

# **Abstracts**

## PLURALISM AND LEGISLATIVE DRAFTING

Luis LÓPEZ GUERRA

Criticism of the quality of legislation has become almost commonplace. But many technical defects in laws passed by parliaments do not derive from a lack of capacity of those responsible for their drafting, but rather from intervention in the enactment process of groups with very different and often contradictory objectives and interests, which are reflected in legal texts. In the drafting stage of legislative bills within the administration, legal rules and the need to maintain cohesion among groups within the government require that bills be examined and corrected by administrative agencies and social organizations that introduce amendments in the original texts. During the parliamentary stage new corrections are added, derived from the need to seek support from other political groups and the intervention of organizations that reflect the plurality of society. Increased technical quality of legislation and greater transparency in the legislative process could be achieved by formalizing the intervention of social groups and organizations at this stage.

## JUDICIALIZATION OF COURT OF AUDITORS AND ITS CONSTITUCIONAL DIMENSION

Luis VACAS GARCÍA-ALÓS

The judicialization of Court of Auditors, twenty five years after the enactment of its Organic Law, is an unquestionable fact. Constitutional dimension of this phenomenon affects not only the jurisdictional function of the Courts, but also the control of some administrative aspects and the regulated elements of its control function, and the review of administrative acts that, as public subsidies, have an important relevance in the control of public funds,

in juridical-constitutional terms, according to previews of the articles 24.1 and 106.1 of Spanish Constitution. On the other hand, Judgment Section of Court of Auditors –in all its procedural meaning, prior or preparatory as well as strictly judgment– must be conceived, according to repeated jurisprudence of Constitutional Court and Supreme Court, as a natural judge for the knowledge of damages and harms caused in public funds. This way, the Third Court of the Supreme Court is configured as Judge of Cassation in the contentious-countable.

## JUDICIAL INDEPENDENCE AND LIABILITY

Gema ROSADO IGLESIAS

Independence and liability are two of the constitutional law principles that take shape spanish jurisdiction. Both principles apply to the Judicial Branch and to each of their members, these are, the judges and magistrates that dispose, for constitutional law imperative, the jurisdiction power. Although these principles seem contradictory, really these are two complementary principles: then, both have the same target: assure that judge practices his constitutional function (jurisdiccional function) with full subjection to the Law (art. 117 Spanish's Constitution). Judicial independence is applied respect the rest of judicial courts, especially superior courts, and respect the others powers and public institutions. This independence englobes a group of especific guarantees (like, innamovility) for protect and assure the judge status of independence. Judicial responsibility disposes, in spanish law, of a plurality sistem of instruments for his application: civil law, criminal law, disciplinary law, and the State's public and economic responsability for damages.

## SETTING UP AND EXTINCTION OF A PARLIAMENTARY GROUP IN HOUSE OF COMMONS (SPECIAL REFERENCE TO COALITION CANARY IN VIII LEGISLATURE)

David GIMÉNEZ GLUCK

Setting up a parliamentary group in the House of Commons involves some advantages, political and economic, for the members that form it. This is the reason why, although some minimum for setting up are required by the Congress Regulation, some groups have tried to create parliamentary group without fulfilling them. The only political formation that has achieved it has been Coalition Canary until, in the middle of 2007, because the desertion of one of its members caused its automatic dissolution. The study of the case, it is an example for analyzing critically the Bureaus's decision that has led to this situation. The conclusion is that would be better to modify Congress Regula-

tion so the number of members needed for setting up a parliamentary group would be less, than continuing practices that are fraud of law.

## PARLIAMENT AND MEDIA

María Rosa RIPOLLÉS SERRANO

The relationship Media-Parliament has evolved since the classic era, at the beginning of XIX century, when the press had great relevance in the origins of the Liberal State, until the popular parliamentary reporter in the middle of XIX and the beginning of XX century; or the modern media access to Parliaments that also provide, usually by electronics media, parliamentary information to society.

In fact, the representative character of Parliament involves the publicity of its actions as a way of information to citizens about the exercise of parliamentary functions.

Spanish Constitution recognizes and guarantees, in article 20, among others rights, freely express and defines and regulates the right to freely communicate or receive truthful information by any means of dissemination whatsoever. Also, it regulates parliamentary control of the masscommunication means under the control of any public agency. These freedoms are limited by the right to honour, to privacy, to the own image and to the protection of youth and childhood.

Constitutional jurisprudence has maintained that the right of truth information can prevail over personal rights, because it is fundament of the democratic system.

The exercise of parliamentary powers –passing laws, State General Budget, political control, integration of constitutional organs– and its knowledge by citizens supposes to give exhaustive information to media by Parliament, and to maintain the rigor and objectivity by the media so actual and general crisis of parliamentary information can be affronted.

## INSTITUTIONAL FRAME TO ESTABLISH AN INTERNATIONAL BARRIER TO CORRUPTION

Óscar DIEGO BAUTISTA

Corruption is a worldwide pandemic affecting different governments and public administrations in the world. The deflection of public resources to private interests has a negative effect in the efficiency of institutions, generates a failing to achieve goals and aims in public programs, prevents the resolution of citizens' demands, generates a loose of credibility in governments and mistrust in them. This research answers the question about the most important measu-

lements (legislation, agreements, agencies) carried on in the international sphere with the goal of setting barriers against corruption.

## VIDEOVIGILANCE AND CONSTITUTION

Emilio PAJARES MONTOLIO

The use of technology and instruments for capturing and recording images and sounds through videocameras with the goal of establishing security systems presents important constitutional problems related with the guaranty of rights and, in general, with the limitation of power. It has been showed, in Spanish legal order, by juridical resolutions and rules, of different condition, collected in this work; they make up a treatment of videovigilance, in jurisprudence and normative plane, peculiar because of its partial character; special attention has been paid to the use by security forces and corps, that need administrative authorization, with the prior report of a commission with juridical presence; while for the others cases only exists a regulation derived from guarantees for date treatment protection, through instructions given by authorities responsible of preserving this guarantees.

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## Estudios

Luis LÓPEZ GUERRA: *Pluralismo y técnica normativa*

Luis VACAS GARCÍA-ALÓS: *La judicialización del Tribunal de Cuentas y su dimensión constitucional*

Gema ROSADO IGLESIAS: *Independencia y Responsabilidad Judicial*

## Problemas actuales

David GIMÉNEZ GLUCK: *Constitución y extinción de un grupo parlamentario en el Congreso de los Diputados (especial referencia al caso de Coalición Canaria en la VIII Legislatura)*

María Rosa RIPOLLÉS SERRANO: *Parlamento y medios de comunicación social*

Óscar DIEGO BAUTISTA: *Marco institucional para establecer un dique internacional a la corrupción*

## Documentos

*Videovigilancia y Constitución.* Introducción por Emilio PAJARES MONTOLIO

1. Jurisprudencia constitucional
2. Ley Orgánica 4/1997, de 4 de agosto, por la que se regula la utilización de videocámaras por las fuerzas y cuerpos de seguridad en lugares públicos
3. Ley 19/2007, de 11 de julio, contra la violencia, el racismo, la xenofobia y la intolerancia en el deporte (fragmento)
4. Instrucción 1/2006, de 8 de noviembre, de la Agencia Española de Protección de Datos, sobre el tratamiento de datos personales con fines de vigilancia a través de sistemas de cámaras o videocámaras
5. Referencias bibliográficas

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