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**THE PLENARY OF THE CONSTITUTIONAL COURT UNANIMOUSLY
UPHOLDS THE SUPREME COURT'S DECISION BY WHICH JORDI
SÁNCHEZ WAS NOT ALLOWED TO PERSONALLY ATTEND HIS
INAUGURATION AT THE PARLIAMENT OF CATALONIA**

The Plenary of the Constitutional Court has unanimously dismissed the appeal for constitutional protection (*amparo*) filed by Jordi Sánchez i Picanyol against the ruling issued by the investigating judge on 12 April 2018 and the ruling issued by the Appeals Chamber of the Criminal Division of the Supreme Court on 18 June 2018. These rulings denied the pretrial release requested, as well as the subsidiary furlough to personally attend the defence and discussion of his inauguration as President of the Government of Catalonia (*Generalitat*) at the Parliament of this region.

The judgment, whose judge rapporteur was Encarnación Roca, reiterates that, as declared in previous decisions, “*the maintenance of Mr. Sánchez i Picanyol’s preventive detention is constitutionally legitimate. His preventive detention was issued because there is a probable cause based on objective data, it pursues a legitimate purpose that was reasonably considered (to avert the risk of reoffending) and it is a proportionate measure regarding the limitation of the fundamental rights at stake, that is, his personal freedom and his right to political representation after he had been elected as regional deputy*”.

In this sense, given the extraordinary nature of the requested inmate furloughs and the justified risk of reoffending, the complaint has been dismissed, in accordance with the legal provision and the weighting of the constitutional risks and interests at stake.

The appellant also requested an authorisation to participate at the inauguration’s plenary not in person, but via videoconference. In this regard, the judgment explains that, at the moment when that authorisation was requested, that is, on 10 April 2018, the Constitutional Court had already adopted a precautionary measure to suspend any telematic inauguration (Constitutional Court Ruling 5/2018, of 27 January). Besides, any questions on the legitimacy of the claim to be telematically inaugurated were resolved by the Constitutional Court Judgments 19/2019, of 12 February, and 45/2019, of 27 March. These judgments affirm that “*the parliamentary nature of the inauguration debate of the president of the Generalitat and the setup of this procedure for his appointment require that the candidate personally appears before the Chamber*”.

Regarding the complaint filed before the United Nations Human Rights Committee (OHCHR), the invocation of article 10.2 of the Spanish Constitution has also

been dismissed. This is because “*in the communication of 23 March 2018 that was relied upon, the Committee did neither interpret the content of article 25 of the Covenant, nor did it call on the Spanish authorities to adopt the measures requested to the judicial bodies that the latter had justifiably rejected. Therefore, it cannot be considered that the claims were actually overlooked*”.

Finally, the appeal for *amparo* is also dismissed as concerns the infringement of the right to a process with full guarantees, as the right of access to the ordinary judge predetermined by law is ensured.

The judgment includes a dissenting opinion issued by Judges Juan Antonio Xiol Ríos, Fernando Valdés-Dal-Ré and María Luisa Balaguer Callejón. They disagree with the merits and the decision of the judgment. To support their view, these judges refer to the dissenting opinion of the Constitutional Court Judgment 4/2020, of 15 January. However, they specify that, even if the decision is the same, in the present case, the decision refers to a second inauguration process in which the president of the Parliament of Catalonia proposed the appellant, Jordi Sánchez i Pincanyol, as candidate once again.

Indeed, the dissenting opinion considered that it should not be disregarded, among other aspects, that the appellant for *amparo* was exclusively requesting the authorisation to exercise one of his powers as deputy, which was the defence and discussion of his own inauguration as President of the *Generalitat*. This was a specific parliamentary action that did not seem to be in itself the kind of action that could be part of the conduct for which he was investigated and that could be considered as reoffending. Furthermore, the State’s Government was the body that was directly and undeniably responsible for preventing the commission of offences in the field of safety and public order. Despite this, the inmate furlough was denied in an attempt to avoid these offences.

Madrid, 25 February 2020.