



TRIBUNAL CONSTITUCIONAL

Gabinete del Presidente

Oficina de Prensa

NOTA INFORMATIVA Nº 54/2013

THE CONSTITUTIONAL COURT OUTRIGHT REJECTS THE ANCILLARY SUIT FOR NULLIFICATION OF PROCEEDINGS FILED BY BALTASAR GARZÓN

The Second Chamber of the Constitutional Court has outright rejected, in a unanimous decision, the ancillary suit for nullification of proceedings filed by Baltasar Garzón last 22 July. The appellant requested the nullification of the court ruling whereby, on 29 October 2012, Section Four rejected his appeal for constitutional protection against the Supreme Court judgment which convicted him of bribery. In his writ, he alleged that the intervention of the Constitutional Court's current President in that decision violated, insofar as the right to an impartial judge, his right to a fully guaranteed lawsuit. For that reason, he requested that the Constitutional Court examine his appeal once again without the President's participation.

The Constitutional Court points out that la LOTC "does not provide for an ancillary suit for nullification of proceedings amongst the means for appeals which may be filed against the rulings of this Court." "In constitutional proceedings already completed, as in this case," it adds, "in general no request for review or nullification is viable, because once the ruling which put an end to the corresponding proceeding becomes final, not even this Court can invalidate its effect; at the most, it may provide a clarification(Art.93.1 LOTC) or correct any material errors."

Regarding the request for recusal of the Constitutional Court President in a new examination of the appeal for constitutional protection sought by Garzón, the Court refers to the decision whereby, last 17 September, the Plenary Meeting rejected the recusals requested by the Government and Parliament of Catalonia. This ruling, which cites case-law of the European Court of Human Rights, reiterates that "the Constitution does not forbid the Constitutional Court's Magistrates from being members of political parties or labour unions, but rather only establishes that the status of being a member of the Constitutional Court is incompatible with the performance of management functions in a political party or labour union and with employment by these types of entities." Last of all, it reminds that this regulation is "comparable regarding this matter with those of Germany, Italy, France and Portugal."

Madrid, 25 September 2013