

**Presentation of the Association Platform of the Interim Judiciary**  
ENAJ Congress – Bergamo, May 10, 2025

**THE INTERIM JUDICIARY IN SPAIN Abuse of Temporary Employment,  
Violation of Rights and Job Insecurity**

Dear colleagues, it is an honor for me to be here today, in Bergamo, representing the Association Platform of Interim Judiciary of Spain, to raise our voices on behalf of hundreds of Substitute Judges and Magistrates who, like myself, have for years sustained an essential part of the Spanish justice system under precarious conditions and institutional neglect.

My name is **Inmaculada Domínguez**. I have been working as a substitute judge in Spain for 15 years. Before that, I was a lawyer for 10 years, and I hold a **Doctorate in Law**. However, despite my experience, **I have only contributed to Social Security for 10 years as a Substitute Judge, with the evident repercussions in terms of seniority, three-year increments, and retirement;** and without any guarantee of stability or job continuity.

If I am not performing substitution duties, **I do not receive a salary, I do not contribute to social security, and I am not entitled to sick leave or maternity leave.** And most seriously: I cannot even hold another paid job, except for teaching, due to a regime of incompatibilities that, however, offers me no social protection in return. Furthermore, **I am obliged to remain available to the Superior Court of Justice 24 hours a day, 365 days a year.** This obviously prevents me from reconciling my personal and family life.

My case is not an exception. It reflects a **structural situation of abuse and lack of protection**, which affects thousands of professionals in Spain, **especially women—we make up almost 76% of the group—which adds a component of gender discrimination.**

The analysis presented is the result of the Spanish experience of the interim judiciary and aims to open a dialogue towards a broader and comparative reflection, useful for reviewing the model and offering solutions in a context of permanent reforms and transformations in the Administration of Justice.

**I. Who are we and how do we access our positions?**

The interim judiciary **is not an auxiliary or temporary figure, but a structural part of the Spanish judicial system.**

We are **more than 1,000 active substitute judges and magistrates.** We have accessed our positions by passing public selection **processes based on the principles of equality, merit, and capacity.** We fill **structural vacancies in the administration of**

**justice and perform exactly the same functions as career judges. But, unlike them, we have no stability, no professional career, and no full labor rights.**

To be appointed, substitute judges and magistrates pass a **public merit-based competition**, convened by the General Council of the Judiciary. The process includes:

1. **Assessment of professional, academic merits and jurisdictional experience, with objective and public criteria.**
2. **A personal interview**, which evaluates the technical suitability and aptitude of the applicant.

Preference is given to applicants with experience in judicial, prosecutorial, or court clerk functions, or in the legal or academic field. However, in the case of Substitute Judges, **it is also necessary to have a suitability report issued by the President of the jurisdictional body where they have performed judicial functions.**

Each appointment is **evaluated by a tripartite system**:

- President of the jurisdictional body,
- Government Secretariat of the Superior Court of Justice,
- And final resolution by the **GENERAL COUNCIL OF THE JUDICIARY.**

And yet, **despite exercising jurisdiction like career judges and being subject to the same regime of duties and incompatibilities, we are not recognized any equivalent rights in terms of stability, remuneration, or social protection.**

This situation generates for Substitute Judges and Magistrates:

- a) **current and future economic precariousness.**
- b) **prevents us from reconciling personal, family, and work life.**
- c) **constitutes indirect gender discrimination because almost 76% of Substitute Judges and Magistrates are women, AND MORE THAN 50% ARE OVER 50 YEARS OLD, making us a particularly vulnerable group.**

## **II. What does Europe say?**

For more than a decade, **the European Commission has been investigating the Spanish State for failing to comply with Directive 1999/70/EC on fixed-term work.** In its letter of formal notice of October 2024, following complaints filed by the Associations of the Interim Judiciary, the Commission was clear: **Spain has not adequately transposed Clause 5 of the Framework Agreement, allowing the abusive and repeated use of temporary appointments to cover permanent needs in the judiciary.**

The Commission has urged the Spanish State to send observations within two months, warning that it could issue a **reasoned opinion and refer the matter to the Court of Justice of the European Union.**

In response and, instead of repairing the damage, the Spanish Government has promoted a **preliminary draft of a reform of the Organic Law of the Judiciary**, supposedly to adapt the regulations to European law.

