



PRESS RELEASE No. 61/2018

THE CONSTITUTIONAL COURT DECIDES THAT THE LEGISLATIVE IMPLEMENTATION OF FINANCIAL CONTROL MEASURES ON LOCAL AUTHORITIES BY THE STATE DOES NOT INTERFERE WITH THE EXERCISE OF AUTONOMOUS COMPETENCES IN MATTERS OF LOCAL GOVERNANCE AND FINANCIAL CONTROL

The Plenary Session of the Constitutional Court has resolved to rule out the positive conflict of competences introduced by the Government of the Canary Islands against article 1.2 of Royal Decree 424/2017, dated April 28th. This challenged Decree regulates the regime applicable to the internal control carried out by the entities of the Local Public Sector. According to the Court's judgement, the ruling explains those references contained in the said Decree have been taken *"in accordance with their function of implementing the regulations adopted by the State lawmaker"*. It further specifies that *"those references do not preclude the enforcement of any other relevant provisions, regardless of their position in the hierarchy of norms or the scope of their jurisdiction"*.

The ruling, drafted by Magistrate Juan Antonio Xiol Ríos, points out that the contested rule *"does not prevent the Canary Islands Government from exercising, where appropriate, the function of financial guardianship of local authorities, limited to the implementation or to the enforcement of the said regulation"*. Likewise, it *"does not prevent the Autonomous Community from exercising its general powers attributed with regard to the establishment and implementation of local governance regulations"*.

According to its appeal, the Government of the Canary Islands considered that the exclusive competence enjoyed by the State in matters of General Treasury (art. 149.1.14 of the Spanish Constitution [CE]) cannot prevent the Autonomous Community from exercising its powers of legislative implementation and enforcement with regard to local governance (art. 149.1.18 CE). On the other hand, the State Attorney argued that State jurisdiction concerning General Treasury matters was enabled and justified by the national title of competence it holds to intervene in this area.

The Court dismissed this appeal as it found that such title of competence that enables the State to legislate in relation to the dispute raised – i.e. the internal economical and budgetary control of Local Public Sector entities - is the one contained in Article 149.1.14 CE. Moreover, by examining whether the challenged Royal Decree has been enacted in compliance with the constitutional order regarding the distribution of powers, the Court's reply is affirmative. Indeed, as stated in its preamble, the purpose of the regulation is, among other objectives, to *"achieve a more rigorous economic and budgetary control and to strengthen the role of the auditing function of local authorities"*. In this sense, this Royal Decree lays down a monitoring model that *"respects the principle of local autonomy, insofar as it merely establishes minimum standards as regards the control regime to be applied (...)"*.

To conclude, the judgment underlines that *"the purpose of such Royal Decree not is not to delimit the powers between the State and the Autonomous Communities in matters of local treasuries, nor more specifically, in the field of financial internal control and, nor more generally, to establish the system of sources or to regulate the hierarchy of norms applicable in this area"*.

Madrid, 11 July 2018