



CONSTITUTIONAL COURT OF SPAIN
Office of the President
Press Office

PRESS RELEASE No. 88/2018

THE CONSTITUTIONAL COURT DECLARES THE UNCONSTITUTIONALITY AND INVALIDITY OF THE CATALAN LAW ON ASSOCIATIONS OF CANNABIS CONSUMERS

The Plenary Session of the Constitutional Court has resolved, by unanimity, to declare the unconstitutionality and invalidity of Catalan Law 12/2017, dated July 6th, on Associations of Cannabis Consumers. The judgement considers that the content of the Law of the Autonomous Community invades several competences that belong to the State concerning this matters. In particular, the judgment refers to the competence for criminal matters as regulated in article 149.1.6 of the Constitution.

Before spelling out the legal grounds of the decision, the Court reminds that the challenged law had many similarities with two other regional laws that were also challenged before the Constitutional Court. Indeed, the central Government filed actions of unconstitutionality against Navarrese Law 24/2014, dated December 2nd, regulating consumers groups of cannabis in Navarre; and against article 83 of Basque Law 1/2016, dated April 7th, on Comprehensive Care for Addictions and Drug Dependencies. Both regional laws were declared unconstitutional by the Court, respectively on judgements 144/2017, dated December 14^h, and 29/2018, dated March 8th.

Magistrate Ricardo Enríquez drafted the judgement, which declares that even though cannabis contains elements or active principles that may be applied to a therapeutic use, it is not, strictly speaking, a medication. It is rather a narcotic substance, so much so that its regulation belongs to the State under article 149.1.6 of the Constitution.

In the same vein, the challenged Catalan Law not only contains a complete legal regime concerning "*associations of cannabis consumers*", but this legal regime is, in addition, directly oriented to "*articulate the consumption and shared growing of cannabis*", or to the "*consumption, provision and supply*" of this substance "*whose regulation is reserved to the State*". Similarly to Navarre Law 24/2014, which was declared invalid by judgement 144/2017 of the Court, the Catalan Law "*grants to these entities (associations of cannabis consumers) several functions concerning the collection or acquisition and the subsequent distribution*" of cannabis. Thereby, these "*associations of cannabis consumers*" incur in the same breach of State competences, since they are defined as "*a private space, managed by an association of cannabis consumers, which possesses the ideal conditions for the consumption of cannabis by its members, and where this is the main activity*".

The judgement rejects the argument that the challenged law is covered by the Autonomous Communities' competence regarding associations. According to the aforementioned case law, those competences, defined in the case of Catalonia in article 118 of its Statute of Autonomy (EAC), or in article 162.3 b) of the same law, do not provide a sufficient legal base for a regulation such as the one at stake, which "*regulates the consumption, collection and supply of cannabis in the framework of the relevant associations, but which has an effect*

over the criminal definitions contained in State legislation". The same reasoning applies to the third competence raised by the Autonomous Community as a possible legal base, which was not examined in the previous two judgments (namely, the regulation of consumption and the protection of users and consumers, as stipulated in article 123 of the Spanish Constitution).

Madrid, 26 September 2018