



CONSTITUTIONAL COURT OF SPAIN
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THE CONSTITUTIONAL COURT CONSIDERS THAT FORCADELL'S APPEAL AGAINST THE JUDGEMENT OF THE SUPREME COURT THAT REJECTED THE DISQUALIFICATION OF JUDGE LLARENA IS PREMATURE

The Plenary of the Constitutional Court has, by unanimity, resolved not to grant leave to proceed to an appeal for constitutional protection (“*recurso de amparo*”) brought by Carme Forcadell against several decisions (“*autos*”) of the Supreme Court. Those decisions had rejected the motion to disqualify Judge Pablo Llarena, who was the investigation judge in charge of special proceedings 20907-2017, in which Forcadell was involved.

The appellant considered that those decisions had violated her rights to a fair trial, to defence, to a procedure with all due guarantees and to an impartial judge.

The judgement states that “*the alleged violations have been raised prematurely in this amparo appeal. Indeed, this is a case where the judicial process at stake is still in course, and yet the appellant has already resorted to the Constitutional Court in order to raise an allegation of violation of fundamental rights. Therefore, since the criminal proceedings where the violations have allegedly been committed has not yet come to an end, this appeal is premature*”. This case law has been established in several previous decisions of the Constitutional Court, such as judgements 129/2018, 130/2018 and 131/2018, dated December 12th.

Concerning the criminal proceedings at stake, the Court considers that “*in those cases where the [judicial] proceedings are still in course because no decision on the conviction or acquittal has been rendered, and even in those where a hearing has not still been conducted, it is premature to file an amparo appeal that claims there has been a violation of fundamental rights*”. Therefore, “*the natural framework to raise the allegations concerning violations of fundamental rights allegedly committed by jurisdictional organs is the criminal cause itself*”.

Madrid, 18 February 2019