СЪД НА ЕВРОПЕЙСКИЯ СЪЮЗ
TRIBUNAL DE JUSTICIA DE LA UNIÓN EUROPEA
SOUDNÍ DVŮR EVROPSKÉ UNIE
DEN EUROPÆISKE UNIONS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN UNION
EUROOPA LIIDU KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΗΣ ΕΥΡΩΠΑΪΚΗΣ ΕΝΩΣΗΣ
COURT OF JUSTICE OF THE EUROPEAN UNION
COUR DE JUSTICE DE L'UNION EUROPÉENNE
CÚIRT BHREITHIÚNAIS AN AONTAIS EORPAIGH
SUD EUROPSKE UNIJE
CORTE DI GIUSTIZIA DELL'UNIONE EUROPEA
EIROPAS SAVIENĪBAS TIESA
EUROPOS SĄJUNGOS TEISINGUMO TEISMAS
AZ EURÓPAI UNIÓ BÍRÓSÁGA
IL-QORTI TAL-ĠUSTIZZJA TAL-UNJONI EWROPEA
HOF VAN JUSTITIE VAN DE EUROPESE UNIE
TRYBUNAŁ SPRAWIEDLIWOŚCI UNII EUROPEJSKIEJ
TRIBUNAL DE JUSTIÇA DA UNIÃO EUROPEIA
CURTEA DE JUSTIȚIE A UNIUNII EUROPENE
SÚDNY DVOR EURÓPSKEJ ÚNIE
SODIŠČE EVROPSKE UNIJE
EUROOPAN UNIONIN TUOMIOISTUIN
EUROPEISKA UNIONENS DOMSTOL

CVRIA
LUXEMBOURG

JUDGMENT OF THE COURT (Grand Chamber)

16 July 2026 *

(Reference for a preliminary ruling – Combating terrorism – Article 83(1) TFEU – Directive (EU) 2017/541 – Article 3 – Terrorist offences – Article 4 – Offences relating to a terrorist group – Article 15(1) – Obligation to provide for effective, proportionate and dissuasive criminal penalties – Effectiveness – Principle of legal certainty – Principle of equal treatment and non-discrimination – Primacy of EU law – Principle of sincere cooperation – National amnesty law which provides for the extinction of criminal liability – Acts which have not intentionally caused serious breaches of human rights)

In Case C-666/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Audiencia Nacional (National High Court, Spain), made by decision of 5 September 2024, received at the Court on 26 September 2024, in the criminal proceedings against:

EGB,

EGC,

GTA,

SPG,

QCR,

ACB,

JRS,

RJDL,

FJG,

* Language of the case: Spanish.

XBLL,

DBA

CBE,

other parties:

Ministerio Fiscal,

Associació Catalana de Víctimes d'Organitzacions Terroristes (ACVOT),

Asociación de Víctimas del Terrorismo (AVT),

Asociación Dignidad y Justicia,

Asociación Española de la Guardia Civil (AEGC),

Asociación Unificada de la Guardia Civil (AUGC),

Partido político VOX,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, T. von Danwitz (Rapporteur), Vice-President, F. Biltgen, K. Jürimäe, C. Lycourgos, M. Condinanzi and F. Schalin, Presidents of Chambers, S. Rodin, E. Regan, N. Piçarra, A. Kumin, M. Gavalec, S. Gervasoni, N. Fenger and R. Frendo, Judges,

Advocate General: D. Spielmann,

Registrar: E. Sartori, Administrator,

having regard to the written procedure and further to the hearing on 15 July 2025,

after considering the observations submitted on behalf of:

– EGB, by E. Pous Calvet, abogada,

– EGC and GTA, by J. Busquets Plaza, abogado,

– QCR, by C. Perdiguero Garreta, abogado,

– JRS, by X. Monge Profitós, abogado,

– FJG, by A. Morales Hernández-San Juan, procurador, and C. Martínez Mirón, abogado,

– RJDL, by A. Checa, abogado,

– XBLL, by M. Vinyets Pages, abogada,

– DBA and CBE, by D.C. Herchhoren Alcolea and B.A. Matamoros Alexandrova, abogados,

