



Parlamento Europeo

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Portavoz de PP en el Parlamento Europeo
y Vicepresidenta del EPP
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Brussels, 17 February 2025

Dear Commissioner,

Spain is going through a difficult time due to the indictment of the Attorney General of the State, Álvaro García Ortiz, an unprecedented event in a democracy and in the European Union. Despite being criminally indicted for revealing secrets to harm the political opposition, he refuses to resign amid the clamour of associations of prosecutors asking for his immediate resignation.

It is clear that the permanence of the Attorney General, despite his indictment, could violate the principle of judicial independence (art. 19 TEU, art. 47 CDFUE, CJEU case law). But it also directly compromises the perception of independence of the Public Prosecutor's Office and undermines society's confidence in the system.

During the investigation phase, it has become known that García Ortiz massively deleted emails and WhatsApp messages, not once, but twice on 16 October, which could constitute concealment or destruction of evidence (articles 413 and 451 of the Penal Code) and demonstrates behaviour constituting obstruction of justice. Specifically, a report by the Central Operational Unit (UCO) of the Civil Guard reveals that the messages on the attorney general's phone were deleted on the same day that the Supreme Court opened the case against him.

But even more serious, Commissioner, is not so much that a member of the highest institutions of the State in the exercise of his office is a suspect, but that the Government, with President Pedro Sánchez at the helm, contributes to his protection and systematically attacks the work of the judges.

Last December I already asked for the intervention of the European Commission, which is competent to ask for explanations from States that deviate from the rule of law, because attacks on judges from the Government damage democracy and contribute to weakening the rule of law in the EU.

An independent judiciary is essential to ensure that those who commit acts of corruption are brought to justice, no matter how influential they may be. The Commission must use the mechanisms available to protect the fundamental values of the Union, as our credibility is at stake.

Keeping in office a public prosecutor with an attitude completely contrary to the principles of action of the Public Prosecutor's Office in criminal proceedings undermines the credibility of the institution and, therefore, the health of the rule of law in Europe.

All of this is taking place in a context in which we also have serious doubts about the actions of the Constitutional Court (CC) and, in particular, its president, Cándido Conde-Pumpido, who is very close to the government. As proof of this, from its position, the Executive has not lost any of the more ideological cases reviewed by the Court, even if it has been necessary to expeditiously exclude a magistrate.

Maximum concern for the situation in which the Constitutional Court finds itself in Spain has led the Partido Popular to present a lawsuit before the European Court of Human Rights (ECHR) regarding its sentence on the limitation of functions of the General Council of the Judiciary (CGPJ) during the extension of its mandate. The Constitutional Court could have violated our right, as appellants, to a fair and equitable process as established in Article 6.1 of the European Convention on Human Rights.

The Union is based on values such as justice and the rule of law. If a court acts arbitrarily, European legality is put at risk. The independence of the judiciary implies the absence of external pressures, including political ones.

But behind all this is the inescapable fact that the government of Pedro Sánchez, through accelerated parliamentary procedures that limit public and parliamentary debate, is carrying out legal reforms that affect the heart of the rule of law.

Commissioner, at this geostrategic moment of utmost importance for Europe, where populists are destroying the image of our institutions, it is everyone's responsibility to show citizens that no one is above the law, including politicians, prosecutors or judges of the Constitutional Court.

The misuse of power to benefit political leaders constitutes malfeasance and even bribery if it can be shown that there was something in return. No office grants absolute immunity in cases of wilful crime. Let us not allow authoritarian excesses and legal manipulations that completely violate the principles of our rule of law.

Yours sincerely



Dolors Montserrat