



INFORMATION NOTE No. 58/2015

2014 ANNUAL REPORT

The President of the Constitutional Court, Francisco Pérez de los Cobos, has delivered to His Majesty the King Felipe VI a copy of the Annual Report for 2014, during which the Court issued a total of 7,409 resolutions, 11.16% more than in 2013. One more year, as has been the case since 2012, an increase has also been registered in constitutional claims in most proceedings, with a total of 7,878 new appeals (4.02% more than in 2013).

Beyond statistical data, in the Annual Report Introduction, the President of the Court pointed out “due to its particular relevance when interpreting and upholding the Constitution” the judgment on the Government’s appeal against the “Declaration of sovereignty and the right of self-determination of the people of Catalonia”, approved by the Catalanian Parliament (Constitutional Court Judgment (STC) 42/2014, of 25 March).

The Plenary Meeting upheld “unanimously and without exception” the principle of national sovereignty; and with this same consensus amongst its judges it accordingly interpreted the Declaration by affirming that in the Spanish democratic system it is also possible to attempt to change “*the constitutional order*”, as long as democratic rules are followed and “*procedures to reform the foundations and co-existence endowed*”. The Court “cautiously and leniently interpreted the Spanish Constitution” and, further to its competences, upheld “*the limits and procedures which, in accordance with the Spanish Constitution, constitute the inescapable context for political operations, in addition to the central role played by the duty of constitutional loyalty*”.

With this judgment, the Court has provided “the best possible service to Spanish society: to uphold the core and basic values and principles established in the Constitution, whilst also leaving open the possibility of political solutions that may be constructed further to the same”. It has proven “that it is a legal, not political body; that its mission is to preserve the limits imposed by the Constitution, without replacing our political representatives in their tasks; and that, irrespective of how delicate the matter, its decision-making always falls within the limits of the Law”.

CASES RECEIVED

According to 2014 Annual Report data, the Court has received a total of 7,878 cases, 305 more than in 2013, confirming a progressive upward trend, which began in 2012. This increase has been registered both in appeals for constitutional protection (7,663 as opposed to 7,376, representing a 3.89% increase) and, notably, in unconstitutionality issues (141 over 106, representing a 33% increase). On the other hand, the number of new unconstitutionality appeals fell (from 76 to 60) and of constitutional conflicts (from 14 to 10).

TABLE 1

Cases received	2010	2011	2012	2013	2014
Unconstitutionality appeals	32	31	38	76	60
Unconstitutionality issues	50	51	42	106	141
Appeals for constitutional protection	8,948	7,098	7,205	7,376	7,663
Positive competence conflicts	6	9	8	12	5
Negative competence conflicts	1	-	1	-	3
Conflicts amongst constitutional bodies	-	-	-	-	-
Conflicts to defend local autonomy	4	3	-	2	2
Challenge of provisions without the status of an Act and resolutions delivered by Autonomous Communities	-	-	-	1	4
Requests related to international treaties	-	-	-	-	-
Total	9,041	7,192	7,294	7,573	7,878

In 2014, appeals for constitutional protection were again, the most popular, representing 97.27% of all new cases received. Of the 7,663 appeals for constitutional protection received this year, most of these (7,242) were filed by citizens, whereas public bodies brought 417 claims for constitutional protection and the Public Prosecutor's Office, the other 4.

With respect to source, the usual prevalence of appeals for constitutional protection continues, brought against resolutions delivered by the criminal courts, 3,485 in 2014 (45.47% of the total). This percentage increases up to 50.46% if the 382 appeals derived from penitentiary surveillance are included.

Contentious-administrative matters come second (2,221, representing 28.98% of the total), followed by appeals in the civil order (1,137, 14.84% of the total), social order (352, representing 4.60%) and the military courts (30, representing 0.39%). Finally, 9 appeals for constitutional protection (0.11% of the total) were brought against parliamentary acts.

Again, in most appeals for constitutional protection (5,570) a breach of one or more procedural guarantees was claimed, foreseen in Art. 24 of the Constitution. In other words, these rights were upheld in 72.68% of all constitutional protection claims registered in 2014. 14.22% of all claims (i.e. 1,090) reported a breach of the right of equality, enshrined in Art. 14 of the Constitution. All other fundamental rights and public freedoms were upheld in 1,676 claims (21.87% of the latest appeals for constitutional protection).