– Ministerio Fiscal, by M. Durántez Gil, fiscal,

– the Associació Catalana de Víctimes d'Organitzacions Terroristes (ACVOT), the Asociación de Víctimas del Terrorismo (AVT), the Asociación Dignidad y Justicia, the Asociación Española de la Guardia Civil (AEGC), the Asociación Unificada de la Guardia Civil (AUGC) and the Partido político VOX, by J.I. Fuster-Fabra Toapanta and J.M. Fuster-Fabra Torrellas, abogados,

– the Spanish Government, by A. Gavela Llopis, acting as Agent,

– the European Commission, by C. Urraca Caviedes and M. Wasmeier, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 13 November 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of, first, Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ 2017 L 88, p. 6), secondly, Article 4(2) and (3) TEU, and of Article 20(2) and Article 21(1) TFEU, thirdly, the principles of equal treatment and non-discrimination enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union ('the Charter') and, fourthly, the principles of legitimate expectations, legal certainty and the primacy of EU law.

2 The request has been made in criminal proceedings brought against EGB, EGC, SPG, QCR, GTA, ACB, JRS, RJDL, FJG, XBLL, DBA and CBE, 12 persons accused of acts constituting terrorist offences, in the context of the movement for Catalan independence.

Legal context

European Union law

The FEU Treaty

3 Article 83(1) TFEU states:

‘The European Parliament and the Council [of the European Union] may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.’

Directive 2017/541

4 Recitals 32, 35 and 39 of Directive 2017/541 state:

‘(32) Member States should pursue their efforts to prevent and counter radicalisation leading to terrorism by coordinating, by sharing information and experience on national prevention policies, and by implementing or, as the case may be, updating national prevention policies taking into account their own needs, objectives and capabilities building on their own experiences. …

…

(35) This Directive respects the principles recognised by Article 2 TEU, respects fundamental rights and freedoms and observes the principles recognised, in particular, by the Charter, including those set out in Titles II, III, V and VI thereof…. This Directive has to be implemented in accordance with those rights and principles taking also into account the [Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 (‘the ECHR’)], and other human rights obligations under international law

…

(39) The implementation of criminal law measures adopted under this Directive should be proportional to the nature and circumstances of the offence, with respect to the legitimate aims pursued and to their necessity in a democratic society, and should exclude any form of arbitrariness, racism or discrimination.'

5 Under Article 1 of that directive, entitled 'Subject matter':

'This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as measures of protection of, and support and assistance to, victims of terrorism.'

6 Article 3 of that directive, entitled 'Terrorist offences', is worded as follows:

'1. Member States shall take the necessary measures to ensure that the following intentional acts, as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation, are defined as terrorist offences where committed with one of the aims listed in paragraph 2:

(a) attacks upon a person's life which may cause death;

(b) attacks upon the physical integrity of a person;

(c) kidnapping or hostage-taking;

(d) causing extensive destruction to a government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;

(e) seizure of aircraft, ships or other means of public or goods transport;

(f) manufacture, possession, acquisition, transport, supply or use of explosives or weapons, including chemical, biological, radiological or nuclear weapons, as well as research into, and development of, chemical, biological, radiological or nuclear weapons;

…

2. The aims referred to in paragraph 1 are:

(a) seriously intimidating a population;

(b) unduly compelling a government or an international organisation to perform or abstain from performing any act;

(c) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.'

7 Article 4 of that directive, entitled 'Offences relating to a terrorist group', provides:

'Member States shall take the necessary measures to ensure that the following acts, when committed intentionally, are punishable as a criminal offence:

(a) directing a terrorist group;

(b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.'

8 In accordance with Article 13 of Directive 2017/541, entitled 'Relationship to terrorist offences':

'For an offence referred to in Article 4 or Title III to be punishable, it shall not be necessary that a terrorist offence be actually committed, nor shall it be necessary, in so far as the offences referred to in Articles 5 to 10 and 12 are concerned, to establish a link to another specific offence laid down in this Directive.'

9 Article 14 of that directive, entitled 'Aiding and abetting, inciting and attempting', provides:

'1. Member States shall take the necessary measures to ensure that aiding and abetting an offence referred to in Articles 3 to 8, 11 and 12 is punishable.

2. Member States shall take the necessary measures to ensure that inciting an offence referred to in Articles 3 to 12 is punishable.

