



SPANISH CONSTITUTIONAL COURT

Cabinet of the President

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THE CONSTITUTIONAL COURT ANNULS THE DESIGNATION OF THE SECRETARIES OF THE PARLIAMENT BUREAU OF ANDALUSIA

The Constitutional Court has annulled the decision of 16 April 2015 which violated the right to political participation of citizens (Art. 23 of the Spanish Constitution). The annulled decision designated the three Secretaries of the Bureau of the Parliament of Andalusia leaving out the appellant, who had been the second more voted candidate. Judge Andrés Ollero was the rapporteur of the Judgment.

A Deputy —member of the Popular Party— of the Andalusia Parliament lodged the *amparo* appeal. The appellant claimed that under Articles 33 and 34 of the Parliament of Andalusia Regulation, she should have been among the deputies appointed as Secretaries of the Bureau. The three posts of Bureau Secretary must be assigned to the three most voted candidates. After the voting, the candidate of the Socialist Party, (PSOE, 47 votes) was designated First Secretary, the candidate of liberal group Ciudadanos (9 votes), Second Secretary and the candidate of the leftist coalition IU (*Izquierda Unida*, United Left, 5 votes), Third Secretary. The appellant (33 votes) was left out of the Bureau. The President of the constituent session chose to apply Article 36 of the Chamber Regulation establishing that all parliamentary groups should have a representative in the Bureau.

The Court clarifies that the review of constitutionality in the parliamentary *amparo* appeals must be limited to actions with constitutional relevance. These concern the “core” of the representative function of the deputies and may involve “a limitation of the exercise of rights linked to the constitutional status of the public representative”.

The Judgment points out that the interpretation of the Parliament Regulation given by the President of the Bureau of the constituent session left “without effectiveness” the election procedure established in Arts. 33 and 34 of the Regulation. Moreover, apart from the interpretation of the aforementioned Art. 36, the Regulation is “restrictive in how the Plenum must proceed when it appoints the members of the Bureau in the constituent session”. In conclusion, the decision of the President based on Art. 36 of the Regulation, “withholds unreasonably the right to be part as a Secretary and exercise functions... given that the appellant had obtained more votes than the candidates of Ciudadanos and IU”. The Court annuls the Bureau Secretaries and recognises the right of the appellant to be part of the Bureau. In accordance with the principle of legal certainty, the Court’s Judgment does not affect the decisions taken by the Bureau in the period between the establishment of the Bureau and the publication of this Judgment in the “Official State Gazette”.

Madrid, 5th December 2016.