

6TH CONGRESS OF THE WORLD CONFERENCE ON CONSTITUTIONAL JUSTICE

29 OCTOBER 2025

SESSION B: PRESERVATION OF HUMANKIND'S CULTURAL HERITAGE

CHAIRPERSON: H.E. María Luisa Segoviano Astaburuaga

Judge of the Constitutional Court of Spain

Good afternoon, Honourable Presidents of the Constitutional Courts, Honourable Justices, and guests attending this conference.

Let's begin Session B of the 6th Congress of the World Conference on Constitutional Justice, which will focus on "Preserving humanity's cultural heritage".

Our Constitution addresses cultural heritage, setting out the relevant powers in Article 149(1)(28):

"The State holds exclusive jurisdiction over the following matters: ...

28. Protection of Spain's cultural and artistic heritage and national monuments against exportation and despoliation; museums, libraries and archives belonging to the State, without prejudice to their management by the Autonomous Communities."

This power of the State was established by Law 16/1985 of 25 June 1985, regulating Spain's historical heritage, which was the subject of four appeals on grounds of unconstitutionality, all of which were resolved in Constitutional Court Judgment 17/1991 of 31 January 1991. The key issue raised in these appeals concerns jurisdiction and challenges the extent of the respective powers of the State and the Autonomous Communities in this area; for whilst the Constitution grants the State exclusive jurisdiction, it immediately goes on to stipulate that the management of this matter falls to the Autonomous Communities.

One notable case brought before the Constitutional Court in this area is Constitutional Court Judgment 177/2016 of 20 October 2016, which rules on

the appeal of unconstitutionality brought against Article 1 of Law 28/2010 of 3 August 2010, amending Article 6 of the revised text of the Animal Protection Act, approved by Legislative Decree 2/2008 of 15 April 2008. The appellants senators consider that the aforementioned provision, which prohibits bullfights and similar events in Catalonia, constitutes, on the one hand, an encroachment upon the State's power to regulate cultural heritage and, on the other hand, a breach of the fundamental freedoms recognised in Articles 20(1)(a) and (c) and 38 of the Spanish Constitution, as well as the provisions of Articles 44 and 46 of the Spanish Constitution, and, finally, a breach of the principle of market unity and free movement. The Constitutional Court recognises that bullfighting "is an activity with multiple facets or aspects that account for the overlapping of state and regional powers in its regulation. This is simply a consequence of its complex nature as a historical, cultural, social, artistic, economic and commercial phenomenon, since it encompasses all these nuances or aspects [...] such that they may form part of the common cultural heritage, which permits State intervention aimed at their preservation...

For this reason, the regional legislation, by including a provision prohibiting bullfights and other similar events —adopted in the exercise of its powers in relation to public entertainment— undermines the State's powers in the field of culture, insofar as it affects a shared cultural expression and prevents the State from exercising its powers in Catalonia to preserve that cultural tradition, since it directly makes such preservation impossible, when it has been deemed worthy of protection by the state legislature in the terms already set out."

Accordingly, it declares Article 1 of Law 28/2010 of the Parliament of Catalonia, of 3 August 2010, to be unconstitutional, null and void.

Furthermore, cultural heritage is protected under criminal law, as set out in Book II, Title XVI, Chapter II, Articles 321 to 324 of the Criminal Code.

Article 321 thus provides for prison sentences of between six months and three years, fines of between twelve and twenty-four months, and, in all cases, special barring from profession or trade for a term from one to five years for anyone who demolishes or seriously alters buildings uniquely protected due to their cultural significance.

Article 323 provides for a prison sentence of between six months and three years or a fine of between twelve and twenty-four months for anyone who causes damage to property of cultural value.

Article 324 provides for a fine of between three and eighteen months for anyone who, through serious negligence, causes damage amounting to more than 400 euros to cultural property.

When discussing cultural heritage, we cannot fail to mention the achievements of women.

Women's struggle for the right to equal treatment and equal opportunities is one of the most significant social and political developments in contemporary history and an essential element of the culture of human rights as we understand it today.

Every achievement –the right to vote, to education, to equal treatment and opportunities in the workplace, access to positions of power and decision-making roles, the balanced sharing of care responsibilities, and self-determination over one's own body and life choices– did not come about by chance, but through the courage of generations who dared to challenge asymmetrical power structures.

