

## **CRIMINAL DIVISION OF THE SUPREME COURT**

Francisco Javier Marzal Mercader, with ID No. 693624J, spokesman of the alliance Denunciantes del Autoritarismo Judicial, and with address for notification purposes at javier\_marzal@hotmail.com, and Enrique de Diego Villagrán, with ID No. 03418167E, and address for notification purposes at enriquedediegom@gmail.com, under the protection of Art. 262 LEC "those who by reason of their positions, professions or trades have news of some public crime, shall be obliged to report it immediately to the Public Prosecutor, the competent Court, the Judge of Instruction..."

We formulate,

### **COMPLAINT**

Against the members of the Government of Spain since Pedro Sánchez won the Motion of Censure in 2018 until the current one, for the crimes committed with the intentional objectives of the massive impoverishment of the population, to increase interventionism on the economy through the massive destruction of the business fabric and subsidies, increasing political clientelism and the dependence of the population on public money, favoring certain individuals, companies and organizations, breaching their commitments to the European Union and **harming their financial interests**, as well as the crimes arising from the investigation of the following **FACTS**:

### **COMPETITION.- EUROPEAN PUBLIC PROSECUTOR'S OFFICE AND PUBLIC PROSECUTOR'S OFFICE**

Article 4 of *Organic Law 9/2021 of 1 July implementing Council Regulation (EU) 2017/1939 of 12 October 2017 establishing enhanced cooperation for the establishment of the European Public Prosecutor's Office* provides as follows: "*The Deputy European Public Prosecutors are competent throughout the national territory to investigate and prosecute before the competent prosecution body at first instance and on appeal against the perpetrators and other participants in offences prejudicial to the financial interests of the European Union in accordance with Articles 4, 22, 23 and 25 of Council Regulation (EU) 2017/1939 of 12 October 2017, irrespective of the specific legal qualification given to them.*"

The same article in its second paragraph has the following wording: "*In particular, they shall have jurisdiction to investigate and prosecute in relation to the cases for the crimes typified in the following precepts of Organic Law 10/1995, of November 23, 1995, of the Criminal Code: [...] a) Crimes against the Union Treasury not referring to national direct taxes, typified in articles 305, 305 bis and 306. In the case of revenue from value added tax own resources, the Deputy European Public Prosecutors shall only be competent when the facts are related to the territory of two or more Member States and involve a total damage of at least 10 million euros. b) Fraud against European*"

*subsidies and aid provided for in Article 308. d) The crime relating to participation in a criminal organization as provided for in Article 570 bis, whose main activity is the commission of any of the offences provided for in the previous paragraphs".*

The offences reported fall within the jurisdiction of the European Public Prosecutor's Office on the basis of Article 83(1) of the Treaty on the Functioning of the European Union, which states: "*The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of criminal offences which are particularly serious and have a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organized crime*". The facts reported may constitute corruption through organized crime in the Minisros Council.

The European Commission has said, "*Respect for the primacy of law is important for European citizens, as well as for entrepreneurship, innovation and investment,*" but the defendants do not have a minimum of "*effective respect for the rule of law*" nor towards the financial interests of the European Union, which prevents "*EU funding from being fruitful.*"

These articles confer jurisdiction on the European Public Prosecutor's Office to investigate the facts denounced herein.

Having clarified the competence, we are interested in transferring the case to the European Public Prosecutor's Office as it is competent according to article 4.1 of Organic Law 9/2021, due to the matter denounced by articles 4.2.a) and c), and it should carry out the interested diligences by virtue of article 10.1 of the referred LO. The investigator must take into account Recital 61, which reads as follows: "*When a judicial or police authority of a Member State initiates an investigation into a crime and considers that the European Public Prosecutor's Office might not exercise its jurisdiction, it must inform the European Public Prosecutor's Office so that it can assess whether or not it should exercise its jurisdiction*".

However, given that crimes have also been committed against Spaniards which, in principle, may not affect the financial interests of the EU, **the Public Prosecutor's Office should also be involved**, being procedurally possible and, given the primacy of EU law, we understand that the investigator should act as a judge of guarantees.

## **1.- ECONOMY BEFORE THE 2019 ELECTIONS.**

On page 28 of the PSOE's 2019 election program it states:

*1.1. In recent years, the Spanish economy has grown much faster than that of the countries around us.*

- 1.2. *In this favorable economic situation, the PSOE is committed to carrying out a **markedly pro-European economic policy** that includes the necessary reforms to promote robust economic growth and the creation of quality employment, based on three main axes: (iii) **a decisive advance in the consolidation of public accounts, the reduction of deficit and debt, and medium-term fiscal sustainability.***

## **2.- ECONOMY OF 2018 AND 2019**

The 2018 General Budgets state: "*In this context of economic growth, with respect to the budget stability and public debt targets for the 2018-2020 period, the deficit targets continue to be maintained, such that in 2020 all the Public Administrations, except for the Social Security, will reach budget balance. These budget stability and public debt targets set by Agreement of the Council of Ministers of July 3, 2017, revised as regards the stability target for the Autonomous Communities and Social Security by Agreement of July 7, 2017, were approved by the Plenary of the Congress on July 11, 2017 and by the Plenary of the Senate on July 12. **This Agreement establishes the deficit target for the Public Administrations as a whole at 2.2 percent of GDP.**" Since no PGE (General State Budget) for 2019 was approved, the PGE for 2018 was maintained for said fiscal year, in accordance with Article 134 of the Spanish Constitution.*

