

Shielding Democracy

An institutional reform agenda to
protect the rule of law in Spain

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Annex: The catalog of “Sanchista” corruption and opacity

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Executive summary

Against the backdrop of a steady erosion of the rule of law in Spain, *Shielding Democracy* is a report by the Instituto Juan de Mariana that sets out a series of possible reforms aimed at restoring lost institutional quality and improving the workings of our democracy.

01 Constitutional Court (depoliticization and institutional redesign)

The report proposes changing the appointment system to reduce the weight of party quotas, introducing more demanding technical criteria and reinforced majorities that force consensus. It also proposes limiting renewals by blocs to prevent simultaneous capture of the Court. It suggests tightening incompatibilities with recent political office and establishing terms that are less exposed to electoral cycles. The aim is for the Court to recover its role as an independent constitutional arbiter rather than acting as an extension of passing parliamentary majorities.

02 General Council of the Judiciary (election by judges and an end to deadlock)

The central proposal is that the members drawn from the judiciary be elected directly by judges, reducing Parliament's involvement. It also proposes automatic renewal mechanisms to prevent institutional deadlock, together with stricter transparency requirements for discretionary appointments and objective merit criteria. The aim is to shield judicial independence and end the practice of carving up posts among parties.

03 Public procurement (simplification and effective oversight)

The report proposes reducing the regulatory complexity that hinders genuine competition, simplifying procedures and removing unnecessary administrative burdens. In exchange, ex post controls are strengthened, with more demanding audits and effective sanctions for irregularities. It also proposes expanding the use of digital tools to guarantee full traceability of contracts. The aim is to cut cost overruns, prevent clientelism and make public spending more efficient.

04 Party financing (less subsidy, more transparency)

The report proposes progressively reducing direct public subsidies and tying them to more demanding representativeness criteria. It also proposes making private funding easier, within clear limits and with full transparency, so as to avoid opacity. Independent oversight and audit mechanisms are strengthened as well. The aim is to reduce parties' dependence on the State and make them more accountable to their voters.

05 Council of State (functional and technical reform)

The report argues for redefining the Council's role so that its opinions carry real practical weight rather than being a mere formality. It proposes strengthening the technical profile of its members and reducing political appointments, and suggests improving the quality and impact of its reports in the legislative process. The aim is to turn it into a genuine high-level body for legal review.

06 Electoral system (better proportionality and governability)

The report suggests revisiting the allocation of seats to reduce distortions between votes and representation, and introducing elements that improve proportionality without causing excessive fragmentation. It seeks to strengthen the equality of the vote across territories. The aim is a more representative system with greater democratic legitimacy.

07 Single national constituency + minimum threshold (balancing representation and stability)

This approach centers on introducing a national constituency, or a mixed system, that corrects the current provincial biases. A minimum threshold (for example, 3–5%) would prevent extreme fragmentation in Parliament. The reform would also make the weight of each vote more even. The aim is to improve proportionality while preserving governability.

08 Senate (conversion into an effective territorial chamber)

The Senate should be redefined as a genuine chamber of regional representation, with clear functions in territorial coordination. The report proposes changing its electoral system to better reflect the autonomous communities and eliminating overlaps with the Congress of Deputies. The aim is to make it a useful institution within the territorial design of the State.

09 Representative mandate and party discipline

The report proposes revising the current model to strengthen representatives' accountability to voters. It suggests mechanisms that increase accountability without eliminating parliamentary autonomy, and seeks to balance party

discipline with greater individual freedom on certain votes. The aim is to improve the quality of democratic representation.

10 CIS, RTVE, institutional advertising and SEPI (depoliticization)

The report calls for professionalizing the management of these bodies through technical appointments and independent procedures, and for handing over to the private sector some areas that are currently in State hands. For the CIS, it proposes strengthening methodological rigor and neutrality. For RTVE and RNE, ending public ownership of media outlets or, at the very least, adopting safeguards that minimize the scope for political interference. For institutional advertising, establishing objective and auditable criteria to prevent partisan use. As for SEPI and other public entities, embarking on a privatization plan. The aim is to reduce the political capture of public resources and institutions.

Introduction

An urgent program for institutional reconstruction and renewal

This volume from the Instituto Juan de Mariana, entitled *Shielding Democracy*, starts from an observation that is hard to dispute: the rule of law in Spain is going through one of its most delicate moments since democracy was consolidated. This is not because elections have disappeared, nor because the Constitution has been formally suspended, but because practices that hollow out the institutional checks and balances on which a functioning liberal democracy rests have gradually become normal. The deterioration has been neither sudden nor spectacular; rather, it has unfolded gradually, which is precisely why it is less visible and, at the same time, more dangerous.

For years, public debate has tended to personalize institutional problems, reducing them to the bad faith, sectarianism or incompetence of particular leaders. Without denying that leadership matters, this approach falls short. Mature democracies do not rest on the virtue of those who govern, but on rules that limit power even when those who wield it have no wish to be limited. When those rules fail, the problem ceases to be circumstantial and becomes structural.

Spain has quietly widened the Executive's room for maneuver to levels that are hard to reconcile with a demanding conception of liberal constitutionalism. The abuse of the decree-law as an ordinary legislative channel, the indefinite rollover of budgets at no political cost, the partisan colonization of constitutional and regulatory bodies, the subordination of the Public Prosecutor's Office to the Government and the capture of the judiciary's governing body are not isolated phenomena. They follow a single pattern: the instrumental use of institutions as extensions of political power rather than as limits on it.

This process does not always take crude forms. It often wears the garb of formal legality, is justified in the name of governability or shelters behind passing parliamentary majorities. But respecting the rule of law is not merely a matter of complying with the letter of the law; it means preserving the spirit of the institutions that guarantee the separation of powers, legal certainty and accountability. When the Government can legislate without debate, govern

without an approved budget, exert decisive influence over judges, prosecutors and regulators, and neutralize ex ante controls, democracy still exists, but in an impoverished form.

From a liberal perspective, this phenomenon is especially troubling. Political liberalism is defined neither by the glorification of the market nor by an abstract distrust of politics, but by one central idea: power tends to expand unless it is subjected to clear, stable and impersonal limits. Hence the importance of institutions—not as ornaments, but as mechanisms designed precisely to resist the temptation to govern by shortcut.

This volume is therefore not conceived as an exercise in rhetorical denunciation, but as a proposal for institutional reconstruction. Its common thread is simple: to reduce governments' discretionary scope to capture, distort or neutralize the institutions of the State, replacing reliance on goodwill with rules that work even amid polarization, parliamentary fragmentation or illiberal leadership.

The reforms proposed here share the same logic. Limiting the use of the decree-law is not a procedural matter; it is a way of restoring Parliament to the center of political life. Requiring budgets to be approved within reasonable deadlines is not a fiscal technicality; it is a basic requirement of democratic oversight. Depoliticizing the Constitutional Court, the Public Prosecutor's Office, the General Council of the Judiciary or the economic regulators is not meant to switch off politics, but to remove it from the places where it does the most harm. Wherever rules are arbitrated, markets are supervised or power itself is judged, institutional neutrality is not optional.

Far from proposing abstract or maximalist solutions, this book draws on the comparative experience of European democracies that have done a better job of protecting their checks and balances. Germany, Sweden, Italy, the Netherlands and the United Kingdom appear here not as idealized models, but as examples of something fundamental: institutions matter more than intentions. Where governing without a budget is uncomfortable, budgets get passed. Where the Executive cannot legislate unilaterally, it negotiates. Where judges, prosecutors and regulators are shielded from politics, the temptation to colonize them diminishes.

Spain does not lack the legal resources or the constitutional tradition to embark on this path. What has been missing is the will to accept that certain reforms must be undertaken precisely when they are uncomfortable for those in power. The

paradox of the rule of law is well known: it only becomes entrenched when those in power voluntarily renounce advantages that the system allows, but that the system should not tolerate indefinitely.

Shielding Democracy is, ultimately, a defense of liberal constitutionalism against short-term thinking. It is a plea for institutions that force negotiation, make costs explicit, limit discretion and protect citizens from the partisan use of the State. It does not propose an unattainable ideal, but something far more modest and, at the same time, more demanding: rules that make it harder to govern badly and easier to govern within limits.

It is an ideal already enshrined in several articles of the Spanish Constitution (CE), yet one that is not honored in practice:

- A democratic State governed by the rule of law (Art. 1 CE);
- Hierarchy of legal norms, prohibition of arbitrariness, subjection to the Constitution and legal certainty (Art. 9 CE);
- Equality before the law (Art. 14 CE);
- The exclusive power of independent courts to judge and to enforce their judgments (Art. 117 CE);
- Etc.

If Spanish democracy wants to remain something more than a sum of circumstantial majorities, it must recover that institutional ambition. There are no lasting shortcuts to good governance. What we need are institutions designed to hold firm when power tries to bend them.

1 Redesigning the Constitutional Court

1.1 Integrating the Constitutional Court as a Chamber of the Supreme Court to guarantee constitutional rights

Constitutional Court (TC) justices and other jurists have traditionally spoken of the Court's necessary "self-restraint", as former TC Vice-President Rubio Llorente once argued¹. Yet the Court has recently handed down judgments in which it rewrites the proven facts and legal reasoning established by the Supreme Court (the ERE case)².

The degradation of Spain's Constitutional Court is neither an accident nor mere rhetorical excess; it is the result of a deliberate political strategy. Political parties have turned the Court into an extension of partisan power through the systematic appointment of former ministers, former senior officials and profiles of proven political loyalty, until securing an ideological majority that acts as a last-resort lifeline for their interests. Insofar as the Court's justices are appointed, even if indirectly, by the political parties (eight by a three-fifths majority of the Senate and Congress, two by the General Council of the Judiciary—whose members are in turn appointed by the Cortes—and two by the Prime Minister, Art. 159 CE), the Court lacks the independence needed to review whether laws passed by those very parties in the Cortes Generales respect the Constitution (as the expression of the will of the constituent power).

The results are plain to see: endorsement of the pardons and criminal benefits granted to those convicted over the 1 October 2017 referendum (1-O), the legal whitewashing of the ERE case, and strained reinterpretations of the Constitution to sanction the erosion of the fiscal autonomy of regions that cut taxes, among others. Particularly significant was Constitutional Court Judgment 37/2025³, which held that Organic Law 1/2024 on the Amnesty was constitutional because

¹*El Tribunal Constitucional*. Francisco Rubio Llorente, *Revista Española de Derecho Constitucional* No. 71, special issue for the 25th anniversary of the Constitution (III) (May–August 2004), pp. 11–33. A recommended article is *Relación entre Tribunal Supremo y Tribunal Constitucional. Autocontención del Tribunal Constitucional*, Pedro Tenorio Sánchez, *Teoría y Realidad Constitucional*, UNED, no. 50, 2022, pp. 291–324.

²See *No hay más preguntas, señorita. El Constitucional reinterpreta las sentencias de los ERES*. Enrique Remón, *Economist & Jurist*, 21 July 2024.

³Constitutional Court case-law database (Sistema HJ), Judgment 137/2025.

the Constitution does not expressly prohibit the word “amnesty”, even though Article 117 of the Constitution states that *the exercise of jurisdictional power in all types of proceedings, judging and enforcing judgments, lies exclusively with the courts and tribunals established by law*—in other words, the legislature can never extinguish criminal and administrative liability previously declared in court judgments, which is part of the rule of law proclaimed in Article 1 CE and Article 2 of the Treaty on European Union⁴.

The Court of Justice of the European Union (CJEU) has, in numerous orders, suspended laws of Member States such as Poland that sought to change the composition of their courts for political reasons, in defense of that same rule of law (following infringement proceedings brought by the European Commission, which was conspicuously absent, by contrast, in the case of the 2024 Amnesty Law).

In its judgment in *Repubblika* (C-896/19), the CJEU held that a Member State “cannot amend its legislation in such a way as to bring about a reduction in the protection of the value of the rule of law”, and must therefore “ensure that, in the light of that value, any regression of their laws on the organisation of justice is prevented, by refraining from adopting rules which would undermine the independence of the judiciary” (a position it also expressed in its judgment in C-824/18).

In the examples above, the Constitutional Court is rewriting the rules of the game through the back door, taking decisions that the ordinary courts would never have endorsed. By playing this game, the Court has ceased to be a constitutional arbiter and become a political actor in judicial robes. It has gone from the role of negative legislator that the framers intended for it to usurping the role of positive legislator, which in our system is reserved exclusively to the legislature.

This is no accident: the current design of the Constitutional Court makes it inevitably susceptible to politicization. Its justices are not part of the Judiciary, do not reach the Court through a judicial career, and are chosen directly by the parties through parliamentary quotas. The system rewards not legal excellence or independence, but ideological affinity and prior loyalty. When a former minister moves straight from the Council of Ministers to the Constitutional Court, the institutional message is devastating: the Constitution is interpreted from the trenches.

⁴Order of 8 April 2020 in Case C-791/19 and subsequent judgment imposing daily fines on Poland for failure to comply with the judgment. See *El TJUE impone un millón de euros diarios a Polonia como sanción por permitir el funcionamiento de la nueva Sala Disciplinaria de su TS*, Confilegal, 27 October 2020.