3. Member States shall take the necessary measures to ensure that attempting to commit an offence referred to in Articles 3, 6, 7, Article 9(1), point (a) of Article 9(2), and Articles 11 and 12, with the exception of possession as provided for in point (f) of Article 3(1) and the offence referred to in point (j) of Article 3(1), is punishable.'

10 Article 15 of that directive, entitled 'Penalties for natural persons', provides in paragraph 1:

'Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 to 12 and 14 are punishable by effective, proportionate and dissuasive criminal penalties, which may entail surrender or extradition.'

Spanish law

The Criminal Code

11 Article 346 of Ley Orgánica 10/1995 del Código Penal (Organic Law 10/1995 on the Criminal Code) of 23 November 1995 (BOE No 281 of 24 November 1995, p. 33987), as amended by the Ley Orgánica 1/2019 por la que se modifica la ley orgánica 10/1995, de 23 de noviembre, del Código Penal, para trasponer Directivas de la Unión Europea en los ámbitos financiero y de terrorismo, y abordar cuestiones de índole internacional (Organic law 1/2019 amending Organic Law 10/1995 of 23 November 1995 on the Criminal Code, in order to transpose the EU directives in the area of finance and terrorism and to address certain questions of an international nature) of 20 February 2019 (BOE No 45, of 21 February 2019, p. 16698; 'the criminal code') provides:

'1. Anyone who, by causing explosions or by using any other method having a similar destructive force, causes the destruction of airports, ports, stations, buildings, public premises, warehouses containing flammable or explosive materials, communication routes, public modes of transport, or the sinking or stranding of a ship, or flooding, or blows up a mine or industrial plant, or causes the removal of rails from a railway line, malicious changes to the signals or signs used in the operation of a railway line to ensure the safety of modes of transport, or blows up a bridge, or causes the destruction of public highways, damage to oil pipelines, serious disruption to any type or means of communication, disruption or interruption of the supply of water, electricity, fossil fuels or another essential natural resource, shall be imprisoned for a term of 10 to 20 years, where the destruction necessarily puts people's lives or safety in danger.

2. Where there is no such danger, the punishment shall be a term of imprisonment of four to eight years.

3. If, in addition to danger, injury is caused to the lives, physical integrity or health of individuals, those acts shall be punished separately with the sentence applicable to the offence committed.'

12 Under Article 572 of the Criminal Code:

'1. Anyone who promotes, sets up, organises or directs a terrorist organisation or group shall be punished with a term of imprisonment of 8 to 15 years and disqualification from holding any public office during the term of the sentence.

2. Anyone who actively participates in or is a member of such an organisation or group shall be punished with a term of imprisonment of 6 to 12 years and disqualification from holding any public office during the term of the sentence.'

13 Article 573 of that code is worded as follows:

‘1. The following shall be treated as terrorist offences: the commission of any serious offence against life or physical integrity, freedom, psychological integrity, sexual freedom and integrity, property, natural resources or the environment, public health, any serious offence triggering a risk of a disaster, arson, forgery of documents, attacks against the Crown, attacks against a representative of the authorities or a public official in the fulfilment of his or her duties and the possession, trafficking and storing of weapons, munitions or explosives, as provided for in this Code, and the seizure of aircraft, ships or other means of public or goods transport, where these are carried out with any of the following aims:

(1) Subverting the constitutional order or removing, or seriously destabilising the functioning of, the political institutions or the economic or social structures of the State, or compelling the public authorities to perform or abstain from performing any act.

(2) Causing a serious breach of the public peace.

(3) Seriously destabilising the operation of an international organisation.

(4) Creating a state of terror in the population or part of that population.

…

3. The other offences defined in this Chapter shall also be considered terrorist offences.’

14 Article 574(1) of that code provides:

‘The storing of weapons or munitions, the possession or storing of explosive, flammable, incendiary or asphyxiating substances or devices, or their components, together with their manufacture, trafficking, transport or supply in any form, and the mere planting or use of such substances or of the appropriate means or mechanisms, shall be punished with a term of imprisonment of 8 to 15 years where the acts are committed with any of the aims set out in Article 573(1).’

