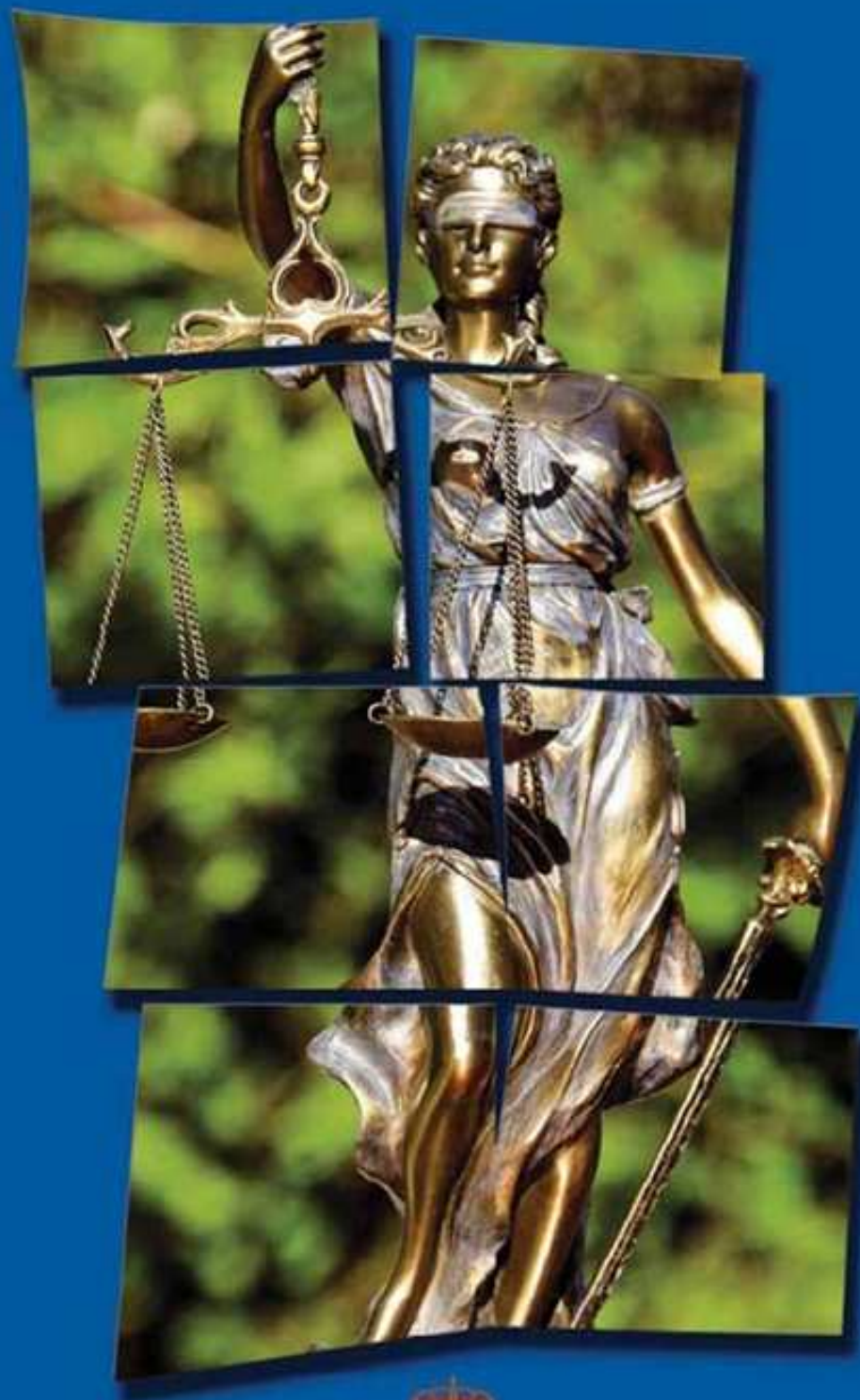


ROAD MAP FOR MODERNIZATION OF THE JUSTICE SYSTEM



GENERAL COUNCIL OF THE JUDICIARY

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1

New Judicial Office

The official implementation of the new Judicial Office entails the launching of an innovative organization and operational system for the administration of justice in response to the needs of a modern and advanced society such as Spain's. Adopted by Parliament through the 2003 reform of the Judicial Power Organization Act, it allows for application of cutting edge management techniques regarding material and human resources.

