

SPANISH CONSTITUTIONAL COURT

Cabinet of the President

Press Office

INFORMATION NOTE No. 55/2016

2015 ANNUAL REPORT

The President of the Constitutional Court (TC), Francisco Pérez de los Cobos, today delivered to His Majesty the King a copy of the 2015 Annual Report; last year the TC celebrated its XXXV Anniversary and was visited by King Felipe and Queen Letizia. In 2015, the Court's productivity notably increased: the Plenary Meeting, Chambers and Sections delivered 9,064 resolutions (22.3% more than in 2014) and settled 8,759 cases (25.7% more); this activity has reduced the number of admitted cases and those pending judgment by 23.76%. Constitutional litigation, in general terms, slightly fell (6.46%); this notwithstanding, last year the Court received a total of 7,369 cases, of which 7,203 were appeals for constitutional protection.

Beyond statistic data, in the Annual Report's presentation, Pérez de los Cobos enhanced the role played by the Court over the last thirty-five years as "*the main pillar of the 1978 Constitution*". Its task has been "*determining to enshrine constitutional principles and values in our legal system and society in general; it has made a decisive contribution to consolidating Spain's democratic Rule of Law, the effective protection of fundamental rights and public freedoms and Spain's territorial arrangement, as designed by the constituents*".

Also of importance is the excellent relationship held by the Spanish Constitutional Court with the European Court of Human Rights (ECHR), a link which was strengthened in 2015 in institutional terms and which each year is manifested through a "*fluent interrelationship*" between the resolutions adopted by both Courts. Fruit of this interrelationship is the high percentage of resolutions delivered by Spanish judges and magistrates, endorsed by the ECHR. The judgments delivered in favour of Spain include two particularly relevant ones: the first (judgment of 20 January 2015, Arribas Antón vs. Spain) endorsed the "*special constitutional relevance*" requirement imposed by the Constitutional Court Act since 2007, which has worked as an added filter for the granting of leave to proceed to appeals for constitutional protection; the second (judgment of 3

November 2015, Arnaldo Otegi Mondragón vs. Spain) confirmed the Court's opinion as to the circumstances that could affect its Judges' unbiased position.

There are many judgments which, amongst the 272 delivered by the Court in 2015, are worthy of mention. Four of these are expressly mentioned in the Annual Report due to their particular relevance: those delivered to settle the challenges filed against the reform of the Catalanian people's consultation act; against the announcement by the *Generalitat* of a non-referendum people's consultation on the region's political future, on 9 November 2014; the appeal brought against the *Generalitat's* measures related to said announcement; and the judgment related to the resolution passed by the Catalanian Parliament following the elections of 27 September 2015.

With these four judgments, *"the Court has settled the issues raised from the only perspective for which it is competent- jurisdictionally, rather than politically-, pursuant to the parameter that should govern its examinations, i.e. conformity to constitutional rules and principles, which it is obliged to safeguard"*. In all of these, and again unanimously, *"the Court has reiterated the constitutional limits of political action, recalling that these are not set in stone, but need to be reviewed following the reform channels established in the Constitution itself"*.

CASES ADMITTED

Over 2015, a total of 7,369 cases were received by the Court Registry (509 less than in 2014). This figure indicates a slight fall in constitutional conflicts (-6.46%) in general terms, and also by type of procedure. For instance, appeals for constitutional protection decreased from 7,663 to 7,203; unconstitutional appeals from 60 to 45; unconstitutionality issues from 141 to 113; and challenges by the Spanish Government against provisions without status as an act, from four to one. One more year, appeals for constitutional protection were the most numerous: 7,203 appeals registered in 2015 (7,663 in 2014) represented 97.74% of newly admitted matters. The vast majority of these appeals (7,104) were filed by individuals, both legal and natural persons. All other claims for constitutional protection were brought by public bodies (92), the Ombudsman (1) and the Public Prosecution Service (2).

By source, once again at the top of the list are appeals for constitutional protection brought against resolutions delivered by the criminal courts, as they represent 47.6% of the total (if appeals related to penitentiary surveillance are included, this figure

increases up to 49.95%). In second place, and despite the slight decrease that continues, are matters arising from the contentious-administrative courts, constituting 26.35% of the total. These are followed by civil (16.43%); social (5.67%) and military (0.45%) matters.

The vast majority of appeals for constitutional protection (75.19%) reported a breach of one or more procedural guarantees foreseen in Art. 24 Spanish Constitution (CE), which is why the rights established therein were, again, most often upheld.

