



SPANISH CONSTITUTIONAL COURT

Cabinet of the President

Press Office

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THE TC ANNULS SEVERAL PROVISIONS OF THE ENVIRONMENTAL EVALUATION ACT ON THE TAJO-SEGURA TRANSFER DUE TO THE FAILURE TO REQUEST A REPORT FROM THE AUTONOMOUS COMMUNITY OF ARAGÓN

The Plenary Meeting of the Spanish Constitutional Court (TC) has partly upheld the appeal lodged by the Parliament of Aragón against Environmental Evaluation Act 21/2013, of 9 December. The judgment, where Judge Luis Ortega acted as Reporting Judge, considers several provisions of the rule unconstitutional, in breach of the provisions of the Statute of Autonomy of Aragón, since they do not foresee a report issued by the Autonomous Community of Aragón, despite the fact that they all refer to matters related to the Tajo-Segura transfer and the water regime of a river basin which covers part of the territory of said Autonomous Community.

The judgement points out that, *“given that part of the territory of Aragón is included within a river basin which covers several Autonomous Communities, as in the River Tagus (...) any decisions adopted regarding water transfers within that basin affect that Autonomous Community”*. And recalls that, according to the Court’s case-law *“(...) a sort of fragmented management of the water belonging to the same river basin”* is not *“admissible”* when this basin cover the territory of more than one Autonomous Community.

In this case, the Court states, the two conditions required by constitutional case-law are met: 1) the water transfer regulated by the challenged provisions affect the territory of the Autonomous Community (in particular ten municipalities); 2) the impossibility of fragmented management of the river basin. Therefore, the Plenary Meeting concludes, *“it is obvious that said mandatory report, which is a requirement for any transfer proposal and intends to enable cooperation in a matter affecting the interests of the state and autonomous communities, did not take place in this case; therefore, in principle, it contradicts a provision which is part of the body of constitutional law, as is the case of the Statute of Autonomy of Aragón”*.

The Court has declared the nullity of the unconstitutional provisions, but this nullity *“must be deferred for one year”*, from the date of publication of the judgment in the Official State Gazette. During that period of time, *“the rules declared void must be replaced, after completing the previous report step, issued by the Autonomous Community of Aragón”*.

This deferral is due to the fact that the immediate nullity of the challenged provisions, all related to *“the water transfer regime through the Tagus-Segura Aqueduct”*, *“is able to seriously harm the general interest”*, which is why the Court is trying to *“reconcile”* the interest of the Autonomous Community of Aragón with other Communities also affected by the water transfer.

Madrid, 10 February 2015