

In view of the document signed by PSOE and Junts to facilitate the investiture, the undersigned judicial associations reject the references to "lawfare or judicialisation of politics" and its consequences. The text of the agreement reached contains explicit references to the possibility of developing commissions of enquiry in parliament in order to determine the presence of situations of judicialisation of politics, with the consequences that, where appropriate, could lead to actions of responsibility or legislative amendments.

This could, in practice, mean subjecting judicial proceedings and decisions to parliamentary review, with clear encroachment on judicial independence and a breakdown in the separation of powers.

Judges must be subject only to the rule of law, as this is expressly established in Article 117.1 of the Constitution.

These expressions, insofar as they imply a lack of confidence in the functioning of the judiciary, are not acceptable. The judiciary in Spain is independent, does not act under political pressure and has a system of jurisdictional guarantees that averts the risk mentioned.

Madrid, 9 November 2023

ASOCIACIÓN PROFESIONAL DE LA MAGISTRATURA (APM)  
ASOCIACIÓN DE JUECES FRANCISCO DE VITORIA  
ASOCIACIÓN JUECES Y JUEZAS POR LA DEMOCRACIA.  
ASSOCIATION OF JUDGES "FORO JUDICIAL  
INDEPENDIENTE" (INDEPENDENT JUDICIAL FORUM)

# Asociación defiscales

## Statement by the Association of Prosecutors in relation to the PSOE-JUNTS Agreement

Com  
m  
u  
n  
i  
q  
u  
é

Having learned today of the investiture agreement reached between PSOE and JUNTS, which includes the approval of an amnesty law that contemplates the possibility of establishing commissions of enquiry into judicial actions that may lead to actions of responsibility, the Association of Prosecutors wishes to express its firm opposition to this measure, an unprecedented attack on judicial independence that translates into absolute contempt for our rule of law.

The use of the term "lawfare" in the agreement is inadmissible, as it is a concept that has no place in our current constitutional order.

EXECUTIVE COMMITTEE ASSOCIATION OF PROSECUTORS

Jerez de la Frontera, 9th November 2023



The UPF wishes to make clear to the public its absolute confidence in our judiciary, which is neutral, independent and, moreover, the guarantor of Spanish democracy.

For this reason we express our absolute rejection of the references to *lawfare* or judicialisation of politics contained in the document signed between PSOE and Junts for the purpose of the investiture. We consider inadmissible the possible creation of parliamentary committees of enquiry into judicial proceedings, as it would completely pervert the constitutional system of separation of powers.

Judges and courts are subject only to the rule of law and their decisions can only be reviewed by means of the legal remedies provided by law, without any supervision by any other branch of government.

9 November 2023

PROGRESSIVE UNION OF PROSECUTORS



Ilustre Colegio Nacional  
de Letrados  
de la Administración de Justicia

## THE RULE OF LAW IN SPAIN IS IN SERIOUS DANGER

Judicial Counsellors (Letrados de la Administración de Justicia) are guarantors of compliance with essential principles of the judicial processes for which we are responsible. Among them, those recognised in Article 9 of the Spanish Constitution stand out: legality, legal certainty and equality.

Until the document containing the agreement between the political forces that intend to govern Spain in the upcoming years has been published today, we have respectfully remained silent. However, today it was made clear that the fundamental principle of legality, along with the rule of law already recognized in Article 1 of the Spanish Constitution, legal security and equality of Spanish citizens, are in serious danger.

This is framed in a historical moment of continued deterioration of trust in the Constitutional Court, the Judicial Council of Judiciary (CGPJ) and the Courts of Justice. This fact compromises those who exercise the Third Power of the State, whose precise responsibility is safeguarding the principles now limited. Once again, their independence is questioned with veiled threats. Spain is not and cannot become a regime in which the executive and judicial powers are overcome by the legislative one. Spain is and must remain a western parliamentary democracy where division of powers is guaranteed.

Against these principles and the unbreakable unity of the Spanish Nation as per Article 2, progressing towards a different organisation of the State, constitutes an undercover constitutional reform. This is being done without employing the established procedures in Articles 166 et seq. of the Spanish Constitution.

For this reason, we understand that we must publicly express the same concern and support for the statement published today by all judicial associations, while demanding respect for the Judiciary and the Administration of Justice.

In Madrid on November 9, 2023

Ilustre Colegio Nacional de Letrados de la Administración de Justicia (National College of Lawyers of the Administration of Justice)

## **STATE TAX INSPECTORS IN VIEW OF THE INVESTITURE AGREEMENTS OF THE CANDIDATE TO THE PRESIDENCY OF THE GOVERNMENT OF SPAIN**

**Madrid, 9 November 2023**

The Professional Association of the Senior Corps of State Tax Inspectors (IHE), as representative of a senior group of civil servants of the General State Administration (AGE), in its obligation to defend the general interest protected in Article 103 of the Constitution, and in defence of the Rule of Law, to which all citizens are subject,

### **MANIFESTS:**

Its frontal and absolute REJECTION to the agreements that derive from the negotiation for a future investiture of the current President of the Spanish Government.

Among these agreements, there is a clear and evident break with the current constitutional regime in a number of areas, including financial matters.

Under the recognition of a historical singularity, which is not covered by our Fundamental Rule, the PSOE demands the transfer of 100% of the taxes paid in Catalonia, demanding that the PSOE adopt measures that allow financial autonomy and the revision of the current financing model of this autonomous community, which is currently included in the Organic Law on Financing of the Autonomous Communities (LOFCA).

The demand for the transfer of performance could imply the transfer of all competences, including those currently exercised by the AEAT in Catalonia, so our collective would be seriously and directly affected, as would other collectives belonging to other bodies of the AGE.

This situation undoubtedly implies a breach of the principle of equality between all Spaniards enshrined in Article 14 of the Constitution, allowing the de facto existence of first and second-class Autonomous Communities, as well as the violation of the prohibition of arbitrariness of the public authorities, enshrined in Article 9 of the Magna Carta.

The above takes place within the framework of agreements that serve as a counterpart to the votes that certain political formations would give to the candidate with the aim of being invested as President of the Government, which implicitly entails the abuse of power and of the institutions of the State whose sole purpose is to serve the general interests of ALL Spaniards, and results in favourable treatment, without any legal protection, towards a part of the Spaniards residing in a territory of the Nation.

Consequently, IHE makes an URGENT call for the recovery of rationality, of common sense, of the principles that inspire our constitutional regime and of the search for stable political consensus that achieves unity, moves away from confrontation and ultimately represents the great majority of the Spanish Nation.

**Association of State Tax Inspectors (IHE)**





Madrid, 6th November 2023,

**The Plenary of the General Council of the Judiciary, meeting today in extraordinary session, has approved the following institutional declaration:**

"/

The General Council of the Judiciary has been observing with growing concern the statements made by members of some minority political parties, some of them with government responsibilities, regarding the possible amnesty for crimes committed on the occasion of the episodes that occurred on October 1, 2017, as well as those also committed prior to their preparation, including corruption crimes, and those also committed subsequently to oppose the legitimate action of the State to bring their perpetrators to justice and restore the altered public and constitutional order.

Whenever these declarations were not backed up by a statement from the acting President of the Government, this Council has preferred to remain in an attitude of prudent expectation. **The silence of the acting President of the Government**, however, was broken last Saturday, October 28, and in a **personal statement** of wide public diffusion he has affirmed two things: the first, that he has indeed agreed an amnesty law with political parties which includes, among others, the one led by **a fugitive from justice who will personally benefit from the measure**; the second, that the measure will be adopted in the **"interest of Spain"** to prevent an eventual government of right-wing parties in the event of a repetition of the elections.

//

In view of the comments made in the last few hours regarding the untimeliness of this statement under the argument that this Council should have waited to know the text of the bill before issuing its opinion, we affirm both our legitimacy and the opportunity to do so now.

The legitimacy to pronounce in relation to legislative initiatives such as those related to an amnesty law not only results from art. 561.1.8<sup>a</sup> LOPJ, but is also part of the European standards on judicial independence. As the Consultative Council of European Judges, an advisory body to the Council of Europe, an international organisation of which Spain is a member, points out, " 40. Members of parliament and members of the executive must of course respect the law in their dealings with the Council for the Judiciary and not infringe its role and functioning by breaking or circumventing legal rules. Moreover, relations with the Council must be based on a culture of respect for the rule of law and the role of the Council for the Judiciary in their respective member state. 41. Councils for the Judiciary should engage actively in dialogue with other powers of state, especially when they give input about legislative projects. Such dialogue must be conducted in an atmosphere of mutual respect". (Opinion of the Consultative Council of European Judges of the Council of Europe No. 24-2021). It cannot be considered in any case alien to the functions of the Councils of Justice, and certainly not of this General Council of the Judiciary, to raise its voice when democracy, fundamental freedoms and the rule of law may be at risk.

