



INFORMATIVE NOTE No. 65/2016

THE TC MAINTAINS AN INTERIM SUSPENSION OF THE DECREE OF THE CATALONIAN *GENERALITAT* CREATING A DEPARTMENT OF “FOREIGN AFFAIRS”

The Plenary Meeting of the Constitutional Court (TC) has agreed to maintain the interim suspension of the “Foreign Affairs” denomination contained in two decrees issued by the Executive of the Autonomous Community of Catalonia to create, denominate and assign competences to its Department of Foreign Affairs (Decree 2/2016, of 13 January), and to attribute thereto a Secretariat of Foreign Affairs and of the European Union (Decree 45/2016, of 19 January). The provisions challenged by the Spanish Government were subject to an interim suspension last 16 February.

Specifically, the Plenary Meeting is continuing with the suspension of Art. 1.1 of Decree 2/2016, creating the Department of Foreign Affairs, Institutional Relations and Disclosure of the *Generalitat*, because “*it seriously harms the general interest of Spain’s foreign policy and its international relations by misleading third States*” as to “*the true scope of these foreign activities of the Generalitat in relation to the State’s foreign policy*”. The denomination used in the challenged decree, adds the decision, could make the new department “*appear as an international player, holding competences that in this field are only held by the State (...)*”.

For these same reasons, it continues to suspend the “*Foreign Affairs*” sections contained in Arts. 1.1.b) and 20.1 of Decree 45/2016.

Following this, the Court has declared that continuation of an interim suspension on said sections “*is not detrimental to the legitimate exercise of foreign action by the Catalanian Generalitat*”, which may carry out “*activities with a foreign scope directly derived from its competences*”, as long as they uphold the State’s exclusive competence in international relations (Art. 149.1.3 CE).

The Court had already previously stated (when deciding to maintain or lift the interim suspension of several provisions of the Catalanian act regulating Catalonia’s foreign action) that the Catalanian Statute of Autonomy entitles the *Generalitat* to “*promote Catalonia’s presence abroad and boost its interests in this field, upholding the State’s competence in foreign relations*”. Any actions exceeding this limit and imposed by the Constitution will be eventually challengeable.

In turn, the Plenary Meeting has agreed to lift the interim suspension over Art. 3.3 (sections 1 and 2) of Decree 2/2016 (excluding the “Foreign Affairs” sections), entrusting the Catalanian Department of Governance with tasks to “*coordinate foreign action and foreign relations and the Generalitat’s activity with respect to European Union institutions*”. The decision explains that “*the assignment of these tasks in abstract, in the terms executed, is unable to in any way harm*” the general interest, i.e. “*Spain’s foreign policy interest*”.

Madrid, 29 June 2016