



CONSTITUTIONAL COURT OF SPAIN  
Office of the President  
Press Office

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**THE PLENARY OF THE CONSTITUTIONAL COURT UNANIMOUSLY  
ENDORSES THE APPLICATION OF ARTICLE 384 BIS OF THE CRIMINAL  
PROCEDURE ACT THAT SUSPENDED ORIOL JUNQUERAS AND ROMEVA  
FROM PUBLIC OFFICE**

The Plenary of the Constitutional Court has unanimously endorsed the suspension of Oriol Junqueras and Raúl Romeva from public office as members of the Parliament of Catalonia, following the decision taken by the Appeals Chamber of the Criminal Division of the Supreme Court in its Order of 30 July 2018, by which it applies article 384 bis of the Spanish Criminal Procedure Act.

The judgment, whose rapporteur was President Juan José González Rivas, emphasises that the Supreme Court's decision has exceeded the canon of constitutional control because it contains "*an express, sufficient and reasonable motivation regarding the scope of the expression used in the legal rule*".

The Court dismisses the fact that the application of article 384 bis of the Criminal Procedure Act violated the appellants' right to effective judicial protection (article 24.1 of the Spanish Constitution) and to political participation and representation (article 23.1 and 2 of the Constitution). Indeed, the judgment explains that "*the provisional nature of the legal classification included in the prosecution order does not contradict the notion of finality, insofar as this concept takes on its full meaning by making it equivalent to the formal irrefutability of the decision, as no appeal is possible against it, either because the deadline for appealing has expired or because the last available appeal in accordance with procedural law has been dismissed, as it happens in the present case*".

The judgment also endorses the constitutionality of the legal requisite by which the prosecution and preventive detention are based on charges of an offence committed by a person who is a member of or associated with armed groups, terrorists or rebels.

The judgement states that the court decisions do not depart from the literal wording and grammatical meaning of the rule. "*What is decisive is that the measure is part of the prosecution of crimes that entail a challenge to the very essence of the democratic State, as it is reflected in the Constitution itself*".

Therefore the Court, relying on its judgment STC 71/1994, reasons that the judgment of subsumption made by the Supreme Court “*cannot be qualified as arbitrary, unreasonable or as being in flagrant error*”. In effect, the judgment states that the arguments used for this legal requisite, relating to the cause or reason for the prosecution, “*respects the literality of the rule and takes into account the nature and importance of a crime whose prosecution is included in this provisional measure, a crime that poses a challenge to the very essence of the democratic State. This crime was attributed to some of the persons who held the highest public offices in the Autonomous Community of Catalonia. Its harmfulness has been highlighted in multiple resolutions to which the Supreme Court itself refers*”.

Finally, the complaints regarding the following fundamental rights are inadmissible for lack of prior invocation or exhaustion of the judicial process: ideological freedom, freedom of expression, access to a judge predetermined by law, a process with all guarantees and criminal legality.

Madrid, 30 January 2020