



TRIBUNAL CONSTITUCIONAL

Gabinete del Presidente

Oficina de Prensa

NOTA INFORMATIVA Nº 43/2013

The Constitutional Court is an institution of the State which, like its Magistrates, does not form part of the Judiciary.

Article 159.4 of the Constitution establishes that the status of member of the Constitutional Court is incompatible, amongst other circumstances, “with the performance of management functions in a political party or in a labour union, and with employment in the service thereof.” On the contrary, Article 127 of the Constitution itself prohibits members of the Judiciary from belonging to political parties or labour unions, without distinguishing between simple militancy and the performance of management functions.

The Organic Act of the Constitutional Court offers, in Article 19.1 thereof, a wording identical to that of Article 159.4, when referring to the system of incompatibilities governing its Magistrates.

Constitutional Court case-law was applied in this manner in Judgment 226/1988, of 16 February 1988, clearly stating that “the Organic Act of the Constitutional Court, which prevails over the Organic Act of the Judiciary and the Civil Procedure Act, does not prohibit the Magistrates of this Court from belonging to political parties (...) and only impedes them from occupying positions of a management-related nature within the parties.”

The Constitution and the Organic Act of the Constitutional Court, as a result, do not establish for the Magistrates of the Constitutional Court any incompatibility whatsoever with belonging to or having belonged to political parties, associations, foundations or professional associations.

Madrid, 18 July 2013