During 2014, 60 unconstitutionality appeals were filed, 35 by autonomous governments and parliaments against laws or rules enjoying the status of a State Act; 16 were filed by the President of the Government against autonomous rules enjoying the status of an Act; 8 were filed by deputies and senators (6 against state laws and 2 against autonomous laws); and one was filed by the Ombudsman.

TABLE 2				
TOTAL	Unconstitutionality appeals		Positive competence conflicts	
Autonomous Community	State laws challenged	Autonomous Community laws challenged	Filed by the Government of Autonomous Communities	Filed by the Government of the Nation
Basque Country	2	-	1-	-
Catalonia	11	5	3	-
Galicia	-	1	-	-
Andalusia	8	1	-	1
Asturias	4	-	-	-
Cantabria	-	1	-	-
La Rioja	-	1	-	-
Murcia	-	-	-	-
Valencia	1	1	-	-
Aragón	1	1	-	-
Castilla-La Mancha	-	-	-	-
Canary Islands	4	1	-	-
Navarre	1	4	-	-
Extremadura	2	-	-	-
Balearic Islands	-	-	-	-
Madrid	1	-	-	-
Castilla y León	-	-	-	-
TOTAL	35	16	4	1
		51		5

() Excluding the 8 unconstitutionality appeals filed by deputies or senators and the single unconstitutional appeal filed by the Ombudsman*

On the other hand, unconstitutionality issues have notably increased, from 106 in 2013 to 141 in 2014, i.e. 33.01% more. Most of these (87) were filed by high courts of justice (76 with respect to state laws and 11 in relation to autonomous rules enjoying the status of an Act). The courts of various jurisdictional orders filed 42 issues (32 affecting state laws and 10 in relation to autonomous laws); the Spanish National Court filed 6 issues (5 with respect to State laws and one in relation to an autonomous rule); the Supreme Court filed 5 (2 related to state laws and three in relation to autonomous laws); and provincial appellate courts filed 2 issues, both on state laws.

TABLE 3		
TOTAL		
Unconstitutionality issues	In relation to State laws	In relation to Autonomous Community laws
Filed by the Supreme Court	2	3
Spanish National Court	5	1
Central Military Court	-	-
High Courts of Justice (*)	76	11
Territorial Military Courts	-	-
Provincial Appellate Courts	2	-
Judges	32	10
Others	-	-
TOTAL	117	25

(*) One case questioned the constitutionality of various precepts of a State law and another autonomous law.

RESOLUTIONS DELIVERED

According to the data of the Annual Report, last year the Constitutional Court increased its productivity by 11.6% by delivering a total of 7,409 resolutions (judgments, orders and decisions), 744 more than in 2013. 95% of these resolutions (i.e. 7,050) became final, i.e. ended the matter.

Of the total resolutions delivered, 215 are judgments (95 issued by the Plenary Meeting and 120 by the Court Chambers and Sections); 305 are orders (82 of the Plenary Meeting, 97 of the Chambers and 126 of the Sections); and 6,889 are decisions, practically all delivered by Chambers and Sections, of which 6,681 involve dismissal and termination and 208 have granted leave to proceed.

TABLE 4					
Resolutions delivered	2010	2011	2012	2013	2014
Judgments					
Plenary Meeting	48	59	136	129	95
Chamber One and Sections	29	77	59	39	48
The Chamber	25	55	59	39	48
Section 1	3	11	-	-	-
Section 2	1	11	-	-	-
Chamber Two and Sections	66	71	51	51	72
The Chamber	62	50	50	51	72
Section 3	-	9	-	-	-
Section 4	4	12	1	-	-
Total	143	207	246	219	215
Final Orders					
Plenary Meeting	20	43	44	43	52
Chamber One and Sections	36	29	36	36	57
Chamber Two and Sections	40	28	24	32	48
Total	96	100	104	111	157
Decisions of dismissal and termination					
Plenary Meeting	-	-	3	-	-
Chamber One	5,387	3,013	3,948	2,802	3,275
Chamber Two	4,064	3,387	3,387	3,082	3,406
Total	9,991	6,400	7,338	5,884	6,681
Interlocutory orders	112	86	145	187	148
Decisions granting leave to proceed	204	137	209	264	208
Total final resolutions (judgments+final orders+final decisions)	10,230	6,708	7,691	6,214	7,051
Total resolutions delivered	10,546	6,931	8,041	6,665	7,409