Faced with this failed model, there is a clear, structural and entirely democratic solution: abolish the Constitutional Court as a separate body and integrate it into the Supreme Court as a specialized chamber. This is not a radical whim, but an option firmly grounded in comparative constitutional theory (for example, *certiorari* in the United States) and consistent with the principle of the separation of powers. A recent example of how only a Supreme Court of independent judges can guarantee the supremacy of the Constitution over the derived powers is the US Supreme Court's ruling in *Learning Resources v. Trump*, which held that the Executive's changes to tariffs without authorization from the legislature were unconstitutional⁵.

Vesting constitutional review in a Constitutional Chamber within the Supreme Court would bring several decisive advantages. First, it would depoliticize access. Constitutional judges would be career judges with decades of judicial experience, selected on the basis of merit, seniority and professional standing rather than partisan affinity.

Second, it would strengthen the unity of the legal order, ending the current clash between a politicized Constitutional Court and a Supreme Court that applies the law according to proper technical criteria. The Constitution would cease to be a political instrument used to review and correct inconvenient judgments. Indeed, should the Supreme Court's Constitutional Chamber disagree with a prior judgment of another of its chambers (Civil, Criminal, Contentious-Administrative or Social), the new Title IX of the Constitution could provide that the Constitutional Chamber must raise an internal question of constitutionality (similar to the one that the Constitutional Court's chambers must already refer to its Plenary) before a special chamber of the Supreme Court composed of judges from several chambers. This would ensure consistent case law and would also discourage the Constitutional Chamber from re-assessing facts or the applicable law already determined by the competent chamber of the Supreme Court (which is precisely the criticism leveled at the Constitutional Court over its ERE judgments).

From a legal standpoint, the change would require a constitutional amendment, mainly to Title IX, to abolish the Constitutional Court as an independent body and transfer its functions to a dedicated chamber within the Supreme Court. This Title can be amended by a three-fifths majority of the Congress and the Senate (with a referendum if one-tenth of the members of either chamber so request), in

⁵La Constitución por encima del Presidente: El TS estadounidense anula los aranceles del Gobierno de Trump, José María Pernas Alonso, Derecho & Libertad | Spain Law & Liberty Circle.

accordance with Article 167 CE. An organic law would then regulate the creation of the Constitutional Chamber, its composition, powers and procedures, guaranteeing enlarged plenary sittings and qualified majorities for the most sensitive decisions. Constitutional review would continue to exist, but it would be exercised from within the Judiciary rather than by a body colonized by the parties.

This model would also have a healthy institutional effect: it would break the parties' perverse incentive to "invest" in the Constitutional Court as a long-term political insurance policy. Once there is no longer a capturable court to overturn judicial defeats, the temptation to legislate at the edge of legality, or to wield power with impunity, will diminish. The Constitution would once again become a common framework rather than a battlefield.

This structural reform should be complemented by restoring the prior appeal of unconstitutionality, especially for organic laws. Its abolition in 1985 was a mistake with far-reaching consequences: it allowed circumstantial parliamentary majorities to pass laws of openly dubious constitutionality, forcing the courts to live for years with potentially unconstitutional laws already in force. Prior review neither paralyzes democracy nor replaces the legislator; it acts as an institutional firewall, preventing irreversible damage and reducing the temptation to legislate at the limit in the expectation that the Constitutional Court—captured or not—will arrive too late or look the other way. In a system with a Constitutional Chamber integrated into the Supreme Court, prior review would provide an additional guarantee of legal certainty and of genuine respect for the Constitution.

Spain does not need more patches or rhetorical calls for judicial independence. It needs to redesign the institutions that have proven vulnerable to political capture. If the Constitutional Court has become a problem, it is not because of who sits on it today, but because of what its architecture allows. Integrating it into the Supreme Court is the most effective, clean and lasting way to return the Constitution to the realm of law and take it out of politics.

1.2 Alternatively, introducing grounds of ineligibility to prevent political conflicts of interest among nominated justices

Admittedly, the constitutional amendment called for above requires a broad political consensus that the current political climate makes unattainable in the

medium term. For that reason, an alternative would be to amend Organic Law 2/1979 of 3 October on the Constitutional Court (LOTC) to add clear grounds of ineligibility for the appointment of Constitutional Court justices. Thus, with an absolute majority in Congress—far easier to achieve, as it is the same majority required to invest the Prime Minister—new requirements could be introduced for the candidates nominated by the constitutional bodies involved: for instance, that nominees must not have been members of any political party, held a representative mandate or political or administrative office, or, more generally, maintained any relationship with political parties or trade unions during the same period of professional practice required for them to be eligible for appointment. That period could even be extended to the twenty years prior to appointment.

At the same time, the Court's own justices should be given real legal power to scrutinize the suitability of new justices nominated by the constitutional bodies. To that end, the LOTC itself could introduce a prior procedure to certify suitability or the absence of conflicts of interest, with the aim of safeguarding the independence of the Court of guarantees itself. Through this mechanism, the members of the Court could defend the reputation and independence of the institution against the all-too-likely attempts at partisan colonization.

1.3 Establishing diffuse constitutional review so that any court can protect individual rights by applying the Constitution

At present, the ordinary courts cannot protect individual rights by disapplying unconstitutional laws (as is possible in the United States and some Latin American countries under so-called “diffuse” constitutional review); instead, they must refer a question of unconstitutionality to the Constitutional Court⁶. This is laid down in Article 35 et seq. of Organic Law 2/1979 of 3 October on the Constitutional Court (LOTC). Thus, when a judge reviewing a regulation or an administrative act considers that it may rest on an unconstitutional law, the judge must stay the proceedings and refer that question of unconstitutionality.

The effect of concentrated review is that all laws are presumed to conform to the Constitution, however unjust and damaging to individual rights they may be, until the Constitutional Court strikes them down years later. This prevents the

⁶See the classic study by Manuel Aragón Reyes, former Vice-President of the Constitutional Court, *El control de constitucionalidad en la Constitución española de 1978*, Centro de Estudios Constitucionales y Políticos, available at: <https://www.cepc.gob.es/sites/default/files/2021-12/15752repne007182.pdf>

ordinary courts from providing effective judicial protection of individual rights (since one must wait several years for the Court's ruling, as in the more than ten years it took to rule on the abortion law), and gives the Constitutional Court absolute power to validate any law passed by Parliament (such as the 2024 Amnesty Law), however unconstitutional, given that its justices mirror the parliamentary majority that invested the Government itself. Moreover, because appointments to the high courts through the General Council of the Judiciary (Constitutional Court, Supreme Court, High Courts of Justice and National High Court) are politicized, Constitutional Court justices owe their appointment to agreements between the political parties in the Cortes.

Accordingly, since the entire political and social order rests on the dignity of the person and the rights inherent to it (Art. 10 CE), Chapter III of the LOTC (Articles 35 to 38) should be repealed, so that any ordinary court has the power to disapply, *prima facie*, laws it considers unconstitutional in order to protect the rights and freedoms set out in Title I of the Constitution. This would be without prejudice to the Supreme Court's Constitutional Chamber subsequently reviewing that judgment, once ordinary judicial remedies have been exhausted, and ruling definitively on whether the law in question is unconstitutional.

2 Reshaping the governance of the General Council of the Judiciary

If any institution explains the politicization of justice in Spain better than any other, it is the General Council of the Judiciary (CGPJ). The problem is not only its recurrent deadlock or the specific individuals who sit on it, but an institutional design that turns the judges' governing body into party spoils. As long as the CGPJ depends, even partially, on parliamentary deals, judicial independence will remain fragile, reversible and permanently under suspicion.

The 1978 Constitution conceived of the CGPJ as a body intended to guarantee the independence of judges and magistrates from political power. That is why Article 122.3 of the Constitution allows Congress and the Senate to appoint only 8 of the Council's 20 members, while the remaining 12 are to be appointed from among judges and magistrates⁷. Indeed, the appointment of eight members by Congress and the Senate appears after a semicolon; before that semicolon, Article 122.3 provides that 12 members shall be chosen by judges and magistrates (not by Congress and the Senate).

However, the 1985 reform of the Organic Law of the Judiciary (LOPJ) upset that balance by allowing the Cortes to elect all of the Council's members, a change validated by an ambiguous Constitutional Court judgment (STC 108/1986 of 29 July)⁸, which upheld the LOPJ on the basis of a constitutionally conforming interpretation. Since then, the system has operated as a carve-up of quotas: each party negotiates "its" members and projects its influence onto key appointments at the top of the judiciary. The outcome hardly needs explaining: a perception of politicization, perverse incentives and a loss of public trust.

⁷*"The General Council of the Judiciary shall consist of the President of the Supreme Court, who shall preside over it, and twenty members appointed by the King for a period of five years, of whom twelve shall be chosen from among judges and magistrates of all judicial categories, under the terms established by the organic law; four on the proposal of the Congress of Deputies and four on the proposal of the Senate, elected in both cases by a three-fifths majority of their members from among lawyers and other jurists of recognized competence with more than fifteen years of professional practice."* (Art. 122.3 CE).

⁸*"To declare that the First Additional Provision of Organic Law 6/1985 of 1 July on the Judiciary is not contrary to the Constitution, interpreted in the manner set out in legal ground 27 of this Judgment."* Available at: Constitutional Court case-law database (Sistema HJ), Judgment 108/1986.

The consequences run deep. The CGPJ decides appointments to the Supreme Court, the National High Court and the regional High Courts of Justice, as well as the presidencies of the Provincial Courts. When those decisions are taken in the shadow of political deals, real independence is eroded even without explicit instructions. It is enough for the system to reward affinities and penalize inconvenient careers. It should be borne in mind that Supreme Court judges are the ones competent to investigate and try members of Parliament and the Government. The Supreme Court is also responsible for reviewing the Executive's regulations. The National High Court is competent to review Ministerial Orders and other regulations issued by ministers. And the High Courts of Justice of each Autonomous Community are responsible for investigating and prosecuting regional deputies and members of regional governments, and for reviewing all regulations issued by the respective regional executive.

Consequently, if the judges on the courts responsible for reviewing politicians' actions are appointed by a CGPJ whose members are themselves appointed through deals between the political parties in Parliament, those judges can enjoy little independence when ruling in law on the acts of those same rulers.

Faced with this failed model, there is a clear, European and proven alternative: full judicial self-governance, without parliamentary involvement. The Netherlands is a good example. There, a Council for the Judiciary composed exclusively of judges carries out functions of governance, organization and discipline, and its members are drawn entirely from the judicial career. Parliament neither allocates quotas nor designates members. Democratic oversight is exercised through the law and through judicial review of the Council's acts, not through the partisan colonization of its membership. The result is a system with high professional legitimacy, low politicization and strong institutional trust. In addition, the Council of Europe's Venice Commission has consistently recommended that the majority of the members of such councils be elected by judges, not by politicians from the derived powers (executive and legislature)⁹.

Adopting a similar model in Spain would mean embracing a simple but demanding idea: judicial independence is protected by keeping the parties out of the governance of the judiciary, not by building them into it—after all, it is the judiciary that is called upon to scrutinize every action of the executive. The usual

⁹The Venice Commission publishes an opinion on the system for electing the judicial members of Spain's General Council of the Judiciary, 13 October 2025: <https://www.coe.int/es/web/portal/-/venice-commission-opinion-on-election-of-judicial-members-of-the-general-council-of-the-judiciary-of-spain>

argument about “corporatism” is weak in the light of comparative experience. A judicial council elected by judges, with transparent rules, non-renewable terms and reasoned decisions, is infinitely less dangerous than a body captured by shifting parliamentary majorities.

From a legal standpoint, this reform does require an additional step: amending the Constitution. Specifically, Article 122.3 of the 1978 Constitution would have to be amended to remove the power of the Cortes Generales to appoint CGPJ members and to provide expressly that the Council shall be composed exclusively of judges and magistrates elected by and from among themselves—not by the legislative chambers, which are a derived power that should not interfere in the work of another branch, such as the judiciary, which must be fully independent. In any event, this constitutional amendment would require only a three-fifths majority of Congress and the Senate under Article 167 of the Constitution, plus a referendum if one-tenth of the members of either chamber so request.

From there, a new Organic Law of the Judiciary should regulate the internal election system, with personal, equal and secret suffrage, open candidacies, objective criteria of merit and experience, single non-extendable terms, and automatic renewal mechanisms that prevent strategic deadlock.

In addition, the law should strengthen safeguards against any political interference: strict incompatibilities with public office, enhanced publicity and reasoning for discretionary appointments, and effective judicial review of the Council’s decisions. Parliament would retain its role where it belongs: legislating the general rules, not deciding who governs the judges.

It is also necessary to repeal the current Article 102 of the Constitution, which grants special jurisdiction and requires the prior authorization of Congress to investigate and try members of the Government: *“1. The criminal liability of the President and the other members of the Government shall be enforceable, where appropriate, before the Criminal Chamber of the Supreme Court. 2. If the charge is treason or any offence against the security of the State in the exercise of their functions, it may only be brought on the initiative of one quarter of the members of Congress and with the approval of an absolute majority thereof.”* It is impossible for Supreme Court judges to be able to investigate or prosecute those in government if they depend on prior authorization from the very deputies who invested the head of government (Art. 99 CE).