Pedro Sánchez has been President of the Spanish Government since June 2, 2018 and the main economic data of his and previous governments, are as follows:

- In 2019, GDP grew by 2.1%, while in 2018 growth was 2.3%.
- Government spending decreased in 2017 reaching 41.3% of GDP, increasing to 41.8% in 2018 and 42.3% in 2019, totaling a 1% increase in GDP between 2017 and 2019.
- The public deficit in 2018 was 2.5% of GDP and 3.1% in 2019 (The EU SGP set the limit at 3% of GDP, despite the GDP growth, and the 2.1% of GDP approved by the Government, the Congress and the Senate, as well as the referred commitment of the President of Government "*to carry out a markedly Europeanist economic policy that includes the necessary reforms*" based on "*a determined advance in the consolidation of the public accounts, the reduction of the deficit and debt and medium-term fiscal sustainability*". **In this way, the President himself recognizes that he was harming the financial interests of the European Union (which is obliged to finance this deficit) and of Spain.**
- As a consequence of the previous two, the public debt grew: €1,183,412 billion in 2017, to €1,208,861 billion in 2018 and €1,223,355 billion in 2019. The Government disregarded international bodies and breached the European Union's Stability and Growth Pact (SGP), in force since July 1, 1998 which set the public debt limit at 60% of GDP and the public deficit limit at 3%, so as not

to harm the economy.

- Primary public spending in 2019 grew by 5%, according to the Bank of Spain. The Council of the European Union had recommended that it should not grow by more than 0.6% in Council Decision (EU) 2017/984.

Page 29 of the Electoral Program of the PSOE also states: "*1.4. The Socialist Government presented a draft General State Budget (PGE) for 2019*" (PGE, General State Budget).

The consequences of these economic breaches of the 2019 Electoral Program and the 2019 PGE were aggravated by the Government's economic decisions in 2020 and subsequent years.

The employers' association CEOE, on January 11, 2019 published on its website, an article with the headline: "The 2019 General State Budget is not what the Spanish economy needs".

The 2019 General State Budgets were not approved by Parliament, so the Government was obliged to maintain the PGE of the previous year (2019), but it continued with its plans to breach its commitments to the electorate, to Parliament and to the European Union, and it did so. The PGE for 2018 contemplated a limit on non-financial public expenditure of 119,834 million euros, but it amounted to 501,497 million euros.

### **3.- LEGAL COUP D'ÉTAT. STATE OF ALARM**

The Government decreed the state of alarm on March 14, 2020, with the aim of increasing its powers, assuming the legislative function of the Cortes Generales and limiting the parliamentary control of its action, with the same objectives as the rest of the actions denounced. The illegality extends to the signatory of this RD, the Vice President Carmen Calvo, instead of the President of the Government.

With the State of Alarm, the Government suspended democracy, human rights and fundamental rights, including the right to decide on one's own health by forcing the wearing of masks and lethal treatments such as respirators until Italy rejected them, personal freedom of movement, freedom of enterprise by forcing the suspension of activity and eliminating free dismissal.

The State of Alarm and its extensions were declared unconstitutional by the Constitutional Court.

### **4.- ECONOMIC DOWNTURN IN 2020**

The Government did not comply with its obligation to present the General State Budget for 2020, on or before September 30 (EC 134.3), despite the fact that the General Elections were on November 10, 2019.

Even more illegal is that it presented a 2020 Budget Plan of the Kingdom of Spain on

15-10-2019 to the European Commission, without the approval of the Parliament. In the Introduction of this Plan, the situation is misrepresented by saying: "*The elaboration of the 2020 Budget Plan of the Kingdom of Spain is marked by the current situation of the **Government in office***". The Government is not in office because none of the five assumptions established in Law 50/1997, of November 27th is fulfilled. Continuing with the falsehood in the same first paragraph of the Plan, another falsehood is stated: "*Therefore, the Government in office cannot approve a General State Budget Bill for next year*". In the second paragraph it is stated: "*Thus, the approach followed in the preparation and submission of the Budget Plan for 2020 consists of an inertial fiscal scenario*". In this way, the Government breached the law and parliamentary control through the 2017 PGEs which were the last ones approved by Parliament and already anticipated that it would breach them again, as it did in 2018 and 2019, with the intention described in the conclusions of this complaint. The Plan states with respect to 2019 the following: "*Thus, for this year the Government maintains its deficit forecast at 2% of GDP, as already notified in the Stability Program*", while FUNCAS forecast 2.3% and the Bank of Spain in June referred to 2.4% of GDP, but the Government exceeded all forecasts and took it to 3.08%, breaching its commitment to the European Union and to the Union's SGP (3%). **It is a radical falsehood that the Government committed itself to have a deficit of 2% on October 15 and that at the end of the year it was 3.08%. It is evident that with this serious falsehood the Union was being intentionally misled into approving the Budget Plan for 2020**, which, moreover, was unconstitutional. The FUNCAS annual forecasts panel has been carried out since 1999 and is a survey among the 19 main Spanish economic analysis services.

Undoubtedly, these two criminal actions are closely related to the aforementioned legal coup d'état and an unprecedented increase in public spending.

