



The First Vice-President, Mr Frans Timmermans, and Member of the Commission, Ms Věra Jourová, have asked me to thank for your letter on behalf of Rights International Spain and Jueces para la Democracia of 16 April 2015. You express concern about a number of legislative measures and reforms in Spain, several of which have an impact on the judicial system or judicial procedures.

Let me first underline that, even if the arrangements found to ensure the governance and independence of the judiciary are under the primary responsibility of the Member States, the Commission gives utmost importance to the effectiveness of the national justice systems, including their independence.

The right to an effective remedy before a tribunal is a requirement enshrined in Article 47 of the Charter of Fundamental Rights of the European Union. Member States are bound by the Charter and the fundamental rights enshrined therein when they implement EU law (Article 51 of the Charter).

More generally, improving the quality, independence and efficiency of national civil, commercial and administrative justice systems is one of the priorities of the European Semester - the EU annual cycle of economic policy coordinate - which covers all Member States, including Spain. As part of the 2015 European Semester, in May 2015 the Commission noted the limited progress made with regard to the adoption of reforms aimed to improve the effectiveness of the justice system and called for efforts to be continued in this area¹. The Commission has taken note of your views on some of these reforms, and will continue to monitor Spain's reforms closely in the context of the European Semester.

While the requirement to pay court fees does not constitute a violation of the right of access to justice, an excessive fee could constitute a restriction that crucially impairs a person's fundamental right to be heard by a court. The Commission understands that appeals against the recently reviewed legal framework on court fees are still pending before the Spanish Constitutional Court. As regards the right to legal aid for those who lack sufficient resources, the specific conditions and the arrangements for the organisation and granting of legal aid are not, except for certain specific cases, regulated by Union law at this stage.

As regards consumer protection in Spain, the Court of Justice of the European Union held on several occasions that the Spanish legal system did not provide at the time an effective procedural protection from unfair standard contract terms². Spain has subsequently amended its legislation and the Commission is currently in a structured dialogue with the Spanish authorities in order to ensure that the case-law of the Court of Justice is fully applied.

¹ See recital 16 of Commission Recommendation for a Council Recommendation on the 2015 National Reform Programme of Spain and delivering a Council opinion on the 2015 Stability Programme of Spain.

² For example, see cases C-415/11 *Aziz* and C-169/14 *Sánchez Morcillo*.

With respect to your specific concerns on the principle of legal certainty and freedom of expression and assembly in the context of the Citizen's Security and Public Safety Act, the Commission notes that the Act has been submitted to the Constitutional Court for review on 21 May 2015. The Commission will continue to follow developments.

With regard to your specific concerns on the Spanish immigration law, the Commission will continue to monitor the implementation of this new legislation to ensure that it meets the standards required by Union law. Although Spain has an obligation to prevent unauthorised border crossings, the actions of the Spanish authorities must be proportionate and border control should be exercised in a manner which respects the rights of refugees, the principle of non-refoulement and which ensures an access to the asylum procedure.

The Commission welcomes the fact that the new legal provisions include a reference to the duty to respect international human rights law and international protection. The Commission considers the establishment of offices for requests for international protection at the border in Ceuta and Melilla (also foreseen in the same legal amendments) to be a positive development. When implementing this new legislation, it will be necessary to ensure that those offices are accessible in practice to all persons in need of international protection who apply for international protection.

Finally, the Commission shares fully your view that the rule of law is one of the founding principles stemming from the common constitutional traditions of all Member States and that respect for the rule of law is intrinsically linked to respect for democracy and fundamental rights. In principle, the various constitutions and judicial systems of Member States are well designed and equipped to protect citizens against any threat to the rule of law.

The Rule of Law Framework which the Commission adopted in March 2014 is intended to address emerging systemic threats to the rule of law before they rise to the level where recourse to Article 7 TEU would prove necessary, in particular if the 'rule of law safeguards' which exist at national level no longer seem capable of effectively addressing these threats.

The Commission will not hesitate to activate the process foreseen in the Framework, should this be required by the situation in any Member State. However, in the situation to which your letter refers, and on the basis of the information available at this stage, it appears that the safeguards provided by the national legal system, including the Constitutional review, provide for the necessary conditions to protect the rule of law in Spain.

I thank you again for bringing these matters to our attention and assure you that the Commission will continue to follow the situation closely.



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