Ultimately, this is a matter of institutional honesty. A judiciary governed by the parties cannot be fully independent, however often the separation of powers is invoked rhetorically. If Spain wants to leave behind decades of politicization and deadlock, it must dare to take the step that other European countries have already taken: remove Parliament from the CGPJ and entrust the governance of judges to judges themselves. This is not an ideological reform but a matter of democratic hygiene. And the longer it is delayed, the greater the deterioration of one of the basic pillars of the rule of law.

3 Restricting the return to the judiciary of those who have held political office

Another measure that would help safeguard the independence of the judiciary and minimize the contaminating influence of politics on the work of the bench would be to restrict the return to the judicial career of judges and magistrates who have been on special leave while holding positions of political representation or legislative mandates.

In short, the aim is to curb the harmful tradition of the revolving door, which has unfortunately become entirely normal in our country. A member of the judiciary is, of course, free to take part in politics and even to take on political functions of any kind. However, this personal decision will inevitably heighten the perception that justice is politicized and that the judiciary lacks impartiality once that person decides to return to their former post as a career civil servant—especially if they are called upon to take part in high-profile proceedings involving senior officials or political representatives.

To that end, instead of moving to the administrative status of special leave, the LOPJ should be amended so that such judges move to voluntary leave of absence, with the various personal implications this entails. In addition, a restriction on returning to the judicial career should be introduced—if not an absolute bar—of at least twenty years after leaving representative office or the legislative mandate held.

Implementing these measures would require amending the LOPJ, that is, an absolute majority in the Congress of Deputies.

4 Depoliticizing the Public Prosecutor's Office

The institutional degradation of the Public Prosecutor's Office in Spain has a political culprit with a first and last name. Pedro Sánchez did not merely trivialize the dependence of the Prosecutor's Office in public when he boasted that it “depends” on the Government; he then acted accordingly and placed someone like Álvaro García Ortiz at the head of the institution.

The institution thus fell into the hands of someone manifestly subservient to the Executive's interests. But Sánchez went further: not content with that, he kept the Attorney General in office despite his indictment and has not hesitated to defend him since his conviction.

This was neither a rhetorical slip nor a mistaken appointment, but the deliberate use of a Prosecutor's Office designed to obey. Yet the underlying problem is not only *who* holds the post, since the current system allows—and indeed encourages—such behavior.

The politicization of the Public Prosecutor's Office in Spain is therefore neither a passing problem nor one attributable solely to particular individuals; it is a direct consequence of its institutional design. Article 124 of the Constitution establishes the Public Prosecutor's Office as a hierarchical body acting in accordance with the principles of unity and dependence, under the direction of the Government.

This architecture makes the Attorney General an inevitably political figure and means that the real independence of criminal prosecution depends more on the will of the Executive of the day than on structural guarantees. In contrast to this model, the Italian system offers a clear alternative that is fully compatible with an advanced democracy.

Applying the Italian model in Spain would first require a constitutional amendment. Article 124 would have to be amended to integrate the Prosecutor's Office into the Judiciary, removing any reference to its dependence on the Executive. In Italy, prosecutors and judges belong to the same branch of the State and share the same status, guarantees and independence. As long as the Spanish

Prosecutor's Office remains formally dependent on the Government, any legal reform will be insufficient and cosmetic.

Second, the status of prosecutors and judges would need to be fully aligned through an organic law. This would mean a single judicial career, with common entry through competitive examination, guaranteed security of tenure, a disciplinary regime independent of political power, and career management by the governing body of the Judiciary. Prosecutors would cease to be hierarchically subordinate officials and would act with functional autonomy, subject only to the law.

A third key change would concern the office of Attorney General. In the Italian model there is no political "boss" of the Prosecutor's Office. The coordinating function carries no hierarchical or disciplinary power, let alone political direction. In Spain, the Attorney General should no longer be appointed by the Government and should become a technical post, elected by the judiciary's governing body for a single non-renewable term, with powers limited to issuing technical instructions aimed at ensuring consistent criteria across prosecutors.

It would also be essential to establish a strict ban on the revolving door between politics and the Prosecutor's Office. Anyone who has held political office should not be able to take up senior positions in the Prosecutor's Office, nor use it as a springboard back into politics. This separation is essential to restore institutional credibility.

Finally, any possibility of the Government issuing instructions, general or specific, on the actions of the Prosecutor's Office should be abolished. Criminal policy is set by law; its application is a matter exclusively for independent judges and prosecutors.

In short, the Italian model is not about improving the current Prosecutor's Office but about changing its nature: taking it out of the Executive and placing it fully within the Judiciary through a far-reaching constitutional reform. Anything else is a patch.

5 Curbing the use and abuse of rule by decree

The abuse of the decree-law has become one of the main pathologies of Spain's democratic system, to the point that in the 14th Legislature (2019–2023) more than half of all laws were first enacted as Government decree-laws (pending validation by Congress a month later). What began as an exceptional instrument for responding to genuine emergencies has become an ordinary channel of legislation that allows the Government to impose its agenda without debate, without amendments and without effective parliamentary deliberation. The result is a Parliament reduced to a rubber-stamp chamber and a democracy that is increasingly formal and decreasingly substantive, where steamrolling replaces consensus and urgency is invoked as a permanent alibi.

This phenomenon is not inevitable. Germany offers an interesting contrast. German law has no functional equivalent of the Spanish decree-law. The federal government cannot legislate unilaterally with the force of law on grounds of urgency. Even in exceptional situations, the Executive needs express, delimited and temporary parliamentary authorization. The principle is clear: urgency does not justify supplanting the legislator.

The German Basic Law only permits very narrowly defined delegations of legislative power (Art. 80 GG), always with precise substantive limits, strict parliamentary oversight and effective judicial review. There is no possibility for the Government to adopt rules with the force of law and then submit them for automatic validation. The consequence is obvious: Parliament remains at the center of legislative life, and the Executive has no structural shortcuts for governing outside democratic debate.

Spain, by contrast, has normalized the exceptional. Article 86 of the Constitution, interpreted expansively, now allows legislation by decree on matters of enormous importance on the basis of a generic claim of urgency and validation by simple majority, which turns parliamentary oversight into a fiction. Judicial review arrives late, and the institutional damage has already been done.

If this drift is to be reversed, Spain should move closer to the German model—not through proclamations, but through concrete legal reforms.

The first necessary change is constitutional. Article 86 CE must be amended to define “extraordinary and urgent need” strictly and objectively, expressly excluding structural, permanent or programmatic reforms. Urgency cannot be equated with political convenience, the difficulty of negotiating or the desire to avoid amendments. In Germany, the absence of such an open-ended clause is precisely what prevents abuse. Extraordinary and urgent need could thus be defined as an unforeseen and unforeseeable situation that goes beyond budgetary circumstances or the transposition of EU directives. Furthermore, in response to the Constitutional Court’s very lax case law (which, for example, allows certain effects on tax or penalty matters), the amended Article 86 CE should specify that decree-laws may under no circumstances affect the rights and freedoms of Title I, the general electoral system, the Autonomous Communities or the basic institutions of the State.

Second, the list of matters excluded from decree-laws should be extended to expressly include criminal and administrative-penalty law, the organization of the judiciary and the constitutional order, the core of the tax system and any structural economic regulation. This substantive shield, which does not exist today, requires a constitutional amendment and, where appropriate, implementation by organic law.

A third essential element is the introduction of automatic prior review of whether urgency genuinely exists (for example, by the reformed Constitutional Court proposed in Section 1 of this volume). Before entering into force, every decree-law should undergo a fast-track review—five or ten days—limited to verifying whether the urgency claimed is real, specific and objectively demonstrated. If it is not, the measure does not enter into force. This mechanism, absent in Spain but standard in more demanding systems, removes the incentive for abuse.

Fourth, parliamentary validation should require an absolute majority whenever the decree-law indirectly affects any of the matters that must be regulated by organic law (Art. 81 CE). Governing by decree must carry a political cost. Raising the threshold forces the Executive to genuinely justify the urgency and to seek broader support, reducing the use of the decree-law as an instrument of imposition.

To this should be added strict automatic expiry. A decree-law should not only lapse within a short period if it is not validated or processed as an ordinary bill; its effects during the time it was in force should also be annulled, with an express ban on chaining successive decrees on the same subject. Otherwise, the perverse incentive remains for the Executive to adopt decree-laws knowing in advance that they will be repealed, while counting on their content being applied in practice and on certain of their effects surviving even after their express rejection by Congress. In Germany, time limits and delimitation are essential; in Spain, today, they are merely rhetorical.

The conclusion is clear. The decree-law need not disappear, but it must go back to being what it is in mature democracies: a rare, closely watched and legally uncomfortable exception. Germany shows that governing without abusive decree-laws is not only possible but desirable. Until Spain reforms its rules, Parliament will remain a stage set and democracy an empty formality.

6 Making budgetary policy work

That Spain may reach the end of 2026 still governed entirely on the basis of a General State Budget approved in 2022 is neither a technical anomaly nor a simple parliamentary deadlock. It is a conscious political decision, and it has a clear author: Pedro Sánchez. Under his premiership, rolling over the budget has ceased to be an exceptional solution and become a way of governing. Avoiding the approval of a budget means avoiding the year's main democratic debate, sidestepping parliamentary negotiation and governing without submitting to effective scrutiny by the Cortes. It is not a failure of the system: it is the systematic exploitation of an institutional weakness.

The budget is the core of a parliamentary democracy, all the more so in a social State such as the one proclaimed in Article 1.1 of our Constitution. It does not merely allocate resources; it forces the Executive to spell out its priorities, accept limits and build majorities. When a Government can indefinitely roll over inherited accounts and carry on governing as normal, the balance of powers breaks down—even more so when an Executive is obliged to implement its political program by executing a budget drawn up by a previous Executive of a different political stripe. Democracy does not disappear, but it is hollowed out. Spain has normalized this practice to an extent that would be unacceptable in more institutionally demanding democracies.

Sweden offers a radical contrast. There, the budget is not just another procedure but the centerpiece of parliamentary oversight. The Swedish system rests on a premise as simple as it is powerful: governing without an approved budget must be politically costly and functionally restrictive. That is why, even with minority governments and fragmented parliaments, budgets get passed.

The Swedish model relies on an architecture deliberately designed to prevent governments from simply muddling through. First, Parliament approves a multi-year fiscal framework with strict expenditure ceilings that bind the Executive. The Government then presents the annual budget within those limits. Negotiation happens earlier and improvisation is reduced. The incentive is clear: without a budget agreement, there is no real room to govern.

When, exceptionally, no new budget is approved, a very restrictive transitional budget comes into force. The Government may only carry out indispensable spending, meet legal obligations and guarantee essential services. It cannot launch new policies, expand existing programs or use the rollover as a functional substitute for a budget. Moreover, this provisional regime is designed to be short-lived. Governing without a budget is not a stable alternative but a visible situation of political weakness.

Spain has built the opposite incentive. Article 134 of the Constitution allows budgets to be rolled over automatically without any time limit, and the General Budget Act provides, through budget amendments, ways of circumventing some of the restrictions that should presumably apply when the Executive tries to govern with a rolled-over budget. The result is that governing without a budget is not only possible but comfortable. Pedro Sánchez has turned that comfort into a strategy, emptying Parliament's main instrument of democratic oversight of its substance.

If Spain wants to correct this drift, it must replicate the essential logic of the Swedish model, adapted to its own constitutional framework. That requires clear, explicit reforms with automatic consequences.

The first step is to amend Article 134 of the Constitution to introduce an unequivocal obligation: the Government must pass a budget in the current year or, at the latest, in the year following the start of the legislature. Rollover cannot become a permanent state of affairs.

To that end, the Constitution should establish that the General State Budget may be rolled over only once, for a maximum period of one year. That rollover should be subject to an exceptional legal regime, directly inspired by the Swedish model, that drastically limits the Executive's capacity to act. Article 134 should also provide that failure to approve a new budget for the current year automatically triggers a general election: a Government without a new budget does not have the authorization of the people's representatives to manage the people's taxes. It is worth noting that Article 134.6 of the Constitution already allows the Government to veto bills or amendments from parliamentary groups that would increase spending or reduce revenue.

During that year of rollover, the General Budget Act should impose a stricter provisional management framework: only mandatory and essential spending, an express ban on creating new programs or expanding structural budget lines,

automatic spending ceilings and reinforced parliamentary oversight, including mandatory regular appearances by the Minister of Finance.

This rule does not destabilize the system; it disciplines it. It forces negotiation, encourages agreements and restores the budget to its central constitutional function. Governing without a budget can no longer be a neutral option. If there is no majority to pass the budget, it should be up to the electorate to break the deadlock.

The Swedish lesson is clear and deeply liberal: when the system makes it impossible to govern comfortably without a budget, either budgets get passed or the people are given the final word. Spain does not need more exhortations to dialogue or more appeals to responsibility. It needs rules that make irresponsibility a bad strategy.

As long as the Government can avoid a budget without paying any price, it will keep doing so. And as long as that happens, Parliament will remain a stage set and democracy an increasingly hollow formality. This is neither a technical nor a passing problem. It is a matter of constitutional architecture, and as such it demands a response to match.

7 Independence of regulatory bodies

The independence of economic regulators and financial supervisors is neither a technocratic luxury nor an academic obsession. It is a basic condition for markets, financial stability and fiscal discipline to function. When those who are supposed to act as referees are swayed by political affinities, the result is not an imperfect neutrality but institutional capture that ends up affecting investment, the country's credibility and the quality of democracy. Spain has been moving in that direction for years, normalizing the political colonization of bodies that should be protected precisely from partisan logic.