On the website of La Moncloa, it appears that on December 27, 2019 (Sunday), in the Council of Ministers agrees that "they are extended for the next year in the same terms that appeared in the Agreement of the Council of Ministers of December 28, 2018", adding that: "*The measure complies with Article 134 of the Spanish Constitution, which states that if on January 1 there is no new Budget Law, the **public accounts** of the previous fiscal year will be considered automatically extended*". The Government falsifies the referred article of the Constitution, since Article 134.5 has the following wording: "*If the Budget Law is not approved before the first day of the corresponding fiscal year, the **Budgets** of the previous fiscal year will be considered automatically extended until the approval of the new ones*"; therefore, neither the illegal accounts of 2018 nor the Agreement of the Council of Ministers that was rejected by the Parliament are extended, but the PGE (General State Budget) of 2018 which, because they were not approved, were those of 2017.

Despite this, the Government did not even adjust to the 2019 accounts, giving, moreover, a legal coup d'état, with the declaration of the State of Alarm on March 14, 2020 to not even adjust to the 2019 accounts.

On January 13, 2020, the members of the new Government are published in the BOE.

On March 14, 2020, the Government declares the state of alarm, declared unconstitutional by the Constitutional Court, as well as its extensions, in order to eliminate the control of the Parliament and fulfill its criminal objectives, which also harm the financial interests of the European Union.

According to Eurostat (European Statistical Office), **the Spanish economy had the largest reduction in 2020.**

The Bank of Spain's 2020 Annual Report states that "World GDP fell by 3.3% in 2020 as a whole" and by "6.7% in the euro area", while in Spain it fell by "10.8%" which was the largest reduction worldwide.

In 2020, public spending grew to 51.8% of GDP, up from 42.3% in 2019, and the public deficit reached 10.27% of GDP, the highest in the entire European Union.

Public debt grew by more than 20%, reaching 120.4% of GDP, an all-time high.

Subsequent data show that this huge increase in public spending was unjustified, because the government had no intention of sustaining the economy, but rather of impoverishing it.

#### **5.- RECOVERY IN 2021**

In the European Union and the Eurozone as a whole, there was economic growth of 5.2% in 2021 and, according to the Bank of Spain, Spain is one of the few European countries that did not recover its 2019 economic level during 2021. Closing the first half of 2021, the Spanish economy was the furthest behind in the recovery.

Public spending fell to 50.6% of GDP in 2021, down from 51.8% in 2020, but far from the 41.3% in 2017 that Pedro Sánchez, President of the Government, pledged to reduce. Public deficit reduced to 6.87% of GDP, but far from the 3.1% of 2017 that Pedro Sánchez pledged to reduce.

Public debt grew from €1,345.785 billion in 2020 to €1,427.238 billion in 2021.

Subsequent data show that this huge increase in public spending was unjustified, because the government had no intention of reviving the economy, but rather of impoverishing it.

#### **6.- RECOVERY IN 2022**

On February 20, 2022, Russia invaded Ukraine. Two months and ten days later, on April 30, 2022, the Government submitted the Stability Program 2022-2025. It states that Spain will have a public deficit of 5% of GDP in 2022 (5.2% according to the European Commission) and that it will not go below 3%, which is the maximum allowed, until 2025 (2.9%) and below 110% of GDP of public debt.

The General State Budget for 2022 was approved by the Cortes Generales, through the benefit of the political parties that supported it. Far from consolidating fiscal

imbalances and complying with European standards and the Spanish Constitution, a public deficit of 81,936,673.06 thousand euros was approved, that is, almost 82,000 million euros.

As a result, in February 2022, the European Commission published its forecast that **Spain would be the only EU economy not to recover its 2019 economic level**. Closing the second quarter of 2022, Spain was the European Union member country furthest away from its pre-COVID GDP levels and one of only three that had not recovered that level, according to Eurostat.

## **7.- EVALUATION OF THE GOVERNMENT'S ECONOMIC MEASURES 2019-2022**

The European Court of Auditors' document entitled "*Risks, challenges and opportunities of the EU economic policy response to the COVID-19 crisis*" states, "*In the first half of 2020, the COVID-19 pandemic caused uneven, but always substantial, GDP losses across Member States. The economic impact was uneven due to various factors, such as differences in the structure of economies and in health strategies to combat the pandemic, as well as the different effects of confinements on economic sectors.*"

According to this European Court, the investigation in the investigation should focus on the economic structure, health strategies, confinements and closures of business activity in Spain.

The document states that: "*significant (i.e. above 0.1% of GDP) national budgetary measures*", so the investigation should include "*significant (i.e. above 0.1% of GDP) budgetary measures*".

## **8.- GENERAL STATE BUDGET (PGE) 2023**

On October 17, 2022, the Governor of the Bank of Spain appeared before the "*Comisión de Presupuestos del Congreso de los Diputados en relación con el proyecto de Presupuestos Generales del Estado para 2023*" (Budget Commiee of he Congress of Deputies in relation to the draft General State Budget for 2023)

In the appearance the Governor said: "*In particular, the real GDP growth forecast in the PGE, at 2.1%, is higher than both that projected by the Bank of Spain (1.4%) and by the consensus of analysts (1.2%)*", "This situation of the Spanish public accounts constitutes a considerable source of vulnerability for our economy and implies smaller margins for fiscal action in the face of possible adverse macro-financial shocks that could occur in the future", in reference to an "ambitious fiscal consolidation plan [...public debt could fall to levels close to 70% of GDP in 2040" (it is worth remembering that the SGP sets the maximum at 60%, which shows the seriousness of the dangerous level of public debt to which Zapatero, Rajoy and Sánchez have brought us) and "*The public spending policy of the Public Administrations must be subject to a thorough review*".

