



PRESS RELEASE No. 85/2018

THE CONSTITUTIONAL COURT DENIES TO GRANT LEAVE TO THE QUESTION OF UNCONSTITUTIONALITY AGAINST DECREE-LAW 3/2017, ON MULTILINGUALISM IN THE VALENCIAN REGIONAL SCHOOLS, DUE TO PROCEDURAL DEFECTS.

The Plenary Session of the Constitutional Court has unanimously decided to reject the processing of a question of unconstitutionality brought by the Fourth Section of the Administrative Chamber of the High Court of Justice of the Valencian Community. That question concerned Decree-Law 3/2017 of the Government of the said Autonomous Community, dated September 1st, whereby emergency measures were adopted during the academic year 2017-2018 in order to implement educational linguistic projects in schools. The question also referred to the Resolution 1.042/IX, dated September 8th 2017, validating the aforementioned regulation.

The decision of the Court, drafted by Magistrate Juan Antonio Xiol Ríos, states that the admission of the question of unconstitutionality has to be denied due to several procedural defects. On the one hand, it explains that *"any question raised to the Court must refer to a law which is decisive for the judge's pronouncement. In the instant case, the judicial body has not justified that the Decree-Law 3/2017 was determinant for the resolution on precautionary measures"*. On the other hand, the Court's ruling further argues that – after the submission of the question of unconstitutionality– the Regional Court of Justice *"rendered a decision on the merits of the main proceedings"*, while the decision of the Constitutional Court on its admissibility was still pending. This procedural conduct does not comply with the provisions of article 35.3 of the Organic Law of the Constitutional Court. Indeed, the Organic Law imposes *"the provisional suspension of the proceedings until the Court resolves on their admission" immediately after the question of unconstitutionality is submitted*.

According to this resolution, *"the judicial body which promoted the question of unconstitutionality has issued a decision on the merits of this particular case and, in so doing, it has already applied the rule whose constitutionality was alleged to be doubtful"*. As a consequence, this procedural approach has deprived the question of unconstitutionality of any practical effect or meaning.

The Court concludes by reaffirming that *"the question of unconstitutionality is not a remedy through which judicial bodies may use the Constitutional Court to seek an abstract purification of the legal system. It must rather be considered as a procedural instrument made available to them in order to ensure that they comply with their obligation to abide by the law and the Constitution whenever they may face well-founded doubts regarding the constitutionality of a rule or norms with the force of law that should be enforced in the case under review"*.

Madrid, 25 September 2018