In view of such a transcendental initiative, reasons of prudence and institutional loyalty justified its processing as a bill and not as a proposal in order to give the State's advisory bodies the opportunity to issue their technical opinion. This will not be the case. The parties



Consejo General  
del Poder Judicial  
that promote





the legislative initiative, the same parties that support the action of the acting Government, announce that they have opted for the parliamentary procedure that allows to dispense with such reports. **It is therefore absurd that we are asked to wait to do something that could not be done because they have deliberately chosen the path that prevents it.**

This statement is not intended to replace the report that is avoided by the procedure chosen for the legislative initiative, but it is issued in view of the impossibility of formulating it. And in order to do so, it is not necessary to know the objective and subjective aspects that will delimit the contours of the law that is announced. It is not necessary because the substance has already been announced by the different political leaders who are negotiating the future law, among them some with responsibilities pending to be elucidated before the courts and who are negotiating and determining their own exemption from responsibility. And to this must be added that, in any case, the approval of an amnesty law, whatever its basis, and whatever its objective and subjective aspects, conflicts with various constitutional principles, as will be made clear below, including the principle of exclusive jurisdiction, which justifies this Council, as a constitutional body whose essential mission is to safeguard judicial independence, to express its concern at the imminent passage of such a law.

///

The present institutional declaration is based on a series of considerations that constitute its foundation: on the one hand, that fundamental rights bind all powers (article 53 of the Constitution); on the other hand, that the granting of an amnesty in our current constitutional system constitutes a serious violation of fundamental rights and of the very system of division of powers on which our Constitution is inspired and on which the rule of law is based. This constitutional body cannot remain silent in the face of an initiative such as the one referred to, due to the serious consequences it has on the very configuration of the Judicial Power as set forth in the Constitution, the source of legitimacy of all the powers of the State, which conditions the exercise of its powers.

This Council does not dispute the powers of the parliamentary groups represented in the Cortes to make as many proposals for laws as they deem appropriate; **but neither can it accept that an initiative be undertaken that so ostentatiously curtails the fundamental rights of citizens and the powers reserved by the Constitution to the Judiciary.** And this is affirmed without prejudice to the specific content of the aforementioned proposal, because such clear constitutional breaches are produced by the mere fact of undertaking a law -which must be of an organic nature- granting an amnesty.

Without prejudice to the debate as to whether the institution of amnesty can be constitutionally admissible -in the more than forty years that the Constitution has been in force, the most established parties have been arguing that it is not admissible, as has the most authoritative constitutionalist doctrine- it is certain that there is no Amnesty Law in our legal system, which will force the projected amnesty which is intended to be submitted to the Cortes to be a singular law which, always according to the words of the President of the Government in office, would have as its purpose to solve the conflict between Catalonia and Spain and to de-judicialize the referred "political conflict in Catalonia".

**The linking of the aforementioned conflict with the projected amnesty makes the Courts responsible, if not for the genesis of the conflict, at least for having sustained it.** With this idea, which inspires the promise of initiative, it is forgotten that the intervention of the Courts in the events occurred in Catalonia since 2013, or even since 2006, have been,



Consejo General  
del Poder Judicial  
as far



Consejo General  
del Poder Judicial

as the Constitutional Court is concerned, to the defence of the Constitution that is entrusted to it by constitutional mandate. As regards the Courts of Justice (Supreme Court, National High Court, High Court of Justice of Catalonia, Provincial Courts and Courts of that Community), especially, but not only, those of the criminal order, have been limited to the prosecution and punishment of the crimes committed in connection with the aforementioned events, as, moreover, was their constitutionally mandated task. These actions have been carried out with a procedural neatness that has led to the confirmation of all its decisions in the appropriate procedural channels.

An amnesty law such as the one announced by the President of the Government in office can only have the purpose of rendering null and void the decisions -generally in sentences- adopted by the Courts in relation to the aforementioned facts of the alleged Catalan conflict. That is to say, purely and simply, a law of these characteristics can only entail declaring the nullity of these decisions. In other words, the Courts would come to affect the Judiciary by declaring the nullity of the sentences issued by the courts that are part of it.

The fact that in our Law there is no Amnesty Law, as has already been said, means that an amnesty such as the one announced can only be granted through the enactment of a singular law in which such a declaration is made. In other words, by means of this (singular) law, the sentences passed by the different Courts would be declared null and void, and this (singular) law would invade the exclusive competences (Article 117-3 of the Constitution) entrusted to the Courts.

It is true that amnesty, by its very nature, entails rendering jurisdictional decisions null and void, but in the case of the proposed law it is not a law of that nature, but rather, in the absence of prior recognition of the institution, it directly grants amnesty to specific and determined persons (all those who took part in the "conflict") for specific and determined acts (all those executed in that "conflict" which constituted a crime in accordance with the law), it directly grants amnesty to specific and determined persons (all those who took part in the "conflict") for specific and determined acts (all those executed in that "conflict" which constituted a crime in accordance with the law) and for a specific period of time (the period in which the conflict was generated and developed), so that it is a decision of the Courts which invades very specific competences of the Courts, the annulment of sentences, by means of an ad hoc law.

Although the jurisprudence of the Constitutional Court does not declare singular laws to be contrary to the Constitution, it does consider them to be an institution of very restrictive and exceptional use, because they distort the characteristics of the law, which is governed, among other characteristics, by the generality of its effects and, in addition, limit the fundamental rights of judicial protection and the various fundamental rights affected by such laws; hence the need for this exceptionality to require a special and specific motivation that justifies its necessity and reasonableness. This is one of the cases in which the legislative power requires a specific statement of reasons, which is not generally required for the laws passed by the Cortes, which are limited by the requirements imposed by the Constitution, the only rule that binds the Legislative Power.

In the case of the announced bill, insofar as it comes to affect -declaring its radical nullity or nullity by operation of law- in firm sentences dictated by the Courts, it entails an inadmissible invasion of our Constitution, specifically, of the powers that, in a regime of exclusivity, the Supreme Law entrusts to the Courts. And this invasion by a law of these characteristics cannot be legitimized, not even by a reasoning that could be considered reasonable,



Consejo General  
del Poder Judicial

because there is no admissible reason for Parliament to arrogate to itself powers that the Constitution



entrusts to the Courts by means of this type of law. The Parliament could, if our Constitution really legitimizes it to do so, pass an amnesty law with the characteristics proper to any law, which is its imperativeness, generality and abstraction; and, in application of that specific regulation, adopt the decision to apply the amnesty to specific and determined cases and with the effects already contemplated in the general law which, on the other hand, must be applied by the Courts themselves. What is not admissible is that an ad hoc law recognizes the institution for its application to a specific and determined case.

A law of these characteristics can have no basis or reason whatsoever, and the arguments for its motivation will be futile. The Constitution not only configures the Rule of Law that inspires it under the principle of the separation of powers, but also, in a concrete manner, tries to preserve that none of the powers invades the competences constitutionally assigned to another. In particular - as is the case with the very denomination of the Judiciary as the exclusive Power of the Judiciary - the constituent had a special concern to guarantee, in favour of the citizens, the competences of the Courts and the Judiciary, the competences of the Courts and Tribunals and took to article 117-3º the axiom ["il n'y a point encore de liberté si la puissance de juger n'est pas séparée de la puissance législative et de l'exécutive" ("there is no liberty if the power to judge is not separated from the legislative and executive power")] that it corresponds "exclusively" to the Courts "the exercise of the jurisdictional power"; that is, to judge and execute what has been judged. If it is authorised that by means of singular laws a no lesser facet of that power can be altered, such as that of executing what has been judged, by means of a particular declaration that would leave without effect what has been declared in a final judgment, such as an ad hoc amnesty, a very dangerous interference of the Legislative Power in the Judicial Power would take place, altering the requirement of the separation of powers and, with it, the essential principle of the Rule of Law guaranteed by our Constitution. The Parliament cannot, by a minimum constitutional logic, arrogate to itself, under the protection of temporary majorities -which are depositaries, but not holders of national sovereignty-, to influence specific sentences of the Courts declaring their nullity, whatever the motivation for such declaration may be.