Fifty of the judgments delivered by the Court were in unconstitutionality appeals, another 31 in unconstitutionality issues, 21 in positive competence conflicts, 3 in conflicts to uphold local autonomy and one to challenge provisions without enjoying status of an Act and resolutions of Autonomous Communities. Of these 106 judgments, 39 covered 26 state rules; another 46 referred to rules enjoying the status of an Act in Autonomous Communities, 5 of which were declared unconstitutional in full. Furthermore, the partial unconstitutionality was declared of a total of 44 precepts in autonomous laws, whereas another 7 were upheld as constitutional by the Court.

The 109 remaining judgments delivered by the Court in 2014 (106+109=215 judgments) were further to applications for constitutional protection: 15 were delivered by the Plenary Meeting, 41 by Chamber One and 53 by Chamber Two.

GRANTING LEAVE TO PROCEED TO APPEALS

Once again last year, there has been a very high percentage of dismissals to proceed with constitutional protection, representing 98.92% of all resolutions delivered at the acceptance stage (6,662 resolutions of a total of 6,738 delivered at the acceptance stage). In other words, the Court has only granted leave to proceed to 1,08% of all appeals for constitutional protection received.

The foregoing indicates that the ordinary courts effectively perform the task entrusted to them by law to protect citizens' fundamental rights; protection sought from the Constitutional Court is thus a subsidiary recourse, as configured in the Spanish Public Act of the Constitutional Court. Please note, also, that hardly half of the 109 judgments delivered as a result of granting leave to proceed to 1.08% of all appeals granted constitutional protection to the applicants (54 granted protection in whole or in part, 50 dismissed it and another 5 totally overruled it). This figure again reinforces the positive diagnosis made of Spanish Justice. As regards the number of resolutions annulled by the TC, these hardly totalled 67 in 2014 (49 of which were judgments), representing 0.87% of all appeals for constitutional protection filed that same year.

Reasons to dismiss appeals for constitutional protection. For the first time, the Court has included in its Annual Report statistics to identify the various reasons for the high number of refusals to grant leave to proceed to appeals for constitutional protection, and the percentage of each.

These reasons may be grouped into two large types: 1) evidencing irremediable defects in claims for protection (absence of justification of particular constitutional relevance, insufficient justification of particular constitutional relevance, failure to report a breach of a fundamental right, non-exhaustion of prior judicial channels, untimeliness of the appeal and failure to remedy procedural defects) and 2) dismissal of an appeal at the acceptance stage, which have therefore involved a preliminary analysis by the Court of the merits of the case. The first group represents 65.01% of the total reasons to not grant leave to proceed to claims for constitutional protection, whereas the second group represents 31.62%. The remaining 3.37% represents other reasons.

If itemised, it appears that a dismissal of 36.24% of all claims are due to causes relate to the failure to justify particular constitutional relevance or insufficient justification in the claim (19.97% due to a failure to justify particular constitutional relevance and 16.27% for insufficient justification of particular constitutional relevance). This is followed, with 31.37% of all dismissals, by the absence of a breach of the fundamental right upheld. The third reason (13.99%) is the failure to exhaust prior judicial proceedings.

TABLE 5		
Reasons to not grant leave to proceed	Number of appeals	Percentage
Due to defects in the claim		
Failure to justify particular constitutional relevance	1,331	19.97
Insufficient justification of particular constitutional relevance	1,082	16.27
Failure to report a breach of the fundamental right upheld	37	0.55
Failure to exhaust prior judicial channels	931	13.99
Untimeliness of the appeal	375	5.61
Failure to remedy procedural defects	572	8.62
Total	4,328	65.01
Due to dismissal		
Lack of particular constitutional relevance	17	0.25
Absence of a breach of the fundamental right upheld	2,094	31.37
Total	2,111	31.62
Various reasons	125	1.9
Other reasons	98	1.47
TOTAL	6,662	100

