



CONSTITUTIONAL COURT OF SPAIN

Office of the President

Press Office



PRESS RELEASE NO. 5/2021

RELEASE OF THE OPERATIVE PART

THE PLENARY OF THE CONSTITUTIONAL COURT AFFIRMS THAT ANY DISRUPTION OF PUBLIC SAFETY ON THE OCCASION OF PUBLIC SHOWS AND OTHER MASS EVENTS IS A SERIOUS OFFENCE.

In a majority decision, the Plenary of the Constitutional Court rejected the appeal for unconstitutionality filed by the Parliament of Catalonia against Articles 20, 35(1), 36 (paragraphs 1, 2, 8, 22 and 23), 37(7) and the first final provision of Organic Law 4/2015, of 30 March, for the Protection of Citizens' Safety.

This decision contains new challenges against Organic Law 4/2015, on which this Court already gave its ruling in the Constitutional Court Judgment 172/2020, of 19 November, and is thus expressed in Legal Ground (LG) No. 2 of this new judgment, which declares without any content the provisions now under appeal.

After confirming the appellant's standing, the Court endorses the constitutionality of article 36(1) of the Organic Law for the Protection of Citizen's Safety (OLPCS), which considers the disruption in public events, sports or cultural performances, solemnities and religious services or other meetings attended by many persons as a serious offence, when they do not constitute a criminal offence.

The ruling, whose rapporteur was the President of the Court Juan José González Rivas, points out that the content of this provision *"does not represent an excessive use on the part of the legislator of their wide margin of choice to determine the extent of the sanctioning reaction that is desirable to protect the legal asset of citizen safety in a specific situation"*. He states, however, that *"this analysis by the Court is specifically determined by its procedural channel [...] and must therefore be understood as such without prejudice to the appropriate proportionality analysis ex Art. 25(1) of the Spanish Constitution (SC), which will be carried out by the corresponding judge and ultimately by this Court through an appeal for constitutional protection (amparo) at the time of application of this legal provision, when attention must be paid to the precise circumstances of the specific case"*.

In addition, the judgment declares the content of Article 36 (paragraphs 1, 2 and 8) in accordance with the Constitution, and with respect to Article 36(22) OLPCS, the judgment finds that the principle of legality (Article 25 SC) is not infringed by codifying as a serious offence the non-compliance with the restrictions on navigation of high-speed vessels and light aircraft, provided that these restrictions on navigation are imposed for reasons of public safety, in an interpretation in accordance with the provision.

The case set out in Article 37(7) OLPCS is also considered a minor offence, i.e. *"the occupation of public roads for unauthorised street selling shall also be included"*, provided that it hinders the common use of public roads. The judgment considers that the wording of this provision is in accordance with the principle of legality established in Article 25 of the Constitution.

The judgment includes two dissenting opinions by Judges Cándido Conde-Pumpido and María Luisa Balaguer.

Madrid, 29 January 2021