On October 18, 2022, the President of the Independent Authority for Fiscal Responsibility (AIReF) appeared before the Budget Committee of the Congress of Deputies to present the Report on the projects and fundamental lines of the Budget for 2023.

The news about this appearance on AIReF's website has the following headline: "*AIReF detects notable shortcomings in the 2023 Budget and warns of its weakness as a key economic policy instrument*".

The report states that the General State Budget for 2023 "*weakens its accountability function [...] before the Courts and before society as a whole*", as the Government already did when declaring the State of Alarm.

AIReF said the same thing the previous year.

In the PGE, the Government estimates that GDP will grow by 2.1% in 2023, while the Bank of Spain estimates 1.4% growth and that GDP will not recover to pre-coronavirus crisis levels until 2024.

### **9.- FALSE UNEMPLOYMENT DATA.**

With the Labor Reform of 2021, in April 2022, it came into force that workers with discontinuous permanent contracts are not counted in the unemployment figures; however, they can be registered in unemployment. To make the distinction, the Government has had a box added to the SEPE forms that indicates this modality and excludes the others.

Between January and October 2022, 1.93 discontinued permanent employees were hired, compared to 212,000 in the same period of 2021.

In October 2022, they totaled 1.93 million. The persons who have this kind of contract do not appear in the number of unemployed provided by the Ministry of Labor. The State Public Employment Service (SEPI), which is attached to the Ministry of Labor, has enabled a new box for the unemployed to indicate that they have this new type of contract.

Obviously, if these hired persons appear in the SEPI, it is a falsehood to exclude them from the official number of unemployed, with the intention of deceiving the European Union and the voters of 2023.

Under this government, Spain topped the European Union's youth unemployment ranking.

The Government has used this falsification of data to claim that employment was growing, which is false. Among other falsehoods, in October 2022 the Government announced that unemployment fell by 27,000 people.

## **10.- MOST EXPENSIVE GOVERNMENT IN HISTORY**

Protected by the illegalities referred to, the Government of Pedro Sánchez also holds two records in the most expensive governments in the history of Spain, excluding the contingency fund, public debt, territorial entities and relations with the EU, specifically 165,926,076,000 euros in 2020 and 172,637,447,000 euros in 2021, being surpassed with total certainty in 2022.

Governments have only exceeded €130 billion three other times, specifically in 2012, 2013 and 2015. The 2003 Government spent €52 billion and logically and the last Zapatero Government (2011) spent €92 billion. The 2003 Government spent 52,000 million euros.

The increased ministerial digitalization makes completely unjustifiable these expenses derived from benefiting politicians of the political parties that form or support the Government, in order to benefit Pedro Sanchez with the benefits of being President of Spain.

In 2022 it will be exceeded as announced and can be verified throughout the investigation of this complaint.

## **11.- MINISTRIES AND MEMBERS OF THE COUNCIL OF MINISTERS**

Part of the increase in public spending and public debt (intergenerational crime), is due to the fact that the governments of Pedro Sanchez have been the largest in number of Vice Presidents, Ministers and Ministries, especially in the second legislature, due to the extortion of PODEMOS so that Sanchez would be President of the Government.

Sánchez is the only one who has had 4 Vice Presidents (2020-2021), while the rest of the governments have had 1 or 2 Vice Presidents, except Zapatero who had 3 Vice Presidents (2008-2011) and Sánchez himself (2021-2022).

In 2018, Sanchez had 1 Vice President and 16 Ministers with 17 Ministries, growing by 4 Ministers and 4 Ministries with respect to the previous Government.

In 2022 he has 22 Ministers and 22 Ministries, 3 of the Ministers are also Vice-Presidents. In the second Government of Sánchez, 5 politicians of PODEMOS were appointed Ministers; for this, the Ministry of Social Affairs (Pablo Iglesias, Secretary General of PODEMOS), Equality (Irene Montero, wife of Pablo Iglesias), Labor (Yolanda Díaz), Consumption (Alberto Garzón, Izquierda Unida) and Universities (Manuel Castells) were created. Not only were budgets created for these ministries, but all the ministries that handled the affairs of these new ministries increased their spending.

## **12.- ADVISORS**

Likewise, the Sanchez governments have set new records in the number of advisors appointed on a discretionary basis and in public spending on advisors, both in 2021 and 2022.

In 2019, 2021 and 2022, the governments of Pedro Sánchez have exceeded the historical number of advisors. The number of advisors in 2020 was only surpassed by the aforementioned years, in 2010 and 2011. In 2022 the Government exceeded 800 advisors. Sánchez's governments also have the sixth position with 670 in 2020 and the eighth with 618 advisors in 2018. Aznar's maximum was 460 advisors in 2002, Rajoy's 595 in 2015 and Zapatero's 648 in 2010.

