



**PRESS RELEASE NO. 8/2020**

**THE PLENARY OF THE CONSTITUTIONAL COURT UNANIMOUSLY  
ORDERS THE SUPREME COURT TO HEAR THE CONVICTED  
ASSAILANTS OF THE BLAQUERNA CULTURAL CENTRE BECAUSE  
THEIR RIGHT TO OBTAIN THE EFFECTIVE PROTECTION OF THE  
JUDGES HAS BEEN DAMAGED**

The Plenary of the Constitutional Court has unanimously upheld in part the appeals for constitutional protection (*amparo*) filed by the assailants of the Blaquerma Cultural Centre in Madrid that were convicted by the Criminal Division of the Supreme Court. The judgment, whose judge rapporteur is Encarnación Roca, explains that “*the aggravation of their criminal responsibility in the cassation judgments has infringed their rights to obtain the effective protection of the judges and to be presumed innocent (article 24.2 of the Spanish Constitution). This is because the defendants were not heard and, therefore, they could not present exculpatory evidence that could be duly weighted by the second instance body*”.

Consequently, the Court declares the nullity of the application of the aggravating circumstance of ideological discrimination, since the instance body “*did not assess the defendants’ account of the facts or their exonerating evidence*”, which is compulsory under the right to be presumed innocent.

In this sense, the convicted assailants shall have their rights re-established, the ruling issued by the Criminal Division of the Supreme Court of 4 May 2017 and the judgments of 11 January 2017 are declared null and void, and the proceedings shall be remanded for retrial, commencing from the moment prior to the annulled judgment, so that the judicial body may issue a new decision that observes the fundamental right recognised.

On the other hand, the conviction of the prosecuted assailants issued at the cassation judgments does not infringe their rights to a process with full guarantees and to be presumed innocent. They were convicted for having prevented the lawful exercise of the freedom to assemble (article 514.4 of the Spanish Criminal Code), which concurs with the offense of public disorder. The judgment highlights that the arguments to justify the sentence “*did not need to be based on the celebration of a hearing at which the prosecuted could have exposed their exculpatory evidence*” to be duly weighted by the Criminal Division of the Supreme Court.

Finally, the Court rejects the pleas regarding the right to ideological freedom and to freedom of expression that were filed by the appellants for *amparo*.

Madrid, 20 January 2020.