

RESOLUTION

The Annual Meeting of European Association of Judges (EAJ) held in St Gallen Switzerland on 24-25 May 2013 ,

Whereas:

1) The draft bill to reform the *Consejo General Del Poder Judicial (CGPJ)* delivered by the Spanish government in January 2013 changes the manner of appointment of the 12 judges members of the *CGPJ*, consisting of 20 members in total, all appointed by Parliament;

2) Presently the 12 judge members are elected from 36 names presented to the parliamentary chambers, principally by Spanish judicial associations, according to elections held within those associations (A single judge may present himself as a candidate on the written nomination of 220 judges);

3) According to the new draft bill there are no longer primary elections within the judiciary. Judges would be able to nominate themselves as candidates with the supporting signatures of 25 judges or with the support of one judicial association. Each judge or judicial association can endorse up to 12 candidates;

4) According to the same draft bill, *the position of the 12 judge members of the CGPJ would no longer be on a full time working basis, but sharing their working time with their normal judicial function. There would remain only a Permanent Committee* of four or more members, together with the President, operating on a full time basis;

5) According to Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States on judges: independence, efficiency and responsibilities adopted on 17 November 2010 (Art. no. 26), Magna Charta of Judges (Fundamental principles) – 2010 (art. no. 13) and Opinion no.10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of society (art. no. 15), *the composition of the Council for the Judiciary shall guarantee its independence from legislative and executive powers and enable it to carry out its functions effectively;*

6) According to CM/Rec(2010)12 of the Committee of Ministers to member states on judges (arts 25 - 27), Magna Charta of Judges (Fundamental principles) – 2010 (art. no. 13), Conclusion of the IAJ 1st Study Commission adopted in Vienna on November 2003 on the election of members judges of High Council of Justice and Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of society (arts no. 19, 27 e 28), *the Council shall be composed either of judges exclusively or of a substantial majority of judges elected by their peers;*

7) According to arts 27 e 28 of CCJE Opinion no. 10 (2007), *Judges sitting on the Council for the Judiciary should be elected by their peers following methods guaranteeing the widest representation of the judiciary at all levels;*

8) According to paragraph 34 of the above cited Opinion no.10(2007) of the Consultative Council of European Judges (CCJE) on the Council for the Judiciary in the service of society, *although it is for the states to decide whether the members of the Council for the Judiciary should sit as full-time or part time members, it should be pointed out that full-time attendance means a more effective work and a better safeguard of independence.*

THE GENERAL ASSEMBLY OF THE EUROPEAN ASSOCIATION OF JUDGES

ACCORDINGLY APPROVES THE FOLLOWING RESOLUTION:

The contents of the draft law to reform the CGPJ (High Council of Judges), published by the Spanish government in January 2013, contravene normal standards of judicial independence, in so far as they propose a change to the manner of selection of members of the CGPJ and the termination of the existing arrangement whereby judicial members of the council work on a full-time basis, introducing in its place for those members a system of part-time working. These proposals would tend to jeopardize the independence of the judiciary in Spain, in particular with regard to its relations with the executive and legislative branches of government.