The largest increase has been in four ministries. Health has 16 advisors, 12 in Consumption, 22 in Social Rights and 16 in Equality. The last three are from PODEMOS. In January 2019, the Ministry that brought together these four areas had 12 advisors that have increased to the 66 referred to. The Minister of Labor, also from PODEMOS, had 14 advisors in July 2021 and 21 in January 2022.

Two other Sanchez records are his own advisors: 370 in July 2021 and 383 in January 2022. President Sanchez has more advisors than employees in a medium-sized company.

In 2007, the last year of Rajoy's government, he spent 38 million euros on advisors. That figure had already been surpassed by the Government in July 2022, with 39 million euros, which exceeds the expenditure of previous years.

In all the years of Sánchez's presidency, a new record has been set for public spending on advisors.

It is clear that the increase in advisors is due to the use of advisors to benefit close persons and to perpetuate themselves in power, staying in government or to seek future jobs, as well as for the typical corruption business of government members, accredited with the lack of anti-corruption measures and in the official Eurostat corruption figure (8% of GDP, 2018), as well as in the corruption activities described in this complaint, including this section,

### **13.- GOVERNMENT INSTITUTIONAL ADVERTISING**

The government has become the largest advertiser in 2022, including corporations.

According to The Objective, in the Public Sector Procurement Platform indicates that between January and October 2022, the Government has awarded 51 campaigns for a total value of 85.2 million euros which is the highest expenditure in 13 years, more than double that in 2021 (42.5), almost double that in 2020 (47.8) and more than triple that in 2019 (25.9). For their part, Rajoy's governments spent between 19.7 and 37.7 million euros per year, exceeding 30 million in two of the seven years.

In February 2022, the Government approved "*158.34 million of investment*", in the Plan of Publicity and Institutional Communication, more than double the 66 million budgeted for 2020, the year of the pandemic. The use of the term investment is striking, because it evokes the use of this propaganda for personal benefit, both of the specific member of the Government of each expenditure, and of Sánchez as President, of the Government as a whole and of the political parties of its members.

In February 2022, the Government approved an "investment" of 158.34 million euros for 2022, more than double the 66 million budgeted for 2020, the year of the pandemic. In July 2022, advertising spending for 2022 was raised by another 55.08 million, totaling 213.42 million, a figure only surpassed by Zapatero in 2007.

Rajoy spent on propaganda from 19.7 million in 2013 to 37.7 million in 2015, spending on average 26.4 million euros annually.

In February 2022, the Ministry of Economic Affairs had the largest budget with 36.3 million euros, followed by the Ministry of Equality with 19.6 million euros.

It is clear that this brutal increase in advertising in 2020 is aimed at misleading the population and favoring related media to obtain more votes in the 2023 elections.

In general, institutional advertising should be criminalized because the media already publish most of the Ministries' press releases and the Government can get free publicity for campaigns. Institutional advertising is a way of bribing the selected media.

#### **14.- RESCUE OF THE SPANISH STATE**

The Government's measures meant that, since 2018, the European Central Bank (ECB) has had to rescue the Spanish economy. On June 9, 2022, the ECB announced that it would stop buying Spanish public debt, although it finally changed its mind to avoid raising the interest rates of the "*bulky public debt*" (BoE) and plunging Spain into a great depression that would increase the damage to the financial interests of the European Union.

In January 2022, 33.8% of Spain's public debt was owed to the ECB. Public debt amounted to 1,211,328 million euros (Source: Tesoro Público).

#### **15.- EUROPEAN RECOVERY FUNDS**

In September 2022, the European Court of Auditors pointed out that Spain is the country that has implemented the European recovery funds in the worst way and that it is possible that Spain will be a "fiasco" with complications for its economic recovery. This situation is another irrefutable proof of the Government's impoverishing intentionality.

All the above facts are detrimental to the financial interests of the European Union, but the actions related to European funds cause direct damage to these interests of the Union.

#### **16.- EUROPEAN FINANCIAL INTERESTS**

There are three types of financial interests in the EU:

1. The interests of all member countries of the Union.

2. The interests of the European Commission are influenced by the vision of its leaders and, as in all politics, are different from the general interest and, therefore, from the interests of all the member countries of the Union.
3. The interests of the Eurozone and the European Central Bank.

In general, the indebtedness of the ECB, as the neuralgic point of the debt of the member countries to the ECB, harms the former and the latter, benefiting the European Commission. In fact, the crisis caused by the political response to the declaration of a coronavirus pandemic by the WHO has led to an increase in the Union's budget, managed by the European Commission.

This complaint refers to the interests of the Eurozone, both of the member countries and of the ECB.

On March 13, 2020, the euro was exchanging for 1.1104 US dollars. On July 15, 2022, the mistakes of the rulers of the EU member countries, as well as those of the European Commission and the ECB (pressured by the situation to which the corrupt rulers had brought the economy of their countries, as well as by the interests of the European Commission), led to parity between the dollar and the euro, for the first time in history. At the first exchange rate between these two currencies, in 1999, the euro was exchanged for 1.1747 US dollars. On October 14, 2022, the euro was exchanged for 0.9717 US dollars, representing a drop of 12.49% in the value of the euro compared to the day before the state of alert was declared (March 14, 2022).

Given the size of the Spanish economy, it can be affirmed that the government of Pedro Sánchez has had a significant influence on the devaluation of the euro, which is a serious economic detriment for the entire Eurozone and, therefore, for the financial interests of the European Union.

