



Asociación "Pro-Dignidad" de Jueces Sustitutos y Magistrados Suplentes



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SUBSTITUTE JUDGES: HIDDEN FIGURES OF THE SPANISH JUDICIARY

Distinguished colleagues, it is an honor and a privilege to address such an illustrious audience today.

My name is Lydia Polo, President of the Association for the Dignity of Substitute Judges and Magistrates of Spain.

I appear before you to present an issue of singular importance that affects the Spanish judicial system and which, I am convinced, is of interest from the perspective of comparative law and the interaction between national and European supranational legal systems: I am referring to the situation of substitute judges and magistrates in Spain. After the brilliant presentations by my colleagues, I will attempt to move away from the strictly legal and highlight the more human side of our group, aiming to depict who we are and the current state of the Spanish judiciary.

Let me begin by saying that the name of our Association is not a coincidence; it honors our group and clearly reflects the essence of our demands: the recognition of dignified work. If we wish to build a dignified Judiciary that respects all its members and guarantees citizens' rights, it must itself be dignified in essence. Without dignity at its core, it cannot extend dignity to society as a whole. And this dignity cannot be



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proclaimed when one fifth of the Judiciary exercises judicial functions under precarious conditions and blatant abuse of temporary contracts.

According to data from the General Council of the Judiciary, as of January 1, 2025, there are 944 substitute judges and magistrates out of the 5,431 members of the Judiciary, of whom – and this is no small detail – 73.6% are women, issuing 20% of judicial decisions under working conditions unparalleled in the European Union.

Leaving aside these cold yet necessary statistics and the many rivers of ink spilled about substitute judges, I will allow myself the liberty to be more than words—I will be the voice of all my colleagues, so that we may be heard and not silenced. And I will do so by quoting the great French writer Victor Hugo, who said, "Music expresses that which cannot be put into words and that which cannot remain silent." This quote, too, is no coincidence, as I believe silence has defined our group—undoubtedly "silent and silenced." We have been and continue to be the hidden figures of Justice. But it is no longer possible to remain silent; the silence is deafening. That silence began to break when the Judgment concerning our Italian honorary colleagues came to light this past March—a Judgment that led us to file two complaints with the European Commission for Spain's non-compliance with European Union law and case law. These complaints broke a 23-year silence, following two infringement procedures initiated by the Commission against Spain for failing to correctly transpose Directive 1999/70, which remain open.



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After the complaints, the European Commission issued two Letters of Formal Notice to Spain's Ministry of Justice, recognizing Spanish substitute judges as temporary workers subjected to abuse. This prompted the Parliament to request the Government to urgently draft an Organic Law to regularize the status of substitute judges and prosecutors, who remain the only workers in Europe without any stabilization process.

Without a doubt, the European Court of Justice's Judgment in the "Peigli" case, concerning Italian Honorary Judges (*giudici onorari*), following a preliminary ruling request from Italy's Council of State, sets a precedent that changes the landscape in Spain. It establishes a doctrine highly applicable to the Spanish interim judiciary system. The Judgment finds that, as in Spain, years of successive temporary appointments amount to abuse that can only be remedied by converting the relationship into a permanent one. The Court's conclusions fully apply to Spain, where, although the figure of the substitute judge was initially meant to be exceptional, for decades they have been used to meet permanent and long-term needs of the judicial system—not to address temporary surges, such as sudden increases in litigation, especially considering Spain's high litigation rate and low number of career judges (well below the EU average).

In fact, the situation of Spanish substitute judges is even more precarious and abusive than that of Italian honorary judges or any other group of interim or temporary workers in Spain. They perform identical



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functions to career judges and are subject to the same exclusivity, incompatibilities, and prohibitions, which prevent them from engaging in paid work during their appointments—regardless of whether they are called to perform judicial duties or not. They may be dismissed at any time based on a simple declaration of unfitness or unsuitability, through a summary process based solely on an internal report from the Governing Chamber of the High Court of Justice, which has been used to exclude long-serving judges from annual lists, including those on medical leave.