#### IV

In view of the foregoing considerations, the General Council of the Judiciary expresses with this statement its **intense concern and desolation** for the degradation, if not abolition, of the rule of law in Spain, which, from the moment it is adopted, will become a mere formal proclamation that will inevitably have to produce consequences to the detriment of the real interest of Spain.

Whatever the formal or apparent justification given in the preamble of the future law, **its real motivation has already been expressed**, and beyond the discussion on whether singular amnesty laws are really constitutionally acceptable to circumvent the constitutional prohibition of general pardons, what in no case can be accepted is an amnesty, and not even a particular pardon of those generically admitted by the Constitution, with the real basis expressed by the President of the Government in office.

**To confuse the "interest of Spain" with the interest of the President of the Government in office to avoid the hypothetical formation of governments of parties of a different ideology** from his own is something manifestly incompatible with the political alternation, embedded in the basic principle of political pluralism which, according to article 1 of our Constitution, is a superior value of our legal system. But to do so by exempting the application of the law to prevent the ongoing action of the courts or to render ineffective that



Consejo General  
del Poder Judicial  
which has



Consejo General  
del Poder Judicial

already taken place by means of firm sentences, turning those sentences into a dead letter, is something **categorically incompatible with the principle of the rule of law** in which, again according to article 1 of our Constitution, Spain was intended to be constituted and indeed was constituted... at least until now. **Using the enactment of a singular law to invade the competences of the Judiciary as a means of political negotiation constitutes a perversion of the constitutional regime**, because nothing would prevent temporary majorities in the composition of the Courts from imposing their criteria over and above constitutional requirements, under the protection of the fact that a rule of this rank cannot be questioned by the citizens.

This is so, firstly, because **it is not compatible with the principle of the rule of law** proclaimed by article 1 of our Constitution, and not even with the principle of responsibility of the public authorities referred to in article 9.3, **that political leaders are exempt from answering for their crimes before the courts**, whatever the nature of their crimes, so that an aspiring President of the Government can obtain the personal and political benefit of preventing the government of other political forces or, expressed in reverse, to be able to remain in government. **This means degrading and converting our rule of law into an object of marketing at the service of personal interest** that pretends to present itself, from the rejection of political pluralism, as the "interest of Spain".

Second, because it means **creating a political class that is legally irresponsible and unpunished for its crimes**, which, without being justified by any constitutionally legitimate purpose, means contravening not only the principle of accountability of public authorities, but even the most elementary principle of equality of citizens before the law proclaimed in Article 14 of the Constitution.

Third, **because the independence of the courts is violated in its most basic aspect**: if independence is the necessary instrument for the courts to be able to act neutrally and guarantee, through the effectiveness of their decisions, the principle of legal certainty, there can be no question of independence or legal certainty when political forces use the laws to their advantage to prevent the action of the courts. The enormity of the consequences of what has been announced by the acting President of the Government is that it turns the independence of the courts and legal certainty, justice in short, into a chimera.

And, finally, this General Council of the Judiciary cannot fail to point out that what is being violated with the measure announced by the President of the Government is not only the Constitution with which we Spaniards have provided ourselves as a framework of coexistence, but also **the commitments assumed by Spain in articles 2 and 19 of the Treaty of the European Union** so that at all times the principles of the rule of law and judicial independence prevail. The risk that the time will come when the European Union will decide not to be the alibi of a State that does not comply with its principles should be very present, at this critical moment, in the foresight of those who really intend to act in the "interest of Spain".



MANUEL LUNA CARBONELL, Secretary General of the General Council of the Judiciary, I CERTIFY:

That the Permanent Commission of the General Council of the Judiciary, meeting in an extraordinary and urgent session on November 9, 2023, has adopted the Agreement transcribed below, with only one vote against.

*"In view of the inadmissible references, which are both semantic and substantive, to lawfare and judicialization of politics contained in the Agreement signed between the PSOE and Junts with the aim of facilitating the investiture and, especially, in view of the announcement of the possible constitution of parliamentary commissions of inquiry that could determine what is ambiguously called "responsibilities" derived precisely from situations of "lawfare", in the face of the announcement of the eventual constitution of parliamentary commissions of inquiry that may determine what are ambiguously called "responsibilities" derived, precisely, from situations of "lawfare", we echo and share the total rejection of such initiatives, in line with what has already been expressed by all the judicial Associations.*

*Such repudiation is based, quite justifiably, on the evidence that this potentially implies submitting to parliamentary review decisions framed within the exclusive competence of our Courts, which, on the other hand, we understand were produced in full compliance with the law then being judged. Therefore, the aforementioned initiative would imply an inadmissible interference in judicial independence and a flagrant attack on the separation of powers. The continuity of such a parliamentary initiative, if it were to materialize, would determine our most frontal opposition through the legally established channels.*

*At the same time we must express our real and not merely nominal support to all the organs of the judiciary on the occasion of future actions that may be carried out within the framework of the law at all times in force, the ultimate guarantee of the rights and freedoms of all our citizens".*

I also certify that the following members not belonging to the Permanent Commission have expressly adhered to this Agreement up to now: Wenceslao Olea Godoy, Enrique Lucas Murillo de la Cueva, Juan Manuel Fernández Martínez, Juan Martínez Moya, José María Macías Castaño and Nuria Diaz Abad, without prejudice to subsequent accessions that may occur.



## **IN DEFENCE OF THE RULE OF LAW**

Madrid, 9 November 2023

From the Union of Labour and Social Security Inspectors, we express our frontal and absolute rejection to the agreements for a future investiture of the current President of the Spanish Government.

The Public Administration, in accordance with article 103 of the Spanish Constitution, objectively serves the general interest, acting in full compliance with the Law and the Law, hence our rejection of an investiture pact that violates the principle of equality of article 14 of the Spanish Constitution, a pact that seeks to eliminate the obligation entrusted to the public authorities by article 9.2 of the Spanish Constitution, to promote the real and effective freedom and equality of the individual and, in short, a pact that violates the current legality and implies the rupture of the current constitutional regime.

The Constitution guarantees the principle of legality, the hierarchy of norms, the publicity of norms, the non-retroactivity of punitive provisions that are not favourable or restrictive of individual rights, legal certainty, responsibility and the prohibition of arbitrariness of the public authorities, all principles that are violated by the current agreements presented.

The history of Spanish career civil servants is also the history of our Administration. The irremovability and independence of the staff in the service of the Administration by those who passed a rigorous selective process in the access to their post in full equality and safe from political servility, is the greatest democratic guarantee of the general and particular interests of all citizens against the interference of political or partisan interests. However, we have been warning for some time about the serious deterioration of the civil service and, therefore, of the staff in its service.

In the coming days, a legislative initiative will be presented with the aim of granting amnesty to those who participated in the events that have taken place in Catalonia since 1 October 2017, events that constitute serious crimes according to the pronouncements of the Courts.

The Amnesty Law thus calls into question the work of Spanish judges who applied ordinary laws democratically drawn up by the legislature.

From the Union of Labour and Social Security Inspectors, we express our rejection of a future amnesty law insofar as it annuls the decisions issued by the judiciary within its autonomy and independence, breaking an essential principle in democracy, such as the separation of powers.

We civil servants continue and will continue to serve society by ensuring compliance with regulations, guaranteeing impartiality in the exercise of our functions, without any political interference whatsoever, acting, as indicated in the aforementioned article 103 of the Constitution, with full submission to the Law and to the Law.

Trade Union of Labour and Social Security Inspectors



ILUSTRE COLEGIO  
DE LA ABOGACÍA  
DE MADRID

The Governing Board of the ILLUSTRE COLEGIO DE LA ABOGACÍA DE MADRID, in extraordinary session of 9 November 2023, has unanimously approved the following institutional declaration:

In relation to the document signed by the PSOE and JUNTS made public today, this Governing Board, in accordance with Article 3.1 of its Statutes and Article 1.5 of the General Statute of the Spanish Bar, which confers on it the defence of the social and democratic Rule of Law proclaimed in the Constitution, from absolute institutional neutrality and full respect for political plurality, shows its great concern for its content. And, to this effect, STATES:

The formation of parliamentary majorities must always be subject to the principle of constitutional legality.

The separation of powers, the foundation of the democratic state, and its mechanisms of control and counterweights, impose full respect for and compliance with the courts of justice and their jurisdictional function.

The use of the term *lawfare* (instrumentalisation of justice for political ends) in reference to the Courts and Tribunals has no place in a democratic state. Consequently, it is unacceptable to create parliamentary commissions of enquiry to oversee the actions of the courts and tribunals.

The submission of judges to the law and judicial independence constitute a presupposition of the rule of law, which must be respected and complied with by all public and private actors, which requires a call for responsibility.

