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Brussels, 21st September, 2022

Dear Commissioner,

I am writing to you to alert you, in view of your upcoming visit to Spain, of the campaign launched by the party in government to prepare and carry out the pardon of one of its highest representatives in the last 40 years, José Antonio Griñán, involved in a case of corruption of the utmost seriousness.

This campaign has been planned by the governing party to neutralize the effect of the sentence, which weakens the rule of law and gives free rein to future corruption.

The Supreme Court has confirmed the convictions of the former presidents of Andalusia, Manuel Chaves and José Antonio Griñán, for a continuous crime of embezzlement of public funds amounting to 680 million euros and sentenced them to 9 years of disqualification and to 6 years in prison, respectively. The sentence of the high court assumes the story of the Seville Court on the background of the Employment Regulation Files¹, and whose fraud considers Griñán and Chaves --who governed the Andalusian Government for 23 years (1990-2013), but have also been members of the parliament and ministers-- as "determining" architects. In addition, Chaves has been president of the PSOE party between 2000 and 2012, and Griñán was between 2012 and 2014, being the fraud of the ERE investigated between 2000 and 2011.

The sentence states that "The convicted acted with knowledge of the irregularities and pursuing a specific purpose whose unlawfulness they knew." Despite the forcefulness of the court ruling, the campaign in favour of the pardon has the support of former socialist presidents Felipe González and José Luis Rodríguez Zapatero, as well as the former Andalusian president Susana Díaz. The media preparation of the pardon is an exercise in preparation for despotism, arbitrariness and outrage.

The pardon of the crime of embezzlement of public funds is an attack against judicial independence, since it is nothing more than a way of amending the sentences of the courts, and against the separation of powers and the equality of citizens before the law. It recalls a precedent in Romania, in 2017, when the European Commission forced the authorities to withdraw their pardon scheme for this type of crime on the grounds that it strongly undermined the rule of law.

¹ In 2000, the socialist Junta created a fund to rescue companies in crisis that were undergoing a labor force adjustment plan (ERE) and to pay for the early retirement of their workers. The Junta delegated the granting of such aid to the Agency for Innovation and Development of Andalusia (IDEA) by means of financial transfers. IDEA was, therefore, the entity that paid the ERE. Thus, the socialist governments escaped the official control mechanisms. A parallel administration was created to declare unnecessary EREs in companies related to the regime and to grant direct and unpublicized aid to friends and supporters of the PSOE.

It is very serious that people from the political orbit access the pardon because they are party colleagues of those in the government, and it is a violation of the principle of equality before the law and the enforcement of sentences.

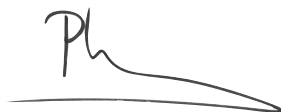
As guardian of the Treaties, the European Commission must ensure that the Member States, in compliance with the rule of law, the equality of citizens and respect for the principle of the separation of powers, guarantee that those sentenced to prison by final judgment serve their sentence. A government pardon in this case would be a political interference that would demonstrate the failures in the control of corruption in Spain (already detected by the Commission in its report on the rule of law) and the problems of judicial independence, separation of powers and equality of citizens.

In recent decades, successive governments in Spain have granted hundreds of pardons to people convicted of corruption, often linked to the political party in power. This silent practice is a sign of arbitrariness and partiality installed in the exercise of power in Spain, one of the great dangers to our rule of law.

For this reason, Ciudadanos has proposed a modification of the law that regulates the granting of pardons, which dates back to 1870, to prohibit those convicted of corruption from benefiting from this measure of grace. Specifically, the modification of Article 19 of the legislation, which currently establishes that convicted persons, their relatives or any other person on their behalf may request a pardon. In the event that the convicted person has committed a crime related to corruption, such as bribery, prevarication, embezzlement of public funds or misappropriation, he will not be able to request a pardon on his own, but it would be the court that sentenced him, based on the circumstances of the case, the responsible for doing so, on the basis of Article 20 of the same law. Among other modifications, Ciudadanos also asks to veto the pardon for those convicted for crimes of rebellion and sedition and that there is repentance on the part of the convicted person and reasons that can foresee that he/she will not reoffend.

I would ask you, Commissioner, to take this information into account in your next visit to Spain as well as in your next report on the rule of law in Spain.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a long, sweeping horizontal line that tapers to the right.

Maite Pagazaurtundúa
Vice-Chairwoman of the Committee on Civil Liberties, Justice and Home Affairs
in the European Parliament and Home Affairs in the European Parliament