Good morning, everyone:

My name is Mª Rosa Navarro, and I am the President of the Association of Substitute Public Prosecutors of Spain. First of all, thank you very much for allowing us to participate in this event. We are excited to share with you all the issues our group is facing.

Our association is the only one in Spain that represents Substitute Public Prosecutors and was established on March 29, 2008. To be a member, one must be or have been a Substitute Prosecutor. Currently, in Spain, there are over 400 Substitute Prosecutors; I would dare to say that, as of today, the number may be approaching 500. Our group is highly feminized, with approximately 77% women, and over 70% of us are over 50 years old.

Access to the Public Prosecutor’s Office for those in our group is granted through an annual public competition — which is usually extended for an additional year — where candidates present their merits and are scored based on a strict set of criteria. Essential requirements include: being Spanish, of legal age, having no criminal record, holding a Law degree, and not being subject to any disqualifying grounds for serving as a career Prosecutor. Moreover, one must formally declare not having engaged in any incompatible profession — such as law practice — in the locality of assignment within the previous two years, among other conditions. This role is incompatible with any other profession, except teaching, which is allowed.

Regarding the merit-based scoring system, I’d like to highlight a few points. For several years, we endured constant changes in the criteria: new merits were introduced, such as holding a degree in Criminology (now considered a diploma), while the value of other merits was altered. For example, a merit that was worth 2 points in one call — such as a Criminology degree — could be worth just 0.2 in the next. I mention this to show the arbitrariness with which the administration acted and the challenges we had to fight against to keep our jobs. If our score dropped, others who had never worked as Substitute Prosecutors could surpass us in the next call, leaving us unemployed. We managed to reverse this situation thanks to the Association’s efforts, eventually achieving a unified and stable merit system — but only through significant effort and dedication.

Once our appointment is published in the Official State Gazette, the corresponding Public Prosecutor’s Office starts assigning us tasks. Although, on paper, our employment is temporary — as our term ends every August 31 and we take office again on September 1 for the next judicial biennium — in practice, most of us have been working continuously for over 15, 20, or even, in some cases, over 38 years.

This has been possible because Spain failed to transpose Directive 1999/70 on temporary employment within the required timeframe and has not adopted the necessary measures to apply it to our group, nor to our colleagues who are Substitute Judges. We are the only two groups in the Spanish public administration for which no stabilization process has taken place.

Several colleagues have filed lawsuits requesting that the existence of abuse in our employment relationship be acknowledged, and that, as a penalty, they be granted permanent status or compensation. However, to date, the Supreme Court has held that no such abuse exists, arguing mainly that competitive exams for the career Prosecutor role have been held and that, therefore, this is not a structural issue but a circumstantial one — intended to cover absences, maternity leaves, etc. But this claim is not true. In my case, I’ve served as a Substitute Prosecutor for 25 years (and 4 years before that as a Substitute Judge), spending more than 4 consecutive years at various posts and, specifically, over 10 years at the Barcelona Provincial Prosecutor’s Office, including more than 6 years at the Gender-Based Violence unit, where I currently continue working. For example, my colleague Yolanda Lanzos, who is here with me, has worked uninterrupted as a Substitute Prosecutor for over 38 years at the High Court of Justice in Madrid.

At this time, following the ruling of the Court of Justice of the European Union (CJEU) on June 27, 2024, concerning our colleagues — the Italian Honorary Judges — there are several ongoing legal proceedings awaiting judgment, in which the preliminary ruling mechanism has been requested. However, all Spanish courts have so far refused to raise this issue to the CJEU (note that our lawsuits are submitted to the National Court, and the only appeal possible is to the Supreme Court). We are convinced that the issue will not be referred again, and most likely, the Supreme Court's precedent — as reflected in its two most recent rulings from February 2025 — will continue to be applied, asserting that no abuse exists and that national law does not consider permanent appointment a valid penalty for such abuse. Furthermore, in these rulings, the court ordered our colleagues to pay legal costs — in some cases up to €4,000.

I have explained how we access the role of Substitute Prosecutor and the requirements involved, but it’s also important to mention that while we perform our duties, we are subject to regular evaluations through semi-annual reports by our superiors, which assess our professional performance based on the standards expected of the role. If we fail to fulfill our responsibilities adequately, we can be dismissed for incompetence or unsuitability. This means that if we have held the position for over 20 or 30 years, our capacity and efficiency have already been clearly demonstrated.

Next, I want to talk about our labor rights. At the start of our careers, we had none: we were not entitled to sick leave or maternity leave, nor did we contribute to Social Security, which left us without pension rights or recognition of seniority. These rights have been gradually achieved through various legal claims.

