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## **For the Preservation of the Rule of Law in Spain**

MEDEL is aware of the draft law in Spain which will affect the structure and functions of the General Council of the Judiciary. Thus, MEDEL considers appropriate to express its opinion as a union of associations of European judges and prosecutors which defends judicial independence from interferences by other public authorities or private interests.

The primary purpose of the Council for the Judiciary is to enforce the independence of Judges and to promote their professional status. In order to achieve those goals, different powers are granted to the institution, both normative and executive. For this reason, since adoption of its *Elements of a European Statute of the Judiciary - Palermo Declaration* at January 16, 1993, MEDEL advocated a set of principles for the establishment and functioning of the Council for the Judiciary as essential to ensure the independence of the judges. In substance, those principles were also adopted and developed by the CCJE through two important documents (*CM/R (2010)12; European Charter on the Statute for Judges*). Recently, the *Gdansk Memorandum*, approved by MEDEL at 23<sup>rd</sup> May 2013, and sent to the EU Commissar Viviane Reding, underlines that the *self-government of the judicial power is a cornerstone of the independence of the judiciary, and that EU has to ask not only from candidate countries, but from each of its member states, to meet strict criteria in this area.*

Among others, the reduction of powers of the Constitutional institution which governs the judiciary and the assumption of those powers by the executive involves a breach of the principle of separation of powers as a basic element of the rule of law. The transfer of those powers to the Government, as it is pretended, will allow the subordination of judges to the Executive.

As MEDEL has alerted in the European Day of Justice, last 23<sup>rd</sup> of May, this situation in Spain, as recently happened in other European countries, only shows the urgent need for an intervention at a European level, with the clear definition of common rules to ensure an effective independence of the Judicial Power.

In this context, MEDEL wants to express its deep concern about this disruption of the balance of powers that will occur in Spain and to warn of the risks for the judicial independence and of its consequences which will sharply harm the rule of law in Spain, as the reform projected will affect the essential role to guarantee the civil, political, economic and social rights assigned to the Judiciary of Constitutional Democracies.