TABLE 1

Cases Admitted	2011	2012	2013	2014	2015
Unconstitutionality appeals	31	38	76	60	42
Unconstitutionality issues	51	42	106	141	113
Appeals for constitutional protection	7,098	7,205	7,376	7,663	7,203
Positive conflicts of competence	9	8	12	5	5
Negative conflicts of competence	-	1	-	3	-
Conflicts between constitutional bodies	-	-	-	-	-
Conflicts in favour of local autonomy	3	-	2	2	2
Challenge brought against provisions not enjoying the status of an Act and resolutions adopted by Autonomous Communities	-	-	1	4	1
Requests related to international treaties	-	-	-	-	-
Pre-judicial issues on regional tax rules	-	-	-	-	3
Total	7,192	7,294	7,573	7,878	7,369

Far behind, as it represents 13.77% of all claims, is the right to equality of Art. 14 CE. All other rights and public freedoms were the object of 25.7% of all appeals for constitutional protection.

During 2015, 42 unconstitutionality appeals were filed (18 less than in 2014): 17 by the Spanish Government and by Autonomous Governments and Parliaments; 6 by congressmen and senators; and another two by persons without procedural standing (which were dismissed).

Unconstitutionality issues also registered a decrease with respect to the previous year, from 141 to 113. The High Courts of Justice submitted 68 of these (33 against state laws and 35 against autonomous rules); 34 were submitted by Courts in various jurisdictional orders (15 against State laws and 19 against Autonomous Community rules); the Supreme Court raised 5 (two on state laws and three on autonomous rules), 4 by Provincial Appellate Courts (all in relation to state laws); and one by the Spanish National Court, also in relation to a state law. The latter was an internal unconstitutionality issue filed by Chamber Two of the Constitutional Court against a state law.

TABLE 2

Territorial conflicts (*)	Unconstitutionality Appeals		Positive Competence conflicts	
	State Acts	Autonomous Community Acts	Lodged by the Government of the Autonomous Community	Lodged by the Spanish Government
Basque Country	4	-	2	-
Catalonia	8	7	3	-
Galicia	-	1	-	-
Andalusia	4	-	-	-
Asturias	1	1	-	-
Cantabria	-	-	-	-
La Rioja	-	-	-	-
Murcia	-	-	-	-
Valencia	-	1	-	-
Aragón	-	2	-	-
Castilla-La Mancha	-	-	-	-
Canary Islands	-	1	-	-
Navarra	-	2	-	-
Extremadura	-	-	-	-
Balearic Islands	-	2	-	-
Madrid	-	-	-	-
Castilla y León	-	-	-	-
TOTAL	17	17	5	-
	34		5	

(*) Only unconstitutionality appeals filed by the President of the Government and the Governing Councils and Legislative Assemblies of Autonomous Communities have been taken into account.

RESOLUTIONS DELIVERED

TABLE 3

Resolutions delivered	2011	2012	2013	2014	2015
Judgments					
Plenary Meeting	59	136	129	95	107
Chamber One and Sections	77	59	39	48	67
Chamber One	55	59	39	48	67
Section 1	11	-	-	-	-
Section 2	11	-	-	-	-
Chamber Two and Sections	71	51	51	72	98
Chamber Two	50	50	51	72	98
Section 3	9	-	-	-	-
Section 4	12	1	-	-	-
Total	207	246	219	215	272
Final decisions					
Plenary Meeting	43	44	43	52	64
Chamber One and Sections	29	36	36	57	37
Chamber Two and Sections	28	24	32	48	24
Total	100	104	111	157	125
Orders of inadmittance and termination					
Plenary Meeting	-	3	-	-	2
Chamber One	3,013	3,948	2,802	3,275	4,258
Chamber Two	3,387	3,387	3,082	3,406	4,107
Total	6,400	7,338	5,884	6,681	8,367
Interlocutory Appeals	86	145	187	148	104
Orders of admittance	137	209	264	208	196
Total final resolutions (judgments+final decisions +final orders)	6,708	7,691	6,214	7,051	8,764
Total resolutions delivered	6,931	8,041	6,665	7,409	9,064

During 2015, the Constitutional Court has reversed its former trend and has notably increased its productivity. The Plenary Meeting, Chambers and Sections delivered a total of 9,064 resolutions (22.3% more than in 2014) and settled 8,759 cases (25.7% more than the previous year).