In my own case, I started as a Substitute Judge and was denied maternity leave after the birth of my first daughter. When I wanted to return to work after the postpartum quarantine — since I wasn’t being paid and needed to pay the mortgage and feed my family — I contacted the competent authority and was told that the dean could choose to keep either me or my replacement. Fearing that I might later request medical leave, the dean chose to keep my substitute. However, he did express his desire to work with me again because he was very satisfied with my work. At that moment, I was offered the position of Substitute Prosecutor, so I gave up my judicial role and took office as a Prosecutor.

Don’t think the issue with leaves is fully resolved. Under the current system, where we take office every two years on September 1, if we suffer a workplace accident on August 31 — such as a fall on the Prosecutor’s Office stairs — and can’t return the next day due to hospitalization, we are placed at the very bottom of the list published in the BOE. This could mean being out of work for months or even for the full two-year term.

Another right we previously had, just like career Prosecutors, was leave for personal matters or seniority. However, in 2022, the Ministry of Justice passed a Royal Decree modifying our regulation, removing those leaves. We had to sue, and about a year ago, we won a favorable ruling that acknowledged such rights could not be stripped once consolidated. Still, the General Prosecutor’s Office interpreted the ruling as applicable only to the plaintiffs in that specific case, so many colleagues had to request the extension of those effects through court. Only a couple of months ago was the right officially recognized for all Substitute Prosecutors — but with a caveat: it will be granted “as long as it does not interfere with service needs,” which, in practice, leaves the decision to each Chief Prosecutor. Fortunately, so far, the leaves are being granted everywhere.

As for our duties, we perform exactly the same tasks as career Prosecutors: we handle assigned court cases, write appeals, draft criminal charges, respond to civil, labor, or administrative lawsuits, write legal reports, attend trials representing the Public Prosecutor’s Office, defend the interests of minors and people with disabilities, participate in duty court shifts requesting precautionary measures, etc. Exactly the same as career Prosecutors.

Let me make two clarifications. The first concerns trials at the Provincial Court (those with sentences of more than five years). Following the 2022 Royal Decree, Substitute Prosecutors were excluded from these trials. Why? Because we had demanded payment at the Prosecutor category level — rather than the lower Assistant Prosecutor category — for performing the same duties. Once this was acknowledged, the legislature’s response was to prevent us from carrying out those functions to avoid further claims. However, due to service needs, the Royal Decree allows Substitute Prosecutors to attend these trials, except in exceptional cases. So, in practice, there are offices where substitutes never attend these trials and others where some do.

In my Gender-Based Violence unit, there are eight prosecutors: six permanent ones with full Prosecutor status and two Substitute Prosecutors. All of us — except the chief — perform exactly the same duties.

The second clarification is about duty shifts, which are paid as an extra. In towns where these shifts are weekly, both career and substitute Prosecutors take part. But in major cities like Madrid or Barcelona, where the shifts are 24 hours long and paid the same as a weekly shift, substitutes are excluded (as in Madrid) or only do the shifts that no one else wants (as in Barcelona). In my case, because I work in a specialized Gender-Based Violence unit, both permanent and substitute Prosecutors take all the shifts equally. Otherwise, the permanent staff would have to do one shift every six days, which is humanly impossible due to the workload.

One more note: Substitute Prosecutors do not take part in jury trials. But neither do career Assistant Prosecutors, to whom we are equated in salary. In Barcelona, only eight Prosecutors form the special jury trial unit, and not even other permanent Prosecutors participate in these trials — even those with full Prosecutor rank.

Regarding training, we were initially barred from courses at the Center for Legal Studies. Later, under a specific director, we were allowed to attend both in-person and online courses. Today, we are excluded from in-person courses unless all spots are not filled. In Catalonia, where there is a separate Center for Legal Studies, we are allowed to attend all courses, and this year, we were even required to attend a three-month in-person course every Wednesday afternoon.

Regarding salary, Substitute Prosecutors are paid at the level of Assistant Prosecutors — the entry-level in the Prosecutor’s career (the other levels are Prosecutor and Chief Prosecutor). Thanks to a court ruling, those who sued and proved that they performed the same duties as permanent Prosecutors were granted the same pay. But to avoid more lawsuits, the Royal Decree stripped us of those specific duties — although in practice, many of us continue performing them. Still, our pay remains at the lowest category.

Finally, I must point out that the Spanish Government has drafted a bill that does not solve our situation. It proposes an open competitive exam, not restricted to us but open to any legal professional with over five years of experience (lawyers, university professors, etc.). For those who do not pass the exam, compensation of 20 days per year worked is proposed, capped at 12 months — a penalty the CJEU has already deemed insufficient as it is neither dissuasive nor proportionate.

That is all. Thank you very much for your attention, and I remain at your disposal for any questions you may have.