The clearest example is the Bank of Spain. The appointment of José Luis Escrivá as Governor, after he had been a minister and a central figure in the Government's economic policy until practically the day before, marked a qualitative leap in this drift. The point is not to question his technical ability, but to highlight an obvious institutional fact: a regulator cannot be credible if the person running it has just designed, defended and implemented the policies it is now supposed to assess independently. The same is true, to varying degrees, of the CNMV, the CNMC and even AIREF, where formal autonomy coexists with real dependence on political power in appointments, in incentives and, in some cases, in expectations of continuity or promotion.

This pattern creates several serious problems. First, it dilutes the oversight function: the regulator ceases to be a counterweight and becomes a political shock absorber. Second, it breeds distrust in markets and among regulated firms, which perceive that the rules may change with the political cycle. And third, it degrades democracy, because when the referees depend on the Government, technical decisions end up subordinated to short-term interests.

This deterioration is not inevitable. There are European models showing that the independence of regulators can be effectively shielded. Two particularly useful references are Sweden and the United Kingdom.

Sweden represents one of the most advanced models of separation between politics and administration. In the Swedish system, public and regulatory

agencies operate under a very clear principle: the Government may not interfere in individual or technical decisions. This prohibition is not merely cultural but legal. Ministers may set general objectives through legislation or budgets, but may not issue specific instructions or influence particular actions. Agency heads are selected on technical criteria, through rigorous administrative processes, with long terms and strict incompatibilities with party politics. The result is a professionalized regulatory apparatus with high public legitimacy and a very low perception of politicization. Accountability takes place *ex post*, through reports, audits and parliamentary scrutiny, not through prior control of appointments.

The United Kingdom offers a different but equally robust model. There, bodies such as the Bank of England, the Financial Conduct Authority, the Competition and Markets Authority and the Office for Budget Responsibility combine operational independence with demanding accountability. The Government takes part in appointments but cannot impose candidates without real scrutiny. Hearings before specialized parliamentary committees are tough, technical and sometimes decisive. Terms are long, non-renewable or staggered, and dismissal is only possible on narrowly defined grounds. In the case of the OBR, the Executive cannot influence its reports or forecasts, even when they are politically inconvenient. A regulator's credibility is regarded as an institutional asset that no responsible government dares to openly undermine.

Spain should move closer to these models if it wants to take the independence of its regulators seriously. This requires specific legal reforms that prevent the Executive from having free rein in choosing the professional profiles that such bodies need in order to function properly and carry out the functions the system assigns to them.

In the case of the Bank of Spain, it is essential to amend its Law of Autonomy to introduce stringent incompatibilities with political office. Anyone who has served as a minister, secretary of state or senior political official in the previous five or even ten years should be barred from appointment as Governor or Deputy Governor. The term should be single and non-renewable, long and detached from the electoral cycle, with dismissal only possible on clearly defined objective grounds. In addition, the appointment process should include an independent technical assessment and a parliamentary hearing with a genuine power of veto.

For the CNMV, reform of the Securities Market Act should go in the same direction. It is necessary to strengthen the body's functional and budgetary independence, tighten political incompatibilities and remove any incentive to

accommodate the Government of the day. Chairs and board members should be selected through competitive procedures, with public suitability reports and non-renewable terms. Accountability should focus on results and the stability of the financial system, not on political alignment.

In the case of the CNMC, Law 3/2013 needs a thorough overhaul. The competition authority can no longer be perceived as a body open to partisan carve-ups. It is essential to introduce a prior technical selection committee, long non-renewable terms and an express ban on appointing former ministers or recent senior officials. Independence in sanctioning and regulatory decisions must be protected from any direct or indirect government interference.

Across the board, Spain should pass a framework law on the independence of regulators establishing common principles: technical and transparent selection processes, genuine parliamentary hearings, strict incompatibilities before and after the term, budgetary ring-fencing and an express ban on political instructions in individual decisions. The Government may take part in appointments, as in the United Kingdom, but it must not be able to control or colonize them.

The central idea is simple. If the referees depend on the Government, so do the market and the public finances. Sweden and the United Kingdom show that it is possible to combine democratic oversight with technical autonomy without falling into either corporatism or politicization. Spain must decide whether it wants credible regulators or mere appendages of political power. Shielding their independence is not an ideological reform: it is a matter of basic institutional hygiene for a mature democracy.

8 Transparency

In a liberal democracy, the right of access to public information is a structural condition, not an administrative privilege. Without accessible information on how decisions are taken, how resources are spent and how power is exercised, democratic oversight becomes a fiction. Citizens, the media and judges can only assess those in power if they have real access to what those in power are doing. Opacity is not an accidental malfunction of the State: it is often its natural state unless specific obligations, and mechanisms to enforce them, are imposed on it.

In Spain, Article 105(b) of the Constitution enshrines as a constitutional right citizens' access to administrative archives and records, except insofar as this affects the security and defense of the State, the investigation of crimes and personal privacy. This provision has been implemented through the current Law 19/2013 of 9 December on Transparency, Access to Public Information and Good Governance.

However, the Council for Transparency and Good Governance, created by that law as a supervisory body, lacks the independence, resources and powers needed to exercise effective oversight. Its decisions are binding in theory, but compliance by public administrations is poor, sanctions are rare, and the limitations contained in the law itself often make the right of access impossible to exercise in practice—particularly when requests concern members of the Government. Furthermore, the composition of the Council does not guarantee its full independence. Its President is appointed by Royal Decree of the Council of Ministers, on the proposal of the Executive, for a non-renewable five-year term, albeit subject to approval by an absolute majority of Congress (a majority that, in a parliamentary system, the Executive should not find hard to obtain). The Transparency Commission, for its part, is made up of a deputy, a senator, and representatives of the Court of Audit, the Ombudsman, the Spanish Data Protection Agency (AEPD), the Secretariat of State for the Civil Service and AIREF (Arts. 36 and 37 of Law 19/2013 of 9 December).

By contrast, the Swedish model offers the most solid and longest-standing benchmark. Since the Freedom of the Press Act of 1766—the world's first transparency law—Sweden has built a system in which access to public documents is a constitutional right whose exercise must be fully effective for

those concerned. The principle of public access (*offentlighetsprincipen*) establishes that all documents held by public authorities are, by default, accessible to any citizen without the need to justify an interest. Exceptions are strictly defined by law, interpreted narrowly and can be challenged before administrative courts with real effect. The result is a system in which transparency does not depend on the goodwill of the Government of the day, but on rules that operate regardless of who is in power.

Spanish reform should move toward that logic along three dimensions:

- The first is to drastically strengthen the independence of the Transparency Council. Its president and members should not be appointed by the Government, or by bodies whose composition the Government has influenced, but by Parliament by a qualified majority, with long, non-renewable terms.
- The second should be aimed at ensuring that the Council has real sanctioning powers, with proportionate and genuinely enforceable fines, which the law does not currently provide for. Its budget should be shielded from the Executive's discretion. Likewise, exceptions to the right of access should be interpreted restrictively, with an obligation to give detailed reasons and with the principle of proportionality as a limit.
- The third dimension is to shorten deadlines and improve the quality of responses. A right of access that takes months to resolve is, in practice, a right denied. Responses must be complete and reasoned; the mere generic invocation of exceptions without specific justification should lead automatically to the request being granted.

A State that uses legal subterfuge to avoid providing information that should legitimately be public, that responds incompletely, or that appoints its own supervisors does not have a transparency system: it has the appearance of one. The difference between the two is exactly the difference between a democracy that is accountable and one that merely pretends to be.

9 Reforming the Official Secrets Act

Among Europe's advanced democracies, Spain is one of the few countries that still regulates classified information with a law passed under the dictatorship. Law 9/1968 on Official Secrets, which dates from the Franco regime and was only slightly amended in 1978, before the Constitution had even entered into force, establishes a principle that no modern State governed by the rule of law can accept without embarrassment: classified information remains secret indefinitely unless the Government itself decides to declassify it. There are no automatic time limits. There is no effective judicial oversight. There is no real parliamentary review. The Executive classifies, the Executive declassifies, and citizens have no mechanism whatsoever to demand accountability for that process.

The consequences of this design are serious and well documented. Key episodes in Spain's recent history—the GAL, the 23-F coup attempt, Francoist repression, the Palomares bombs—remain partly or wholly classified decades after they occurred. In some cases, researchers have been able to consult this documentation in foreign archives that declassified it years ago, while the Spanish State keeps it under lock and key. This is not national security: it is institutional opacity turned into a permanent rule.

The underlying problem is not only the age of the law but its architecture. With no automatic declassification deadlines, no independent body to oversee classification, and no possibility for Parliament to access classified information in public session, the system turns classification into a discretionary tool of the Executive. What should be an exceptional instrument to protect State security becomes a mechanism for managing historical memory and shielding the Government from democratic scrutiny.

The contrast with the United Kingdom is revealing. There, the Freedom of Information Act 2000 and the Public Records Act establish clear declassification deadlines—as a general rule, twenty years for ordinary documents and thirty for the most sensitive—mandatory periodic review of classified information, and an

independent body, the Information Commissioner's Office, with the power to order the disclosure of documents against the will of the Executive.

The British system starts from the opposite principle to Spain's: public information is accessible by default; classification is the exception that must be justified, not the rule that perpetuates itself through inertia. Spanish reform must abandon the logic of indefinite secrecy and adopt the standards of European democracies. This requires several specific changes.

The first is to replace the 1968 Official Secrets Act with a new Classified Information Act based on a radically different principle: publicity is the rule; classification is the reasoned and temporary exception. This new law must precisely define the categories of information that may be classified, limiting them strictly to reasons of national security, defense or intelligence, and expressly excluding any use to protect political interests, manage scandals or preserve institutional reputations.

The second change is the introduction of automatic declassification deadlines. As a general rule, no document should remain classified for more than twenty-five years. For the most sensitive categories, a maximum period of fifty years could be set, with the possibility of a justified—but never indefinite—extension. Once the period has elapsed, declassification must be automatic, without the need for any express act by the Government.

The third essential element is the creation of an Independent Classified Information Authority, with a technical composition and the power to review classifications on request or on its own initiative, to order declassification when the deadline has expired or the original justification has ceased to exist, and to report to Parliament on the state of the system. This body must be structurally separate from the Executive and subject only to judicial review.

Fourth, effective parliamentary access to classified information must be guaranteed. The competent committees of Congress and the Senate must be able to examine classified documents with the appropriate confidentiality safeguards, but without the Executive being able to invoke classification to withhold information from parliamentary scrutiny. Parliament cannot be the only branch of the State without access to what the Government decides to keep hidden.

Finally, full judicial review of classification decisions must be established. Today, the courts cannot review the merits of a decision to classify information. This judicial immunity is incompatible with the rule of law and must be abolished,

allowing anyone affected to challenge a classification in court and giving the court access to the content of the document so that it can assess whether the classification is justified.

Spain has been postponing this reform for decades for reasons that have more to do with the convenience of those in power than with State security. A democracy that cannot account for its own past has a legitimacy problem that no ordinary law can solve. As long as classification remains indefinite and discretionary, the State will continue to wield an instrument of opacity incompatible with the principles it claims to uphold.

10 Reforming public procurement

Public procurement in Spain accounts for more than €100 billion a year in purchases, works and services funded with taxpayers' money. Because of its scale and complexity, it is the area where corruption finds the most opportunities and where the political capture of the State translates most directly into private gain. It is no coincidence that the European Commission has repeatedly pointed out—most recently in its 2024 Rule of Law Report—that Spanish public procurement carries a high risk of corruption, with little real competition between bidders, opaque award criteria and inadequate oversight mechanisms.

Corruption cases linked to public contracts are not isolated episodes: they are recurring symptoms of a system that has not resolved its structural vulnerabilities. Many of the corruption cases that have outraged public opinion in recent years and prompted major judicial investigations share the same pattern: political intermediaries channeling contract awards to companies willing to pay kickbacks, in an environment where opaque procedures and weak external oversight make impunity possible. Spain has reformed its procurement law several times, created oversight bodies and proclaimed principles of transparency and integrity. But corruption keeps coming back because the problem lies not in the rules but in the architecture: as long as politicians can control award procedures in one way or another, as long as controls are internal or capturable, and as long as sanctions are slow and ineffective, the incentive to corruption remains intact.

The contrast with the Netherlands is illustrative. There, public procurement rests on three pillars that Spain has failed to replicate: maximum standardization of procedures to reduce officials' discretion; supervision by an external body with the power to intervene beforehand, not only after the fact; and full, real-time publication of the entire contracting chain, from initial planning to execution and amendments. The result is not a perfect system, but one in which manipulation is structurally harder and riskier.

The reforms Spain needs are concrete and urgent.

The first is to eliminate discretion in contract awards through maximum standardization of evaluation criteria. Subjective criteria—those that allow the contracting authority to score bids at will—should be kept to the bare minimum, with detailed, public and auditable reasoning. Awards should be based on objective, predefined and verifiable criteria, with no room for interpretations that benefit favored bidders. The current Public Sector Contracts Act already provides tools to address these problems, so part of the reform must ensure effective compliance with provisions that are, in fact, often breached in practice.