## **17.- GOVERNMENTAL DISCRETIONALITY**

Case law establishes that the discretion of the national government is high, but cannot be unlimited.

The reference on public expenditure should be the historical expenditure, unless there are extraordinary expenses justified and accounted for apart from the usual expenses. Any increase of 20% or more in public expenditure without extraordinary justification or compensation in the rest of the expenditure as a whole, constitutes a crime against the financial interests of the European Union and against the welfare of all Spaniards.

Spending on institutional advertising or advisors may be discretionary, but in no case may it duplicate the amount allocated by other governments or by the same government in other years.

Precisely, these two expenses (advertising and advisors) infringe on the human and fundamental right to the free construction of public opinion that influences electoral results, for which reason they should give rise to criminal liability, because, otherwise,

the impulse of a totalitarian regime would be allowed.

From another perspective, the limits to discretion are established in the following principles and rights of the European Union (EU) Treaty, which have their correspondence in the Spanish Constitution:

- Art. 2. "*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights*". The Government has violated all these values at such a high level that there is no room for doubt.
- Art. 3.1.- "*The Union's aim is to promote [...] the well-being of its peoples*". The Government has achieved the discomfort of all Europeans, as one of the main protagonists of an unprecedented public debt in the Eurozone.
- Art. 3.3.- "*The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall also promote scientific and technical progress*". The Government has replaced the social market economy with an economy close to a centralized economic planning system, typical of communism. The "*bulky public debt*" (BdE) will limit for decades the action of the Government and, what is worse, of the private economy.

The Member States have the obligation to contribute to achieving the objectives of the European Union and the Spanish Government has not only made it impossible to meet these objectives, but has also seriously contributed to the loss of value of the euro by 20% between 2021 and 2022, as well as to the serious risk of the disintegration of the European Union.

## **18.- STRENGTHENING OF CORRUPTION**

To prevent corruption from being reported, the Government did not transpose DIRECTIVE (EU) 2019/1937 on the protection of corruption whistleblowers, which set a transposition deadline of December 17, 2021 (Art. 26.1).

The 2003 United Nations Convention against Corruption has also not been transposed.

It is evident that for the PP, as well as for the PSOE and for PODEMOS, the defense of the corruption in which they are immersed is the priority. Corruption almost reaches 8% of GDP (Eurostat 2018), becoming the most profitable industry exceeding the profits of all large companies (including financial ones) and all multinationals combined.

Spain has been denounced "for serious dysfunction of the Rule of Law, in the transposition of Regulation (EU) 2017/1939 of the European Public Prosecutor's Office, having participated the executive and the legislative power. We refer to Organic Law

9/2021, of July 1, implementing Council Regulation (EU) 2017/1939 of 12 October 2017, establishing enhanced cooperation for the establishment of the European Public Prosecutor's Office." The restriction of the popular accusation is denounced, contrary to the Spanish Constitution and several organic laws, as well as to the recommendations of the Council of State and the State Attorney General's Office; moreover, it is incompatible with Union law, specifically Article 325.2 of the TFEU which has the following wording: "*Member States shall take the same measures to combat fraud affecting the financial interests of the Union as they take to combat fraud affecting their own financial interests*".

In short, this Government has done nothing to fight corruption, but has sent a clear message that corruption will continue to be covered up by its Attorney General's Office and by its Deputy European Public Prosecutors for Spain.

At a time of accelerated growth in the public sector, it is clear that the governments of Pedro Sánchez have driven the accelerated growth of corruption.

### **19.- EUROPEAN FISCAL PACT**

The preamble of the so-called European Fiscal Compact of 2012, formally the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, says: "*Bearing in mind that the need for governments to maintain sound and sustainable public finances and to avoid excessive government deficits is of vital importance to safeguard the stability of the euro area as a whole*" and recalls the rules of the Stability and Growth Pact of 1998, with an extension that the Government has not respected in any of the years it has governed: "*Aware of the need to ensure that its government deficit does not exceed 3 % of its gross domestic product at market prices and that its public debt does not exceed 60 % of its gross domestic product at market prices **or falls sufficiently to approach this value***", the Government has not only not brought down the deficit nor the public debt, but has exceeded these limits as stated.

Article 1.1 states that the Member States agree: "*to strengthen the economic pillar of the economic and monetary union by adopting a set of rules aimed at promoting budgetary discipline through a budgetary pact, to strengthen the coordination of their economic policies and to improve the governance of the euro area, thereby supporting the achievement of the objectives of the European Union in terms of sustainable growth, employment, competitiveness and social cohesion*", because the contrary harms the financial interests of the European Union, including reducing its revenues because they correspond to a fixed percentage of GDP.

Article 3 states: "*The Contracting Parties shall apply, in addition to and without prejudice to their obligations under European Union law, the rules set out in this paragraph: (a) the budgetary position of the general government of each Contracting Party shall be in balance or in surplus; (b) the rule laid down in subparagraph (a) shall be deemed to be respected if the annual structural balance of the general government reaches the specific national medium-term objective, as defined in the revised Stability*

*and Growth Pact, with a lower limit for the structural deficit of 0.5 % of gross domestic product at market prices. The Contracting Parties shall ensure rapid convergence towards their respective medium-term objective."*

## **20.- RESIGNATION OF THE DIRECTOR OF THE RECOVERY PLAN**

In mid-October 2022, the Government accepts the resignation of Rocío Frutos Ibor, Director General of the Recovery and Resilience Plan and Mechanism, responsible for the management of European funds.