These achievements must not make us forget that, whilst significant progress has been made, the long-awaited equality between men and women has not yet been achieved; nor must we lose sight of the fact that rights are never set in stone, but rather hard-won gains that must be upheld and protected.

These achievements form an essential part of the foundations of our human rights culture, with equality being the most valuable asset of that culture.

Our responsibility as constitutionalists, as the ultimate defenders of human rights, and as citizens is to protect and pass on this legacy to future generations.

The reasons supporting this assertion are as follows:

- Article 1 of the Spanish Constitution states that Spain is a social and democratic state governed by the rule of law, which upholds freedom, justice, equality and political pluralism as the supreme values of its legal system.

Communicating the progress made in the field of equality is an integral part of education in the founding values of the modern democratic system and is key to raising generations who understand, respect and embrace a culture of human rights.

- Passing on the achievements of equality to future generations fosters respect for diversity and difference, and helps to build a more democratic, fair and caring society.

- It is necessary to ensure their preservation and prevent a rollback of rights. Every step forward in gender equality has been the result of centuries of effort, dialogue and, in many cases, sacrifice.

The younger generations must understand that equality is not something that is inherited; it must be nurtured and defended. Progress is only sustainable when its significance is understood and shared.

Ultimately, passing on the history of the struggle for women's rights to future generations is a matter of justice and collective responsibility.

The world that our children and grandchildren will inherit will depend largely on the conviction and clarity with which we are able to convey the value of equality.

SPEAKERS AT THE EVENT:

SPEAKERS:

The Honourable Mr Karin Özkaya. President of the Constitutional Court of Turkey.

Graduated from the Faculty of Economics and Administrative Sciences.

He began his professional career as a civil servant at the General Directorate of Land Registry and Cadastre and subsequently served as an inspector at the Agricultural Credit Cooperatives of Türkiye. After completing his administrative judge internship, he was appointed as a rapporteur-judge at the Council of State, where he served for 11 years.

In 2005, he was appointed as a judge rapporteur of the Constitutional Court and was elected as a member of the Council of State.

In 2014, he was appointed a judge of the Constitutional Court.

He was elected Vice-President of the Constitutional Court by the Plenary on two occasions, in 2020 and 2024.

He was elected as the President of the Constitutional Court in March 2024.

The Honourable Ms Army Ferreira. Justice of the Constitutional Court of the Dominican Republic

Master's Degree in Law from the Pontifical Catholic University Madre y Maestra. Graduated Magna Cum Laude.

Master's degree in Intellectual Property from Carlos III University in Madrid (Spain).

Postgraduate degree in Criminal Law and Criminal Procedure, from the National Prosecutor's School of Dominican Republic.

Postgraduate degree in Fundamental Rights and Constitutional Guarantees awarded by the University of Castilla-La Mancha, Spain.

Positions held at the Ministry of Justice: Deputy Attorney General at the Attorney General's Office, Coordinator of the Intellectual Property and Eradication of Illicit Trade Unit, and Director of the Department of Legislative and Regulatory Development at the Attorney General's Office.

Professor at the Autonomous University of Santo Domingo (UASD) and the Pontifical Catholic University Madre y Maestra, and lecturer for the Academy of the World Intellectual Property Organisation (WIPO).

Appointed as a judge of the Constitutional Court by the National Council of the Judiciary in December 2023.

The Honourable Mr Abdelhafidh Oussoukine. Judge at the Constitutional Court of Algeria

Ph.D. in Law from the University of Paris.

Postdoctoral training in Bioethics.

Lecturer (assistant lecturer, senior lecturer, associate professor) at the Faculty of Law, University of Oran, for 33 years.

Organiser of numerous international conferences on law and bioethics.

Member of the Constitutional Court since 2021.

RAPPORTEUR

Honourable Mr Héctor Mery Romero. Member of the Constitutional Court of Chile.

He studied Legal Sciences at the Pontifical Catholic University of Chile.

He is studying a Master's degree in Procedural Law at the University of the Andes.

He has served as Legal Director of the Municipality of Ño Barnechea, Head of the Judicial Division of the Ministry of Justice and Human Rights, and as a member of the Santiago Court of Appeal, the San Miguel Court of Appeal and the Santiago Court of Appeal.

He has been a member of the Constitutional Court of Chile since January 2024.