But this reform fails to comply with the Directive, as well as the judgments of the Court of Justice of the European Union because:

1. **It conditions stabilization on passing a single eliminatory selective test, with an uncertain outcome**, open to all legal professionals, even if they are not Substitute Judges and have not suffered the abuse of temporary employment.
2. It does not follow the criterion of the Court of Justice of the European Union, **that permanence is the measure that effectively sanctions the abuse of temporary contracts, since it is job stability that protects the group victim of abuse**.
3. **It does not offer stability as a sanction**, which is what the CJEU requires.
4. **It establishes a derisory compensation of 20 days per year of service, with a maximum of 12 months' salary**, which does not compensate for the exclusion of contributions, pensions, and seniority.
5. **It keeps open the possibility of continuing to appoint substitute judges for structural needs**, that is, it consolidates the fraud.
6. It constitutes a **COVERT COLLECTIVE DISMISSAL of the interim judiciary and WILL LEAD TO THE CESSATION OF THE MAJORITY OF THOSE AFFECTED**.

### **III. The interim judiciary outside of stabilization**

In recent years, **Spain has approved extensive measures for the stabilization of public employment in all Administrations** to comply with Directive 1999/70.

This has meant, for example:

- Access to permanent positions without opposition through a **merit-based competition**.
- The **regularization of thousands of temporary workers**, especially in Health, Education, and Justice (auxiliary, administrative, procedural...).

**But these measures do not apply to substitute judges and magistrates because we are excluded from the Basic Statute of Public Employees**, which is the regulation where the stabilization processes have been articulated.

That is to say: **the abuse is recognized for the rest of the temporary workers, but it is deliberately ignored for those of us who serve as judges** with the same obligations, responsibilities, and incompatibilities as career judges.

**This is an unjustifiable regulatory discrimination that violates the principle of equality and non-discrimination, and which in our case particularly affects women.**

Therefore, far from correcting the reported breaches, this legislative proposal consolidates the precariousness of the interim judiciary, perpetuates the lack of access to

a professional career, and does not adequately transpose the requirements of stability, social protection, and non-discrimination imposed by European Law.

#### **IV. Measures from APJI**

From the Association Platform of the Interim Judiciary, we have adopted several measures:

- **We have filed two complaints with the European Commission** (the latest complaint on February 14, 2025).
- **We have submitted allegations to the preliminary draft of the law, requesting a process restricted to the affected group, based on a merit-based competition without examination.**
- **We have asked the European Parliament to:**
  - Support the stabilization of the group.
  - Demand compliance with the Directive.
  - Promote sanctions if non-compliance persists.

We have also held meetings with the General Council of the Judiciary, the Ministry of Justice, the Government, political parties, and the media. However, the individual judicial initiatives filed by those affected have been mostly dismissed without the due referral of preliminary questions to the Court of the European Union, and sometimes with the imposition of costs, which aggravates the situation of lack of protection.

Added to this is the fact that the **GENERAL COUNCIL OF THE JUDICIARY itself has acknowledged that the judicial system needs more than 6,500 judges in the next decade to avoid vacancies.**

**The interim judiciary is not a temporary fix; it is a structural necessity. But those of us who sustain it are being expelled from the system with a reform that neither repairs, nor stabilizes, nor protects.**

From APJI, we defend the full integration of Substitute Judges and Magistrates into the judicial career, through a regulatory reform that puts an end to decades of precariousness and institutional violence and that guarantees the effective compliance with European Law on public employment, equality, and non-discrimination, including that derived from gender.

With this presentation, we want to raise the voice of a silenced part of the Spanish justice system: the Substitute Judges and Magistrates, who sustain it in the shadows, without rights, without stability, and with constant violation of the most essential principles of the European legal order.

Ultimately, the problem we are exposing is not simply an internal labor issue of the Spanish judicial system. It is a matter that transcends national borders and affects the credibility of the rule of law within the European Union.

We are judges. We apply the law. We defend the rights of citizens. Today we come here to defend our own rights as well.

It is essential that measures are adopted to guarantee the stabilization of this group. The European Union must ensure compliance with its own regulations and demand that Spain adopt the necessary measures to put an end to this injustice.

Because a mistreated interim judiciary is a weak justice.

And a weak justice cannot sustain a strong rule of law.

Sincerely,

Inmaculada Domínguez  
President APJI