The number of judgments delivered last year totalled 272 (215 in 2014); of these, 107 were delivered by the Plenary Meeting (56 settled unconstitutionality appeals; 23 were delivered in unconstitutionality issues; five in positive competence conflicts; another five settled challenges foreseen in Art. 161.2 CE; one was delivered in a conflict to uphold local autonomy; and the other 17 in appeals for constitutional protection); Chamber One delivered 67 judgments (37 in unconstitutionality issues and 30 in appeals for constitutional protection); and Chamber Two delivered 98 (49 in constitutional protection cases, 47 in unconstitutionality issues and 2 in positive competence conflicts).

In addition to settling the appeals through a judgment, the Court delivers another kind of resolution (decisions and orders) deciding whether to admit or not to grant leave to proceed, used to further and arrange constitutional proceedings. The total number of decisions delivered in 2015 was 229 (76 less than in 2014). Of these, the Plenary Meeting delivered 89, Chamber One issued 30 and Chamber Two 28; the other 82 decisions were delivered by various Sections. As regards the number of orders (of admittance, inadmittance and termination), these totalled 8,563 (1,674 more than last year), representing a 24.29% increase.

ADMITTANCE PROCEEDINGS FOR APPEALS

The percentage of admissions and inadmittances for leave to proceed varies depending on the constitutional procedure in question. Thus, during 2015, the Plenary Meeting admitted a total of 109 unconstitutionality procedures, constitutional conflicts and appeals for constitutional protection related to elections (previously forwarded to a higher instance) and unadmitted 57. In turn, the Chambers and Sections delivered 7,880 inadmittance orders and 87 admittance orders. Consequently, one more year, the statistics reveal a very high percentage of inadmittance to proceed in constitutional protection matters, representing 98.99% of the total; this means that just 1% of said appeals were unadmitted for their subsequent resolution in a judgment.

For the first time, the TC's Annual Report includes a table reflecting the number and reasons for admittance to proceed of appeals for constitutional protection (last year, it began to publish the reasons for inadmittance to proceed). In 2015, most appeals for constitutional protection were admitted to proceed due to the absence of constitutional doctrine on the matter (22.98%); secondly, 14.95% of appeals with various admittance reasons, or not specified in the order; and, thirdly, those admitted due to a clarification or change in constitutional doctrine (13.79%).

TABLE 4

Reasons for admittance of appeals for constitutional protection	No. of appeals	Percentage
Absence of constitutional doctrine	20	22.98
Clarification or change of doctrine, resulting from an internal reflection process	10	11.49
Clarification or change of doctrine, resulting from a new social reality	2	2.29
Clarification or change of doctrine, resulting from regulatory changes	12	13.79
Future regulatory source of the infringement	1	1.15
General and reiterated breach of constitutional doctrine, conflicting judicial resolutions	11	12.65
Social or economic impact	1	1.15
General political consequences	4	4.60
Various reasons	13	14.95
No reasons given (*)	13	14.95
TOTAL	87	100

(*) Orders delivered before the governmental Plenary Meeting's resolution of 5 February 2015 whereby, further to the ECHR decision settling the *Arribas Antón vs. Spain* case, it was decided to "explain the particular constitutional relevance ascertained in the appeals for constitutional protection granted leave to proceed".

As regards inadmittances of appeals for constitutional protection, more than half (58.93% of the total) are due to irremediable defects in the claim, although this percentage has decreased with respect to the previous year, which registered 65.01%. Inadmittances entailing a dismissal of the appeal at this initial procedural stage and which, consequently, have required a preliminary analysis of the merits of the case by the Court, represent 37.7% of the total (31.62% in 2014).

As regards the specific reasons for the inadmittance to proceed of appeals for constitutional protection, the prevailing one is the absence of an infringement of the fundamental right upheld (36.92% of the total); followed by those related to absent or insufficient justification of the special constitutional relevance of the claim (16.67% and 19.60%, respectively) and the failure to exhaust all remedies in prior judicial channels (10.69%).

All other causes of inadmittance to proceed for claims for constitutional protection have totalled less than 10% [see table below].

