



30.11.2018

## NOTICE TO MEMBERS

**Subject: Petition No 0316/2018 by L.A.H. (Spanish) concerning the Public Safety Law (Law 4/2015) in Spain**

### 1. Summary of petition

The petitioner asks the Committee on Petitions for its views regarding Law 4/2015 on Public Safety and calls on it to make proposals or take specific measures with a view to having it changed. In particular, she calls for measures be taken regarding the right of assembly and demonstration. She indicates that a number of parliamentary groups have filed an unconstitutionality appeal that is still pending before the Constitutional Court.

### 2. Admissibility

Declared admissible on 16 July 2018. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 November 2018

The right to freedom of expression and freedom of association are cornerstones of the rights enshrined in the Charter of Fundamental Rights of the European Union.

The Commission, within its competences, has always been and remains strongly committed to ensuring that freedom of expression and freedom of assembly are strictly respected since these rights lie at the very basis of free, democratic and pluralist societies.

The provisions of the Charter, however, are addressed to Member States only when they are implementing European Union law. Accordingly, under the Charter and the Treaties, the Commission has no general power to intervene with the Member States in the area of fundamental rights.

The definition and application of rules governing the exercise of the right to freedom of

assembly and the holding of demonstrations, and measures taken by national authorities towards the maintenance of law and order in that context, are the Member States' responsibility.

In such cases, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations.

Accordingly, it is for national authorities to make the assessment requested by the petitioner, taking account of the surrounding circumstances and context, and in conformity with relevant national and international law.

### Conclusion

The Commission cannot follow up on the petition. The issues raised by the petitioner do not relate to the implementation of EU law. In such cases, it is for Member States to ensure that fundamental rights are respected in accordance with their constitutional order and obligations under international law.

Accordingly, the Commission cannot comment on Spanish Law 4/2015 on Public Safety.