The Spanish Constitution and the Treaty on European Union govern all actions, including those of political parties, and must not only be assumed and applied, but also defended by all the powers of the State and civil society.

For the above reasons, the ICAM, in fulfilment of its aims, will take whatever action is appropriate in defence of the rule of law and the separation of powers.

ILLUSTRIOUS BAR ASSOCIATION OF MADRID  
C/ Serrano, 9 - Madrid 28001  
[www.icam.es](http://www.icam.es) [www.icam.es](http://www.icam.es)

In view of the pact made public today by the political parties PSOE and JUNTS, UPSJ expresses its concern about the provision in this agreement of parliamentary commissions that will review the actions of judges and courts and the delegitimation of these by attributing political will and lawfare in their actions.

The rule of law is based on the division of powers and institutional respect between them. Judges and magistrates are independent and subject to the law. Their decisions are subject to the legally envisaged appeals. Their public singling out does not fit in with the coexistence between citizens, which we do believe is necessary.

The Lawyers of the Administration of Justice, as an integral part of the courts and guarantors of the principles on which the judicial process is based, reject any attempt to cast doubt on the cleanliness of the judicial process.

Madrid, 9 November 2023.

PROGRESSIVE UNION OF LEGAL ASSISTANTS IN THE ADMINISTRATION OF JUSTICE



Declaration signed on Thursday 9 November 2023

## **THE DETERIORATION OF THE RULE OF LAW IN SPAIN**

Those of us who sign this document wish to express our concern at the deterioration of the rule of law in Spain; a deterioration that has been taking place for years, but which threatens to worsen in the coming months. We believe that it is the responsibility of all of us, and also of the EU institutions, to adopt the necessary measures to reverse a situation that is **incompatible with the essential principles and values set out in Article 2 of the Treaty on European Union, given the danger it poses, not only for Spain but also for the very stability and permanence of the European Union.**

This deterioration has a number of concrete consequences, which are described below.

The first, and of paramount importance, is the **continuous attack on judicial independence and the image of the judiciary** that stems from certain actions of political parties, of the different executive powers (central and regional) and which can also extend to the legislative branch.

The first manifestation of the deterioration of the image of the Judiciary is the failure both to renew its governing body (the General Council of the Judiciary) and to amend the regulations governing it in order to adapt it to the requirements of the Council of Europe and the European Union. At present, all the members of this body are appointed by the political parties, with merely formal intervention by the legislative chambers. This appointment system is not in line with the standards of the Council of Europe and the EU, which would require that at least half of the members of the CGPJ be appointed by the judges. And the lack of agreement **has led to the blocking of appointments to various judicial posts, with the resulting damage to the functioning of the judiciary.**

Similarly, the dependence of the Public Prosecutor's Office on the government remains unresolved, again ignoring the recommendations of the European Commission.

This deterioration in the image of the judiciary is aggravated by the continuous and serious criticism of judges by both the Spanish government and the regional government of Catalonia. **For ministers of the Spanish government or members of the Catalan government to describe certain judicial decisions as an aberration, to claim that they attack democracy or that they are illegitimate interference in the functioning of the institutions is completely unacceptable.**

**This attack on the judiciary is not, we are sorry to say, circumstantial; rather, given its extent and implications, it can only be considered systematic.** The reason for this is that the judiciary has become an obstacle to the materialisation of agreements of dubious constitutionality between the parties in power and the parties in power, and that it has become an obstacle to the materialisation of agreements of dubious constitutionality between the parties in power.

government in Spain and the nationalist parties. Nationalism refuses to accept the consequences of its illegal acts and demands the "de-judicialisation" of the consequences of the 2017 coup in Catalonia, including an amnesty that has no constitutional basis. **The EU has already condemned similar actions in other member states.**

De-judicialisation has already taken shape in the reform of the Penal Code to eliminate the crime of sedition, for which those involved in the 2017 coup against democracy had been convicted, and to reform downwards the crime of embezzlement, for which they had also been convicted. **These legal reforms, agreed with the same convicted criminals, also represent a significant deterioration of the rule of law, a deterioration that would be aggravated by an amnesty law that the nationalists propose as a necessary payment for them to give their support to the socialist candidate for the presidency of the government, Mr. Pedro Sánchez. The amnesty would also be a blow to the actions of the Supreme Court and the Court of Auditors, as well as an attack on the actions of the government that applied the instrument of federal coercion provided for in Article 155 of the Constitution and of the Head of State himself who, at the time, urged compliance with the rule of law as the irreplaceable basis of any democracy. The amnesty would also imply the disappearance of the accessory penalties of disqualification from holding public office. All of this would imply the delegitimation of those who opposed secession in 2017 and of those who supported the Spanish government at the time, including the European institutions.**

On the other hand, there is a **partisan instrumentalisation of the institutions** that is incompatible with essential principles of the rule of law. This instrumentalisation has resulted in the atony of Parliament. At present, for example, despite the fact that it has been more than twenty days since the King designated Pedro Sánchez as candidate for the presidency of the government, the date on which the investiture debate will take place has not been announced, which is unusual in the Spanish constitutional tradition. At the same time, the essential activity of control of the government by the Congress of Deputies remains paralysed. Parliamentary control which, moreover, is considered strictly necessary over an acting government by the Constitutional Court.

Apart from the above, in recent years there has been an **abuse of emergency legislation that does not meet the requirements of a legislative process with the full participation of the Chambers.** The figure of the decree law is abused to circumvent parliamentary intervention in the drafting of norms. Moreover, in order to prevent legislative projects from having the mandatory reports from the Council of State or other high consultative bodies, the **figure of the bill**, prepared by the political parties, is **spuriously used.** This use of draft legislation is increasing significantly due to the fact that a government in office, such as the current one, cannot legally pass bills or send them to the chambers for legislative processing. This is what is being done to prepare the supposed amnesty law, of which we do not yet have a text, but whose content is being anticipated in the media by the parties who say they are preparing the text.

We believe there are grounds for concern. The attacks on judicial independence and citizens' trust in the courts is constant, as has been indicated; and cannot be disassociated from the nationalist purpose of damaging the institutions that prevented their illegal and unconstitutional intentions from being consolidated in 2017. **We cannot accept that, in a democracy, the Government of an EU Member State is conditioned by the demands of nationalist parties**, seeking to evade their responsibilities for criminal acts and that, furthermore, as they have continually expressed, they make their support for the national government conditional on the latter facilitating, after the amnesty, the segregation of part of the national territory through the holding of an alleged referendum on self-determination, also contrary not only to the letter but also to the very spirit of the EU Treaties.

Hence, those of us who sign this letter express our concern at the drift that respect for the rule of law is taking in Spain and urge the EU institutions to take note of this and to **promote the measures they consider appropriate for the necessary defence of the EU's values**.

---

## DETERIORATION OF RULE OF LAW IN SPAIN

We, the undersigned, wish to express our concern about the deterioration of the Rule of Law in Spain; such deterioration has been ongoing for years, but seems set to worsen in the coming months. We believe that measures must be adopted, including by the EU institutions, to revert a dynamic that is incompatible with the principles set out in Article 2 of the Treaty of the European Union. The current situation is dangerous both for Spain and for the stability of the European Union.

This decline is manifest in how political parties, executive powers (both central and devolved) and, increasingly, legislative powers, have inflicted persistent attacks on the Judiciary.

There has been a failure to renew the governing body of the Judiciary (the General Council of the Judiciary, CGPJ), and no agreement has been reached to adapt its regulation to the requirements of the Council of Europe and the European Union. At present, all members of this body are named by the political parties, with parliament simply sanctioning the appointments. This system is not in accordance with the standards of the Council of Europe and the EU, which would require that at least half of the members of the CGPJ be appointed by the judges. The current stalemate further damages the functioning of Justice. Similarly, the Public Prosecutor's Office still depends directly on the government, again ignoring the recommendations of the European Commission.

This weakening of the Judiciary is exacerbated by the continuous hostility against judges displayed by both the government of Spain and the regional government of Catalonia. Senior ministers of both have described certain judicial decisions as "an aberration", claimed that they are an "attack against democracy", and even described them as an "illegitimate interference in the functioning of the institutions".

This assault on the Judiciary is systematic. This is because Rule of Law has become an impediment to the agreements between the ruling parties in Spain and the secessionist parties sustaining the government. Such agreements are increasingly at odds with the letter and the spirit of the Spanish Constitution. Secessionist parties reject the legal consequences of their actions and demand a "de-judicialization" of the events that culminated in Catalonia in 2017. Their deal includes an Amnesty Law that has no constitutional basis. The EU has condemned similar actions in other member states.

