



European Court rejects complaints concerning annulment of Catalan Parliament “independence debates”

In its decision in the case of [Costa i Rosselló and Others v. Spain](#) (application no. 29780/20 and three others) the European Court of Human Rights has unanimously declared the application **inadmissible**. The decision is final.

The case concerned the Constitutional Court of Spain’s rulings impeding renewed debates, in the Parliament of Catalonia, about Catalan independence and the system of Government in Spain, because resolutions on the same issues had already been found to be unconstitutional. The *procès* (the movement towards an independent Catalan republic) was initiated through multiple Resolutions beginning in 2015. The case also concerned the fact that criminal proceedings had been instituted against Mr Costa i Rosselló for disobeying the Constitutional Court rulings.

The Court held, in particular, that the Constitutional Court’s decisions preventing the Bureau of the Parliament of Catalonia from accepting those debates from taking place again in the Parliament had been lawful and foreseeable and had not been disproportionate. It noted that, as found by the Constitutional Court, the Spanish Constitution could not be altered by means other than those set out in law, which had been the intention of the Catalan parliamentary resolutions. It also found that, contrary to Mr Costa i Rosselló’s claim, the fact that criminal proceedings had been brought against him could not be seen as a “political” measure aimed at preventing him from exercising his duties. It therefore **rejected the complaints under Article 3 of Protocol No. 1 (right to free elections) and Articles 10 (freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights.**

The Court also **rejected complaints under Articles 6 (right to a fair trial), 13 (right to an effective remedy) and 18 (limitation on use of restrictions on rights) and Article 1 of Protocol No. 12 (general prohibition of discrimination) to the European Convention.**

Principal facts

The applicants are 32 Spanish nationals who were born between 1947 and 1978 and live in Spain. The applicants Josep Costa i Rosselló and Eusebi Campdepadrós i Pucurull were respectively a vice-president of the Bureau of the Parliament of Catalonia and a secretary of the Bureau from January 2018 to March 2021. The other applicants were at the time deputies of the Parliament of Catalonia.

The Catalan Parliament’s 2015 Resolution no. 1/XI on the initiation of the political process (the *procès*) towards an independent Catalan republic established that the Catalan Parliament had to take steps to open that process, and that it would no longer recognise the jurisdiction of the Constitutional Court of Spain.

That resolution was declared unconstitutional and voided by the Constitutional Court of Spain. A series of similar resolutions with the same goals followed in the Catalan Parliament, which were in turn annulled by the Constitutional Court.

Nevertheless, the Bureau of the Catalan Parliament adopted several decisions by which it accepted further similar Resolutions for processing and debate by the Parliament of Catalonia. In particular, on 22 October 2019 the Bureau accepted for processing a Resolution In response to the Supreme Court judgment on the events of 1 October 2017, and on 19 October 2019, it also accepted for processing a motion Following the request to the Government on self-government. The

Constitutional Court declared those decisions null and void within enforcement proceedings of its previous judgments.

Notwithstanding the above, in November 2019 the Parliament of Catalonia adopted a new version of the Resolution, again called in response to the Supreme Court judgment on the events of 1 October 2017 (Resolution no. 649/XII), as well as a motion On self-government. Although certain impugned sections were omitted, the Resolution set out the rejection of the Constitutional Court's previous finding as to the nullity of the proposed resolution, and the motion expressed the Parliament's will to "exercise the right to self-determination" again.

Mr Costa i Rosselló and Mr Campdepadrós i Pucurull, who were members of the Bureau of the Catalan Parliament, were personally warned of their obligation to refrain from taking initiatives that could entail ignoring or circumventing the Constitutional Court's previous judgments. Criminal proceedings were eventually initiated against them in March 2021. They were acquitted and the proceedings are pending on appeal.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights between 10 July 2020 and 22 August 2022.

Relying, in particular, on Articles 10 (freedom of expression) and 11 (freedom of assembly and association) and Article 1 of Protocol No. 3 (right to free elections) Mr Costa i Rosselló and Mr Campdepadrós i Pucurull alleged that the Bureau had been prevented from allowing certain debates to take place in the Parliament of Catalonia through coercion by the Constitutional Court, which had extensively interpreted its powers within enforcement proceedings; the other applicants complained that they had been prevented from carrying out their duties as parliamentarians. In addition, Mr Costa i Rosselló claimed that the very fact that criminal proceedings had been brought against him had also amounted to a violation of the rights invoked above.

