

(English version)

**Priority question for written answer P-002382/25
to the Commission
Borja Giménez Larraz (PPE)
(12 June 2025)**

Subject: Compliance with EU law of the procedure for regularising substitute judges in Spain

The Spanish Government has put forward a legislative proposal to regularise around a thousand substitute judges, allowing them to be admitted to the ordinary judiciary by means of an extraordinary system parallel to the ‘turno libre’ and ‘cuarto turno’ (respectively, open competitions and admittance of experienced legal professionals to the judiciary based on merit).

Spanish judicial associations have complained that such regularisation could violate the constitutional principles and EU law on access to public employment on the basis of equality, merit and ability (Article 45(2) TFEU), and affect judicial independence, as provided for in Article 47 of the Charter of Fundamental Rights of the EU.

In light of this situation:

1. Does the Commission consider that the mass regularisation of substitute judges — i.e. admittance to the ordinary judiciary through extraordinary channels and without respecting the principles of equality, merit and ability — is compatible with Article 47 of the EU Charter of Fundamental Rights and the case-law of the Court of Justice of the European Union on judicial independence?
2. Does the Commission consider that the rules allowing the successive contract renewal of substitute judges to cover structural and permanent needs are in breach of Clause 5 of the framework Agreement on fixed-term work (Directive 1999/70/EC), and that this would justify a regularisation without an open competition?

Submitted: 12.6.2025

**Answer given by Mr McGrath on behalf of the European Commission
(13 August 2025)**

In the country chapters on Spain of the 2022, 2023, 2024 and 2025 Rule of Law Reports, the Commission took note of the low number of judges per inhabitant, and the fact that vacancies continued to be covered by substitute-judges.

The Commission is aware that, in May 2025, a draft law on the judicial and prosecutorial careers has been tabled, which aims, *inter alia*, at stabilising the situation of substitute-judges and prosecutors. The Commission will continue to monitor these developments, including in the framework of the Rule of Law Report process.

The Commission is assessing the compatibility of the laws applicable to the recruitment of substitute judges with Clause 5 of the framework Agreement on fixed-term work annexed to Directive 1999/70/EC ⁽¹⁾ in the framework of an infringement procedure ⁽²⁾.

The Court of Justice of the European Union has repeatedly stated that Clause 5, while requiring Member States to take legal measures to prevent and penalise the abusive use of successive fixed-term employment contracts or relationships, leaves them free to choose the means of achieving that objective ⁽³⁾.

⁽¹⁾ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, IO L 175, 10.7.1999, p. 43-48.

⁽²⁾ INFR(2014)4334. Updates are published under the following URL: [https://ec.europa.eu/implementing-eu-law/search-infringement-decisions/?lang_code=en&langCode=EN&version=v1&typeOfSearch=byDecision&refId=INFR\(2014\)4334&page=1&size=10&order=desc&sortColumns=decisionDate](https://ec.europa.eu/implementing-eu-law/search-infringement-decisions/?lang_code=en&langCode=EN&version=v1&typeOfSearch=byDecision&refId=INFR(2014)4334&page=1&size=10&order=desc&sortColumns=decisionDate)

⁽³⁾ See, among others, judgment of the Court of Justice of 15 April 2008, *Impact*, C-268/06, paragraph 70.