

## DECLARATION OF THE NORTH AMERICAN FEDERATION OF CATALAN ASSOCIATIONS

In response to the ruling of the Spanish Constitutional Court (CC) on the Statute of Autonomy of Catalonia, approved by the Spanish Parliament and ratified by the people of Catalonia by referendum in 2006, we, the undersigned, support the following Declaration:

1. We DENOUNCE the anomalies surrounding the Constitutional Court during the process of issuing its ruling for two reasons:
  - a. Regarding Procedure: the mandates of three of the twelve members of the CC expired nearly two years ago and have not been renewed, and another judge died during his term and has still not been replaced. This situation has taken place with the acquiescence of the two major parties in the Spanish Parliament (both parties are necessary to form the necessary majority required by the Constitution to appoint new judges, and they have avoided their renewal).
  - b. For political bias: one of the two parties responsible for blocking the renewal of judges was also the party which appealed the statute's unconstitutionality which the CC has just ruled on, thus directly affecting the structure of the court as it ruled on the party's appeal of the statute. To this we add that of the twelve members, only one is Catalan, and therefore Catalan sensitivities were manifestly limited in this ruling.
2. We DENOUNCE the devastating effect that the sentence has on the most important aspects of the statute's text:
  - a. The CC has denied any validity to the reference to Catalonia as a nation, threatening political agreements that were the basis for the constitutional agreement of 1978 and the logic behind the term "nationality" contained in section 2 of the Spanish Constitution. This decision clashes with the universal principles of peoples recognized by the founding Charter of the United Nations (and subsequent resolutions of this body), such as the right to self determination.
  - b. The CC has reduced the legal recognition and protection of the Catalan language from being "preferential and normal" language to only "normal". Even though the Catalan language is still recognized as the "common medium" within the educational system, the CC's decision creates a vast area of legal uncertainty and threatens the position of Catalonia's national language.
  - c. The CC has amended the most important aspects of the political agreements which regulate the system of regional funding to make it virtually ineffective:
    - i. Regarding Article 206.3, which regulates the financing of the Catalan Government, the Constitutional Court has annulled the final clause "provided that it conducted a similar fiscal effort." Without this condition, the CC restores the principle of absolute equality (of outcomes) of the peninsular autonomous communities. The Catalan government cannot keep for itself any revenue increases obtained either through new taxes or by raising revenues by other means (for example, by fighting tax fraud), since they must all be shared via the principle of solidarity regardless of the fiscal effort made by other autonomous governments. Without the minimum guarantees introduced by that clause, all incentives to improve public services in Catalonia or develop separate tax policies (which are common among states and provinces in the American and Canadian federations) disappear.
    - ii. The CC ruled that Article 206.5 of the statute refers only to "leveling mechanisms" (i.e., inter-territorial compensation funds) when it establishes that the mechanisms' implementation between autonomous communities cannot on its own lower Catalonia's per capita income ranking with respect to other regions, perpetuating an unjust situation that restricts economic growth in Catalonia, and therefore its

- social development as well. By exclusion, the State can still use any other fiscal instruments at its disposal (taxes, social spending, infrastructure) to continue to unfairly alter (as it does now) how regional income is assigned.
- iii. Finally, the CC dictates, in its interpretation of several final clauses, that the level of infrastructure and tax concessions must depend on the approval of the Spanish lower house. This interpretation makes the statute, which is an organic law adopted by a constitutionally established procedure that requires qualified majorities, a law which could be repealed in any budget bill or equivalent procedure without a qualified majority.
  - d. The CC has rejected the political agreement (historically claimed by the people of Catalonia) to establish an autonomous judicial system and has restricted it to the field of Catalan Civil Law, altering the democratic right of Catalan and Spanish citizens to regulate themselves.
3. We CONDEMN what we consider a clearly restrictive interpretation of the Spanish Constitution of 1978. The Spanish Constitution was designed, both in spirit and in letter, as a flexible document that could encompass the aspirations of the various Peoples of Spain. Drafted and adopted in a difficult transition to democracy (which included a failed military coup), the Constitution was conceived of as an instrument to support the progressive and peaceful deployment of the will of those Peoples, such as in this case in Catalonia. The CC's ruling hinders these aspirations and forces Catalonia to live in a limited autonomy, under a system of purely administrative autonomy which only satisfies, in their cases legitimately, the more modest demands of certain regions within the Spanish state.
  4. We DEPLORE the fact that this restrictive ruling adds to the systematic discrimination which Catalonia suffers in key areas of political, social and economic life in the Spanish state - from the consistent obstruction of attempts to create Catalan national sports teams, to a fiscal regime which taxes Catalonia disproportionately and which unfairly affects its public services.
  5. We ENCOURAGE all Catalan political parties as well as the Catalan civil society to seek a peaceful solution to the political cul-de-sac which Catalonia finds itself in; this includes exercising the right to self-determination and, if so decided by a majority of the Catalan people, the formation of a state in its own right within the European Union.
  6. We seek to SPREAD the contents of this declaration across and beyond the political and social spectrum of Catalonia because we believe that in countries with democratic traditions the will of the people must reign supreme. With this ruling, the Constitutional Court takes a restrictive interpretation of the Spanish Constitution, and the actions of the two main parties of the Spanish parliament send the message that it is more important to control a political and biased court than to accept the will of the people expressed in a referendum.