This process has already led to a reform of the Penal Code to eliminate the crime of sedition, and to alleviate that of embezzlement. These legal reforms were agreed with those convicted of said crimes. Now secessionist parties request an Amnesty Law to enable the formation of a new government. Such actions overrule the Supreme Court and the Court of Auditors. They also repeal the application of the instrument of compliance provided for in article 155 of the Constitution, and the intervention of the Head of State, who urged acceptance of the Rule of Law as a bedrock of democracy. The Amnesty Law would also imply a cancellation of existing bans from holding public office. Overall, this would revoke those who opposed the unilateral secession of Catalonia in 2017, as well as those who supported Spain's territorial integrity, including the European Institutions.

These are symptoms of a partisan use of democratic institutions that is incompatible with the Rule of Law. This has resulted in the redundancy of Parliament. More than three weeks after the King nominated Mr Pedro Sánchez as the candidate for the Presidency of the Government, the date for the investiture debate remains unknown, which is not in line with the constitutional tradition of the Spanish Parliament. This prevents parliamentary scrutiny of government actions, which the Constitutional Tribunal considers mandatory when an acting government is in place, as is currently the case.

Finally, recent years have seen an abuse of emergency legislation that fails to meet the thresholds for invoking such mechanism, preventing deliberation in the legislative chambers. Rule by decree has been used to circumvent parliamentary scrutiny. Moreover, the Bills of Parliament mechanism has been abused to avoid legislative projects being subjected to mandatory reports by the Council of State or other high consultative bodies. This practice is now being used to allow an acting government to pass bills without legislative processing. This is what is being done in preparation for an Amnesty Law. Whilst we do not yet have a draft text of said law, its contents are being anticipated in the media by the parties promoting it.

We believe that there are reasons for concern. The above undermining of the Rule of Law reflects a secessionist plan to damage the institutions that aborted their illegal and unconstitutional purposes in 2017. Today, the democratic system of an EU Member State is held hostage by the demands of secessionist parties. Their immediate aim is to evade their responsibilities for criminal actions for which they were investigated or convicted. In addition, as they openly admit, they require the government to facilitate the secession of part of the national territory through a so-called "referendum of self-determination", which is contrary to both the letter and the spirit of EU Treaties.

Hence, the signatories express their concern and urge the EU Institutions to

promote any measures they deem appropriate to defend the values of the EU.



## **Signatures of Law academics and professionals - Signatures of Law academics and professionals**

Adolfo Sánchez Hidalgo, Lecturer in Philosophy of Law, University of Cordoba

Agustín García Inda, Civil Administrator of the State, Associate Professor of Constitutional Law, UZAR

Alejandro Valiño, Professor of Law, Universidad de Valencia Alfonso J.

García Figueroa, Professor of Philosophy of Law, UCLM

Alfredo García Gárate, Professor of Law, Lawyer, ICAM and Tribunal de la Rota Álvaro Vidal Herrero, Lawyer, Associate Professor of Procedural Law, UCM

Ana Felicitas Muñoz Pérez, Senior Lecturer in Commercial Law, URJC

Ana Gemma López Martín, Professor of Public International Law, Universidad Complutense de Madrid

Andrés Ollero Tassara, Professor of Philosophy of Law, former member of the Constitutional Court

Andrés Recalde Castells, Professor of Law, UAM

Angel Jurado Segovia, Professor of Labour Law and Social Security Law, UCM Angel

Rojo Fernández Río, Lawyer

Antonio Bueno Armijo, Professor of Administrative Law, University of Cordoba Antonio Fanlo Loras, Professor of Administrative Law, University of La Rioja

Antonio José Sánchez Sáez, Professor of Administrative Law, University of Seville

Antonio M. Román García, Professor of Civil Law, Former Magistrate, Academician of the Royal Spanish Academy of Jurisprudence and Legislation, Lawyer

Antonio Peña Freire, Catedrático Filosofía del Derecho, Universidad de Granada

Antonio Remiro Brotons, Catedrático de Derecho Internacional Público, UAM

Araceli Mangas Martin, Catedrática de Derecho Internacional Público, UCM

Arianna Luccardi, Profesor de Derecho Mercantil de la UCM

Augusto Arino García Belenguer, Notary

Aurelio María Rodrigo Villuendas, Abogado

Aurora Campins Vargas, Lecturer, Commercial Law, UAM Borja Roldán

Cerezo, Lawyer, Member of the Bar No. 965, ICA Lucena, Cordoba

Bruno Aguilera Barchet, Director Institute of International Legal Studies, URJC

Carmen Otero García Castrillón, Professor of International Private Law, Universidad Complutense de Madrid

Carlos Fernández de Casadevante, Professor of International Public Law and International Relations, Universidad Rey Juan Carlos, Spain

Carlos Flores Juberías, Professor of Constitutional Law, University of Valencia Carlos

García Valdés, Emeritus Professor of Criminal Law, University of Alcalá Carlos

Martínez de Aguirre, Professor of Civil Law, University of Saragossa Carlos de Prada

Guaita, Notary Public

Carlos Rico Motos, Professor of Political Science

Carlos Sanz Izquierdo, Notary Public of Vilanova i la

Geltrú Catalina Ramos Marín, State Civil

Administrator

Chantal Moll de Alba, Director of the Chair in Registry Law at the University of Barcelona

Clara Fernández Carron, Lecturer in Procedural Law, UCM

Consuelo Alonso García, Professor of Administrative Law, University of Castilla-La Mancha

Constantino Arosa, Professor of Economics, University of La Coruña

Cristina Calvo Ortega, Partner at Ashurst LLP

Cristina Guerrero Trevijano, Lecturer in Commercial Law, Universidad Complutense de Madrid

Cristóbal Espín Gutiérrez, Professor of Commercial Law, Universidad Complutense de Madrid

Daniel Fernández Quirós, Notary

David Ortega Gutiérrez, Professor of Constitutional Law, Universidad Rey Juan Carlos Diego

Medina Morales, Professor of Philosophy of Law, Universidad de Córdoba Domingo García

Núñez, Lawyer ICAV (Valencia) and Associate Professor, Universidad de Valencia Elena

Román Barreiro, Civil Servant, Coordinator of Legal Department DGA

Emilio Guichot, Professor of Administrative Law

Emilio Lamo de Espinosa, Emeritus Professor of Sociology, UCM and Full Member of the Royal Academy of Moral and Political Sciences.

Emilio Valiño del Río, Emeritus Professor of Law, Univ. of Valencia

Enrique Belda, Professor of Constitutional Law, UCLM

Enrique Gacto Fernández, Emeritus Professor of the Faculty of Law, University of Murcia, Spain.

Ernesto Osuna Martínez, Lecturer in the Master's course on access to the legal profession, criminal lawyer Eva María Nieto Garrido, Professor of Administrative Law, UCLM

Faustino J. Martínez Martínez, Catedrático de Historia del Derecho y de las Instituciones, Vicedecano de Investigación y Política Científica, UCM

Félix Martínez Llorente, Professor of History of Law, University of Valladolid

Fernando García Mercadal, General Auditor of the Military Legal Corps, and Antonio de Nebrija University.

Fernando H. Llano Alonso, Professor of Philosophy of Law, University of Seville Fernando Morales Limia, Notary Public

Fernando Reinoso Barbero, Professor of Roman Law, UCM

Fernando Simón Yarza, Associate Professor of Constitutional Law (Full Professor), University of Navarra

Florencia Tejeda Castillo, Notary

Francisco Bartol Hernández, Professor of Roman Law

Francisco Javier Arias Varona, Catedrático de Derecho Mercantil, URJC

Francisco Javier Corbalán Berná, Universidad de Murcia

Francisco Javier Díaz Revorio, Catedrático de Derecho Constitucional, UCLM

Francisco Javier Onate Cuadros, Notary Public

F. Jesús Carrera Hernández, Catedrático de Derecho Internacional Público, Universidad de La Rioja

Francisco Cuenca Boy, Professor of Roman Law, University of Cantabria

Francisco José Contreras Peláez, Catedrático de Filosofía del Derecho, Universidad de Sevilla

Francisco José Ramos Vega, Abogado Tribunal de la Rota

Francisco Sosa Wagner, Professor of Administrative Law

Gabriel Casado Ollero, Professor of Financial and Tax Law, UCM

Germán Teruel Lozano, Professor of Constitutional Law, Co-Director of the Chair of Good Government and Public Integrity

Göran Rollnert Liern, Professor of Constitutional Law Horacio

Roldán Barbero, Professor of Criminal Law

Ignacio González García, Professor of Constitutional Law, Director of the Department of Foundations of Legal and Constitutional Order, University of Murcia.

