



CONSTITUTIONAL COURT OF SPAIN
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THE CONSTITUTIONAL COURT GRANTS LEAVE TO PROCEED TO THE APPEAL BROUGHT BY JORDI SÀNCHEZ AGAINST THE SUPREME COURT'S DECISION TO DENY HIS PROVISIONAL RELEASE AND A PENITENTIARY PERMIT, BUT DOES NOT ADOPT URGENT PRECAUTIONARY MEASURES

The Plenary Session of the Constitutional Court has resolved, by unanimity, to admit to process the appeal for constitutional protection (*“recurso de amparo”*) brought by Jordi Sànchez Picanyol against the decision (*“auto”*) rendered on April 17th, 2018 by the Criminal Chamber of the Supreme Court. This decision had refused him the possibility to quit prison in order to be present at the investiture session of the president of the Government of Catalonia as a candidate. Likewise, an appeal against the decision of the same Chamber refusing him provisional release from prison was also granted leave to proceed.

In the first case, the appellant had requested a precautionary measure whereby he could participate in the investiture session through videoconference. By refusing to grant him this opportunity, he argued, the decision infringed his right to participate in public affairs and his right to access on equal terms to public office (article 23.2 of the Spanish Constitution [CE]) in connection with his right to be presumed innocent. In the second case, Sànchez had contended that his right to obtain an effective protection of the judges and the courts as well as his right to be presumed innocent were infringed, due to the inexistence of criminally relevant elements and of any risk of criminal recidivism. Likewise, he had also claimed that his freedom of ideology (article 16 CE) and his right to participate in public affairs were violated.

With regard to the requested precautionary measures, the Plenary Session *“does not appreciate the exceptional urgency required”* to implement them *“by article 56.1 of the Organic Law of the Constitutional Court*. However, it does *“create separate proceedings and open a period of three days to the Prosecutor’s Office and to the appellant to submit the arguments in relation to that request”*.

The Court held that, as regards both appeals, the *“special constitutional relevance”* required for the admission of the appeal is properly justified. Indeed, *“the appeal addresses a legal question affecting an aspect of a fundamental right on which this Court has not yet rendered any case law”*.

Madrid, 8 May 2018