Under pressure from Europe, Spain responded by passing the Law on the Efficiency of the Public Justice Service on January 2, which requires the approval—within three months—of a draft Organic Law aimed at “ending the temporary status of substitute judges, increasing staffing levels, and strengthening the judicial and prosecutorial careers.”

The draft law emerged in January but was immediately met with opposition from all judicial associations and the General Council of the Judiciary. Our group is also dissatisfied with the draft, as it fails to meet EU requirements or the standards set by Spain’s Constitutional Court. The proposal includes a competitive exam for all substitute judges with more than five years of appointments—a system that is uncertain, random, and ineffective. It does not provide a sanction or real remedy for the abuse. It subjects long-serving professionals to an eliminatory exam and offers compensation in case of failure that does not meet EU standards.



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The debate remains open and the problem unresolved. Non-compliance by the Spanish State is not limited to the legislature; the Judiciary also bears responsibility. Regardless of the final outcome of the legal reform, the situation remains worrisome. Even if the reform is passed, the abuse may persist if the Judiciary continues to deny basic labor rights to substitute judges and imposes heavy legal costs as a deterrent. But the most serious issue, Spanish courts have refused to refer preliminary questions to the European Court of Justice, leaving substitute judges in a state of complete legal defenselessness.

We know we still have a long road ahead. But we must not forget who we are. We are judges, like our career counterparts, by virtue of our appointments, which are made year after year through a public merit-based selection process, subject to the principles of equality, merit, and ability required by our Constitution. We do not belong to a “pool” of workers summoned sporadically. We are part of the civil service, appointed by the General Council of the Judiciary with full legal guarantees. Like all other judges and magistrates in Spain, we fall under the jurisdiction of this Council, which places us within the judiciary structure. We are judges because we perform the same functions: to judge and enforce judgments. We operate across all judicial orders, and our rulings carry the same legal weight. We are part of a State power—arguably the most important—and thus we are held to the same standards of responsibility and independence. We do not dispense “discretionary justice” like in the Middle Ages. We apply the law just like



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the rest of Spain's judges and magistrates. And while we carry out these duties, the State grants us all the responsibilities of judges but denies us the labor dignity and stability essential for equal performance.

As one late, beloved sitting magistrate once said about us: "You're like football players on the bench—ready to jump into the game at a snap of the coach's fingers when someone gets injured or can't play. You must be just as trained as those on the field and at the service of whoever calls the shots. You're like those bench players. But your employer doesn't pay you to sit on the bench. They've arranged things so you only get social security, and only get paid if you're sent onto the field. And the General Council of the Judiciary and Ministry of Justice think that's just fine, even though it violates the most basic rights of labor law."

In short, we are JUDGES—fully and proudly so. We are labeled as "substitutes," a term that doesn't even define us, yet we carry it with dignity, generosity, and responsibility, fulfilling, day by day and year by year, the task for which we were appointed: to administer justice. It's true—we don't have our own offices or ID cards, we don't wear cuffs on our robes, not even a crest—despite being appointed for the entire judicial year, consecutively and exclusively, with the same incompatibilities as career judges. We receive no pay nor social security coverage unless we are called to a specific court. We are glued to our phones, ready to respond immediately. We can't plan holidays or achieve work-life balance because failing to respond promptly may trigger disciplinary or even criminal



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liability. We're not recognized as a judicial association. We have no voice in the Judiciary—but we are a vital part of it. In a democratic state, we are, as our Constitutional Court has affirmed, the natural guardians of individual liberties—the guarantors of citizens' rights. Yet our own rights remain unrecognized. We fix injustices while living within them.

Now is the time to make the invisible visible, and, thanks to your generous support and drive, to correct the deeply rooted problem in our system. We are a group that contributes every day to a more just, efficient, and resilient justice system—and we ask to be acknowledged and given a voice in Europe.

I would like to close with a quote from the great Spanish poet León Felipe:

"Strange times are these, when we still have to fight for what is self-evident."

Lydia Polo Alba

Presidenta de la Asociación Pro Dignidad de Jueces Sustitutos y Magistrados Suplentes.