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THE CONSTITUTIONAL COURT OF SPAIN, BY UNANIMITY, SUSPENDS IN A PRECAUTIONARY MANNER CATALONIA'S TRANSITIONAL LAW BY GRANTING GOVERNMENT'S APPEAL LEAVE TO PROCEED

The Plenary Assembly of the Constitutional Court has unanimously upheld two actions of unconstitutionality brought by the National Government: one was lodged against Law 20/2017, dated 8 September and known as the "Act of Juridical Transition and founding of the Republic" while the second appeal was related to Law 17/2017, dated 1 August and passed by the Government of Catalonia concerning its regional Tax Code.

In both cases, as a result of the Government invoking Article 161.2 of the Spanish Constitution, **the Plenary agreed to suspend all challenged provisions.** The aforementioned constitutional provision states that *"The Government may contest before the Constitutional Court the provisions and resolutions adopted by the agencies of the Autonomous Communities, which shall bring about the suspension of the contested provisions or resolutions, but the Court must either ratify or lift the suspension, as the case may be, within a period of not more than five months"*.

The decisions rendered by the Plenary stated the following:

1) In relation to the appeal of unconstitutionality of Law 20/2017, dated 8 September, concerning the Act of Juridical Transition and founding of the Republic. In addition to the precautionary suspension order, the Plenary agreed to transmit the appeal to the Congress of Deputies, the Senate, the Generalitat of Catalonia and the Parliament of Catalonia, which were all given a period of 15 days in order to present any arguments they considered appropriate.

It further decided to personally notify this ruling to the President of the Government of Catalonia, to all members of the Governing Council, to the Secretary of the Government of Catalonia, to the President of the Parliament of Catalonia, to all members of the Board of the Parliament of Catalonia, to the Head Counsel of the Parliament of Catalonia, to the General Secretary of the Parliament of Catalonia, to the Head of the Department of Publications and to the Technician in charge of the coordination of the production of publications of the Department of Publications, all of them from the Parliament of Catalonia.

Also, to the members of the electoral syndicate of Catalonia and to the official receivers in the territories of Aran, Barcelona, Girona, Lleida and Tarragona, their official members and substitutes.

The Plenary Session admonished all of them about their duty to "prevent or

*paralyse any initiative which may lead to ignoring or circumventing such suspension order". In particular, they must refrain from "initiating any proceedings, informing or passing any agreement with respect to the implementation of the provisions contained in the challenged law or promoting or processing any action or provision to that end". All of this, **"warning them about the complete nullity of such actions and about the possible liabilities that may be incurred, including the one based on criminal grounds, which they may incur in the event of disobedience of such an injunction"**.*

2) In relation to the appeal of unconstitutionality of Article 5 of Law 17/2017, dated 1 August, passed by the Governement of Catalonia, regarding the Tax Code of Catalonia, approving its First, Second and Third Books relating to the Tax Administration of the Government, insofar as it approves certain specific provisions.

In addition to the precautionary suspension order, the Court transmitted the appeal to the Congress of Deputies, the Senate, the Government of Catalonia and the Parliament of Catalonia, which were all given a period of 15 days in order to present any arguments they considered appropriate.

Madrid, 12 September 2018