2

Restructuring of the judicature and judicial demarcation

A new judicial map, one adapted to the current demographic characteristics of the Spanish population, is needed for determining the number, type and territorial allocation of judicial organs, in view of the workload each court can reasonably assume.

3

Application of new technologies (e-Justice)

Implementing the advantages offered by new information and communication technology (ICT) for enhancing the operation of the administration of justice by providing the highest quality, most effective service possible.

4

Charter of Rights and Plan for Judicial Transparency

Enhancing the quality of service provided to citizens by implementing the necessary measures for moving towards a justice system that is more transparent, more comprehensible, more attentive and better adapted to the specific needs of vulnerable persons.

5

Monitoring and enhancement of the activity of judicial organs

Promoting enhancement of the activity of judicial organs, refining the tools that allow for adequate supervision of these organs, establishing incentives for encouraging higher quality of service, and implementing mechanisms for better handling of interim situations.

6

Promotion of substantive and procedural reforms

Promoting approval of legislative reforms, both in the area of substantive law and procedural matters, needed for moving forward in the process of modernization of the administration of justice and reducing the number of cases brought before courts and tribunals (lawsuits).

8

Status of members of the judicial profession

Modernizing the status of judges and magistrates regarding professional rights and responsibilities so as to enhance the exercise of their judicial function (judging and enforcing judgments) to the benefit of citizens.

7

Territorial organization of the State

Enhancing the activity of courtrooms as governing organs of the judiciary in the territory of each High Court of Justice. This will be accomplished by carrying out the necessary adaptations regarding territorial organization of the State and development of statutory provisions, as well as by guaranteeing the linguistic rights of citizens of autonomous communities with their own official language.



Parliament needs to reform 14 important laws for the sought-after transformation to become a reality

- Civil Procedure Act: 498 sections
- Criminal Procedure Act: 194 sections
- Law on Mobiliar Mortgage and Non-Possessory Pledge of Possession: 2 sections
- Passive Extradition Act: 5 sections
- Law of Negotiable Instruments: 1 section
- Patent Law: 1 section
- Act on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom: 1 section.
- Labour Procedure Act: 166 sections
- Law on Free Legal Assistance: 5 sections
- Law on General Terms of Employment: 1 section
- Law regulating the Contentious-Administrative Jurisdiction: 60 sections
- Bankruptcy Act: 47 sections
- Arbitration Act: 3 sections.

The New Judicial Office: Lynchpin for Modernization of the Administration of Justice



In 2003, Parliament approved the implementation of the **New Judicial Office**. The intention was to modernize the justice system by introducing the organization systems and technology adopted by banks, large corporations, medium- and small-size businesses and administrations over the previous three decades, thereby increasing efficiency and productivity to levels unheard of in the past.

However, 14 procedural laws require modification for this implementation to be effective. This initiative is included in the **Reform Bill on Procedural Legislation for Implementation of a New Judicial Office** currently being negotiated in the courts.

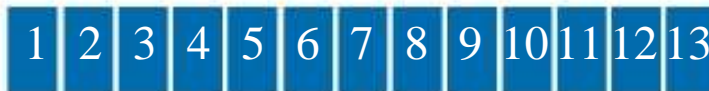
The **General Council of the Judiciary (CGPJ)** is responsible for designing a new rule - one regarding **Standardization of Common Procedural Services** - that will guarantee the day-to-day operation of the New Judicial Office.

The next step, perhaps the most difficult, will be **modification of spaces and offices and reorganization of staff**, which, for the most part, will remain under the direction of the court clerk, who will take over the responsibility of procedural matters currently in the hands of judges. As a result, judges will be able to concentrate on their fundamental duty: judging and enforcing judgments.

