

Barcelona, 11th August 2020

Mr. Didier Reynders
Commissioner for Justice of the European Commission

Dear Sir,

Impulso Ciudadano is a Spanish association created in 2009 and currently registered in the Transparency Register of the European Union, number 714406338494-96, and its address is Calle Consell de Cent, no. 322, Entlo. C de Barcelona, CP 08007. Contact email: info@impulsociudadano.org.

Its social purposes are the following:

- a) promoting and protecting political, ideological, linguistic and cultural pluralism in Spain;
- b) protecting human rights and fundamental freedoms at the national, European Union and international levels;
- c) defending the values contained in the Spanish Constitution of 1978;
- d) promoting cohesion, solidarity and relationships among Spaniards, regardless of their place of residence;
- e) promoting necessary measures to improve functional performance, rationalization and neutrality of institutions and Public Administrations, and opposing all types of corruption;
- f) opposing hate crimes and promoting policies of tolerance, equality and solidarity among citizens.

Since its inception, Impulso Ciudadano has engaged in numerous initiatives to defend human rights and the principle of legality. Along these lines, we want to share with you our concern for the repeated failures of the European arrest warrants issued by the Spanish Supreme Court in relation to the persons investigated for crimes directly or indirectly linked to the 2017 events in Spain related to the Catalan secessionist movement. These events put the Spanish constitutional order at serious risk.

As you know, European arrest warrants and associated surrender procedures must always be executed except in those instances when exceptional assessed circumstances permit denial of their execution [No. 33 of Judgment of the Court (Fifth Chamber) of 25 July 2018, *As. C-268/17, AY*, ECLI: EU: C: 2018: 602], as the mechanism of the Euroorder rests on the principles of mutual recognition and mutual trust [No. 41 of Judgment of the Court (Fifth Chamber) of 11 January 2017, *As. C-289/15, Jozef Grundza* intervening party *Krajská prokuratura Prešov*, ECLI: EU: C: 2017: 4].

However, since 2018 the Euroorders that have been issued by the Spanish Supreme Court have not been executed by the courts of member states responsible for their execution in Belgium and Germany.

The refusal to execute the arrest warrant requested by the judicial bodies of a member state from the judicial authorities of another member state is a pathological assumption when these authorities justify such refusal on the basis of applying different criteria from the member state requesting the warrant - in this case, Spanish authorities. We believe that when it comes to the interpretation and application of EU law, it is indispensable that its member states share the same standards. Failing to do so weakens European integration, in this case integration in the critical area of judicial cooperation.

Particularly disturbing in this regard is the outcome of the European arrest warrant issued by the Spanish Supreme Court against Mr. Lluís Puig, former chancellor of culture of the regional government of Catalonia, who is being investigated on charges of embezzlement of public funds for the purpose of furthering Catalan secessionist purposes. A Belgian court has recently denied the execution of the European arrest warrant on the grounds that, according to Spanish procedural law, the Spanish Supreme Court is not competent to proceed with the ongoing criminal investigation.



That a court of a member state finds itself competent to invalidate the application that a court of another member state makes of its domestic law is totally incompatible with the principles of mutual trust and mutual recognition that underpin the European area of freedom, security and justice (AFSJ). Surrendering to this type of control - which is not at all provided for in the European arrest warrant and surrender procedures- means putting an end to cooperative mechanisms within the EU.

We understand that the situation has reached the point where the European Commission must assume its task as guarantor of compliance with EU law and proceed to verify the degree of effectiveness of European arrest warrants procedures and examine the instances where their execution has been refused and the reasons given for such refusal. The Euroorder cannot be allowed to be circumvented by introducing controls not provided for, and which exceed, those existing in the classic mechanisms of recognition and execution of decisions. If a member state can assume the power to verify the application that the court of the originating state has made of its procedural regulations, legal certainty and trust in the EU mechanisms and institutions will be seriously jeopardized.

The refusal of execution affects the criminal investigation of events of undisputed importance for Spain as they relate to an attempt to repeal the Spanish Constitution in Catalonia in 2017 and causes unease in wide sectors in our country. The decisions in these cases have been arbitrary and call into question the fair application of the European instruments of judicial cooperation.

For all of the above reasons, we ask you to proceed in the exercise of your responsibilities and

- analyze the application of the European arrest warrant and surrender procedures in the different States of the European Union;
- adopt the appropriate measures to correct current dysfunctions and exhort the member states to apply those measures faithfully in accordance with the principles of mutual recognition and trust.

Cordially,

Jose Domingo Domingo
Board Chair of Impulso Ciudadano