TABLE 5

Reasons for inadmittance of appeals for constitutional protection	Number of appeals	Percentage
Due to defects in the claim		
Failure to justify particular constitutional relevance	1,334	16.67
Insufficient justification of particular constitutional relevance	1,569	19.60
Failure to report an infringement of a fundamental right	35	0.43
Failure to exhaust prior judicial channels	878	10.96
Untimeliness of the appeal	347	4.33
Failure to remedy procedural defects	556	6.94
Total	4,719	58.93
Dismissal		
Lack of particular constitutional relevance	62	0.78
Absence of infringement of the fundamental right upheld	2,955	36.92
Total	3,017	37.70
Various reasons	189	2.36
Other reasons	81	1.01
TOTAL	8,006	100

TABLE 6**Judicial resolutions repealed (*)**

	Judgments	Other resolutions
Supreme Court	3	9
High Courts of Justice	12	1
Spanish National Court	-	-
Provincial Appellate Courts	3	5
Courts	4	12
Total	22	27

(*) *Judgments and other resolutions (decisions or orders) are calculated separately and reference is only made to the Court delivering the resolutions repealed by the Constitutional Court due to failures, irrespective of how many resolutions are repealed in each ruling; if a constitutional ruling repeals one or several judgments and, at the same time, other resolutions of the same Court, only the repeal of the judgment is taken into account.*

PENDENCE

TABLE 7

Cases resolved	2011	2012	2013	2014	2015
Unconstitutionality appeals	55	57	83	62	65
Unconstitutionality issues	63	65	78	84	172
Appeals for constitutional protection					
Further to a judgment	145	124	87	109	96
Further to an inadmittance decision	37	2	5	3	-
Further to an inadmittance order	5,868	7,298	5,342	6,659	7,880
For other reasons (decisions or orders)	532	43	574	109	535
In aggregate with the foregoing	2	5	3	2	2
Total	6,584	7,472	6,012	6,882	8,513
Positive competence conflicts	15	34	40	20	7
Negative competence conflicts	1	1	-	3	-
Conflicts between constitutional bodies	-	-	-	-	-
Conflicts to uphold local autonomy	-	1	4	5	3
Challenge of provisions not enjoying the status of an act and resolutions of Autonomous Communities	-	-	-	1	6
Request on the constitutionality of international treaties	-	-	-	-	-
Total cases resolved	6,708	7,630	6,217	6,968	8,759

The increase in the number of resolutions delivered and cases settled during 2015 has also reduced pendency levels. On 31 December 2015, a total of 340 cases had been granted leave to proceed and were awaiting judgment by the Court (representing 334 procedures, as some of them were joined), which is why pendence fell by 23.76%. The number of cases pending leave to proceed also fell, as of the 4,518 existing in late 2014 there were just 3,369 in late 2015, a figure which in percentage terms represents a 25.43% fall.

TABLE 8

Cases admitted awaiting judgment	2011	2012	2013	2014	2015
Unconstitutionality appeals	219	193	183	187	163
Unconstitutionality issues	97	81	71	108	47
Positive competence conflicts	25	72	42	26	24
Negative competence conflicts	-	-	-	-	-
Conflicts between constitutional bodies	-	-	-	-	-
Conflicts to uphold local autonomy	8	7	7	5	4
Challenge of provisions not enjoying the status of an act and resolutions of Autonomous Communities	-	-	1	4	-
Request on the constitutionality of international treaties	-	-	-	-	-
Prejudicial issues on regional tax rules	-	-	-	-	3
Appeals for constitutional protection	145	142	167	116	99
Total procedures awaiting judgment of the Plenary Meeting	270	290	251	252	217
Total procedures awaiting judgment of the Chamber and Section	171	193	212	190	117
TOTAL PROCEDURES AWAITING JUDGMENT	441	483	463	442	334
Total cases awaiting judgment of the Plenary Meeting	284	302	259	256	223
Total cases awaiting judgment of the Chamber and Section	173	183	212	190	117
TOTAL CASES AWAITING JUDGMENT	457	485	471	446	340

Of the total cases awaiting judgment, 223 were entrusted to the Plenary Meeting (representing 217 procedures, with six joinders). Of these, 163 were unconstitutionality appeals; 19 unconstitutionality issues; 11 appeals for constitutional protection assigned to a higher instance; 23 positive competence conflicts; 4 conflicts to uphold local autonomy; and the remaining 3 were prejudicial issues on regional tax rules.

As regards appeals for constitutional protection awaiting judgment, at the end of the year the total was 99 (11, as mentioned, of the Plenary Meeting; 34 of Chamber One and 54 of Chamber Two). There were 3,312 appeals for constitutional protection pending admittance, of which 1,770 belonged to Chamber One and the other 1,542 to Chamber Two.

TABLE 9

<i>Cases pending admittance</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
Total cases pending admittance by the Plenary Meeting	34	14	43	55	57
Total cases pending admittance by Chambers	3,420	2,895	3,738	4,463	3,312

Madrid, 3 June 2016