Functions such as subpoenaing parties, rectifying procedural defects of documents and encouraging service of documents presented by one party to another will now be carried out by court clerks. It is left to the Ministry, the Ministries of Justice of the autonomous communities and the General Council of the Judiciary to maintain vital coordination and understanding in order to ensure that the new administrative machinery functions as it should.

Basic organization of the current Judicial Office

Composition per court: 1 judge, 1 court clerk and 7-9 staff members



In the current basic organization system of the Judicial Office, the courts are dislocated islands. Since their establishment in the 19th century, they have consisted of a judge, a court clerk and, generally, between seven and nine staff members. They work the way bank branches once did, with a large staff attending to the needs of customers. Today, the majority of these dealings are carried out through automatic tellers, the Internet or mobile telephone

New Judicial Office

Composition per court: 1 judge and 2 staff members
1 court clerk (at times, the court clerk can serve several courts)



Common Services for the Courts

Management: Court Clerks
Composition: approximately 80 staff members

The new Judicial Office represents a radical transformation in the manner of working and organization. Within the courts, support units, generally consisting of two staff members, assist judges, while Common Services, or departments at the service of the courts and managed by court clerks, will also be created. Together with the application of new technology, these initiatives will speed up the operation of the judicial machinery like never before.

members of the Inspection Service of the General Council of the Judiciary are close to completing a thorough report on the situation of the courts and tribunals. The main objective is to redefine the administrative burden that each of the 3,585 judicial organs can reasonably assume.

Restructuring of the judicature and judicial demarcation

Workload

The information provided by the inspectors of the General Council of the Judiciary will permit detailed knowledge of the amount of work that each judicial organ can effectively assume on a day-to-day basis.

New Judicature

The collected data, in turn, will facilitate determining the number of judicial organs needed in Spain, allowing for defining a new judicature more suited to citizens' needs.

One of the new features is the creation of judges without a fixed post for covering interim situations. These "floating judges" will be attached to the presidents of the High Courts of Justice.

New Judicial Map

Allocation of judicial organs in territories and by type, according to new necessities.

THE SPANISH JUDICATURE dates back to 1988, with the adoption of Law 38/1988 of 28 December on Demarcation and Judicial Institutions. At the time, Spain had 38,872,268 inhabitants. While the judicature has been periodically modified over the course of the last 21 years, these alterations do not cover all the needs of current Spanish society, marked by significant demographic growth - according to the National Statistics Institute, the number of citizens is now 46,157,822 - and a logical increase in lawsuits.


We are no longer what we were and thus our resources are inadequate in these new circumstances. For this reason, the General Council of the Judiciary is working against the clock to review the administrative burden of the courts in order to articulate a new judicature and new judicial map - number of courts and allocation. Both must respond to current demographic realities establishing equitable allocation of the workload of judges in each court, in view of the number of cases they hear and their relative complexity.

Application of new technologies (e-Justice)

Currently, to interact with the justice system, **citizens** are required to do so via paper. To abandon this anachronistic practice, establish electronic files and implement new information and communication technology tools, it is necessary to advance on three clearly defined fronts:

1. Provision of necessary material resources.
2. Adequate regulatory framework and compliance with the General Council of the Judiciary Compatibility Test – so that the computerized systems of autonomous communities and the Ministry of Justice are able to "communicate" with each other.
3. Ongoing collaboration among the different participants in the justice system.

With this, application of new information and communication technology for enhancing the administration of justice and providing citizens with higher quality, more effective service will be possible.



Compulsory nature of their use and requirement that all cases be registered according to the same parameters.

Communication

Interoperability among the different computerized systems of the courts is essential for obtaining the data judicial organs need to carry out their work effectively:

- With other courts,
- With other Administrations and entities (Public Prosecutor's Office, Police, Tax Office, Social Security, etc...).

Digital judicial file

- On-line (paperless) processing is essential for implementation of the Judicial Office. It entails replacing the paper traditionally used in judicial procedures.
- Electronic communication (digital signature, SMS, web tools...).
- Guaranteeing citizens the right to carry out procedural acts through digital means, as, for example, in banks.

