



CONSTITUTIONAL COURT OF SPAIN
Cabinet of the President
Press Office

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THE CONSTITUTIONAL COURT DISMISSES CATALONIA'S APPEAL AGAINST THE ACT REGULATING THE NATIONAL CIVIL PROTECTION SYSTEM

The Plenary Meeting of the Constitutional Court has unanimously dismissed the appeal brought by the Government of the Catalanian *Generalitat* against various provisions of Act 17/2015, of 9 July, on the National Civil Protection System. The Court has pointed out that autonomous competence in civil protection matters is linked to public security, an issue exclusively attributed by the Constitution to the State (Art. 149.1.29 CE) (*Constitución Española* – “CE”), which is why exercise of the former by Autonomous Communities is no obstacle to “*higher coordination and inspection powers being held by the State, when the national interest is at stake*”. Antonio Narváez acted as Reporting Judge in the judgment.

Before analysing the challenged provisions, the Plenary Meeting recalled that, according to constitutional doctrine, state competence arises from “*the existence of a national interest*”; this, in turn, is determined on the one hand by “*the scope and dimension of an emergency or the need to establish a minimum national model*” and, on the other, “*by any specific actions to be carried out*”. As a result, State competence may be clearly established both in prevention matters and as regards a speedy intervention in order to rescue persons and assets in a disaster situation; in these circumstances, the connection between civil protection and public security is even more obvious. However, this link is blurred “*in the case of steps taken to re-establish normality in a disaster area*”, such as water drinking supply, electricity, telecommunications, etc.

Essentially, the constitutional reproach that the appellant is making of the challenged rule refers to the scope of the coordination powers held by the State in civil protection matters. In the *Generalitat*'s opinion, said competences should be limited to supra-autonomous emergency situations, which is why any affecting an Autonomous Community alone should not be subject to state coordination.

According to constitutional doctrine, the State's power of coordination comes into play when a national interest exists, i.e. when it is necessary to set “*common civil protection guidelines to enable, where appropriate, coordination and joint action of the various services and Administrations involved, establishing a minimum structure or national model*”. “*Further to its exclusive competence in public security matters (...), the State may undertake the general coordination of various services and public resources*” assigned by various municipal, provincial, island and autonomous administrations in order to prevent or provide a response to civil protection emergency situations. The foregoing applies “*without prejudice to the specific territorial scope potentially covered by such emergency situations (...)*”.

“The need for this coordination”, explains the judgment, “is unquestionable in a matter, such as civil protection, where simultaneous competences affect steps directly related to personal and material security”. In these terms, coordination “does not mean that the State may invade autonomous or municipal competences, including a response to ordinary emergency situations within the scope of the Autonomous Community and the management of its services”. “Rather”, adds the Court, “it is perfectly compatible with respect for these competences, as it only entails state intervention to establish guidelines and collaboration devices, thereby assuming an effective operation of all of said resources”.

The Court has dismissed the appellants’ claim that the National Civil Protection System should only be aimed at coordinating a response to emergency situations affecting more than one Autonomous Community. The judgment adds that *“the very nature of the actions covered by this activity prevents a strict application of the territorial principle in the manner suggested by the Generalitat”*. Civil protection actions do not just include immediate intervention in a specific emergency situation; they also include the *“anticipation and prevention of risks and planning”*, prior to a specific emergency situation, *“which is why they are not related to an analysis or differentiation depending on the geographical scope of the emergency”*. These steps, adds the judgment, are *“essential for the efficacy and good operation of the system and involve differently held agents and resources”*, which is why they need to be adequately coordinated.

The same occurs with immediate response steps, as *“it will not always be easy to initially fathom the scope or extension of the emergency; there is also a possibility that state resources or services will be necessary in lower-scale emergencies”*.

In short, *“civil protection cannot be divided into airtight compartments”*; the very nature of the issue means that *“a single system should integrate the various functions attributed to different competent administrations, coordinated by the state”*.

Madrid, 26 May 2017.