The applicants also relied on Articles 6 (right to a fair trial), 13 (right to an effective remedy) and 18 (limitation on use of restrictions on rights) and Article 1 of Protocol No. 12 (general prohibition of discrimination).

The decision was given by a Chamber of seven judges, composed as follows:

Mattias **Guyomar** (France), *President*,
María **Elósegui** (Spain),
Armen **Harutyunyan** (Armenia),
Stéphanie **Mourou-Vikström** (Monaco),
Gilberto **Felici** (San Marino),
Andreas **Zünd** (Switzerland),
Kateřina **Šimáčková** (the Czech Republic),

and also Martina **Keller**, *Deputy Section Registrar*.

Decision of the Court

[Article 3 of Protocol No. 1 and Articles 10 and 11 of the Convention](#)

The Court accepted that the decisions of the Constitutional Court and the initiation of criminal proceedings against Mr Costa i Rosselló might be regarded as a limitation on his rights under Article 3 of Protocol No. 1 or under Articles 10 and 11 of the Convention. It noted that there was a legal basis – the Spanish Constitution and section 92 of Institutional Law no. 2/1979 – for the relevant Constitutional Court decisions, and the applicant could have foreseen that those provisions would

apply in his case. Likewise, the criminal proceedings were on the basis of Article 410 of the Spanish Criminal Code and were foreseeable.

The Court accepted that the decisions at issue in this case had served a legitimate aim: protection of the constitutional order and of the rights of others. The Constitutional Court outlined that this meant subjection to constitutional supremacy, which was not ideological adherence to the Constitution, but rather compliance with political rules. In particular, the Constitution could not be altered by means other than those set out in law. In this case, the annulled Resolutions expressly sought to circumvent constitutional channels for the revision of the Constitution of Spain to establish an independent Catalan State, and end Spain's status as a constitutional monarchy. The Constitutional Court stated that such resolutions could be debated in the *Cortes Generales* (the national Parliament).

The European Court found that the Constitutional Court had exercised its power, in extreme circumstances, to implement its own previous decisions protecting the Constitution as the guarantor of the territorial integrity of the State. The limits on Mr Costa i Rosselló's freedoms of assembly and expression had been proportionate and necessary. They had not been a "political" act. **Mr Costa i Rosselló's complaint** of unlawful, arbitrary or disproportionate interference was manifestly ill-founded and the Court **rejected** it.

As regards the **other 31 applicants**, their argument was essentially the same as Mr Costa i Rosselló's. The Court acknowledged that the Constitutional Court decisions had blocked their holding debates on Catalan independence, but it found that they had been neither arbitrary nor disproportionate. It therefore **rejected** these complaints too.

Other articles

Regarding Mr Costa i Rosselló's complaint under Article 18 of the Convention, the Court declared it inadmissible as he had failed to substantiate a convincing claim of an ulterior motive being behind the constitutional limitations on his Convention rights.

Concerning the other applicants' complaint that they had been discriminated against on the basis of political ideology (the Court examined this under Article 1 of Protocol No. 12), the Court reiterated that an applicant had to show that he or she had been treated differently from another person or group in a relevantly similar situation to make out a case of discrimination. In this case, the applicants had failed to show how they had been treated differently from others who had repeatedly contravened the Constitutional Court's rulings. It therefore declared this part inadmissible.

Regarding the allegations of partiality on the part of the judges in the criminal proceedings against Mr Costa i Rosselló, the Court noted that they were still pending appeal, and it was unwilling to speculate about their outcome. It therefore rejected this complaint for [failure to exhaust the remedies](#) available in Spain. Regarding Mr Costa i Rosselló's allegation of a delay in proceedings concerning his request for interim measures before the Constitutional Court, the Court noted that a final judgment was given within six months, which could not be seen as excessive, given the complexity, and therefore the complaint was unsubstantiated and manifestly ill-founded.

As regards Mr Costa i Rosselló's and Mr Campdepadrós i Pucurull's complaint of unfair proceedings in their appeals to the Constitutional Court and *amparo* proceedings, the European Court saw no evidence that those proceedings had been unfair, and so declared the complaint manifestly ill-founded.

The decision is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.