Final objectives

- Ensuring that judicial organs are expeditiously provided with all the information they need to perform their work effectively. In short, this means enhancing the interoperability of the system
- Guaranteeing citizens' right to interact with the justice system through electronic means.
- Ensuring enhancement of the organization of work in the courts, facilitating the implementation of the new model of the judicial office.
- Facilitating the adoption of judicial policy decisions.
- Enhancing technical means in courtrooms.

ROAD MAP FOR MODERNIZATION OF THE JUSTICE SYSTEM



Charter of Rights and Plan for Judicial Transparency

A justice system that is more comprehensible, more transparent and more attentive to citizens

We love only what is familiar; what is unknown is either feared or ignored. One of the biggest challenges facing the justice system is to make citizens aware of this public service and see it as their own. This priority is one in which the majority of the 50,000 staff members of the justice system in Spain is called upon to play an essential role.



OBJECTIVES

A justice system that is attentive to citizens

GUARANTEEING THE RIGHT of citizens to be treated respectfully and in a manner adapted to their psychological, social and cultural circumstances (promptness of judicial proceedings, avoidance of repeated court appearances, explanation of the causes of suspensions...).

A justice system that can be understood

USING LANGUAGE that facilitates citizens' understanding of notices, summons, locations and requirements, in addition to the content of judicial decisions and trials and court appearances in which they appear as participants.

A justice system that is transparent

GUARANTEEING THE CITIZENS to receive information about the different aspects of the operation of the judicial bodies (legislation, length of the proceedings, workload...), as well as about the content and condition of the process that affects them.

A Justice adapted to vulnerable persons

THE MOST VULNERABLE PERSONS (minors, victims of crimes, immigrants, persons with sensory, physical or psychological disabilities...) shall be treated in a manner adequate to their particular circumstances, in such a way that guarantees effective judicial protection of their rights.

Protection of personal data of citizens

Guaranteeing effective protection of these rights in the action of courts and tribunals (judicial archives, computerized systems, sentences...). Noteworthy among the foreseen initiatives is the projected reform of Rule 1/2005 regarding accessory aspects of judicial proceedings.



CHARTER OF FUNDAMENTAL RIGHTS OF CITIZENS IN THE JUDICIAL SYSTEM



ACTIONS

Action Programme for effectiveness of the Charter of Rights and Transparency Plan

Catalogues of good practices based on the data and experience garnered from the Citizen's Advice Unit of the General Council of the Judiciary, enhancement of the system for citizens' complaints and suggestions regarding operation of the administration of justice, brochures and information about web pages.

Permanent Forum on the Quality of the Justice System

Creation of a space that facilitates collaboration and coordination of actions among the different institutions, professional entities and individuals that offer their services within the justice system.

Action Plan for application of the 100 Rules of Brasilia

Rules adopted in Brasilia, in March 2008, regarding access to the justice system of vulnerable persons.

The General Council of the Judiciary believes it is necessary to enhance the work incentives of individuals that serve the justice system. This includes refining tools for monitoring and control of judicial activity. The result will be strengthening the independence of judges, enhancing the effectiveness of the courts, and guaranteeing citizens' access to justice.

