



EQUALITY BETWEEN PEOPLE

The TC declares the distinction between wedding and marriage unconstitutional

The magistrates consider that article 77 of the family code discriminates on religious grounds

The majority studies whether it is necessary to modify the whole law and the GPS celebrates the content of the sentence

EL PERIÒDIC
ESCALDES-ENGORDANY

@PeriodicAND

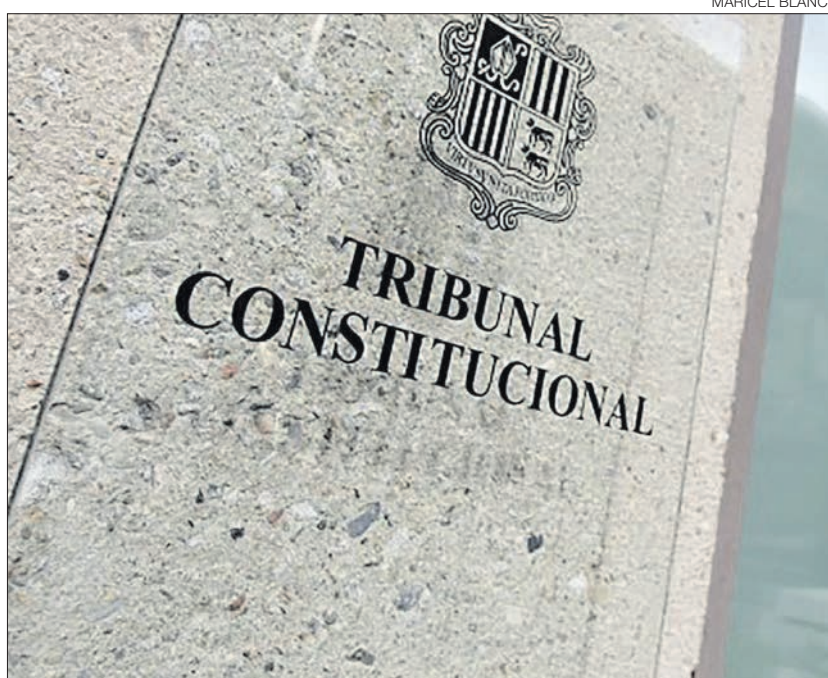
The Constitutional Court (TC) considers that the distinction between canonical marriage and civil marriage established in Law 30/2022, of July 21st, qualified of the person and the family-known as the family code-, constitutes discrimination by reason of religion. Specifically, the magistrates declare null and void article 77 and the fourth transitional provision of the legislative text, in which they also identify discrimination based on sexual orientation. This decision arises from the appeal of unconstitutionality presented by the general councilors of the Social Democratic Parliamentary Group (GPS), which last Wednesday was «satisfied with the content of the sentence».

The arguments of the appellants regarding article 77 defended that, taking into account that the concepts of civil marriage and canonical marriage designate the same legal situation, but that the foundation of the second one shows that the spouses respond to the Catholic religion, the use of two different terms «is discriminatory and entails the violation of the right to private life». A reading that neither the general syndic nor the Public Prosecutor's Office did, who note that «whatever the denomination, the legal regime of marriage is the same».

However, the TC assesses that the canonical adjective «implies by defi-

nition the unions between the Catholic parties», a difference that will be «public and visible», given that the Civil Registry will indicate in what way it was carried out. However, they add, the choice is neither free nor voluntary in cases such as, and they quote from the TC, a homosexual Catholic or an unbaptized person. Thus, they highlight a violation of article 6 of the Constitution, which establishes that no one can be discriminated against because of birth, race, sex, origin, religion, opinion, or any other personal or social condition; as well as article 11, which guarantees ideological, religious and worship freedom; and article 14, which seeks the right to privacy.

In a similar vein, and with regard to the provision in relation to the accompaniment of a certificate supplement that precisely details the typology of the union, the TC points out that the fact of making publicly known the distinction between wedding and marriage it also establishes discrimination based on sexual orientation, since homosexual couples will not be free to choose the form of union. And, despite the fact that the European Court of Human Rights (ECHR) has not forced the Member States to recognize marriage between people of the same sex - an argument used by the Public Prosecutor -, the magistrates point out that the ECHR «has recommended that they create a legal framework in order to recognize homosexual unions», and include a sentence of the Constitution-



MARICEL BLANCH

►► Archive image of the entrance to the Constitutional Court.

nal Court of Austria that declares the fact of designating the union of heterosexual couples marriage and registered alliance that of homosexual couples contrary to the principle of equality.

JURISPRUDENCE // The first reactions to the judgment of the TC by the representatives of the General Council were at the exit of the traditional session of Sant Tomàs, held last Wednesday. The president of the GPS, Pere López, declared that «we are very satisfied that the Constitutional Court has gone to the bottom and has un-

derstood that this type of discrimination, which in this case was not only due to sexual orientation but also religious, does not take place in our legal system», at the same time that he celebrated that it is established that «canonical postulates cannot in any way override civil law». Ultimately, he remarked that the sentence «sets case law and will serve us for future legislation».