The LOA

15 The preamble to Ley Orgánica 1/2024 de amnistía para la normalización institucional, política y social en Cataluña (Organic Law No 1/2024 on amnesty for institutional, political and social normalisation in Catalonia) of 10 June 2024 (BOE No 141, of 11 June 2024, p. 67764; ‘the LOA’) states:

‘I

Any amnesty is conceived as a legal mechanism intended to create an exception to the application of provisions that are fully in force where the acts that have been declared or are defined as criminal offences or as giving rise to any other type of liability took place in a specific context.

That legislative power forms part of the legal system as an appropriate means to respond to exceptional political circumstances which, under the rule of law, pursue a general interest, such as the need to surmount and ease deeply rooted social and political conflicts, with a view to better coexistence and social cohesion, as well as the integration of diverse political opinions.

It is therefore an institution that reflects a political decision by means of a law adopted by the Parliament, in the role conferred by the Constitution on the Cortes Generales (Spanish Parliament), the body responsible for representing popular sovereignty within the established authorities and for freely directing the general will through the exercise of legislative power in accordance with pre-established procedures.

…

From the point of view of EU law, the institution of amnesty is well recognised. …

Consequently, the Court of Justice of the European Union in its [judgment of 29 April 2021, *X (European arrest warrant – Ne bis in idem)*, C-665/20 PPU, EU:C:2021:339], not only recognises the possibility of amnesties but provides, furthermore, that their aim is to cause the acts to which they apply to lose their criminal nature, and, in the event that a conviction has already been handed down, its execution will be brought to an end, which means, therefore, in principle, that the penalty imposed may no longer be executed.

More recently, in its [judgment of 16 December 2021, *AB and Others (Revocation of an amnesty)*, C-203/20, EU:C:2021:1016], that Court established the possibility of discontinuing criminal proceedings and ending penalties, on the basis of judicial decisions delivered by virtue of an amnesty resulting from a legislative procedure.

In the same vein, the European Court of Human Rights [(ECtHR)] recognised the validity and political appropriateness of amnesties, by setting a limit in respect of grave breaches of human rights, on the ground that there are acts which cannot be separated from the obligation of States to prosecute and punish them (inter alia, [ECtHR, 27 May 2014, *Marguš v. Croatia* (CE:ECHR:2014:0527JUD000445510)]).

For their part, both the Council of Europe and the European Commission for Democracy through Law ("the Venice Commission") also clarified the validity of measures such as amnesty and their compatibility with judicial decisions, such as in Recommendation CM/Rec 7 (2010) 12 and Opinion No 710/2012 CDL-AD(2013)009, issued during the plenary session of 8 and 9 March 2013.

…

V

…

On the other hand, the character of a special law that creates an exemption from the application of existing rules based on the facts in a given context in the general interest should mean that the courts that were hearing the proceedings at the time when this law was approved should immediately lift the measures restricting rights that had been adopted, even in those cases where there is a possible suspension of court proceedings. This is because any limitation on the exercise of rights and freedoms must always observe the requirements laid down in the [ECHR], the [Charter] and the [Constitución española (Spanish Constitution)], guaranteeing a solid legal basis for restrictions on rights and freedoms.

…

In conclusion, this law seeks to provide legal certainty, respect for the principle of legality and a legal framework for the impartial protection of fundamental rights, taking into account the recommendations of the Venice Commission which, in its 2013 opinion, emphasised the importance of maintaining a clear distinction between the legislative and judicial powers in the implementation of amnesty, ensuring respect for judicial autonomy and democratic principles.

VI

…

Title I defines the objective scope of the amnesty. To that end, it first describes the acts classified as offences or giving rise to administrative liability or liability in respect of public funds, committed in the context of the Catalan independence process and linked, in one way or another, to the consultation of 9 November 2014 and the referendum of 1 October 2017, which were both declared unconstitutional and are exempted by this law. It also specified the period in which those acts must have been committed, that is to say from 1 November 2011 to 13 November 2023.

It then identifies the acts classified as offences to which that amnesty does not apply in any case, given that not every act or offence may be or deserves to be subject to an amnesty.

