

## SPANISH CONSTITUTIONAL COURT

Cabinet of the President  
Press Office

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#### THE SPANISH CONSTITUTIONAL COURT OVERRULES THE DECISION OF THE SPANISH NATIONAL COURT, REQUIRING THAT THE PARTIES AFFECTED BY THE 2010 AIRSPACE CLOSURE FILE INDIVIDUAL APPEALS AGAINST AENA'S RESOLUTIONS

The Spanish Constitutional Court (TC) has granted constitutional protection to hundreds of citizens who were affected by the Government's decreed airspace closure between 3-4 December 2010, as a result of an air controller strike. Chamber Two, in a unanimous judgment, acting as Reporting Judge Fernando Valdés Dal-Ré, considered that the resolutions delivered by Central Contentious-Administrative Court Number 1 of the Spanish National Court infringed the plaintiffs' right to effective judicial protection (Art. 24.1 Spanish Constitution (CE)) due to lack of grounds.

The appellants filed a joint contentious-administrative appeal before the Spanish National Court, against all the decisions upon which AENA refused to have the Administration bear the cost of any indemnification for damages caused to the passengers due to closure of the airspace. Initially in an order (19 June 2012) and then in a decision (17 September 2012), the court ordered "*the individual filing of appeals*" against AENA's decisions. The claim for constitutional protection indicates that the court resolutions have breached the right to effective judicial protection due to their "*arbitrary, restrictive and disproportionate reasoning*" and due to preventing access to the courts.

According to the TC, the Court just "*formally lists*" the reasons why it rejected the joinder of appeals ("*the same indemnification amount is not being requested by each and every appellant*" and "*it is not specified or accredited whether all of the appellants are in the same situation*"); but it lists them "*without specific grounds or reasoning adjusted to this particular case (...)*", the judgment adds. This is why the Chamber reached the conclusion that "*a refusal to join the cases does not seem justified*".

According to the TC, "*the link between the petitions could not be ignored, without providing further explanation of the legal grounds, in light of the similarity and homogeneity of their defining components, according to their objective and causal ties, irrespective of the lack of absolute identity in the petitum due to the different type of damage caused to each claimant*". Consequently, states the judgment, the Court's pronouncements "*are insufficiently reasoned*".

However, the TC did not accept that the plaintiffs had been denied access to the courts, given that the judge had offered them an "*alternative procedural device*" to the joinder of appeals when, in his resolution, the judge stated that appeals had to be individually filed.

Madrid, 5 February 2014