



INFORMATIVE NOTE No. 18/2016

THE TC LIFTS ITS SUSPENSION OF THE VALENCIA DECREE REGULATING UNIVERSAL ACCESS TO HEALTHCARE

The Plenary Meeting of the Constitutional Court (TC) has lifted its interim suspension of Decree-Law 3/2015, of 24 July, of *Consell de la Generalitat Valenciana*, regulating universal access to healthcare in the Autonomous Community of Valencia. This decision means that the rule, which was automatically suspended due to the granting of leave to proceed to the Government's unconstitutionality appeal, may be applied until the Court delivers judgment.

In order to determine whether the interim suspension of a challenged rule should remain or be lifted, the Court, on the one hand, examines the possible harm to any public and private interests at play and, on the other, whether this potential damage is irremediable or difficult to remedy. This analysis, in any case, will not examine the merits of the constitutionality of the rule, which the Court may only make in the judgment settling the appeal.

The State Attorney has claimed that lifting of this interim measure and the consequent extension of healthcare coverage and pharmaceutical benefits *“will increase public expense, consequently endangering the viability of the Spanish Healthcare System, on the one hand, and Spain’s ability to meet its obligations with the European Union, on the other”*.

The Plenary Meeting affirms that, in this case, said arguments do not justify a continued suspension because the State Attorney *“is merely referring to the possibility of this situation arising, without explaining the reasons for his conclusion”*. *“A generic reference to the current economic crisis is insufficient to justify this damage, as specific data would be necessary to evidence its effect on sustainability of the Spanish Healthcare System or on cost reduction expenses; and the State Attorney has failed to provide such data”*.

The same applies to pharmaceutical benefits for which, according to the decision, the State Attorney has also failed to specify *“the serious economic harm that their recognition could cause to the general interest”*.

Both with respect to healthcare and pharmaceutical benefits, the Court considers that, beyond *“any future economic savings arising”* from continued suspension of the rule, the *“right to health and physical integrity of all affected persons should prevail, as well as the wish to avoid health risks to society as a whole”*.

Madrid, 8 March 2016.