial independence is not compromised. The Commission has also recalled that when Member States reform their judiciary, this should be done in consultation with all relevant stakeholders, including the Venice Commission.

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In its 2020 Rule of law report, the Commission underlined the importance of reducing the influence of the legislative and executive branches over the judiciary in order to strengthen judicial independence. The report includes a country chapter for Spain which examines a number of challenges facing the Spanish Council, including the fact that the new members of the Spanish Council have still not been appointed¹. The report also refers to the importance of ensuring that the Spanish Council is not perceived as being vulnerable to politicisation, as also noted by the Council of Europe.

The Commission is aware that, on 22 October 2020 the Spanish government announced its intention of suspending the proposal, and that on 2 December 2020 a new draft law to amend the powers of the Council while it remains in functions ad interim was tabled in Parliament. The Commission considers that it is important to ensure that any future reforms of the Council for the Judiciary take due account of relevant European standards. In particular, the 2010 Council of Europe Recommendation provides that not less than half of the members of such councils should be judges chosen by their peers². The Commission is following the developments as regards this draft law and more generally will engage with the Spanish authorities as a follow-up to the findings of the Rule of Law Report country chapter for Spain.

Rest assured that the Commission remains committed to upholding the rule of law and judicial independence in all Member States, and will continue to monitor the situation closely. Thank you for your cooperation and I remain available to exchange views on such important matters.

Yours faithfully,

Věra Jourová

¹ 2020 Rule of Law Report – chapter on Spain:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1602579986149&uri=CELEX%3A52020SC0308>

² Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 27.