Iván Castejón Fernández Trujillo, Notary Public

Iván Heredia Cervantes, Professor of International Private Law, UAM Jacobo Souviron

Gaytán de Ayala, lawyer ICAM

Javier López Cano, Lawyer and notary public

Javier López Sánchez, Professor of Procedural Law, University of Zaragoza Javier

Martín Martín, Lawyer

Javier Martínez-Torrón, Catedrático de Derecho, Universidad Complutense

Javier Nanclares Valle, Profesor Titular de Derecho civil, Universidad de Navarra

Javier Pagador López, Lecturer in Commercial Law, University of Cordoba

Javier Roldán Barbero, Professor of International Public Law, University of Granada Javier

Tajadura Tejada, Professor of Constitutional Law, University of the Basque Country Javier

Vecina Cifuentes, Lecturer in Procedural Law, UCLM

Jesús Alberto Messía de la Cerda Ballesteros, Lecturer in Civil Law, URJC

Jesús Ballesteros, Professor emeritus of Philosophy of Law and Political Philosophy, University of Valencia

Jesús-María Silva Sánchez, Professor of Criminal Law, Pompeu Fabra University Joan

Amenós Álamo, Senior Lecturer in Administrative Law, UAB

José Antonio de Yturriaga, Ambassador of Spain, Professor of International Law, Diplomatic and Consular Affairs

Jose Antonio García-Cruces, Professor of Commercial Law, Faculty of Law - UNED José Carlos

González Vázquez, Lawyer

José Ignacio Domínguez García de Paredes, Director General of the Labour Inspectorate in the Ministry of Labour (retired)

José Ignacio Paredes Pérez, Assistant Professor of International Private Law, UAM José Luis

Bermejo Latre, Professor of Administrative Law, U. de Zaragoza

José Luis Colino Mediavilla, Associate Professor of Commercial Law, UCM

José Luis Díez Ripollés, Emeritus Professor of Criminal Law at the University of Málaga

José Luis Martínez Martínez López-Muñiz, Emeritus Professor of Administrative Law, University of Valladolid

José Luis Moreu Ballonga, Professor of Civil Law (retired)

José Luis Rivero Ysern, Professor of Administrative Law, University of Seville José Luis Ruiz

Abad, Notary Public

José Ignacio Bonet, Notary

José Joaquín Fernández Alles, Professor of Constitutional Law

José J. Albert Márquez, Lecturer in Philosophy of Law, University of Córdoba José

Manuel Aspas, Lawyer, specialist in Public Law

José Manuel Chozas Alonso, Professor of Procedural Law, UCM José

Manuel Fuertes Vidal, Notary Public

José Manuel Núñez Jiménez, Public Lawyer and Professor of Administrative Law, UCAV

José Manuel Vera Santos, Professor of Constitutional Law, URJC

José M<sup>a</sup> García Marín, Emeritus Retired Professor of Law, Pablo de Olavide University José

María Puyol Montero, Faculty of Law, UCM

José María Rivera Hernández, Retired Prosecutor

José Torné-Dombidau y Jiménez, Professor of Administrative Law and President of the Foro para la Concordia Civil (Forum for Civil Concord)

Josep Maria Castellá Andreu, Professor of Constitutional Law at the University of Barcelona

Juan Antonio Alejandro García, Retired Professor Emeritus of Law, UCM Juan

Antonio García Amado, Professor of Public Law, University of León Juan Iglesias

Redondo, Professor Emeritus of the Faculty of Law, UCM

Juan Ignacio Peinado Gracia, Professor of Commercial Law, Universidad de Málaga

Juan J. Gutiérrez Alonso, Rector of the Royal College of Spain in Bologna, Professor of Administrative Law, UGR, and Member of the Accademia delle Scienze di Bologna.

Juan Luís Ibarra Sánchez, Professor of Procedural Law, Universidad Pablo de Olavide

Juan Ramón Fernández Torres, Professor of Administrative Law, UCM

Julián Vara Martín, Professor of Philosophy of Law, CEU San Pablo Leopoldo

Abad Alcalá, Professor of Constitutional Law, CEU San Pablo Leonor Moral

Soriano, Professor of Administrative Law, UGR

Lorena Bachmaier Winter, Professor of Procedural Law, UCM

Lourdes Ruano Espina, Professor of Law, University of Salamanca Lucía

Torres Ruiz, Notary Official

Luis Fernando Aranda Alonso, lawyer member number 505 of ICA Guadalajara

Luis Miguez Macho, Professor of Administrative Law, University of Santiago de Compostela

Luis Prieto Sanchís, Professor of Philosophy of Law, UCLM

Manuel Aragón Reyes, Professor of Constitutional Law, Magistrate Emeritus of the Constitutional Tribunal

Manuel Bernal Domínguez, Land Registrar

Manuel Escamilla Castillo, Professor of Law and State Theory, UGR

Manuel Izquierdo Carrasco, Professor of Administrative Law, University of Cordoba Manuel

Rebollo Puig, Professor of Administrative Law, University of Cordoba Manuel Sánchez Maillo, lawyer ICAM

María Acracia Núñez Martínez, Professor of Constitutional Law, President of the JPDI

María Cristina Escribano Gamir, Lecturer in Commercial Law, UCLM

M<sup>a</sup> Isabel Álvarez Vélez, Coordinator of the Department of Constitutional Law, Comillas University

María José Majano Caño, Lecturer in Constitutional Law, University of Castilla-La Mancha

María Jesús Moro Almaraz, Professor of Civil Law, University of Salamanca M<sup>a</sup> del Carmen

González Carrasco, Professor of Civil Law, UCLM

María Luisa García de Blas, Notary

Maria Moreno, Member C122713

María Nieves Garcia Ind, Notary

María Paz Canales Bedoya, Notary

María Paz Laliena Oliván, Notary

María Pilar Samper Palomo, Notary

María Paz Laliena Oliván, Notary

María Pilar Samper Palomo, Notary

María Ponte García, Lawyer ICAM Member 45457

María Teresa Mata Sierra, Professor of Financial and Taxation Law, University of León

Maria Valmaña Ochaita, Lecturer in Commercial Law, University of Castilla la Mancha

María Victoria Petit Lavall, Professor of Commercial Law, Universitat Jaume I

Mariano J. Aznar, Professor of International Public Law, Corresponding Academician, Royal Academy of the Sea of Spain, Life Member, Clare Hall College, Cambridge

Mariano Yzquierdo Tolsada, Professor of Civil Law, Universidad Complutense Marta

Albert, Professor of Philosophy of Law, URJC

Matilde de la Cámara Puig, Professor of Constitutional Law (retired), UCM Mercedes Fuertes, Professor of Administrative Law

Miguel Ángel del Arco Torres, retired judge

Miguel Ángel Pérez Yuste, Magistrado Sala Con-Advo de Castilla la Mancha

Miguel Cid Cebrián, Practising Lawyer, Former Senator PSOE for Salamanca

Natividad Fernández-Sola, Professor of International Law, University of Saragossa Nieves

Moralejo Imbernón, Professor of Civil Law, UAM

Oscar Ignacio Mateos y de Cabo, Lecturer in Constitutional Law, URJC

Pablo Fernández de Casadevante Mayordomo, Lecturer in Constitutional Law, URJC

Pablo Gutiérrez de Cabiedes, Professor of Procedural Law, Universidad CEU San San Pablo

Morenilla Allard, Professor of Procedural Law, UCLM

Pablo Ollero Pina, Abogado Colegiado número 7.718 del Ilustre Colegio de Abogados de Sevilla

Pedro A. Lucena González, Notary Public

Pilar Cortés, Lecturer in Constitutional Law, University of Zaragoza

Pilar Dominguez Lozano, Professor of International Private Law, UAM Rafael Arenas

García, Professor of International Private Law

Rafael Palomino, Catedrático de Derecho Eclesiástico del Estado, UCM

Remedio Sánchez Ferriz, Catedrática de Derecho Constitucional

Ricardo Bocanegra, Abogado

Ricardo García Manrique, Professor of Philosophy of Law, University of Barcelona

Roberto Blanco Valdés, Professor of Constitutional Law, University of Santiago de Compostela

Rodrigo Martín Jiménez, Professor of Labour and Social Security Law, URJC Rubén

Carnerero Castilla, Professor of Public International Law, UCM

Salomé Adroher Biosca, Professor of Private International Law, Comillas Pontifical University