This approach, which is in any case abstract since it in no way involves an assessment as to the existence of facts capable of being included in each of these exclusions, is essential in accordance with what the [Venice Commission] stated in its opinion of 11 March 2013, adopted at its 94th plenary meeting. Thus, it is the responsibility of the legislature to establish the criteria used to determine who may benefit from the amnesty, and it is the responsibility of the judiciary to identify the specific persons who come within the scope defined by the legislature.

In this respect, it should be noted that the abstract identification of certain exclusions is a necessary condition in order for that law fully to comply with the international rules relating to acts not subject to amnesty, rules developed by international case-law, in particular European case-law, and which reflect the fundamental principles of international and European human rights law.

This amnesty law was thus designed in accordance with the European and international commitments concerning human rights, following the guidance of treaties and international bodies, such as the International Covenant on Civil and Political Rights and the [ECHR]. The inclusion of specific exclusions is essential in order to ensure observance of international rules and to address the relevant case-law, in particular concerning serious breaches of human rights, reflecting the positions of the [ECtHR] in cases such as *Marguš v. Croatia.* Consequently, acts constituting serious breaches of human rights are excluded from the scope of the law, in accordance with the principles of the Council of Europe on impunity for serious breaches of human rights. Moreover, the recommendations of the United Nations Office on Drugs and Crime are followed, distinguishing serious breaches from other acts, which, while they do not satisfy certain formal criteria, are not necessarily excluded from the benefit of the amnesty.

That approach shows commitment to the protection of fundamental rights, reconciling the amnesty with respect for human rights and the international commitments of the Kingdom of Spain.

An example of the foregoing is the reference to the acts provided for in Article 3 of Directive [2017/541] or in Article 3 [ECHR], which prohibits torture and inhuman or degrading punishment or treatment, which constitute a limit that cannot be exceeded. However, it should be recalled that not all degrading acts are covered by that provision, since, for that to be the case, in addition to being unlawful, the act must have a minimum degree of seriousness. Thus, in accordance with the case-law of the [ECtHR], for an act to be considered degrading in accordance with Article 3 [ECHR], it will usually be necessary for the bodily injury caused or the suffering experienced by the victim to be of a certain intensity or, in any event, to be capable of overcoming a person's psychological or physical resilience. A restrictive criterion for exclusions has been opted for in the application of the present law, due to the fact that certain conduct may create confusion with other offences, which would occur in the case of certain acts included in Book II, Title XXII, Chapter VII of the Criminal Code.

In accordance with the guidelines of the Venice Commission, a precise and detailed definition of acts eligible for amnesty has been established in order to ensure legal certainty and equality before the law. This information is essential, in particular, where the issue of the misappropriation of public funds is concerned, and makes it possible clearly to distinguish acts which may be eligible for amnesty from acts of corruption to which such a measure is not applicable.

…'

16 Article 1 of the LOA, entitled 'Objective scope', provides:

'1. The following acts giving rise to criminal or administrative liability or liability in respect of public funds, performed in the context of the consultations held in Catalonia on 9 November 2014 and 1 October 2017, and the preparation or consequences thereof, are hereby amnestied, provided that they were carried out between 1 November 2011 and 13 November 2023, together with the following actions carried out between those dates in relation to what is known as the Catalan independence process, even if they are not related to the abovementioned consultations or were carried out after those consultations took place:

(a) Acts committed with the intention of claiming, promoting or procuring the secession or independence of Catalonia, as well as acts that contributed to the achievement of such aims.

…

(f) Acts committed with the aim of encouraging, procuring or enabling any of the acts giving rise to criminal or administrative liability or liability in respect of public funds referred to in the preceding subparagraphs of the present article, together with any other acts materially connected to such acts.

2. The acts giving rise to criminal or administrative liability or liability in respect of public funds which were amnestied under paragraph 1 of the present article will be amnestied irrespective of their level of implementation, including preparatory acts, and irrespective of the form of involvement, be it perpetration or participation.

…'

17 Article 2 of the LOA, entitled 'Exclusions', provides:

'The following are, in any event, excluded from the application of the amnesty provided for in Article 1:

(a) Intentional acts against persons which result in death, abortion or injuries to a foetus, the loss of an organ or limb or of its use, the loss of a sense or of its use, impotence, sterility or a serious deformity.

