

FRANS TIMMERMANS
First Vice-President

Brussels, 15 SEP. 2017

Dear Members of Parliament,

Thank you for your message of 6 July 2017 to President Juncker.

The Commission attaches great importance to the respect of the rights to a fair trial for citizens. In order to ensure the right to a fair trial in criminal proceedings, six procedural rights directives have been adopted in the European Union to date¹.

The question of whether someone is guilty or innocent to a criminal offence is a question for which only the Member States, in this case Spain, are responsible. This follows from Article 72 of the Treaty on Functioning of the European Union (TFEU) which provides that the Member States themselves are responsible for the maintenance of law and order, and the safeguarding of internal security. Accordingly, the European Commission has no competence to intervene in the day-to-day running of the criminal justice system of any individual Member State.

At the same time, Member States are bound to respect the rights enshrined in the Charter of Fundamental Rights of the European Union when they implement EU legislation.² For instance, Member States will have to respect the Charter when they implement the recently adopted Directive on combating terrorism, which provides for minimum rules on the definition of terrorist and terrorist-related offences. The Commission uses all tools available, including infringement proceedings when necessary, to ensure compliance with the EU Charter of Fundamental Rights.

Juaristi Abaunz

Member of the European Parliament

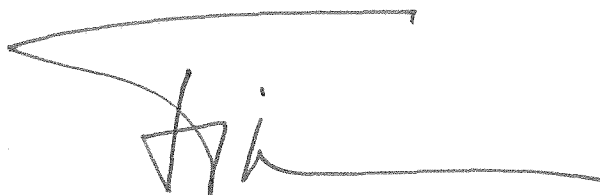
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¹ Directive 2010/64/EU on the right to interpretation and translation, Directive 2012/13/EU on the right to information, Directive 2013/48/EU on the right of access to a lawyer, Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused in criminal proceedings and Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

² Article 51 of the Charter.

Respect of the Charter includes, as you mention, that penalties imposed upon persons may not be disproportionate to the criminal offence for which they are convicted. The Commission notes that no final judgment has been delivered in this case. The Commission is following the outcome of these cases with interest and reserves its rights to take appropriate actions as guardian of the Treaties.

Yours faithfully,

A handwritten signature in black ink, consisting of a stylized 'F' and 'T' followed by a long horizontal line.

Frans Timmermans