The second reform concerns oversight. The current Independent Office for the Regulation and Supervision of Procurement (OIRESCON) lacks the resources, independence and powers needed to exercise effective control. It should be transformed into an Independent Public Procurement Authority, appointed by Parliament, with its own budget, the power to intervene in advance in contracts above a certain value, direct sanctioning powers and an obligation to publish regular monitoring reports. This body must be able to halt award procedures when it detects irregularities, without having to wait for the outcome of court proceedings.

The third element is to broaden access to the most relevant documents across the entire contracting cycle. As a general rule, the Public Sector Procurement Platform includes in its search engine the documents and procedural steps whose publication is mandatory under Law 9/2017 of 8 November on Public Sector Contracts (LCSP). However, to ensure greater transparency in public procurement, access should also be granted to certain documents that the law does not currently cover and whose content may be key, both for bidders to bring proper challenges and for the proper scrutiny of contracting authorities. These include preparatory technical and legal reports, the bidders' tenders (duly redacted to protect sensitive data that could compromise trade secrets) and the reports evaluating them.

Fourth, the consequences for companies that pay bribes must be toughened. A prolonged ban on contracting with public administrations—of at least ten years—should apply automatically to any company convicted of corruption in any EU Member State, without the need for further proceedings. The register of excluded companies must be public, accessible in real time and interoperable with the systems of all administrations. This would require amending the LCSP.

Finally, the protection of internal whistleblowers needs to be strengthened. Law 2/2023 of 20 February on the protection of persons who report regulatory

breaches and on the fight against corruption was a step in the right direction, but its application remains deficient. Internal reporting channels must be managed by people with real guarantees of independence, and retaliation against whistleblowers must give rise to direct personal liability for those responsible, not merely institutional liability.

Public procurement can no longer be the area where the political capture of the State is exercised with the greatest impunity. Reducing the scope for discretion as far as possible, strengthening independent oversight and publishing the entire contracting cycle is not bureaucracy: it is the minimum condition for citizens' money to be spent free of corruption. This also requires amending the EU public procurement directives (Directive 2014/24/EU on public procurement, Directive 2014/25/EU on procurement in the special sectors and Directive 2014/23/EU on the award of concession contracts).

11 Reforming political party financing

In a representative democracy, political parties are indispensable institutions. They structure representation, aggregate interests and channel citizen participation. But unless they are subject to clear limits, they are also prime vehicles for capturing the State. When a party needs resources and obtains them from those who expect favors in return, the line between representation and corrupt exchange disappears. And when a party can finance itself indefinitely from public funds, without effective accountability and without real competition for citizens' support, it tends to become what political theory calls a cartel party: an organization that uses the State to perpetuate itself rather than to serve those it represents.

Spain has reformed its party financing regime on several occasions—in 1987, 2007, 2012 and 2015—without resolving its structural shortcomings. The current system relies overwhelmingly on public funding: according to the Court of Audit, more than 80 percent of the income of the large parties comes from State subsidies. That share disconnects the parties from the need to win the active support of their base and makes them dependent on the very State they are supposed to oversee. At the same time, external oversight is weak: the Court of Audit audits party accounts through a very limited sampling system, with considerable delays; it has no direct access to banking information; and the penalties for non-compliance are not sufficiently dissuasive. The result is a system that combines dependence on the State, relative opacity and little accountability.

Germany offers a valuable benchmark here, thanks to its mixed design and its oversight system. The German Political Parties Act (*Parteiengesetz*) requires parties to publish their accounts in far greater detail than in Spain, including the source of all donations above a low threshold. The President of the Bundestag has direct and proportionate sanctioning powers. And the public funding system is linked to each party's capacity to generate its own income: public subsidies may not exceed the total private resources raised, which creates a direct incentive to maintain real ties with citizens. This mechanism—known as the principle of

minimum self-financing—prevents a party from surviving entirely on the public budget without genuine social support.

Spanish reform should be built around four pillars.

1. The first is to introduce a principle of mandatory co-financing, along the lines of the German model. Public funding for each party should not exceed the total income obtained from private sources—membership fees and individual donations—in the previous year. This mechanism does not prohibit public funding, but it ties it to effective public support, discouraging total dependence on the State and rewarding parties with deeper social roots. So as not to penalize newly created parties, the principle could be provisionally waived for the first election a new party contests. From then on, public funding would always be linked to the support that party manages to win legitimately at the ballot box.
2. The second pillar is to lower the disclosure threshold for donations and radically improve financial transparency. Every donation above one thousand euros should be made public immediately, with the donor identified. The accounts of parties—and of their associated foundations, which currently operate with considerable opacity—should be published as open data that any citizen can process and verify.
3. The third element is to strengthen the oversight body. The Court of Audit can no longer be the sole supervisor of party financing, with its current timelines and limitations. A specialized political financing unit should be created, with direct access to parties' banking information, the power to open investigations on its own initiative, maximum audit deadlines—no more than six months from the close of the financial year—and its own sanctioning powers, enforceable without referral to other bodies. Sanctions must be proportionate, dissuasive and applied automatically once non-compliance is established.
4. The fourth point, equally essential, is to close the revolving door between private funding and public procurement. The ban on companies that hold public contracts financing political parties should be broadened and tightened. Prohibiting direct donations is not enough: donations from companies belonging to the same corporate group, from their executives or from shareholders with significant holdings must also be banned. The scope of the prohibition must be wide enough that it cannot be circumvented through intermediary structures.

A democratic system that funds its parties without demanding proportionate accountability is not strengthening democracy: it is creating a party oligarchy protected by the State. Reforming party financing is not a technical debate about public accounting; it is a decision about what kind of democracy we want.

12 Reforming the Council of State

The Council of State is the Government's supreme advisory body on legal matters. Its constitutional function is clear: to provide a technical, rigorous and independent opinion on draft legislation and on Executive acts that require prior legal review. In theory, it is a front-line institutional check. In practice, the current design of its membership has made it a customary destination for former prime ministers, former ministers and senior political officials, which in some cases structurally compromises its ability to play that role with the independence its function demands.

Organic Law 3/1980 on the Council of State provides that former prime ministers may sit as *ex officio* members for life, and that permanent and elected members are appointed by the Government by Royal Decree. There is no selection process based on technical merit, no incompatibilities preventing immediate entry straight from the exercise of political power, and no structured terms to guarantee real independence. The result is predictable: a body that in theory should tell the Government when it oversteps ends up composed of people who owe their position to the very Government they are supposed to scrutinize, or who hope to remain in favor with future governments.

This problem has practical consequences. Every year, the Council of State issues hundreds of opinions on significant draft legislation, reforms of regional statutes, legislative decrees and claims for State liability. When those opinions are issued by a body whose membership is tinged with political dependence, the legal certainty they should guarantee becomes a formality. It is not that the opinions are always accommodating, but the mere fact that they can be, with no mechanism to prevent it, weakens the body's institutional function.

France, whose *Conseil d'État* is one of the most respected legal institutions in Europe, offers a useful benchmark here. The members of the French Council of State are overwhelmingly career civil servants trained at the *École Nationale d'Administration*, with a technical career path clearly distinct from politics. Appointments to the senior grades follow a logic of merit and seniority within the corps, with tightly limited room for political discretion. The result is a body with

very high technical legitimacy, able to take independent positions vis-à-vis the Government without triggering institutional crises, precisely because its composition does not depend on the political will of the moment.

Reform of the Spanish Council of State must tackle two problems at once: composition and incompatibilities.

As regards composition, permanent members should be jurists of recognized standing selected through a transparent technical process, involving an independent committee that assesses merit and draws up a public shortlist of the best candidates. The Government's role in the appointment should be limited to ratifying that proposal, not choosing freely. The position of life member for former prime ministers should be abolished: political experience is not a technical merit, and their presence undermines the appearance of independence.

As regards incompatibilities, a minimum cooling-off period of five years should be established between holding any political office—minister, secretary of state, senior official—and appointment as a permanent member. This rule, similar to the one proposed for other bodies in this report, rests on a simple liberal principle: whoever has just exercised power cannot simultaneously be the one reviewing the legality of how that power was exercised.

The Council of State does not need a radical overhaul to perform its function better. It needs to be protected from the political colonization that currently weakens it, with a composition that guarantees structural independence. An advisory body whose credibility depends on its members being seen as independent actors can no longer be perceived as just another stop in the political careers of those who have governed. Its institutional function demands it; so does the rule of law.

At the end of the day, the proof that the Council of State works well and that its opinions are technical is that the Executive avoids sending legislation as government bills whenever it can, precisely in order to sidestep the Council's opinion. Its reform should therefore aim to guarantee that it issues an opinion whenever the legislative initiative comes from the Government. To that end, the Standing Orders of Congress and the Senate could be amended to empower their respective Bureaus to reject a private member's bill tabled by the parliamentary group (or groups) that also form part of the Government of the day, where that legal instrument (a private member's bill instead of a government bill) is being misused to avoid the mandatory reports that the law requires for government

bills. In this way, an Executive seeking to dodge this technical scrutiny would be prevented from doing so, since it would have to secure the backing of another party for its bill or, alternatively, submit it as a genuine government bill accompanied by all the reports required for that instrument.

13 Reforming the electoral system

13.1 Proposal 1: 400 small constituencies, so that voters know their candidates and those elected are accountable to citizens

The electoral system is the mechanism through which the will of the people chooses the legislature, beyond the constituent process for amending the Constitution (Arts. 167 and 168 CE). If that mechanism is poorly designed, everything else fails: parliaments do not faithfully represent voters, parties are not accountable to citizens, and democratic legitimacy is quietly eroded. For decades Spain has been governed under an electoral system designed in 1977 to facilitate the transition and stability, and never revisited with criteria of representative fairness. The result is an electoral architecture with deep flaws that distort the equality of the vote, overrepresent certain political forces and make it harder to form genuinely representative parliamentary majorities.

The central problem of the current system is the combination of provincial constituencies with the D'Hondt formula. Article 68.2 of the Constitution currently states that *“the electoral constituency is the province. The cities of Ceuta and Melilla shall each be represented by one Deputy. The law shall distribute the total number of Deputies, assigning a minimum initial representation to each constituency and distributing the remainder in proportion to population.”* The D'Hondt formula, by contrast, is established in Organic Law 5/1985 of 19 June on the General Electoral System (LOREG). As a result, Spain is divided into 52 constituencies, with the added problem that citizens cannot choose their representatives in Congress; instead, they vote for a closed party list, as provided in the LOREG. This encourages deputies to follow the party leader who draws up the lists rather than vote according to conscience to represent the citizens of their constituency. It is what Manuel García Pelayo, the first President of the Constitutional Court, called *El Estado de partidos* (“The Party State”; Alianza Editorial, 1986).

The logical course is to promote the *accountability* of representatives to those they represent (legitimacy not only of origin but of exercise, as Max Weber put it), so

that a new Article 68 of the Constitution divides Spain into 400 small constituencies (a number allowed by the current wording of Article 68.1 CE¹⁰), each roughly equivalent to 100,000 voters (since those under 18 are not entitled to vote), in which citizens freely elect individual candidates. This would be a model similar to that of the British Parliament or the US House of Representatives, which would help voters get to know the candidates and make the elected deputy subsequently accountable to their constituents (since small constituencies foster both familiarity and accountability). It would also encourage each representative to act independently in scrutinizing the Government from Parliament, rather than depending on party bosses.

The political consequences are equally distorting. The current system systematically overrepresents the two largest parties and nationalist parties with a geographically concentrated base, while penalizing medium-sized parties with nationwide support. This is no accident: it is the predictable mechanical effect of a system designed to manufacture majorities and reduce fragmentation at the expense of proportionality and the equality of the vote. In a context of growing political pluralism, these distortions produce results that are increasingly difficult to justify to citizens.

With small constituencies, by contrast, the principle of subsidiarity—and the liberal maxim that what is small is better managed—would be given real effect: citizens could get to know their candidates, and the candidate with the most votes would win, having to represent constituencies with few inhabitants, which makes scrutiny and accountability easier. This would also curb some of the effects of the party state: the leadership's control over representatives and the absence of political accountability. If citizens vote in their district or small town of no more than 100,000 inhabitants, they can choose the most capable candidate, and those candidates can stand freely without depending on the yoke of a political party. This need to “free” the fundamental right to vote and to stand for election (Art. 23 CE) from the partisan yoke is all the more pressing given that, as we have shown, judicial and constitutional institutions, as well as independent authorities, end up being colonized by the political parties.

¹⁰“1. The Congress shall consist of a minimum of 300 and a maximum of 400 Deputies, elected by universal, free, equal, direct and secret suffrage, under the terms established by law.” (Art. 68.1 CE).

13.2 Proposal 2: a single national constituency with a minimum threshold

Although the most suitable way for citizens to know their representatives, and for representatives to answer directly both to citizens and to their party, is to divide Congress into 400 districts, another proposed route to reform is to establish a single constituency for the whole of Spain. Spain elects its 350 members of Congress in 52 constituencies, most of which have between 2 and 5 seats. In constituencies this small, proportionality is a fiction: the implicit thresholds for obtaining representation are extremely high, medium-sized parties are systematically underrepresented, and the vote of a citizen in a small province can be worth up to ten times that of a citizen in Madrid or Barcelona. This blatant inequality of the vote cannot be justified on elementary liberal principles: in a democracy, votes should carry the same weight regardless of where they are cast.