Frutos had resigned due to the intentional lack of control in the management of the company, which favored corruption and embezzlement.

## **21.- BETRAYAL OF THE EUROPEAN UNION**

Article 4.3 of the TFEU establishes that "Member States shall assist the Union in the achievement of its tasks and shall abstain from any measure which could jeopardize the attainment of the Union's objectives" and Article 3.3 establishes that "*The Union shall promote economic, social and territorial cohesion and solidarity among Member States*". The crisis created and the non-compliance with the SGP in an intentional manner implies a lack of solidarity with respect to the rest of the members of the European Union and, especially, of the Eurozone, which has had the following consequences, among others:

- Decrease in EU GDP.
- Decline in Eurozone GDP.
- Rising unemployment, especially among young people (Spain leads the Union).
- Increased debt issuance by the European Central Bank and, with it, the indebtedness of all Eurozone countries.
- Worsening economic and social outlook.

Devaluation of the euro and, therefore, impoverishment of the entire population.

## **CONCLUSIONS**

The Government of Pedro Sánchez has not complied with the law continuously since its inception, has not complied with the PGEs (General State Budget) or the Constitution, has falsified official information, has accepted extortions from its Government partners and is the Government of the whole world that has impoverished its governed the most in 2020, being the only one that has not recovered the level of 2019 in the European Union.

The breaches of legality, have had and continue to have the intention of increasing public spending as much as possible to increase government intervention in the

economy (centralized planning of the economy as in communism), to benefit their affinities, to increase the dependence of the population on public subsidies, increasing control over the population, boosting the business of institutional corruption and promoting political patronage. These objectives have been fulfilled in all the years that Pedro Sánchez has governed. The data provided show that the huge continuous increase in public spending was intended to impoverish Spaniards in order to restrict their future economic capacity and, therefore, their personal and family freedom and the freedom to set up a business.

The Government has acted disloyally with the Spanish people, with the European Union and with the rest of the members of the Union, which it has impoverished for its own interests, extorting the ECB to buy Spanish public debt, in order to avoid further ruin in the Union itself and in the Euro. The immense amount of public debt has devalued the euro and, according to some experts, will lead to the disappearance of the euro and the disintegration of the European Union.

The European Commission is governed by politicians and, therefore, their political interests take precedence over the general interests and the financial interests of the European Union itself. Most of the leaders of the European Union have totalitarian and centralizing ideas, if only because they benefit from them. In this period, the European Union has allowed Spain's defaults to increase its power in two main ways: 1) increasing control over future Spanish public spending through loans and 2) almost doubling the Union's budget.

The European Union is a highly corrupt region (4.8% of GDP, Eurostat 2018), so defending the business of institutional corruption is the political priority of its politicians and this is the nexus with the interests of the Spanish government. Corruption pushes towards the unstoppable growth of public spending, because it nurtures corruption, but this push for public growth is contrary to the financial interests defended by the European Public Prosecutor's Office and, in general, by the national and European courts.

Unlike the 2017 public accounts of the previous Government, the Government of Pedro Sánchez has always made GDP growth estimates that have never been reached, with the intention of justifying an increase in public spending without reducing public debt. Specifically (as a percentage of GDP), 0.7 in 2018, 0.2 in 2019, 1.6 in 2020 and 1.4 in 2021. In absolute value, in millions of euros, starting from 480,265 in 2017, 503,364 in 2018, 526,652 in 2019, 580,771 in 2020 and 610,864 in 2021.

From the beginning, the current government has used its power and public money to deceive the Spanish people and the European Union, having already adulterated the municipal, autonomic and general elections of 2023.

The Government has not only ruined the present and the future of Spaniards and Europeans, but also that of several generations of Spaniards to come, reducing Spain's independence from the European Union through the huge public debt and the disproportionate increase in transfers from the Spanish State to the European Union.

Furthermore, given the huge increase in the public sector, it has complicated the return to the previous situation, as his colleague Zapatero did, so the consequences of these governments are going to be long lasting, as the Government itself has warned in 2022. The governments presided by Pedro Sánchez have violated the constitutional and European Union principles of market economy and social market economy, reducing in some cases and eliminating in others, the individual freedom, the freedom of enterprise and the dignity of the person, preventing people to fend for themselves without public subsidies.

Given the relationship of most of the actions with the damage of the financial interests of the European Union, as well as its principles, the legal good to be protected consists of "the financial interests of the European Union", so that the existing Spanish and European case law cannot be applied and, moreover, the current case law must be modified as has already been done on other occasions, for example with offenses related to freedom of expression.

The Spanish prosecutors of the Delegation in Spain of the European Public Prosecutor's Office and the Spanish judges, acting as European judges, who intervene in the criminal proceedings, will have to defend the European interests even if they are contrary to those they defend as Spanish interests.

The result of the processing of this complaint will be decisive for the future of Spain, to a certain extent, of the European Union and, undoubtedly, of corruption in Spain and in the European Union, because if the actions of the Government are not criminally reproached, this and future governments will be authorized to ruin the country and implement a regime close to communism, eliminating all rights and the rule of law, as the PP and the PSOE have been doing since 2004.