Monitoring and enhancement of the activity of judicial organs

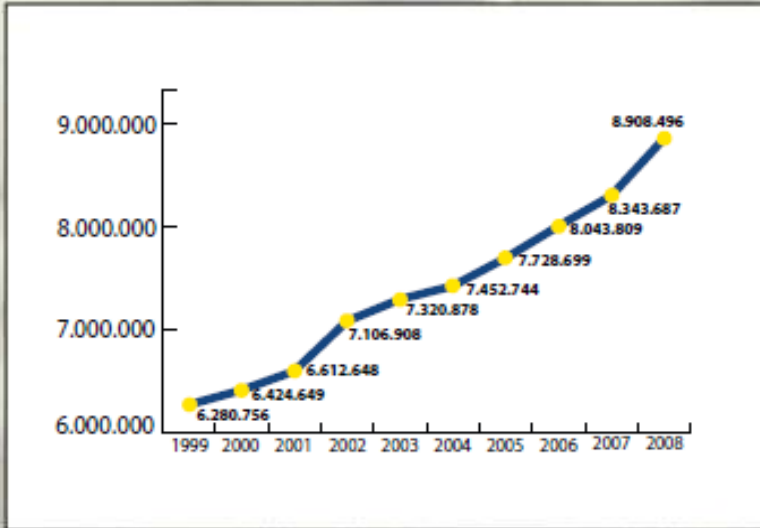
REMOTE INSPECTION, ALARMS AND REAL-TIME STATISTICAL DATA. The application of new technologies will refine inspection and monitoring of judicial activity. It is essential to advance in the implementation of a model in which the source of information is the data registered in the same procedural management applications used by courts and tribunals. This collection of data, however, must be unified.

INCENTIVES TO JUDICIAL ACTIVITY. Encouraging quality of work through awards, acknowledgment of good practices and other incentives.



EVALUATION PROGRAMME OF THE QUALITY of the justice system and assessment of the activity of judges and magistrates (the number of cases they settle, how they are settled, thereby measuring effectiveness and dedication).

ENCOURAGING MAXIMUM PROFESSIONALISM by ensuring training in indispensable temporary circumstances (judges, court clerks, staff members), mediating appropriate proceedings for emergency and automatic filling of vacancies with appropriately trained staff.



Reducing the number of lawsuits

Since 1999, Spain has seen a constant increase in the number of lawsuits, as the graph on the left makes clear.

In the footsteps of the European Union, it is necessary to analyze formulas for reducing the amount of lawsuits by optimizing the limited resources the justice system has at its disposal.

To do this, it is important to promote the approval of legislative reforms, both in the area of substantive law and procedural matters, that are essential for deepening the process of modernization of the justice system and, as a result, reducing the number of cases brought, year after year, before courts and tribunals.

Promotion of substantive and procedural reforms for swifter judicial decisions



The diagram on the left represents the final phase of a criminal mediation procedure in which the victim and the assailant sit down with the judge, prosecutor, defence attorney and the mediator/s in order to reach an agreement. The basis of criminal mediation is restorative justice, so it is matter of the victim receiving an explanation and compensation. In the sentence, however, the judge applies the extenuating circumstances permitted by law. Since 2005, the General Council of the Judiciary has been developing a Criminal Mediation Project for adults with the participation of 30 judicial bodies throughout Spain.



Criminal and civil mediation: a solution

Following the example of other European nations, Spain encourages mediation as an effective instrument in dispute resolution for two reasons:

- **MEDIATION IS GOOD FOR THE PARTIES.**

Parties play a central role in dispute resolution, reaching an agreement freely, which, in turn, facilitates future voluntary compliance with its terms. Moreover, mediation entails a quicker, more streamlined resolution to the conflict..

- **MEDIATION IS GOOD FOR THE JUSTICE SYSTEM.**

This is because it reduces the administrative burden of courts and tribunals, thus avoiding the inevitably enormous costs of judicial proceedings.

Other legislative reforms

Speedy civil trials

New criminal procedure

Second criminal hearing

Reform of civil cassation

Civil procedures regulated by rules of the European Union

Removal of civil registers

Specific organs for the minor dispute resolution

Development of statutory provisions.

Status of members of the legal profession

Modernizing the status of judges and magistrates to enhance the exercise of judicial functions to the benefit of citizens

GREATER SPEED AND TRANSPARENCY IN THE APPOINTMENT OF JUDGES AND MAGISTRATES,

both of a discretionary (Supreme Court Magistrates, Presidents...) and regulated (ordinary system of placement nature).

FINDING AN ADEQUATE AND EFFECTIVE SYSTEM FOR JUDICIAL REPLACEMENTS,

with preference given to head judges; also, adjusting pay regimes.