This alternative envisages a single constituency with a proportional formula and a minimum threshold of three percent of the valid votes cast nationwide to qualify for seat allocation. This threshold, standard in Europe's most proportional democracies, serves a dual purpose: it ensures that every vote counted carries the same weight regardless of where the voter lives, and it prevents the extreme atomization of Parliament by requiring a minimum level of genuinely nationwide support.

The rationale for this model is simple and directly liberal. Congress is the chamber that represents Spanish citizens as a whole, not the provinces as territorial entities. If its function is to represent the nation, the constituency should be national. Territorial representation is the task of a reformed Senate, not of Congress. Keeping the current provincial constituencies for Congress protects no legitimate territorial interest—that is the Senate's function—but simply distorts the equality of the vote to the benefit of certain parties and to the detriment of voters in the most populous provinces.

The three percent threshold introduces the only justifiable limit on pure proportionality: preventing Parliament from becoming an ungovernable patchwork of micro-parties lacking sufficient support to claim national representation. Below that threshold, a party has not demonstrated a real national presence. Above it, it is entitled to representation strictly proportional to its electoral support. This is the design used by the Netherlands—with an effective threshold of 0.67 percent, equivalent to one seat—and by other proportional

European democracies that combine high representativeness with reasonable parliamentary stability.

The reform requires amending Article 68.2 of the Constitution and the Organic Law on the General Electoral System (LOREG) to replace the 52 provincial constituencies with a single national constituency, establish the three percent threshold and adapt the procedures for counting votes and declaring results.

In any case, this option of a single constituency of 400 deputies is less effective at ensuring that citizens know their representatives and that representatives answer to citizens for their actions, because each party would ultimately present a closed list drawn up by its leader. To stay on the next list, each deputy would remain tempted to follow party discipline rather than act according to conscience. With a single constituency of 400 deputies, then, the party state would continue to dominate and colonize the institutional framework.

13.3 Reforming the Senate: a genuine territorial chamber with direct provincial elections

If Proposal 13.2—a Congress elected in a single constituency of 400 deputies, put forward as an alternative to Proposal 13.1 of 400 districts each electing a representative who need not stand for any political party—were considered appropriate, reform of the Senate would be its necessary and inseparable complement.

The 1978 Constitution conceived of the Spanish Senate as a chamber of territorial representation, but in practice it has never performed that function. Its powers are weak, its capacity to block legislation is minimal, and its composition reflects the logic of the national parties more than territorial interests. In a State with seventeen autonomous communities, with very extensive powers and structural territorial conflicts, the absence of a genuine territorial chamber is an institutional anomaly that no comparable federal or quasi-federal democracy maintains.

Germany offers two complementary references here. The *Bundestag* is elected under a mixed system combining national proportional representation with a five percent threshold—or three direct mandates as an escape valve—that guarantees real proportionality without extreme atomization. The *Bundesrat*, for its part, is a chamber in which the governments of the *Länder* are directly represented, with real powers over legislation affecting the competences of the states. The

combination of the two chambers produces a system in which national representation is proportional and fair, and in which territorial interests have an effective, separate institutional channel with powers of its own.

A reformed Senate must meet three conditions to be a genuine territorial chamber. First, its composition must reflect territorial interests in a balanced way across the various subnational entities. Second, it must have effective powers over legislation affecting regional competences and territorial financing. And third, it must be elected in such a way that senators answer to the citizens of their territory, not to the leadership of the national parties.

As regards composition, the proposed model combines equal baseline representation per province with a moderate demographic adjustment. Each province would elect a minimum of two senators, with additional senators by population band: provinces with more than half a million inhabitants would elect one additional senator, and those with more than one million, two additional senators. This design guarantees effective representation for every province—including the least populated—without small provinces carrying disproportionate weight that would distort the democratic principle. The result would be a Senate of reasonable size, with between 150 and 180 senators and balanced territorial representation.

Senators would be elected by direct universal suffrage in provincial constituencies, through a nominal vote for individual candidates. With between two and four senators per province, the constituency is small enough for voters to choose among specific candidates with known identities and track records, without the need for party lists. This design introduces an element of individual accountability absent from the current system: the senator answers to their provincial voters, not to their party's national leadership.

As regards powers, the constitutional reform should grant the Senate real authority over matters directly affecting the autonomous communities: legislation on regional financing, reforms to the system for allocating competences, framework legislation in shared areas and ratification of inter-territorial cooperation agreements. On these matters, a Senate veto should not be overridable by Congress with a simple majority, but should require an absolute or qualified majority, thereby introducing a genuine territorial counterweight to national parliamentary majorities. Some of these ideas were set out by Eliseo Aja in 2003 in his article "*La reforma constitucional del Senado*" (published in *Revista de Occidente*, no. 271).

This reform requires a constitutional amendment to Title III, particularly Articles 69 and 90, to redefine the Senate's composition, electoral system and legislative powers. It is a more far-reaching reform than that of Congress, but it is the only way to give Spain a coherent bicameral architecture: one chamber that represents citizens with equal suffrage, and another that represents the territories with effective powers over the matters that concern them.

13.4 A complementary and inseparable reform

A reformed Congress and a reformed Senate are not two independent proposals: they are two pieces of the same institutional design. A Congress elected in a single constituency without compensating territorial representation is only defensible if there is a genuine territorial Senate to channel those interests. And a genuine territorial Senate only makes sense if Congress is a truly proportional chamber of national representation, free of the current distortions. Reforming one without the other would produce an unbalanced and incomplete system.

Spain has had, for almost fifty years, an electoral system designed for a different historical moment. Political fragmentation, the territorial crisis and growing public distrust of institutions make it more urgent than ever to undertake a reform that restores the electoral system's primary function: faithfully translating the will of citizens into political representation, with equal suffrage, effective accountability and real institutional channels for territorial interests. There are no shortcuts to building a high-quality representative democracy. But nor are there any excuses for further postponing a reform that other European democracies carried out decades ago.

13.5 Reformulating the prohibition of binding mandates in Art. 67.2 CE

Another necessary measure would be to reformulate the prohibition of binding mandates in Article 67.2 CE: "*Members of the Cortes Generales shall not be bound by any binding mandate.*" As a result, deputies are not bound by a mandate from their voters, but are instead tied to the party leader who draws up the electoral lists. Added to this, the Constitutional Court has allowed political parties significant control over deputies, interpreting Article 6's mandate on the pre-eminence of parties as the expression of political pluralism.

14 Other areas for action

The erosion of the rule of law does not end with the major constitutional institutions. There is an intermediate zone—less solemn, but decisive—in which the executive branch expands its room for maneuver by colonizing public bodies, controlling the media narrative, manipulating indicators and making discretionary use of State resources. Taken in isolation, these areas may seem secondary. Taken together, however, they form an ecosystem of power that reduces accountability and turns the State into an instrument of the party.

14.1 Center for Sociological Research (CIS)

The very existence of a polling body dependent on political power is, from a demanding liberal perspective, an anomaly in itself. Measuring public opinion is not a neutral function when the one doing the measuring is the Government itself. In Spain, the CIS has ceased to be a center for sociological analysis and has become an instrument of political influence, capable of shaping expectations, setting narrative frames and acting as a mechanism of statistical propaganda with a technical veneer. The problem is not only its recent drift but its very design: a body dependent on the Executive, headed by a political appointee and empowered to produce and interpret electoral polls.

When the State enters political polling, a basic principle of liberal democracy is broken: those in power must not measure or strategically anticipate citizens' political will for their own benefit. The CIS does not merely inform; it influences. It does not merely observe; it intervenes in public debate. The result is corrosive: loss of trust in the data, a degraded debate and the replacement of analysis by permanent suspicion. An instrument conceived to understand society ends up being perceived as an extension of the Government's communications office.

From a comparative perspective, the Spanish model is a hard-to-defend exception. In advanced democracies such as the United Kingdom or Germany, the State does not produce electoral polls or voting-intention surveys. Political polling belongs to civil society: private firms, universities, media outlets and research centers compete with one another, using diverse methodologies and without any State monopoly over the narrative. The State's role is limited, at most,

to guaranteeing technical standards and transparency, not to manufacturing opinion under the seal of the public sector.

The coherent solution is not to try to “depoliticize” the CIS through new parliamentary balances or supposedly independent boards. As long as there is a State polling body able to produce political surveys, the incentive for capture will remain intact. The reform must therefore be clear and structural: abolish the CIS as a political polling body and transfer its strictly technical functions to the National Statistics Institute (INE).

Specifically, the CIS should cease to exist as an autonomous entity, and its general social research divisions—habits, living conditions, values, social structure—should be integrated into the INE under a purely technical and administrative statute. The State would be expressly prohibited from conducting and publishing surveys on voting intention, ratings of leaders or electoral scenarios. Political opinion is not a legitimate object of State measurement.

The INE would take on only those functions compatible with its nature: structural social studies, general surveys and the production of anonymized microdata, with public, replicable methodologies subject to international statistical standards. Any political interpretation, headlines or strategic readings would fall outside its remit. Official statistics would once again be confined to the only role that can legitimately be asked of them: the mere aggregation of data to describe reality and to improve the information that supports decision-making—leaving behind any attempt at direct intervention in public opinion through a body dependent on the Executive.

This reform would have an immediate and healthy effect. It would remove a permanent source of suspicion, close off a soft-power shortcut and return political polling to its natural home: civil society and the marketplace of ideas. In a mature liberal democracy, the State does not need to know whom citizens vote for—or might vote for—in order to govern. It is enough for it to respect the rules, be accountable and submit periodically to the verdict of the ballot box.

14.2 Spanish Radio and Television Corporation (RTVE)

Public broadcasting is, by its very nature, one of the areas most vulnerable to political capture. In Spain, this possibility stems directly from the wording of Article 20.3 of the Constitution itself, a veritable Trojan horse in this field: *“The law shall regulate the organization and parliamentary control of the means of social*

communication owned by the State or any public body, and shall guarantee access to such means by the significant social and political groups, respecting the pluralism of society and of the various languages of Spain.”

Public radio and television do not merely inform: they structure public conversation, set narrative frames and shape the formation of opinion. That is why, wherever the State maintains a large broadcasting apparatus, the incentive to use it as an instrument of power is permanent. In Spain, RTVE has historically been a partisan battleground, with editorial U-turns in step with changing political majorities, appointments by quota and a growing perception that the public broadcaster operates as an extension of the communications office of the Government of the day.

The problem is not solely one of individuals or of particular editorial lines. It is structural. The larger the State’s media footprint, the greater its capacity to influence, directly or indirectly, the marketplace of ideas. A design that concentrates multiple television and radio channels under public control multiplies the Executive’s discretionary power, even if independence is formally proclaimed. In that context, declarations of pluralism are irrelevant unless accompanied by a real reduction of power.

From a demanding liberal perspective, the solution is not to try to “depoliticize” all of RTVE through ever-unstable internal balances, but to drastically reduce the reach of the State as a broadcaster.

The first measure must be clear: privatize all of RTVE’s television and radio channels—and do the same with regional and municipal frequencies.

An intermediate route is also conceivable—more moderate, but also less effective—under which TVE-1 and Radio Nacional de España (RNE) would remain in public hands. Under this partial privatization approach, all other channels—thematic, secondary or entertainment, regional, municipal...—should be brought to market through competitive, open and transparent tenders designed to increase private competition in the broadcasting sector.

Privatizing the bulk of today’s public frequencies would not only reduce the State’s media power but would also strengthen real pluralism, replacing an easily politicized public monopoly with a diversity of private operators subject to market rules.

If all outlets were privatized, including La 1 and RNE, there would be no need to discuss how they are funded. If, however, the moderate route were chosen, the second reform would concern the funding of those outlets. If they remain in State hands, La 1 and RNE should not be funded from the general budget or depend on discretionary transfers from the Government. Their funding should come exclusively from taxpayers who voluntarily tick a specific box on their personal income tax return to support public broadcasting.

This mechanism introduces an essential liberal principle: explicit consent and budgetary discipline. La 1 and RNE would have to balance their budgets with the resources actually contributed by citizens, adjusting their size, programming and costs to the real trust they inspire. A public broadcaster that fails to win sufficient public support should scale back its ambitions, not demand more funds.

The third issue—the most delicate—is how to make the content of La 1 and RNE objective so as to prevent a slide into propaganda, without resorting to direct editorial controls, which would be equally problematic. Here, the key is not to dictate news lines but to narrow the mandate and change the incentives.

The content of La 1 and RNE should be strictly limited by law to objectively verifiable public-service functions: basic institutional information, emergency coverage, regulated election debates, cultural and educational programming, the audiovisual archive, broadcasts of significant official events and news programs subject to strict criteria of neutrality. Any editorial opinion programming, evaluative political talk shows or formats designed to influence the partisan agenda would be excluded. Less opinion and less interpretation mean less room for propaganda.

Moreover, objectivity should be guaranteed not by “internal pluralism”, an easily manipulated concept, but by verifiable procedural rules—for example, measured and published speaking times, automatic coverage criteria during election campaigns, and a strict separation between news and commentary. The instructions of the Central Electoral Board and the media plans for election coverage are examples of the kind of guidelines that could be codified. Oversight would apply not to specific content but to compliance with formal rules that are externally auditable and subject to judicial review.

