



CONSTITUTIONAL COURT OF SPAIN  
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### THE CONSTITUTIONAL COURT ANNULS THE RESOLUTION OF THE VALENCIAN PARLIAMENT THAT DECLARED THE RESPONSIBILITY OF THE METRO'S HEAD OF HUMAN RESSOURCES FOR THE 2006 ACCIDENT, FOR THE VIOLATION OF ITS RIGHT TO HONOUR

The Plenary Session of the Constitutional Court has ruled that the statements made by the Valencian Parliament attributing *"responsibility"* to an investigated person, together with other people, in relation to a metro accident that occurred in July 2006 are in violation of their fundamental right to honour. In this way, the Court has upheld the appeal for constitutional protection (*"recurso de amparo"*) brought by the former Head of Human Resources of the public company *Ferrocarrils de la Generalitat Valenciana (FGV)*.

As a consequence, the Court annulled Section IX of the conclusions contained the Resolution 289/IX issued by the Valencian Parliament – dated 12 July 2017 – on the approbation of the report rendered by the Special Investigation Commission concerning the *Metrovalencia* Line 1 accident that happened on 3 July 2006, holding him liable of this event *"for failure to comply with the Law on the Prevention of Risks at Work"*.

The judgement, which was drafted by Magistrate Cándido Conde-Pumpido, explains that the Valencian Parliament does not declare him *"politically responsible"* in its conclusions for the accident investigated but *"responsible"*, along with others people, in the area of the public company *FGV* of which he used to be the head of human resources. Therefore, *"this declaration of responsibility refers to the field of his professional activity within the aforementioned public company and not to a supposed condition as a person subject to the political responsibility of the Chamber"*.

The appellant's claim was focused on two main points. The first was that parliamentary investigative activities should be limited to elucidating the direct or indirect political responsibility of individuals vested of a political authority. And secondly, that a Parliamentary Chamber cannot make a statement regarding the legal responsibility of individuals involved in a case under investigation.

The Court recalls that *"parliamentary investigative activities are of a strictly political nature and, thus, cannot in any way be regarded or qualified as a judicial activity"*. Likewise, these Commissions do not either exercise the other manifestation of the *ius puniendi* of the State, which corresponds to the administrative prerogative to impose sanctions admitted by Article 25 of the Spanish Constitution.

The judgement underlines that *"the conclusions that the Parliament may reach in the exercise of its investigative powers must be exempted from any individualized assessment or imputation of illicit conducts or actions to the concerned parties"*. In this sense, the European Court of Human Rights – from the perspective of the right to the presumption of innocence in its

extra procedural dimension – has highlighted *"the importance of the selection of appropriate terms to be used by agents of the State in the statements they make before a person has been tried and found guilty of an offence"*.

The judicial decision concludes that the Valencian Parliament has failed to comply with the *amparo* appellant's right not to be regarded and treated as *"an author or a participant in an unlawful conduct"* and, consequently, has violated his fundamental right to honour.

Finally, the Court judgment highlights that *"the conclusion reached is not compromised by the invocation that the Public Prosecutor's Office makes in its allegations of the right to the exercise of public office of members of the Valencian Parliament, which it considers that, in this case should prevail over the right to honour of the appellant"*.

The judgment is accompanied by the dissenting opinion of Magistrate Juan Antonio Xiol Ríos, who considers that the judgement should have stressed that the report of the commission is limited to concluding that the appellant's responsibility concerned the public company's failure to comply with the legislation on the prevention of risks at work due to the lack of an internal investigation following the accident. Thus, the report does not attribute the cause of the accident to the appellant, nor does it imply his legal responsibility regarding an administrative offence. In that factual context, the fundamental right concerned, in accordance with the ECHR case-law, is the extra procedural dimension of the presumption of innocence. In order to assess it in a suitable manner, it would also have been necessary to take into consideration the constitutional recognition of parliamentary commissions of investigation and their integration into the *ius in officium* of parliamentarians. This would have resulted in a ruling that would have only partially upheld the appeal, because the express specification had been omitted that any possible legal liability must be resolved – if applicable – within the scope of the exercise of the relevant administrative or judicial sanctioning power.

Finally, the concurring opinion of Magistrate Encarnación Roca indicates that *"nothing would have prevented, in this case, to consider that what was violated by attributing to the appellant an unlawful conduct was the right to the presumption of innocence of a citizen who, obliged by law to appear before the Commission, was finally declared responsible for the non-compliance with the Law on Risks at Work"*. A public statement that was made by a State body, in the exercise of its political investigation function, but without the prerogative to so issue a statement in those terms, and without the guarantees provided by a judicial process. Therefore, *"no citizen can find himself before a Commission of Investigation, as a result of a decision arising out of political opportunity, in worse conditions than if he were before a Judge subject only to the principle of legality and the rule of law"*.

Madrid, 21 December 2018