



STATEMENT on current concerns in Spain

Background

At its plenary meeting on 12 October 2025 in Baku, the European Association of Judges (EAJ) was informed by its member, the *Asociación Profesional de la Magistratura* (APM) about recent developments in Spain, which raise their concern.

- A draft of an “Organic Law for the expansion and strengthening of the judicial and prosecutorial careers” includes modifications which distort the internal balance of the judiciary and alters the conditions of access to and promotion within judicial careers.
- Whilst until now entry to the judicial and prosecutorial careers has been exclusively based on merit and knowledge with all candidates having to pass anonymous and objective examinations which ensure equality, merit and ability, the draft Law introduces selection criteria alternative to the competitive examination system which reduce the objectivity of the filtering process and open the door to more subjective evaluations. The proposals will now allow appointments based on the assessment of “professional experience”, “personal suitability” or “accredited competence”. This represents a significant departure from the current system.
- The appointment of judges holding permanent tenure is weakened. The proposals envisage an increase in the number of temporary judges, who do not enjoy the same guarantees; the objective examinations which have to be passed to obtain permanent tenure will have reduced transparency; and a margin of discretion incompatible with the requirement of impartiality will be introduced.
- The envisaged reforms will strengthen the capacity of the executive power to shape and influence the justice system and the internal functioning of the judiciary, both directly through its intervention in regulating and approving the new selection processes, as well as in the composition of the evaluation commissions and also indirectly through the increase of temporary appointments and administrative authorisations which are to be subject to ministerial control.
- The APM also advised that the reform is being promoted in the context of increasing political pressure. Members of the Government of Spain have made public statements discrediting judges who are conducting sensitive proceedings related to persons associated with the Prime Minister. The merits, capacity, and impartiality of the judges have been questioned, in clearly derogatory tones, with the implicit but evident aim of undermining their authority and influencing their actions.

Assessment

Regarding the proposed legislative amendments

1. “Decisions concerning the selection and career of judges should be based on objective criteria pre-established by law or by the competent authorities. Such decisions should be based on merit, having regard to the qualifications, skills and capacity required to adjudicate cases by applying the law while respecting human dignity”¹. The EAJ agrees that anonymous objective testing is a sound and desirable basis for decisions on the appointment of judges.

¹ Recommendation CM/Rec (2010)12 on judges: independence, efficiency and responsibilities, para 44.

2. “The authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers.”² The consequence which follows from this requirement is that the influence of the government on the definition, the interpretation and the application of the criteria and the procedure should be excluded or at least reduced to a minimum.
3. “Security of tenure and irremovability are key elements of the independence of judges. Accordingly, judges should have guaranteed tenure until a mandatory retirement age, where such exists.”³ Temporary appointments may open the door to influencing judges and putting pressure on them.

Regarding the attacks against judges

4. “Although objective criticism of courts and their decisions is permissible, it is not acceptable for other powers in the state to criticize the judiciary in a manner that undermines its independence, judicial authority, or public confidence in the judiciary and encourages disobedience and even violence against judges”⁴.
5. “The executive and legislative powers are under a duty to provide all necessary and adequate protection where the functions of the courts are endangered by physical attacks or intimidation directed at members of the judiciary”⁵.
6. The EAJ must point out that undue critical comments and intimidating remarks by members of the executive and the legislature, and others, cause a serious problem. They constitute an attack on the constitutional structure of a democratic state as well as being an attack by those powers of the state on the legitimacy of another power and the trust in which it is held by citizens.
7. The EAJ much regrets that Spain appears to be embarking on a pattern, which in other countries has led to stripping the judiciary of its independence: first, judges are publicly discredited; then their structures are reformed in a manner adverse to their independence and impartiality; and finally their very nature is transformed.

Therefore

- The EAJ calls on political leaders to withdraw or substantially review the Draft Organic Law, so that the principles of merit, equality, and objectivity prevail in access to the judiciary; and
- The EAJ calls on all Spanish authorities to refrain from undue criticism and to take measure to bring to an end attacks against judges and the judiciary at large.

² Ibid para 46

³ Ibid para 49

⁴ Recommendation CM/Rec (2010)12 on judges: independence, efficiency and responsibilities, para 18; CCJE, Opinion No. 18(2015) "The position of the judiciary and its relation with the other powers of state in a modern democracy", para 36

⁵ CCJE Opinion 18 para 32