Sílvia García Baglietto, member 2539 of the ICAGI

Silvia Valmaña Ochaíta, Professor of Criminal Law, UCLM Sonsoles Arias

Guedón, Professor of Constitutional Law, IE University Susana Beltrán

García, Professor of Public International Law, UAB

Teresa Freixes, Professor of Constitutional Law, Jean Monnet Chair ad personam, Vice-President of the Royal European Academy of Doctors

Tomás Ramón Fernández Rodríguez, Professor of Administrative Law

Valentín Bou Franch, Professor of International Public Law, University of Valencia

Vicente Garrido Mayol, Professor of Constitutional Law, University of Valencia

Víctor Gómez Frías, ICAM Lawyer, University Professor

Víctor Manuel Sánchez, Professor of International Law, UNIR

Virginia Mayordomo Rodrigo, Lecturer in Criminal Law, University of the Basque Country

Yolanda Sánchez-Urán Azaña, Professor of Labour Law and Social Security Law, UCM





## PSOE-JUNTS AGREEMENT

The Spanish Socialist Workers Party and Junts per Catalunya state that the current political situation allows reaching an agreement to open a new stage and contribute to resolve the historical conflict over the political future of Catalonia, even starting from divergent positions, to develop a dynamic for its resolution in terms different from those of the last legislature and to ensure governability during the 15th legislature, taking into account the composition of the Cortes Generales resulting from the elections held on July 23rd, 2023.

### 1. BACKGROUND

An important part of the Catalan society has led in recent years a great mobilization in favor of independence. This period cannot be understood without the ruling of the Constitutional Court in 2010, mainly as a result of an appeal by the PP against the Statute approved by the Parliament, by the Cortes Generales and in a referendum.

With the approval of a new Statute, Catalan society, which endorsed it, sought both the recognition of Catalonia as a nation and a solution to the limitations of self-government and the accumulated deficits. Claims and demands with a deep historical background that have taken different forms since the Nueva Planta Decrees abolished Catalonia's secular constitutions and institutions. Claims in which linguistic, cultural and institutional issues have played a prominent role, especially in periods in which these were subject to severe legal limitation and even prohibition or active persecution. The historical and political complexity of these issues has meant that a significant part of Catalan society has not felt identified with the political system in force in Spain.

The ruling of the TC in 2010 meant that today Catalonia is the only autonomous community with a statute that has not been voted for in its entirety by its citizens. As a reaction, there was a large protest demonstration and, since 2015, there have been repeated absolute pro-independence parliamentary majorities in the Parliament in successive autonomous elections, as well as massive mobilizations of pro-independence sign. During this period, different proposals were approved by the Parliament and the Government of Catalonia in fiscal matters, as well as the request for the delegation of competence for the authorization of referendums or the organization of a consultation under the protection of an autonomous law. Unfortunately, the governments of the time did not favor political negotiation and none of these proposals, made with loyalty and within the current legal framework, were considered.

Following these events, the Catalan institutions promoted, first, a popular consultation on November 9, 2014 and, later, an independence referendum on October 1, 2017 - both suspended and subsequently annulled by the TC - with a massive participation in favor of Catalonia's independence. The Government's attempt to prevent the referendum resulted in images that shocked us all inside and outside our borders.

All this led to the approval of Article 155 of the EC, which decreed the dissolution of the Parliament, the dismissal of the Catalan government and the early calling of elections, which once again gave an absolute majority to the pro-independence parties. And as a result of the



The incident led to the initiation of multiple legal cases, many of them still unresolved, affecting a large number of people.

These court cases have had a significant political impact, as have various resolutions of international bodies, such as the Working Group on Arbitrary Detention, the United Nations Human Rights Committee, the Court of Justice of the European Union, the European Court of Human Rights and the Parliamentary Assembly of the Council of Europe.

## 2. HISTORIC OPPORTUNITY

This synthetic account of the facts objectively accredits the deep divergences that have existed and that have given rise to a conflict that only politics in democracy can channel to seek a solution, given that, six years later, the basic issue remains unresolved. And, despite the structural discrepancies that exist given the distance between our national projects, we are ready to open a new stage in which, based on respect and recognition of the other, a political and negotiated solution to the conflict is sought.

PSOE and Junts assume that from the result of the general elections of July 23 there is an opportunity that they must and have the will to take advantage of in a responsible way. The resolution must be negotiated and agreed and therefore it is up to the actors to whom the ballot boxes have given this possibility to try to achieve it.

Therefore, PSOE and Junts are committed to negotiation and agreements as a method of conflict resolution and agree to seek a set of pacts that contribute to resolving the historical conflict over the political future of Catalonia.

These agreements must respond to the majority demands of the Parliament of Catalonia which, according to the Statute (which has the character of an organic law), legitimately represents the people of Catalonia.

## 3. AGREEMENTS

PSOE and Junts recognize their deep discrepancies and are aware of the complexity and obstacles of the process they are about to undertake. On the one hand, Junts considers the result and mandate of the referendum of October 1, as well as the declaration of independence of October 27, 2017, to be legitimate. On the other, the PSOE denies any legality and validity to the referendum and the declaration, and maintains its rejection of any unilateral action. At the same time, they note that important agreements can be reached without renouncing their respective positions.

In order to reach these agreements, and given the profound discrepancies on the final form of the resolution of the conflict, in addition to the mutual distrust acknowledged by both, the PSOE and Junts have agreed to set up an international mechanism between both organizations, with the functions of accompanying, verifying and monitoring the entire negotiation process and the agreements reached between the two formations.



It is within this framework that both parties will have to agree, if necessary:

- **The negotiation methodology** to provide the process with certainty, in which the accompaniment, verification and follow-up mechanism will develop the negotiation between the parties. In this space, disagreements will be negotiated, agreed upon and addressed, as well as any dysfunctions that may arise in the development of the agreements.
- **The contents of the agreements to be negotiated will be** based on the aspirations of Catalan society and the demands of its institutions, which in general terms are grouped into two major permanent areas: those of overcoming the deficits and limitations of self-government and those relating to the national recognition of Catalonia. In this sense, and in the first negotiation meeting to be held this November, the following issues, among others, will be raised in a non-exhaustive manner:
  - o In the area of national recognition, Junts will propose the holding of a referendum of self-determination on the political future of Catalonia under Article 92 of the Constitution. For its part, the PSOE will defend the broad development, through the appropriate legal mechanisms, of the 2006 Statute, as well as the full deployment of and respect for the institutions of self-government and the institutional, cultural and linguistic singularity of Catalonia.
  - o And in the area of deficits and limitations of self-government, Junts will propose a modification of the LOFCA that establishes an exception clause for Catalonia that recognizes the singularity in which the institutional system of the Generalitat is organized and that facilitates the transfer of 100% of all taxes paid in Catalonia. And, for its part, the PSOE will support measures that allow Catalonia's financial autonomy and access to the market, as well as a unique dialogue on the impact of the current financing model on Catalonia. In this area, the essential elements of a plan to facilitate and promote the return to Catalonia of the headquarters of companies that have moved to other territories in recent years will also be addressed.
- **The Amnesty Law**, to procure full political, institutional and social normality as an essential requirement to address the challenges of the immediate future. This law must include both those responsible and the citizens who, before and after the consultation of 2014 and the referendum of 2017, have been subject to judicial decisions or processes linked to these events. In this sense, the conclusions of the commissions of inquiry that will be set up in the next legislature will be taken into account in the application of the amnesty law to the extent that situations could arise that fall under the concept of *lawfare* or judicialization of politics, with the consequences that, where appropriate, may give rise to liability actions or legislative amendments
- **The expansion of Catalonia's direct participation in European institutions and other international organizations and entities**, particularly in matters that have a special impact on its territory.



- **The investiture of Pedro Sánchez**, with the vote in favor of all the deputies of Junts.
- **The stability of the legislature**, subject to the progress and fulfillment of the agreements resulting from the negotiations in the two permanent areas mentioned in the second point.

COMMUNIQUÉ FROM THE PRESIDENTS OF THE PROVINCIAL COURTS IN RELATION TO THE REFERENCES TO LAWFARE CONTAINED IN THE AGREEMENT SIGNED BY PSOE AND JUNTS

The Presidents of Provincial Courts of Spain, in view of the document signed by PSOE and Junts to facilitate the investiture and in line with the agreement adopted in this regard by the Permanent Commission of the General Council of the Judiciary, at its meeting held on November 9, 2023, wishes to express its strongest rejection of the reference made in the document agreed by the aforementioned political parties to *lawfare and judicialization of politics*.