(b) Acts classified as offences of torture or inhuman or degrading treatment in accordance with Article 3 [ECHR], with the exception of treatment which does not exceed a minimum threshold of seriousness on the grounds that it is not such as to humiliate or degrade a person or diminish their human dignity or provoke fear, anxiety or inferiority of a kind capable of overcoming their psychological and physical resilience.

(c) Acts which on account of their aim may be classified as terrorism, in accordance with Directive [2017/541] and which have also intentionally caused serious breaches of human rights, in particular those governed by Articles 2 and 3 [ECHR] and by international humanitarian law.

…'

18 In accordance with Article 9 of the LOA, entitled 'Jurisdiction to apply the amnesty':

'1. Amnesty for acts constituting an offence shall be applied by the courts referred to in Article 11 of this law, *ex officio* or at the request of a party or the Public Prosecutor's Office and, in any event, after hearing the Public Prosecutor's Office and the parties.

2. Amnesty for acts constituting administrative breaches or giving rise to liability in respect of public funds shall be applied by the bodies competent to initiate, deal with or resolve the procedures corresponding to those acts, depending on the progress of those acts, after hearing the person concerned.

3. A specific act giving rise to criminal or administrative liability or liability in respect of public funds may be considered to have been amnestied only when such amnesty has been declared by a final decision issued by the competent body in accordance with the provisions of this law.'

19 Article 10 of the LOA, entitled 'Preferential and urgent handling', provides:

'The application of the amnesty in each case shall be the responsibility of the judicial, administrative or accounting bodies designated in this law, which shall adopt the relevant decisions in compliance with this law, as a matter of priority and urgency, regardless of the stage of the administrative procedure or judicial proceedings or proceedings relating to public funds concerned.

Decisions will be delivered within a maximum period of two months, without prejudice to subsequent appeals, which shall not have suspensory effect.'

20 Article 11 of the LOA, entitled 'Proceedings in criminal matters', provides in paragraph 1:

'Judicial bodies shall apply the amnesty at any stage of the criminal proceedings.

…'

The dispute in the main proceedings and the questions referred for a preliminary ruling

21 On 23 November 2023, the Ministerio Fiscal (Public Prosecutor's Office, Spain) lodged a provisional indictment with the Juzgado Central de Instrucción no 6 de la Audiencia Nacional (Central Court of Preliminary Investigation No 6 of the National High Court, Spain) by which it brought criminal proceedings for acts

constituting offences of membership of a terrorist organisation, possession, storage and manufacture for terrorist purposes of explosive or flammable substances or devices or components thereof and of attempted destruction of a terrorist nature against 12 persons, namely EGB, EGC, SPG, QCR, GTA, ACB, JRS, RJDL, FJG, XBLL, DBA and CBE.

22 The Associació Catalana de Víctimes d'Organitzacions Terroristes (ACVOT), the Asociación de Víctimas del Terrorismo (AVT), the Asociación Dignidad y Justicia, Asociación Española de la Guardia Civil (AEGC), the Asociación Unificada de la Guardia Civil (AUGC), Spanish associations, and the Spanish political party VOX also joined those proceedings in order to bring an *actio popularis* and lodged a formal accusation.

23 Once the investigation stage had been completed, the case was referred to the Sala de lo Penal, Sección Tercera, de la Audiencia Nacional (Third chamber of the Criminal Division of the National High Court, Spain).

24 That court states that the indictment of the Public Prosecutor's Office and the formal accusation indicate inter alia purchases of explosives precursors, the possession of manuals for the manufacture of explosive and flammable devices, presence in meetings and in a clandestine laboratory in which an incendiary device was manufactured and in discussions between the accused through an electronic messaging application. The acts in question, which took place between October 2017 and November 2019, fall within the scope of Articles 346 and 571 to 574 of the Criminal Code, and Articles 3, 4 and 13 to 15 of Directive 2017/541.

25 That court emphasises however that neither that indictment nor the formal accusation state that those acts intentionally caused serious breaches of human rights, within the meaning of Article 2(c) of the LOA.

26 Following the entry into force of the LOA on 11 June 2024, the accused persons lodged a request for amnesty, on which the referring court must now rule. However, that court has doubts as to whether the application of the amnesty infringes EU law.