In a similar vein, the president of the Independent Parliamentary Group, Ferran Costa, pointed out that «even though it may seem contradictory, we welcome this ruling

because it invites us to go beyond what we intended», pointing out that the assessment «leaves the open doors for all to be married, regardless of religious preferences or sexual orientation». And for his part, the president of the Parliamentary Group Tercavia + Laurelian Union + Independents, Josep Pintat, made it clear that «it is a position of the Constitutional Court that sets jurisprudence, and therefore, I suppose that the law will have to be reconsidered and to correct». Finally, both from Committed Citizens and from Democrats, they were waiting to be able to analyze the content of the sentence well to determine if this necessarily implies having to redo the law or if only the elimination of article 77 would remain resolved «The doubt arises whether, with this sentence, we have to modify the law again, or whether it is already consistent on its own», indicated the president of the Parliamentary Group of Committed Citizens, Carles Naudi, while the president of the Parliamentary Group of Democrats, Carles Enseñat declared that «we must read the sentence carefully, but one could come to understand that the civil wedding and the canonical marriage are already equated by annulling the 77, and that therefore, there is no distinction». In any case, Enseñat denied that this fact meant any attention, and insisted that from the majority «we were open from the beginning to change the law if the Constitutional Court believed there was any discrimination». ≡



CARLES ENSEÑAT
DEMOCRATS

«It could be understood that the civil wedding and the canonical marriage are already equated by annulling article 77»

PERE LÓPEZ
SOCIAL DEMOCRATIC PARTY

«We are very satisfied that the TC has understood that this type of discrimination does not take place in our legal system»

FERRAN COSTA
G.P. INDEPENDENT

«We receive this sentence with satisfaction because it invites us to go beyond what we intended»

JOSEP PINTAT
TERCERAVIA + LAUR UNION. + INDEP.

«It is a position of the Constitutional that establishes jurisprudence, and therefore, I suppose that the law will have to be reconsidered and corrected»

CARLES NAUDI
COMMITTED CITIZENS

«The doubt arises whether, with this sentence, we have to modify the law again, or whether it is already consistent on its own»

Your leading real estate agency in Andorra.

Our experience guarantees results, realtors since 1988.



(+376) 353 424 / (+376) 379 769

(+376) 747 747

laportella@andorra.ad

Casa Nova Olivet 10 · Ordino

www.laportella.ad

GENERAL COUNCIL

Suñé asks for a reflection on the number of laws that are processed

The general union hopes that housing and prices will continue to have «a basic place» in the next legislature

EL PERIÒDIC
ANDORRA LA VELLA
@PeriodicAND

On the occasion of last Wednesday's celebration of the traditional session of the General Council of Sant Tomàs, the general syndic, Roser Suñé, asked, in her speech in front of the full chamber, to reflect on the amount of laws that are processed in parliament - more than a hundred in this legislature - and the ability of the administrations to deal with them with the regulatory deployments they entail. «Although we live in an accelerated world where slowing down seems to be an anachronism, the discussion of the contents is the *raison d'être* of this seat and the process must be careful with the appropriate mechanisms that allow all voices to be heard. Good work requires dedication and research», said Suñé.

Nevertheless, the general syndic valued the legislative work done in the area of people, but regretted that «I often have the bittersweet feeling of not having been able to go beyond the dialectical positions set before the debates, because all of us we are hostages of what we think others expect of us». For this reason, she invited «everyone who, at the appropriate moment, breaks these mental frames as much as they can».

Regarding the internal work of the General Council, Suñé emphasized digital transformation and energy efficiency. In this way, she revealed that, according to data provided by the supplier, the saving of the chamber had been 16%, as well as the future connection of the FE-DA heat circuit network.

In this sense, the general syndic warned that «the challenges are enormous and are framed in the climate crisis, which will surely define the policies of the second half of the 21st century». In addition, she added, «I hope that new debates and new ideas will emerge in order to face the most difficult challenge that we face, the energy transition, which has taught us a new derivative with the problem of supply». For this reason, «this situation will have to be the axis of any future policy because it will determine the others», she assured.

NEW STRATEGIES// Suñé also referred to two of the aspects that most concern the population: housing and inflation. «Citizens question us about the increase in prices and the housing situation», she recalled. So, «I hope and wish that these areas will continue to have a basic place in the management of the next General Council. We will finish the work that



Roser Suñé
GENERAL UNION

«I have a bittersweet feeling, since we are hostages to what we think others expect of us»

«The energy transition will have to be the axis of any future policy, because it will determine the others»



►► On these lines, the general trustee, Roser Suñé, during the speech on the occasion of the traditional session of Sant Tomàs. On the left, the family photo of the general councilors and the Government on the steps of Casa de la Vall.

we have already defined, but we will still need to find new strategies and make decisions when the new configuration of the parliamentary groups takes place», she said in reference to the new parliament that will emerge after the next general elections, elections that have not a date and that the Head of Govern-

ment, Xavier Espot, does not get tired of repeating that he will convene them when the main laws that are still pending have been approved, as is the case with the general State budgets for 2023.

On the other hand, the traditional session of Sant Tomàs served, as usual, to present three reports by

the general councilors. Thus, the work of the delegation of the General Council to the Interparliamentary Union corresponding to the year 2022 was announced, the report of the Andorran delegation to this year's Parliamentary Assembly of La Francophonie (APF) and, for lastly, the work of the delegation to the Parliamentary Assembly of the Mediterranean (APM), also this year. Finally, the members of the Government, the general councilors -dressed in the traditional uniform-, and the authorities invited to the event (the consuls and the citizen's reasoner) were placed on the steps of Casa de la Vall to take the traditional photo, which ended with applause. ≡

Don't miss any special editions of **El Periòdic!**