Finally, governance must be consistent with this reduced scope. La 1 and RNE do not need large, politicized boards, but professional management with a technical profile, long non-renewable terms, no possibility of government instructions,

and responsibility limited to fulfilling the legal mandate. The narrower the purpose of the service, the smaller the temptation to capture it.

The central idea is simple and deliberately uncomfortable: fewer public media, less scope for propaganda. Shrinking RTVE, making its funding subject to citizens' consent and limiting its content to objectively verifiable functions does not weaken democracy; it protects it. A State that communicates only what is essential and leaves the rest to the market is a State with less power to manipulate. And in a mature liberal democracy, that reduction of power is not a threat but a safeguard.

14.3 Institutional advertising

The massive use of institutional propaganda and advertising has become one of the most effective—and least controlled—tools for expanding the Executive's discretionary power. Under the guise of information campaigns, governments have developed a permanent, publicly funded communication system capable of setting narrative frames, burnishing the image of those in power and shaping the media ecosystem. Unlike other forms of intervention, this mechanism operates without formally changing the rules of the game: it does not legislate, sanction or prohibit, but it exerts sustained influence on public perception.

The problem is not the existence of occasional information campaigns, which are necessary in areas such as public health, security or emergencies. The problem arises when institutional advertising ceases to be exceptional and becomes a structural channel for the Government's political communication, indistinguishable from party marketing except in how it is funded. At that point, the public budget no longer serves citizens but becomes a soft-power lever: it allows convenient messages to be amplified, uncomfortable priorities to be silenced and media affinities to be rewarded through the discretionary allocation of resources.

This practice has deeply distorting systemic effects. First, it skews competition in the marketplace of ideas, favoring media outlets most closely aligned with those in power and penalizing critical or independent ones. Second, it creates perverse incentives in journalism by tying advertising revenue to political decisions. And third, it blurs the line between public-service information and propaganda, eroding public trust in institutional messages even when they are legitimate.

From a liberal perspective, this phenomenon is especially problematic because it allows the State to compete in the market for persuasion using coercive resources: money raised through taxation. The asymmetry is obvious. The Government not only regulates and spends; it also promotes itself, upsetting the basic balance between power and society. A State that communicates without limits tends to justify its own expansion.

Correcting this drift requires abandoning cosmetic solutions and adopting a structural approach that drastically reduces discretion. The first step must be to redefine institutional advertising in law, limiting it strictly to specified cases: emergencies, essential services, legal information obligations and clearly defined campaigns of general interest. Any self-promotional content, political evaluation or strategic communication must be expressly prohibited.

Second, an annual quantitative cap on institutional advertising spending should be established, set by law and independent of the will of the Executive of the day. That cap should be low and stable, preventing opportunistic spending spikes at politically sensitive moments. Institutional communication cannot grow at the pace of political convenience.

Third, every allocation of institutional advertising must be subject to objective, transparent and verifiable criteria, with discretionary decisions expressly prohibited. This means creating a single public register, accessible in real time, detailing campaigns, amounts, the media outlets awarded, allocation criteria and reach metrics. Opacity is not a technical failure: it is an incentive to abuse.

A fourth essential element is a reinforced ban during election periods. During campaigns, institutional advertising should be all but suspended, except in cases of demonstrated emergency. This measure is key to preventing the Government from using public resources to indirectly influence the electoral contest.

Moreover, oversight cannot be left to the Executive itself. An independent oversight body of a technical rather than political nature should be created to audit institutional campaigns *ex ante* and *ex post*, with sanctioning powers and an obligation to publish regular reports. After-the-fact control without consequences does not deter abuse.

Finally, from a more consistent liberal perspective, an uncomfortable but necessary premise must be accepted: the State does not need to communicate all the time. The narrower the scope of institutional communication, the smaller the

temptation to use it as a tool of power. Communicating what is essential and saying nothing more does not weaken democracy; it protects it.

Institutional advertising must go back to being what it should never have stopped being: an exceptional instrument at the service of citizens, not a propaganda infrastructure at the service of the Government. Until this is corrected, the Executive will continue to have a quiet shortcut for reinforcing its power without going through Parliament or submitting to effective public scrutiny.

14.4 State Industrial Holding Company (SEPI)

SEPI's investment activity is one of the clearest sources of economic discretion in the hands of the State and, at the same time, one of the least debated from an institutional standpoint. A public holding company able to take stakes in listed companies, sit on boards of directors, influence strategic decisions and mobilize resources in sensitive sectors concentrates considerable power. That power may be justified, very exceptionally, in specific scenarios involving national security or systemic risk. But when it is exercised routinely, without strict limits or an exit horizon, it becomes an instrument of economic intervention that responds more to political priorities than to criteria of efficiency, competition or the general interest.

The scale of the problem is not only conceptual but also quantifiable. At the end of 2025, SEPI's portfolio of listed holdings—including, among others, Airbus, Indra, Telefónica, Redeia, Enagás, IAG and Ebro Foods—had an aggregate market value of around €14 billion, according to stock-market capitalization figures (Instituto BME). In other words, an orderly and transparent divestment of those holdings would have raised a very substantial sum that could be used to reduce public debt. Taking this step would be vital to eliminating a major source of political influence over companies operating in competitive markets. Keeping the stakes the company currently holds is not neutral: it means forgoing resources in order to preserve a lever of political power in the business world.

Beyond listed companies, SEPI's perimeter extends to a broad network of unlisted companies, many of them inherited from a model of the State as entrepreneur that no longer has a defensible economic or institutional rationale. In the absence of a clear divestment mandate, these public companies become spaces of opacity, political capture and arbitrariness, as well as introducing competitive distortions that are hard to justify in an advanced market economy.

From a consistent liberal perspective, reform cannot be limited to improving internal governance or adding further controls. The problem is not only how SEPI is managed, but the very fact that it exists as a permanent investment holding company. The solution must be structural and aimed at reducing power, not at administering it better.

The first measure should be the full sale of all of SEPI's stakes in listed companies, following a public divestment schedule executed through competitive auctions and placements designed to maximize value for taxpayers and minimize market impact. The State has no comparative advantage as a shareholder in companies operating in open markets; its presence only introduces political noise and conflicts of interest.

The second, more far-reaching measure involves a plan to transform the public sector with a view to privatizing the entire apparatus of unlisted State-owned companies over an eight-year period, ordering the closure of all those that are superfluous or dispensable. Once the political and economic analysis determining the future of each entity has been carried out, a clear roadmap would be set for privatization, liquidation or—in highly exceptional and narrowly defined cases—an express justification for retaining it on very strict and limited grounds.

To ensure the credibility of the process, a specific divestment and privatization law would be needed to close the door to discretion once and for all. That law should prohibit SEPI from taking new stakes, except in narrowly defined extraordinary circumstances; require complete, public inventories of assets; impose open and transparent sale procedures; and establish a clear mandate for the holding company to be wound up as an investor once the process is complete. SEPI, where appropriate, should be temporarily transformed into a liquidation agency with a mandate and timeline for closure.

Reducing the State's business footprint is not an ideological obsession but an institutional necessity. The greater the State's presence as a shareholder, the greater its capacity to interfere, reward affinities and build networks of dependence. Divesting does not merely free up resources: it dismantles one of the most sophisticated forms of discretionary power. In a mature liberal democracy, the State should regulate and arbitrate, not compete, invest and run companies. The sooner this premise is accepted, the sounder the institutional architecture will be and the more resistant to political capture.

Annex. The catalog of “Sanchista” corruption and opacity

More than 20 national schemes and €5,432 million under scrutiny

The Instituto Juan de Mariana report *Shielding Democracy* explains why Spain’s institutions have become vulnerable to political capture: partisan appointments, a lack of checks and balances to secure the separation of powers, opacity in tendering and procurement, the degradation of oversight bodies... The volume also proposes a range of reforms aimed at ensuring greater institutional quality.

As a companion piece, this annex sheds further light on the many scandals that have plagued Pedro Sánchez’s time in government and whose effect has been a manifest undermining of the rule of law in our country. The research presented here draws on a catalog of more than 2,300 news reports published by Spanish media over the past decade. These reports have been cross-checked and classified by scheme. The result is a catalog that breaks down the various strands of corruption, irregularity and opacity that have affected Spanish democracy in recent years and that are linked to Pedro Sánchez’s Government or to his party, the Spanish Socialist Workers’ Party (PSOE).

Methodology

Starting from the sample of press coverage analyzed (more than 2,300 reports), data-processing *software* was used to classify the very long list of publications according to the schemes described. A single case (for example, all the corruption involving former minister and former PSOE organization secretary José Luis Ábalos) can generate hundreds of headlines over the years: arrest, indictment, information contained in the case file, trial, judgment... Moreover, the figures and amounts associated with a single case may vary depending on how far the investigation has progressed, so each case must be analyzed separately, bringing

together all the publications that refer to it and taking the most representative and reliable figures rather than simply adding up every mention.

Each scheme is also classified according to its degree of verification. The catalog distinguishes confirmed scandals (based on a final judgment, a figure issued by an oversight body such as the Court of Audit or the Tax Agency, or a public “bailout” already processed and granted) from those under investigation (an indictment or an ongoing report by the UCO or the Public Prosecutor’s Office, with no judgment yet) and from allegations substantiated by duly supported facts (the statement of a person under investigation, a press report that gives rise to an investigation, etc.). This distinction matters: a fact already ruled on by a court is not the same as an accusation that a judge is still weighing.

Finally, the catalog separates the national level (central Government, the PSOE’s national organization, regulators and State-owned companies...) from the regional and local levels (leaving aside, as far as possible, cases that may affect regional governments, provincial councils or city councils but have no ramifications at the national level). Mixing these dimensions would dilute the political attribution of the cases and schemes studied.

A bleak picture

The catalog identifies 22 national-level schemes. Of these, 12 carry an economic figure directly attributable to corruption, while the remaining 10 are cases of opacity—that is, episodes of institutional capture or managerial malpractice, such as the case that led to the disqualification of the Attorney General.

The 12 schemes for which the level of verification is either confirmed or under ongoing investigation carry a bill of €5,432 million, as shown in the following table.

NATIONAL SCHEMES WITH AN ECONOMIC FIGURE, BY LEVEL OF VERIFICATION

Level of verification	What it means	Total (€m)
Confirmed	Final judgment, Court of Audit, Tax Agency (AEAT), official bailout	2,166
Under investigation	Indictment or ongoing UCO/Prosecutor’s Office report, no judgment yet	3,266
TOTAL	Confirmed corruption + corruption under investigation	5,432

The list of cases is long and painful, confirming a clear pattern of corruption, irregularity and opacity in Sánchez's Government and in his party. The following cases stand out:

01 Koldo-Ábalos case — €700 million in public works under suspicion.

The origin of the institutional crisis engulfing the PSOE. José Luis Ábalos, Minister of Transport until 2021, and his adviser Koldo García have been sent to trial for taking kickbacks on the purchase of face masks during the pandemic and for rigging public works contracts. Through wiretaps and devices seized by the Guardia Civil, the case uncovered much of the rest of the schemes in this catalog: it was the entry point to Aldama, to Cerdán and, later, to Zapatero.

02 Santos Cerdán / Servinabar case — €537 million in contracts with kickbacks.

Santos Cerdán, the PSOE's number three until his resignation in June 2025, has been identified by the UCO as the beneficiary of 10% kickbacks on public works awarded to Servinabar, a company in which his partner Antxon Alonso holds a stake. The case broke with the publication of recordings in which Koldo García details how those kickbacks were shared out, and it has led to the indictment of the PSOE's own general manager.

03 Zapatero / Plus Ultra case — €750 million, according to the UCO's estimate.

In May 2026, the National High Court placed former Prime Minister José Luis Rodríguez Zapatero under formal investigation for his role in the public bailout of the airline Plus Ultra—the first time in Spain's democratic history that a former prime minister has been indicted. The investigation—involving an alleged front man, shell companies and payments of more than €4 million to Zapatero and his daughters—has extended to the financing of the PSOE with Venezuelan oil. The €750 million figure cited here is the UCO's own estimate of the combined loss in the bailouts managed by SEPI, of which Plus Ultra is the centerpiece.

04 Forestalia case — €500 million in a wind-power windfall.

A former senior official at Teresa Ribera's ministry has been arrested on suspicion of rigging environmental permits in favor of Forestalia, which would thereby have secured Spain's largest wind farm in order to resell it at an estimated capital gain of €500 million.

05 SEPI bailouts: Air Europa and Duro Felguera — around €616 million.

Beyond the Zapatero case, the public bailout of Air Europa (an ICO loan of €141 million plus a SEPI capital injection of €475 million) is being investigated separately for alleged irregularities in how it was processed, including the possible concealment of a debt owed by the airline to the Tax Agency that should have barred it from receiving the aid.

06 EU funds fraud — €465 million under investigation by the European Public Prosecutor's Office.

The European Public Prosecutor's Office is investigating a €465 million fraud in Spain involving Recovery Plan funds.

07 VAT fraud in fuels — around €300 million.

The Tax Agency dismantled a large-scale VAT fraud scheme in the sale of gasoline, with links to Víctor de Aldama's network and, according to his testimony, to possible illegal financing of the PSOE.

