



TRIBUNAL CONSTITUCIONAL

Gabinete del Presidente

Oficina de Prensa

NOTA INFORMATIVA Nº 56/2013

THE CONSTITUTIONAL COURT SUPPORTS THE BALEARIC ISLANDS ACT WHICH CONSIDERS KNOWLEDGE OF CATALONIAN TO BE A MERIT BUT NOT A REQUIREMENT FOR ACCESSING PUBLIC EMPLOYMENT

The Plenary Meeting of the Constitutional Court has rejected the appeal on the grounds of unconstitutionality filed by the Socialist Parliamentary Group of the Senate against the reform of the Balearic Islands Act for regulation of the civil service. The appealed autonomous regional act (Act 9/2012, of 19 July 2012) eliminates the general requirement of having a specific level of knowledge of Catalanian in order to gain access to the administration or to hold any position of employment and consequently modifies those acts which regulate the use of this language in the Balearic Islands. The judgment includes a dissenting opinion by four magistrates.

The Plenary Meeting majority finds that *“there is no unconstitutionality”* in, as a general rule, considering knowledge of Catalanian to be a merit, and not a requirement, to gain access to the civil service. The Plenary Meeting points out that the legal reform took place within a context of *“ample implantation of knowledge of Catalanian in the civil service of this territorial area and in society, because it is included as a discipline in the education system.”* Act 9/2012 also establishes *“specific measures for promotion of Catalanian”* by introducing a *“mandate targeting the public administrations for the promotion of courses for knowledge of Catalanian amongst the personnel in its service with the specific objective of ensuring that the people will receive assistance in either of the two official languages.”* *“In the case of public examinations, as well,”* the judgment adds *“knowledge of Catalanian serves to establish the order of preference amongst those who pass the examination to occupy positions of employment.”*

Having verified the scope of the reform questioned by the appellants, the Constitutional Court concludes that *“there is nothing unconstitutional in considering Catalanian to be a merit”* and that *“no discrimination exists due to the non-existence of preferential treatment of Spanish over Catalanian.”* *“The system of access and assignment of jobs in the civil services of the Balearic Islands”*, adds the Plenary Meeting *“does not violate the limits derived from considering Catalanian to be the autonomous region’s own language, in accordance with the regulations forming the unit of constitutionality, and this cannot justify the statutory imposition of the preferential use of that language, to the detriment of Spanish, which is also an official language in the Autonomous Region, which leads to finding in favour of the constitutionality of the examined precepts, because Catalanian may be used with normality, without prejudice to being able to use Spanish with normality, as well.”*

The appeal on the grounds of unconstitutionality was also aimed against Act 9/2012, which established that knowledge of Catalanian shall not be a requirement for access to the local police corps and auxiliary police of the Balearic Islands. Because it was repealed by Act 4/2013, of 17 July 2013, on the coordination of the local police of the Balearic Islands, the Constitutional Court has declared *“the loss of object”* in this part of the appeal.

Last of all, the Constitutional Court supports the constitutionality of the express mention which the appealed regulation makes to Spanish as an official language, *“establishing the objective of making the two languages fully comparable.”* According to the judgment, *“the modification performed herein does not lead to a violation of such constitutional limits, because neither the status of Catalanian as the region’s own language is affected, as has been defined in the constitutional doctrine, nor is any measure taken which would be detrimental to the normal use of Catalanian as a language of the Autonomous Region, nor, in conclusion, is there any harm done or scorn of Catalanian in the regulation resulting from the reform.”* *“No scorn for Catalanian can be identified based on the fact that the two languages are made equivalent as languages of normal usage in the administrative and official spheres.”*

In his dissenting opinion, the Vice-President of the Constitutional Court, Adela Asúa, expresses her disagreement with the judgment by the majority because, in her opinion, the reform enacted by the Balearic Government *“does not sufficiently guarantee the linguistic rights established under Article 3.2 of the Constitution and acknowledged in Article 14.3 of the Balearic Islands Statute of Autonomy.”*

In the second dissenting opinion, the Magistrates Juan Antonio Xiol, Encarnación Roca and Fernando Valdés uphold that Article 44 of the appealed act should have been declared unconstitutional because *“it fails to acknowledge the Administration’s duty to handle proceedings in the language chosen by the person concerned.”*

Madrid, 2 October 2013