ANALYSIS OF THE OPERATION OF THE SPECIALIZATION SYSTEM FOR JUDGES, enhancing the aspects necessary for providing citizens with a better judicial response.

IMPROVING RELATIONS BETWEEN JUDGES AND THE GENERAL COUNCIL OF THE JUDICIARY AND OTHER GOVERNING BODIES OF THE JUDICIARY

(governing chambers of the High Courts of Justice...) through a more effective publicity scheme for adopted agreements and by taking advantage of new technologies (digital signature, web tools, virtual forums, digital processing of files...).

STRENGTHENING RELATIONS WITH LEGAL ASSOCIATIONS,

particularly through adoption of a governing regulation of its framework for action.

REFLECTING ON THE STRUCTURE OF THE LEGAL PROFESSION

and the model for access to a judicial career.

• Judicial Power Organization Act Reforms:

- Elimination of enforced transfer by promotion to the magistrate.
- Elimination of preference resulting from "immediately prior" permanence within a jurisdiction.
- Regulation of floating judges (presiding for replacements and reinforcements).
- Reform of legal profession regulations.
 - towards a reconciliation of professional, family and personal life.
- New regulation directive for replacement regime, in accordance with the Ministry of Justice.
- Regime for submission of documents to the General Council of the Judiciary and governing chambers.
- Analysis of Regulation of Associations.

- Review of the operation of the specialization regime.
- Occupational risk prevention system.
- Enhancement of retirement system on the grounds of age or disability; adjustment of salaries and other aspects of social protection of judges.
- Reflection on a new replacement system.

- Legal profession. Analysis of matters relevant to its future: model for access, number and type of currently existing professional categories, criteria for promotion from one category to another, objective requirements (seniority and others) that should be taken into account for acceding to a specific position or post.
- Reflection on a possible functional structure of single-judge courts in the same constituency. This entails evaluating the advantages and disadvantages of a potential new organization of single-judge courts in a way similar to the functional organization of benches of judges.

7

Territorial Organization of the State

Enhancing courtrooms as governing bodies of the judiciary in the territory of each High Court of Justice

- **REINFORCEMENT OF HUMAN AND MATERIAL RESOURCES.**
- **IMPLEMENTATION OF A COMPUTERIZED GOVERNING MANAGEMENT SYSTEM THAT PERMITS DIGITAL PROCESSING OF FILES.**
 - Pilot experience in Balearic Islands (currently) and four other High Courts of Justice (2009).
 - Extension throughout the State.
- **COMPETENCE REINFORCEMENT.**



Above, the main lobby of the High Court of Justice of Catalonia, one of 17 in Spain. The assistance of the governing chambers of the High Courts of Justice in the process of modernization of the justice system is essential, as is the commitment of the Ministries of Justice of the autonomous communities with transferred powers.

Bringing into line the participation framework of autonomous communities with powers in relation to justice

The participation of autonomous communities is fundamental for adequate functioning of the justice system.