08 Cronyism benefiting relatives of senior officials and contracts with family-owned firms — close to €148 million.

The total of public contracts and grants awarded to companies owned by close relatives of several ministers and Government delegates—among them Sara Aagesen, Pilar Alegría, José Manuel Albares and Pilar Bernabé—as uncovered independently by various media outlets.

09 Leire Díez case and the PSOE's "sewers" — a bill of €133 million.

According to the investigation, a former Socialist party member with no formal position offered judicial favors and attacks on judges and police officers who were inconvenient to Sánchez's circle, in exchange for €133 million in public contracts for companies close to her. She was arrested in December 2025. According to XXX, the operative allegedly went so far as to recruit a drug-trafficking clan, offering it favorable treatment from the Executive in exchange for "eliminating" Judge Biedma, who was in charge of investigating the corruption case in which the Prime Minister's brother, David Sánchez, was convicted.

10 Correos case — mismanagement and €1,250 million in accounting losses.

The State-owned postal company ran up losses of €1,250 million between 2018 and 2023, while executives close to the Prime Minister collected commissions and the company awarded contracts to firms linked to the Koldo network.

11 CNIO case — €25 million diverted from the fight against cancer.

A senior official at the Spanish National Cancer Research Center reported the diversion of €25 million in public contracts. The courts have also confirmed that the whistleblower suffered retaliation after alerting the Government to these malpractices.

12 Begoña Gómez case — €8 million in the Barrabés contract.

The Prime Minister's wife has been sent to trial for embezzlement and misappropriation in connection with the chair she directed at the Complutense University of Madrid without holding a university degree, and with public contracts—the most frequently cited worth €8 million—awarded to businessmen such as Juan Carlos Barrabés, for whom she herself wrote letters of recommendation.

Ten further schemes have been cataloged without an economic figure, because their seriousness lies not in a quantifiable diversion of funds but in opacity, institutional capture or the mishandling of a crisis:

- **Case of the Prime Minister's brother (David Sánchez):** convicted of malfeasance and influence peddling over a post created to measure for him at the Badajoz Provincial Council.
- **Case of Attorney General Álvaro García Ortiz:** sentenced to two years' disqualification from office for disclosure of secrets.
- **Visa scheme at Spanish consulates (Algiers, Nador, Tangier, Oran):** officials indicted for visa trafficking.
- **The "Grandchildren's Law" and electoral roll fraud:** mass grants of nationality that could have decided as many as 23 seats.
- **Internal scandals at the Guardia Civil:** indictment of its Director General and its second-in-command (DAO) for pressuring the UCO.
- **Adamuz rail accident:** classified by the investigating judge as a possible case of homicide due to lack of maintenance.
- **Handling of the Valencia DANA floods:** failure to assume command of the disaster despite this being provided for by law.
- **Mass migrant incursion into Ceuta:** its handling and the concealment of prior warnings from the CNI intelligence service.
- **Resignations at the Bank of Spain:** its chief economist and chief analyst, after reports deemed inconvenient for the Government.

- **Institutional dimension of the Begoña Gómez case:** prosecution for offenses that carry no separate figure beyond the one already recorded for the Barrabés contract.

In addition, around €5,000 million is linked to “opaque contracts” awarded by the Government that have not been included in the total associated with the most serious corruption cases. This figure reflects the cost of a substantial volume of tenders awarded without public competition during the legislature, a clear indicator of a lack of administrative transparency.

The regional and local dimension

Alongside the 22 national schemes, the catalog records at least 16 regional or municipal schemes, deliberately kept out of the national total but relevant to the present analysis:

REGIONAL AND LOCAL SCHEMES

Scheme	Level
ERE case, Andalusia (historical)	Regional — Andalusia
Faffe case (training and employment)	Regional — Andalusia
Isofotón case	Regional — Andalusia
Andalusian health service under Montero	Regional — Andalusia
Cofrutex / Aznalcóllar case	Regional — Andalusia
Hole in the accounts of the Junta de Extremadura	Regional — Extremadura
Social benefits fraud under ERC	Regional — Catalonia
Servinabar (Cerdán) contracts in Navarre	Regional — Navarre
Forestalia case, regional strand	Regional — Aragon
Mónica Oltra case (abuse of minors in care)	Regional — Valencia
Case of Ximo Puig’s brother	Regional — Valencia
‘Tito Berni’ / Mediador case	Local — Seville
Urban-planning windfall (Congress vice-president, Pineda)	Local — Seville
Móstoles vehicle-inspection (ITV) case (Noelia Posse)	Local — Móstoles
Rigged civil-service exams at Parla City Council	Local — Parla
Contracts for councilors’ relatives	Local — Alcalá de Henares

Preaching is one thing...

In the motion of no confidence he tabled in May 2018 to replace Mariano Rajoy's government, Pedro Sánchez argued that the procedure was necessary "for the sake of democratic hygiene" and described corruption "as a corrosive agent that undermines trust and weakens the powers of the State". He also asserted that "there is no greater instability than that which stems from corruption" and that "democratic regeneration" would be the guiding principle of any Socialist Government—such as the one that was indeed formed once the motion succeeded.

Sánchez had made many similar pronouncements before. In 2015, in the middle of an election debate, he went so far as to tell Mariano Rajoy that the prime minister "has to be a decent person—and you are not". In 2016, he declared that "there will be no democratic regeneration unless the PP goes into opposition", and a year later he claimed that Spanish democracy was "shackled to the PP's corruption".

In making such pronouncements, the then leader of the opposition was referring essentially to the Gürtel case, which was indeed a deplorable episode of corruption linked to the PP. The various investigations found numerous examples of rigged tenders and estimated that the ringleaders of the scheme had obtained more than €30 million in illegal kickbacks.

It is worth recalling that the PSOE was at the time under the shadow of the ERE case. On 19 November 2019, the Seville Provincial Court ruled illegal the system through which the Socialist government of the Junta de Andalucía had arbitrarily distributed up to €680 million, and the Supreme Court upheld the ruling on 26 July 2022. What happened next? In July 2024, the Constitutional Court, by seven votes to four, overturned José Antonio Griñán's conviction for embezzlement and reduced that of Manuel Chaves, in an implausible judgment. That ruling is directly explained by the politicization of a body presided over by Cándido Conde-Pumpido, Attorney General under Rodríguez Zapatero's governments, and renewed with the appointment of two justices nominated by Sánchez's Government, among them his former Minister of Justice, Juan Carlos Campo.

Recent years thus reveal that Sánchez has adopted an ethical standard very different from the one demanded of Rajoy. Indeed, after José Luis Rodríguez Zapatero was indicted over the Plus Ultra bailout, the Prime Minister offered him "his full support". Something similar happened with José Luis Ábalos and Santos

Cerdán, who enjoyed the Socialist leader's backing while press reports were already anticipating the flood of judicial investigations that followed.

The lesson is not a partisan one. A standard of political accountability that is applied harshly to opponents and relaxed for one's own side can only survive if there are no checks and balances capable of enforcing it. That is the thesis of *Shielding Democracy*, in which we argue that institutional quality cannot depend on the will of whoever happens to be in power, but on oversight bodies, appointments and accountability mechanisms that work in the same way regardless of who governs. In this sense, this annex shows how the Socialist party has deeply undermined the principle of good governance and the ideal of institutional quality.

The economic cost of institutional decay

Measuring the cost of corruption and of the institutional decay it brings requires caution. The twelve schemes quantified in this annex's catalog add up to €5,432 million, a truly shameful figure. But this is only the known direct cost of those cases, not the broader impact of distrust in a public sector increasingly perceived as opaque and irregular.

Just as good governance and the rule of law bring greater economic opportunity, the burden of corruption and opaque practices translates into investments that never materialize, productive resources diverted to extractive activities, projects that never get off the ground for lack of legal certainty, and so on.

To measure the impact of institutional decay on growth, we have a prudent reference dating from 2018: a study by Francisco Alcalá and Fernando Jiménez for the BBVA Foundation and IVIE entitled *Los costes económicos del déficit de calidad institucional y la corrupción en España* ("The economic costs of the institutional quality deficit and corruption in Spain"), which estimated how much Spain's long-term per capita income would rise if its institutional quality were brought up to the level that corresponds to the country's degree of economic development. The most conservative scenario in Alcalá and Jiménez's research pointed to an income gain of 10.7 percent. Applied to 2025 GDP, that 10.7 percent would amount to around €181 billion in additional income every year, or €3,660 per inhabitant.

Perception indicators point in the same direction. In 2025, Spain scored 55 out of 100 on Transparency International's Corruption Perceptions Index, ranking 49th out of 182 countries, far behind the most advanced democracies. In fact, Spain

recorded its worst score in the entire history of the index. If we take the average income of the five best-performing countries and compare it with the average income of Spain and the four countries ranked immediately above and below it, we find a gap of almost 90 percent in favor of the first group (\$101,218 in purchasing power parity for Denmark, Finland, Singapore, New Zealand and Norway, compared with \$53,949 for Spain's group, which also includes Cyprus, Fiji, Italy and Poland).

The following table presents Spain's results in the pillar of the International Property Rights Index devoted to legal and political stability. This measure is based on the World Bank's Worldwide Governance Indicators (WGI) and yields a frankly disappointing result: Spain sits in the lower part of the table, in 30th place among the 37 OECD economies.

INTERNATIONAL PROPERTY RIGHTS INDEX · LEGAL AND POLITICAL ENVIRONMENT (OECD)

	Country	Legal and political env.	Judicial independence	Rule of law	Political stability	Control of corruption
1	Denmark	8.7	9.5	8.8	6.8	9.8
2	Finland	8.6	9.4	8.9	6.6	9.4
3	Norway	8.5	9.3	8.7	6.9	9.2
4	New Zealand	8.5	8.6	8.4	7.8	9.2
5	Sweden	8.3	9.1	8.2	6.7	9.1
6	Switzerland	8.3	—	8.5	7.3	9.0
7	Australia	8.1	9.0	8.0	7.0	8.6
8	Ireland	8.1	9.1	8.3	6.9	8.2
9	Luxembourg	8.1	7.8	8.5	7.2	8.9
10	Germany	8.0	9.1	8.1	6.3	8.3
11	Canada	8.0	9.1	7.9	6.8	8.3
12	Iceland	8.0	—	8.4	7.5	8.1
13	Netherlands	8.0	8.6	8.3	6.5	8.7
14	Austria	7.7	8.4	8.5	6.6	7.3
15	Japan	7.7	7.7	8.1	7.0	7.8
16	United Kingdom	7.5	8.2	7.8	6.2	8.0
17	Belgium	7.4	8.4	7.6	6.0	7.7
18	Czechia	7.2	7.9	7.3	7.1	6.5
19	Lithuania	7.2	8.0	7.5	6.6	6.6
20	South Korea	7.0	7.2	7.5	6.4	6.8
21	France	7.0	7.4	7.4	5.9	7.4
22	Latvia	6.9	7.6	7.1	6.3	6.4

	Country	Legal and political env.	Judicial independence	Rule of law	Political stability	Control of corruption
23	Portugal	6.8	7.1	7.1	6.6	6.4
24	United States	6.7	6.5	7.7	5.3	7.2
25	Slovenia	6.6	5.9	7.1	6.8	6.6
26	Costa Rica	6.5	6.9	5.8	7.1	6.3
27	Chile	6.4	7.1	6.3	5.5	6.9
28	Italy	6.4	7.5	5.8	6.3	6.1
29	Slovakia	6.2	6.7	6.2	6.3	5.6
30	Spain	6.2	6.1	6.6	5.8	6.3
31	Poland	5.9	5.2	5.9	6.3	6.1
32	Greece	5.5	5.5	5.4	5.7	5.2
33	Israel	5.2	—	6.6	2.4	6.7
34	Hungary	5.1	3.1	5.9	6.6	5.0
35	Colombia	4.2	4.7	4.1	3.8	4.4
36	Mexico	3.5	3.8	3.4	4.0	3.0
37	Türkiye	3.1	1.2	4.0	3.3	4.0

The World Justice Project (WJP), which measures the rule of law through surveys of more than 215,000 households and 4,100 experts, points in the same direction. On the measure of institutional constraints on government power, Spain has fallen to 27th place, as parliamentary oversight, judicial independence, audits by official bodies and press freedom have been eroded under Pedro Sánchez's Government. The report singled out Spain as one of the countries where checks and balances and the freedoms of expression, association and civic participation weakened the most during 2025, which explains the downward trend in its score.

The European Commission reaches similar conclusions. According to its 2026 Rule of Law Report, 92 percent of Spaniards believe corruption is widespread (compared with an EU average of 71 percent) and 53 percent feel personally affected by it (compared with an EU average of 30 percent). Among businesses, 85 percent believe malpractice is widespread (compared with 65 percent in the EU) and 62 percent consider corruption a problem for doing business (well above the European average of 37 percent). Public procurement is the most sensitive area: 40 percent of Spanish companies believe corruption has prevented them from winning a tender in the past three years (30 percent in the EU), and 34 percent of the tenders assessed closed with a single bid. Added to this is a perception of impunity greater than the European average: only 18 percent of companies believe that someone who bribes a senior official will be adequately punished,

compared with an average of 31 percent of Europeans who think such malpractice has consequences in their respective countries. Confidence in the referees has also suffered: companies' assessment of the independence of the public procurement appeals tribunal has fallen from 61 to 44 percent, and their perception of the CNMC's independence has dropped from 62 to 42 percent.

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