27 First, according to the referring court, the acts at issue fall within the concept of 'participating in the activities of a terrorist group', within the meaning of Directive 2017/541, which, in accordance with that directive, must be punishable by effective, proportionate and dissuasive criminal penalties. However, the application of the LOA entails the impossibility of prosecuting and judging those acts and the extinction of criminal liability on the part of the accused persons.

28 Secondly, Article 13 of that directive renders any participant in the organisation criminally liable even if no other terrorist offence has been actually committed. However, the LOA, which appears to exclude, in general, its application to the terrorist offences provided for by that directive, makes the punishable nature of the act subject to an additional condition which is not provided for by that

directive, namely the fact of having intentionally caused serious breaches of human rights.

29 Thirdly, Article 2(c) of the LOA is based on the premiss that certain terrorist acts seriously infringe human rights and cannot be subject to amnesties while other terrorist acts do not give rise to such infringements and may be subject to amnesties. Such a distinction is not contained in Directive 2017/541.

30 Fourthly, that provision, the wording of which is imprecise, does not indicate in a clear and unequivocal manner the threshold of seriousness above which an offence may be considered as capable of benefiting from an amnesty, in breach of the principle of legal certainty.

31 Fifthly, Directive 2017/541 requires that the offences at issue in the main proceedings be punishable by effective, proportionate and dissuasive criminal penalties. However, the application of the LOA has the effect of exempting from any criminal liability persons accused of having committed such offences.

32 Sixthly, the European Union exercised its competences in adopting Directive 2018/541, the provisions of which must be respected by the national legislature, if it is not to disregard the principle of the primacy of EU law.

33 Seventhly, since the scope of the LOA is limited to certain acts committed between 1 November 2011 and 13 November 2023 in the context of the movement for Catalan independence, the referring court asks whether it is not likely to lead to discriminatory treatment, contrary to EU law, to the detriment of any person who committed, during the same period, similar acts which however took place in a different context, without such discriminatory treatment being justified on grounds of public interest.

34 Eighthly and lastly, it is necessary to ask the Court whether the amnesty, as provided for by the LOA, is compatible with the right to free movement and residence in the territory of the European Union and with the essential function of the Member States consisting in ensuring their territorial integrity.

35 In those circumstances, the Audiencia Nacional (National High Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must Directive [2017/541] be interpreted as precluding national legislation, such as [the LOA], which prohibits the prosecution of and, as the case may be, the imposition of criminal penalties on, those who actively participate in the activities of a terrorist group, thereby extinguishing their criminal liability?

(2) Must Directive [2017/541], specifically Article 13 thereof, be interpreted as precluding national legislation, such as [the LOA], which prohibits the prosecution of and, as the case may be, the imposition of criminal penalties

on, those who actively participate in the activities of a terrorist group, thereby extinguishing their criminal liability, by laying down an additional requirement for the purposes of punishment, to the effect that, in addition to participation in a terrorist group, those persons must actually and intentionally have caused serious breaches of human rights?

(3) Must Directive [2017/541] be interpreted as precluding national legislation, such as [the LOA], which, in respect of the terrorist offences and offences related to a terrorist group laid down in that directive, draws a distinction according to whether or not those offences actually and intentionally caused serious breaches of human rights, such that that distinction makes it possible for some of those terrorist offences or offences related to terrorism to be exempted from criminal liability?

(4) Must the principle of legal certainty in EU law, which is enshrined in the case-law of the [Court], be interpreted as precluding national legislation, such as [the LOA], which makes the exemption from criminal liability through the amnesty for persons accused of conduct capable of falling within the scope of Directive [2017/541] subject to the condition that they must not have intentionally caused serious breaches of human rights, in particular the rights governed by Articles 2 and 3 [ECHR] and international humanitarian law, without stipulating which acts constitute such infringements or the threshold of seriousness which must be passed in order to render the amnesty inoperative? Alternatively, are the principles of legitimate expectations and legal certainty in EU law incompatible with a rule, such as that contained in Article 1 of [the LOA], which sets vague objective and subjective parameters for determining whether or not criminal liability has been established?

