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THE CONSTITUTIONAL COURT DISMISSES, BY UNANIMITY, THE APPEAL FILED BY JORDI SÀNCHEZ TO SUSPEND THE DECISION REGARDING HIS PROVISIONAL IMPRISONMENT AND TO GRANT HIM A TEMPORARY RELEASE FROM PRISON

In the first of the two appeals for constitutional protection (*“recurso de amparo”*) on which it has ruled, the Constitutional Court has, by unanimity, resolved to dismiss Jordi Sànchez’s request to suspend the measure of provisional imprisonment imposed on him by the Criminal Chamber of the Supreme Court. The ruling (*“auto”*) of the Constitutional Court holds that *“according to constitutional case law, in spite of the eventually irreparable effects produced by the execution of the measure on the right to personal liberty, if the Court acceded to the claimant’s appeal and issued a suspension measure, this would be equivalent to granting definitively the requested protection at this preliminary stage of the judicial process”*.

The second *amparo* appeal addressed the question of an eventual extraordinary prison leave. This would have allowed the plaintiff to personally attend the investiture session in the Parliament of Catalonia in his capacity of Member of Parliament and running candidate to the presidency of the Government of Catalonia. The plaintiff had also requested authorization to defend his candidature from prison or from judicial premises using videoconference

The appellant contended that granting such possibility to him would have been in compliance with the “precautionary measures” issued by the Human Rights Committee of the United Nations in a resolution dated March 23rd 2018. According to Sànchez, this decision issued by the Committee had requested Spain to adopt all necessary measures to ensure that he could exercise his political rights.

The ruling (*“auto”*) of the Constitutional Court, holds that the terms of this allegation *“lack any legal ground”*. Indeed, it is enough *“to look at the generic content of the resolution to reject the existence of the relation claimed by the appellant between that communication and the eventual issuance of the requested precautionary measure”*. Magistrate Cándido Conde-Pumpido acted as Rapporteur to this decision.

Furthermore, the ruling points out that the right established by article 25 of the International Covenant on Civil and Political Rights does admit restrictions, provided that they are not of an undue nature. Accordingly, the situation of provisional imprisonment *“inherently”* imposes certain limitations to the exercise of political rights, which derive from the precautionary situation of deprivation of liberty.

In this respect, the ruling concludes that *“the object of this amparo appeal is to assess the conformity to the law of the judicially approved measure at issue, as well as its legitimate purpose and its proportionality. Therefore, the resolution of such issues may not be addressed through precautionary measures and must wait to the final substantive judgement of the Court”*.

Madrid, 22 May 2018