

News

Statement of the Catalan Ombudsman on the suspension of public officials

29/06/2018

On June 27, 2018 the ruling of the Spanish Supreme Court confirming the prosecution of several Catalan political and social leaders for rebellion was issued.

The Catalan Ombudsman recently reported the disproportion of criminal qualifications regarding the events of October 1 and 27 and the possible violation of rights with regards to the principle of criminal legality, among others. ([See report](#))

Regardless of those considerations, as for the automatic suspension of public office to the prosecuted people, the Catalan Ombudsman notes that:

Article 384 bis of the Criminal Law can only be applied when people accused of terrorism or rebellion are prosecuted and in prison. Therefore, people prosecuted with decreed prison, but not subject to an effective provisional loss of freedom cannot be deprived of their public office.

In addition, the ruling of Spanish Constitutional Court 199/1987, when referring to suspension of public office to people prosecuted for rebellion, it states it can only be applied when there has been an illegitimate use of war weapons or explosives.

Furthermore, the ruling of the Spanish Supreme Court of June 16 Excludes explicitly the use of weapons in the presumed crime of rebellion on the part of the prosecuted people and, even less, the use of war or explosive weapons in the commission of the presumed crimes object of the cause. This means that one of the legal elements is missing to agree to the suspension of public office to all the people prosecuted and imprisoned.

Consequently, Catalan Ombudsman understands that the constitutional right to exercise public office, in accordance with the criteria of capacity and merit and by virtue of appointment or election, would be violated if a provision reserved for other cases is applied to this cause.

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