Without intending to make a criminal qualification of the facts reported, the Councils of Ministers of President Sanchez, have become a criminal gang to commit a continuous crime of prevarication, coercion, embezzlement, false documentation, intergenerational, electoral and against the independence of Spain.

In 2022 criminal actions are being accentuated because in 2023 there are municipal, autonomic and general elections, so that the current rulers and their political parties can win or stop winning a lot of public money, both direct and obtained through corruption.

Undoubtedly, the lack of democratic conscience of the Spanish people, including their politicians and judges, has allowed this criminal situation to come about.

Given that criminal acts are denounced whose legal interests are the financial interests of the European Union, which has never been dealt with by the judiciary or the Constitutional Court, making the Spanish criminal jurisprudential restrictions not applicable, which should also lead to changes in the existing case law.

**WE REQUEST:** THAT, after the appropriate procedures, PODEMOS, the PSOE and the

aforementioned organizations, be sent to provide the documents referred to in this complaint or certify their, as well as their warnings of the negative results of the Government's policies; that the Government be sent to certify the data referred to in this complaint and provide the documentation of the suggestions and the economic disagreements with the European Commission and respond in writing to the following questions:

1. What are the causes of the failure to meet the public debt and deficit targets set in the General State Budget (PGE) for 2019?
2. What are the reasons why the Spanish economy was the fastest-growing in the world in 2020?
3. What are the reasons why the Spanish economy recovered the least in Europe in the first half of 2021?
4. What are the reasons why the Spanish economy is the only one in the European Union that will not recover in 2022 to the level of 2019, according to the forecasts of international organizations?
5. What are the causes of the misuse of European funds according to the European Court of Auditors?
6. How much money has Spain obtained from non-reimbursable European funds?
7. How much money does Spain owe the European Central Bank?

That the European Commission be officiated to provide its economic studies on Spain, from 2018 to the present, including the studies and reports of the European Court of Auditors, as well as the documents where recommendations are made or attention is drawn to the measures announced or proposed by the Government.

**OTHER FIRST I SAY:** That the ambassadors of all the member countries of the European Union be informed, offering them actions as injured parties, that is to say, the possibility of appearing in the case.

Since the financial interests of the European Union have been harmed (the legal good harmed), all members of the European Union have a legitimate interest in the case.

Furthermore, on 17.7.2019, the "COM(2019) 343 final" on "*Strengthening the rule of law in the Union*" was adopted, which states: "Firstly, *both the EU and the other Member States have a legitimate interest in the proper functioning at national level of the rule of law in each Member State*", legitimizing the participation in criminal cases in other Member States.

**OTHER SECOND SAYING:** The private complainant Enrique de Diego requests to refer to the Court of Justice of the European Union (CJEU), as a preliminary ruling question, the consultation on the legality of the limitation of the popular accusation in the *Organic*

*Law 9/2021, of July 1, implementing Council Regulation (EU) 2017/1939 of 12 October 2017 establishing enhanced cooperation for the establishment of the European Public Prosecutor's Office.*

This Law limits the persons and organizations that may appear as public prosecutors in articles 19.3 and 36.5 in the following terms: "*The criminal action may also be brought by associations and entities to which the law recognizes legal standing for the defense of the interests that have been affected by the commission of the crime under investigation*", despite the opposition of the State Attorney General's Office and the Council of State.

We understand that these restrictions are not compatible with the following Union rules:

1. Article 325.2 of the TFEU states the following: "*Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests*"; therefore, the limitation of the public prosecution to defend the financial interests of the Union violates this principle since the "fight" against fraud affecting the interests of Spain does allow the public prosecution.
2. Recital 50 of COUNCIL REGULATION (EU) 2017/1939 of 12 October 2017 establishing enhanced cooperation for the establishment of the European Public Prosecutor's Office which reads as follows: "*Internal whistleblowers may provide new information to the European Public Prosecutor's Office, thereby assisting it in its work with a view to investigating, prosecuting and bringing to trial the perpetrators of offences detrimental to the Union's financial interests. However, they may be deterred from doing so for fear of reprisals. In order to facilitate the detection of offences within the jurisdiction of the European Public Prosecutor's Office, Member States are encouraged to establish, in accordance with their national laws, effective procedures to enable the reporting of possible offences within the jurisdiction of the European Public Prosecutor's Office, and to ensure that persons who report such offences are protected against retaliation, and in particular against adverse or discriminatory action in respect of employment.*" The limitation on the number of persons to appear clearly has a dissuasive effect on the excluded persons, groups and organizations, which will result in less interest in reporting this type of crime.
3. The prohibition of discrimination in Article 2 of the Treaty on European Union, since it excludes social agents and individuals, there being no such limitation in the defense of the rest of the legal assets.

The CJEU has jurisdiction to hear this question by virtue of Article 267 of the Treaty on the Functioning of the European Union (TFEU) and this rule also provides that: "*Where such a question is raised in a case pending before a national court or tribunal, the decisions of which are not subject to further judicial review under national law, that court or tribunal shall be obliged to submit the question to the Court*", this being the

case of the Supreme Court, the latter is obliged to refer this question to the CJEU for a preliminary ruling.