TABLE 6		
Annulled judicial resolutions (*)		
Supreme Court	3	-
High Courts of Justice	7	3
Spanish National Court	31	2
Provincial Appellate Courts	2	2
Judges	6	9
Total	49	18

(*) *Judgments and other resolutions (orders or decisions) are counted separately, only indicating the Courts delivering the resolutions annulled by the Constitutional Court, irrespective of how many resolutions are annulled in each ruling; if a constitutional ruling annuls one or several judgments and, at the same time, other resolutions of the same Court, only annulment of the judgment is registered.*

PENDENCY

An increase in the number of resolutions delivered during 2014 has entailed a 5% decrease in pendency over the previous year. At 31 December 2014, the Plenary Meeting, Chambers and Sections registered had 446 cases pending a judgment (256: the Plenary

Meeting; 190: Chambers and Section), whereas in 2013 there were 471 (259 of the Plenary Meeting and 2012 of Chambers and Sections). As regards the number of cases settled, there were 7,055 in 2014, 838 more than in 2013.

However, in cases pending acceptance, at 31 December 2014 there were a total of 4,518 (55: Plenary Meeting and 4,463: Chambers and Sections), over 3,781 in 2013 (43 of the Plenary Meeting and 3,738 of Chambers and Sections). This greater pendency is due, in the case of appeals for constitutional protection, basically due to two reasons: 1) a constant increase in newly received claims, and 2) their complex processing. Whether or not a judgment is delivered, i.e. irrespective of whether they are granted leave to proceed, each appeal for constitutional protection is filtered several times and its analysis involves both judges and lawyers, consequently delaying a resolution but, in turn, guaranteeing its quality and solvency.

TABLE 7					
Matters settled	2010	2011	2012	2013	2014
Unconstitutionality appeals	30	55	57	83	62
Unconstitutionality issues	88	63	65	78	84
Appeals for constitutional protection					
Based on a judgment	91	145	124	87	109
Based on an order not granting leave to proceed	26	37	2	5	3
Based on a decision not granting leave to proceed	8,964	5,868	7,298	5,342	6,678
For other reasons (orders or decisions)	1,027	532	43	574	90
Joined with the foregoing	2	2	5	3	2
Total	10,110	6,584	7,472	6,012	6,882
Positive competence conflicts	3	15	34	40	20
Negative competence conflicts	-	1	1	-	3
Conflicts between constitutional bodies	-	-	-	-	-
Conflicts to uphold local autonomy	1	-	1	4	5
Challenge of provisions not enjoying status as an Act (Autonomous Community resolutions)	-	-	-	-	1
Request on the constitutionality of international treaties	-	-	-	-	-
Total matters settled	10,232	6,708	7,630	6,217	7,055

TABLE 7					
Matters granted leave to proceed awaiting a judgment	2010	2011	2012	2013	2014
Unconstitutionality appeals	227	219	193	183	187
Unconstitutionality issues	120	97	81	71	108
Positive competence conflicts	103	25	72	42	26
Negative competence conflicts	-	-	-	-	-
Conflicts between constitutional bodies	-	-	-	-	-
Conflicts to uphold local autonomy	6	8	7	7	5
Challenge of provisions not enjoying status as an Act (Autonomous Community resolutions)	-	-	-	1	4
Request on the constitutionality of international treaties	-	-	-	-	-
Appeals for constitutional protection	203	145	142	167	116
Total suits pending a judgment from the Plenary Meeting	386	270	290	251	252
Total suits pending a judgment from the Chamber and Section	247	171	193	212	190
TOTAL SUITS PENDING A JUDGMENTS	633	441	483	463	442
Total matters awaiting a judgment from the Plenary Meeting	407	284	302	259	256
Total matters awaiting a judgment from the Chamber and Section	253	173	183	212	190
TOTAL MATTERS PENDING A JUDGMENT	660	457	485	471	446

TABLE 8					
Matters pending leave to proceed	2010	2011	2012	2013	2014
Total matters pending leave to proceed by the Plenary Meeting	16	34	24	43	55
Total matters pending leave to proceed by the Chambers	3,149	3,420	2,895	3,738	4,463

Madrid, 22 July 2015