- **DEVELOPING STATUTORY PROVISIONS.**
- **ESTABLISHING MECHANISMS FOR COLLABORATION, COORDINATION AND DIALOGUE.**



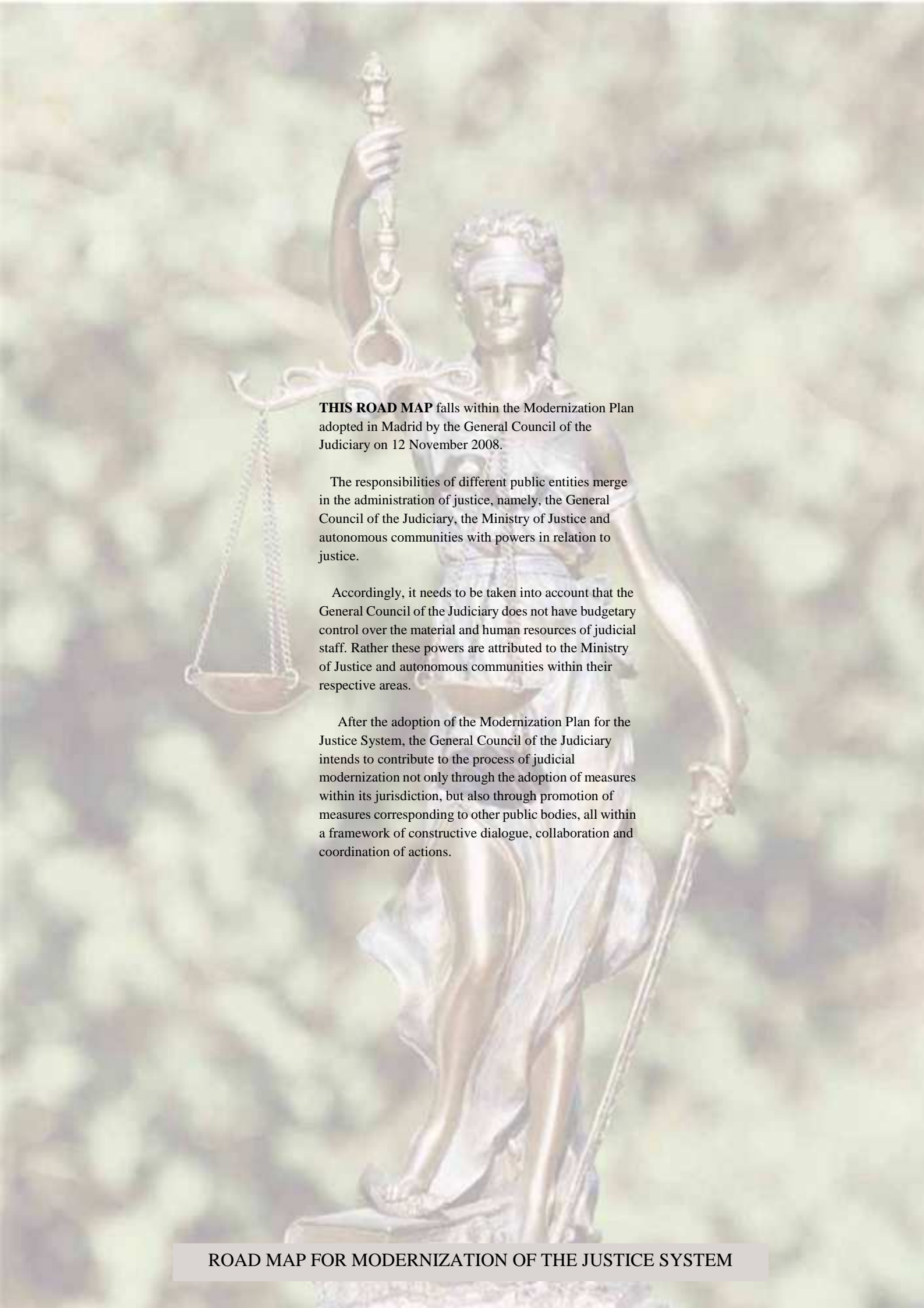
Guaranteeing the linguistic rights of citizens in autonomous communities with their own official language.

European Charter for Regional or Minority Languages of the Council of Europe, adopted in Strasbourg on 5 November 1992, and ratified by Spain in 2001





ROAD MAP FOR MODERNIZATION OF THE JUSTICE SYSTEM



THIS ROAD MAP falls within the Modernization Plan adopted in Madrid by the General Council of the Judiciary on 12 November 2008.

The responsibilities of different public entities merge in the administration of justice, namely, the General Council of the Judiciary, the Ministry of Justice and autonomous communities with powers in relation to justice.

Accordingly, it needs to be taken into account that the General Council of the Judiciary does not have budgetary control over the material and human resources of judicial staff. Rather these powers are attributed to the Ministry of Justice and autonomous communities within their respective areas.

After the adoption of the Modernization Plan for the Justice System, the General Council of the Judiciary intends to contribute to the process of judicial modernization not only through the adoption of measures within its jurisdiction, but also through promotion of measures corresponding to other public bodies, all within a framework of constructive dialogue, collaboration and coordination of actions.