We adhere to the agreement adopted by the Permanent Commission of the General Council of the Judiciary regarding both the rejection of such an initiative and its justification to repudiate it in view of the obvious risk of attempting to subject judicial decisions to parliamentary review in a flagrant violation of the principle of separation of powers, which is the fundamental pillar of our democratic rule of law.

Finally, we express our surprise and indignation at the document in question insofar as it raises serious doubts about the independence of the Judiciary in Spain, which means moving away in an irresponsable way from one of the most important requirements to be part of the European Union.

As of November 10, 2023

MANIFESTO OF CATALAN LAWYERS AND ATTORNEYS  
IN FAVOR OF THE RULE OF LAW AND THE SEPARATION OF POWERS AND  
CALL FOR A RALLY AT THE CITY OF JUSTICE MONDAY, NOVEMBER 13 AT  
11 AM.

Following the investiture agreements between the PSOE and the Junts and ERC parties, we consider it pertinent to warn of the serious institutional deterioration that could result from the approval of an amnesty law for those involved in legal proceedings for the facts related to the "procés" and for these purposes,

WE DEMONSTRATE:

That the materialization of these agreements flagrantly violates the Constitution of 1978, which is based on the consideration of Spain as a social and democratic State of Law that advocates freedom, justice, equality and political pluralism as the highest values of its legal system. Likewise, we consider that the approval of amnesty laws such as those proposed attacks the essential principles of the Treaty of the European Union.

Article 9 of the Constitution declares that citizens and public authorities are subject to the Constitution and the rest of the legal system, and this also applies to political parties, which must freely exercise their activity in accordance with the Constitution and the Law.

The agreements that have been made public by the aforementioned political parties seriously jeopardize the functioning of the Rule of Law, inasmuch as they attempt to instrumentalize and politicize justice by delegitimizing its members.

4.- As legal operators who work mainly in Catalonia, we categorically reject the disqualifications contained in the investiture agreements towards the judiciary, insofar as this implies an attack on its independence. In this line, we deny the existence of a political persecution from the judiciary against separatism. The judicial proceedings investigate the commission of crimes and do not judge the ideology of the perpetrators.

5.- We conceptually reject the granting of amnesty to those involved in criminal acts that seriously endangered the coexistence among Spaniards and, especially, among Catalans, insofar as they seek to grant impunity to people because of their ideology. This privileged treatment is contrary to the principle of equality among citizens.

6.- It seems to us particularly serious that the investiture agreements sow the generalized suspicion of a prevaricating judicial action through the appeal to the so-called "lawfare" and, in addition, the application of the criminal law is conditioned to parliamentary supervision through investigation commissions. The materialization of this agreement, unprecedented in the European Union, will put an end to the separation of powers, as it intends to submit judicial decisions to the supervision of the "political class".

In order for democracies to survive, the fundamental pillars of the rule of law must be protected, namely the separation of powers and judicial independence, as well as the essential values of equality, freedom and justice, in accordance with Article 2 of the Treaty on European Union.

For all these reasons,

- We express our confidence in the Spanish judicial system and state that discrepancies with judicial decisions should be articulated by legal operators through the appropriate judicial remedies.
- Called to a rally of legal professionals in defense of the rule of law of the separation of powers at the gates of the CIUTAT DE JUSTICIA DE BARCELONA next MONDAY November 13 at 11:00 am.

In Barcelona, on the tenth day of November 2023

\*To join the manifesto, please send an e-mail to

SURNAMES

NAME

E-MAIL LEGAL PROFESSION

a bo dos roc r dor sca al

o

The **undersigned Judges of Spain**, in view of the document signed by the PSOE and Junts to facilitate the investiture, and knowing the content of the communiqué published yesterday afternoon by the Judicial Associations (Professional Association for the Magistracy, Francisco de Vitoria Judicial Association, Judges for Democracy and Independent Judicial Forum), we expressly adhere to its content.

We also reject the references to "*lawfare* or judicialization of politics" and its consequences.

*As stated in the communiqué, "the text of the agreement reached contains explicit references to the possibility of developing commissions of inquiry in parliament in order to determine the presence of situations of judicialization of politics, with the consequences that, if necessary, could give rise to actions of responsibility or legislative amendments.*

*This could mean, in practice, subjecting judicial proceedings and decisions to parliamentary review, with obvious interference in judicial independence and a breach of the separation of powers.*

*Judges must be subject only to the authority of the law, since this is expressly established in Article 117.1 of the Constitution. These expressions, insofar as they imply any mistrust in the functioning of the Judiciary, are not acceptable.*

*The Judiciary in Spain is independent, it does not act under political pressure and has a system of judicial guarantees that prevents the risk that is being pointed out".*

November 10, 2023

Judges of the judicial districts of Alcalà de Henares  
Pamplona  
Santander  
Jaén Jaén  
Murcia  
Murcia  
Valencia  
Oviedo  
Hospitalet de Llobregat  
Girona  
Lanzarote (Arrecife)  
Seville  
Melilla  
Lugo



Ourense  
Cáceres  
Palencia  
Palma de  
Mallorca Ibiza and  
Formentera  
Barcelona  
Huelva  
Torrent  
Badajoz  
Algeciras  
Albacete  
Cadiz  
Toledo  
Jerez de la Frontera  
Pontevedra  
Segovia  
Vigo  
Marbella  
Marbella  
Gandía  
Coruña  
Sabadell  
Santiago de Compostela  
Bilbao  
Dos Hermanas  
Logroño  
Almería  
Móstoles  
Las Palmas de Gran Canaria  
León  
Lleida  
San Sebastián  
Granada  
Granada  
Alicante  
Zamora  
Mérida  
Huesca  
Elche  
Zaragoza  
San Cristóbal de La Laguna  
JJCC Audiencia Nacional  
Ferrol  
Burgos  
Guadalajara  
Valladolid  
Castellón  
Castellón  
Madrid  
Málaga  
Santa Cruz de  
Tenerife Alcalá de  
Henares Alcobendas

Arganda  
Colmenar  
Collado Villalba  
Coslada  
Getafe  
Leganés  
Móstoles  
Móstoles  
Navalcarnero  
Parla  
Pozuelo de  
Alarcón Torrejón  
de Ardoz  
Torrelaguna  
San Lorenzo de El Escorial  
Valdemoro  
Majadahonda  
Ponferrada



**State Bar Association**

**Communiqué unanimously approved at the Extraordinary Board of Directors'  
Meeting held on November 10, 2023**

The Association of State Lawyers, in view of yesterday's publication of the "*PSOE-JUNTS Agreement*", would like to express the following:

State Lawyers defended the rule of law and constitutional legality in the State's reaction to the serious events that took place in Catalonia in 2017. The Association conveys its full recognition and support to all State Lawyers who have intervened professionally in all processes, extending such recognition to other public employees who, with objectivity and selflessness, also guarantee the full validity of the Constitution.

Consequently, we reject any allusion to the concept of *lawfare*, understood as an alternative use of the law, alien to the substantive and procedural rules that are applicable in each case. We express our solidarity with the Judges and Magistrates, who act independently, subject only to the rule of law.

We express our great concern for the breakdown of the separation of powers and the principle of equality among all Spaniards. The weakening of the democratic institutions of the State implies an unacceptable delegitimization of the same that this Association cannot share.

Association of Senior Civil Servants in the [Service](#) of the Court of Auditors

AFC9

## **PRESS RELEASE / 10.11.2023**

Dear GD'zlpafiero9 and company,

In view of the agreement reached last November 9, 2023, and made public that day, between the Spanish Socialist Workers Party and Junts per- Ce/afonya, we at AFCS want to make the following public statement.

AFCS is a professional association of senior civil servants from the different Spanish public administrations, who are at the service of the Tribunal de Cuantas, in accordance with the provisions of its Ley de Funcionamiento (Law of Operation).

AFCS joins the rejection of the content of this agreement, expressed by all the Spanish judicial associations in a joint statement issued on November 9, as well as by various associations of public administrations (such as the State Treasury Inspectors, Labor and Social Security Inspectors or Secretaries, Auditors and Treasurers of the Local Administration).

The Court of Audit is responsible, in accordance with the provisions of the Spanish Constitution and its own regulations, for the prosecution of Accounting Responsibility incurred by those who manage public funds. In the exercise of these powers, judicial independence must be guaranteed, as well as respect for the rulings handed down, in accordance with the Constitution and the rule of law.

AFC9

## **COURT OF ACCOUNTS**

Association of Senior Officers in the service of the  
Court of Auditors of the Court of Auditors.