(5) Must Directive [2017/541] be interpreted as precluding national legislation, such as [the LOA], which prohibits the prosecution of and, as the case may be, the imposition of criminal penalties on, those who manufacture, possess, acquire, transport, supply or use explosives for terrorist purposes, thereby extinguishing their criminal liability?

(6) Must Directive [2017/541] be interpreted as precluding national legislation, such as [the LOA], which prohibits the prosecution of and, as the case may be, the imposition of criminal penalties on – thereby extinguishing their criminal liability – those who, for terrorist purposes, commence violent acts by setting targets for extensive destruction on the grounds that those targets represent a conflict with the ideology of the terrorist group, by the performance of surveillance or by the photographic documentation of public places to destroy – in particular, premises of the Public Prosecutor's Office, State law enforcement authorities, autonomous institutions, and police vehicles – all with a view to ensuring the full execution of the violent plan devised by the terrorist group, with the aim of successfully carrying out that destruction?

(7) Must the principle of primacy of EU law, which is enshrined in the case-law of the [Court of Justice], and the principle of cooperation in good faith laid down in Article 4(3) TEU be interpreted as precluding national legislation, such as [the LOA], which exempts from criminal liability through the amnesty persons accused of conduct which falls within the scope of Directive [2017/541]?

(8) Must Article 20 and Article 21 of the [Charter] be interpreted as precluding national legislation, such as [the LOA], which exempts from criminal liability through the amnesty persons accused of criminal acts in Spain which fall within the scope of Directive [2017/541], by reason of the ideological aim pursued through those criminal acts?

(9) Must Article 4(2) TEU and Articles 20(2)(a) and 21(1) TFEU be interpreted as precluding national legislation, such as [the LOA], which, through the amnesty, exempts persons accused of terrorism from criminal liability on the grounds that the acts concerned were committed with the aim of segregating part of the national territory of that Member State?'

The request for the reopening of the oral procedure

36 Following the reading of the Opinion of the Advocate General of 13 November 2025, the political party and the associations referred to in paragraph 22 of this judgment requested, by a document lodged at the Registry of the Court of Justice on 27 November 2025, that the oral part of the procedure be reopened.

37 In support of their request, those parties submit that the Opinion of the Advocate General examines an aspect, discussed at the hearing, about which the referring court did not ask the Court of Justice and which is not for the Court of Justice to assess, that is to say the grounds which led the Spanish legislature to adopt the LOA.

38 By virtue of Article 83 of the Rules of Procedure of the Court of Justice, the Court may, at any time, after hearing the Advocate General, order the reopening of the oral part of the procedure, in particular if it considers that it lacks sufficient information or where a party has, after the close of that part of the procedure, submitted a new fact which is of such a nature as to be a decisive factor for the decision of the Court.

39 That is not the situation here.

40 The Opinion of the Advocate General in the present case cannot constitute a new fact within the meaning of the abovementioned Article 83 (see, to that effect, judgment of 26 February 2026, *VIRUS and Others*, C-131/24, EU:C:2026:109, paragraph 33).

41 It must moreover be noted, first, that the Statute of the Court of Justice of the European Union and the Rules of Procedure make no provision for the interested parties referred to in Article 23 of the Statute to submit observations in response to the Advocate General's Opinion (judgment of 26 February 2026, *VIRUS and Others*, C-131/24, EU:C:2026:109, paragraph 34 and the case-law cited).

42 Secondly, under the second paragraph of Article 252 TFEU, the Advocate General, acting with complete impartiality and independence, must make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require the Advocate General's involvement. It is not therefore an opinion addressed to the judges or to the parties which stems from an authority outside the Court, but rather, it is the individual reasoned opinion, expressed in open court, of a Member of the Court of Justice itself. The Advocate General's Opinion cannot be debated by the parties. Furthermore, the Court is not bound either by the Advocate General's submissions or by the reasoning which led to those submissions. Consequently, a party's disagreement with the Opinion of the Advocate General, irrespective of the questions that he or she examines in the Opinion, cannot in itself constitute grounds justifying the reopening of the oral procedure (judgment of 26 February 2026, *VIRUS and Others*, C-131/24, EU:C:2026:109, paragraph 35 and the case-law cited).

43 In addition, in the light of all the information available to it, the Court considers that it has sufficient information to rule on the present request for a preliminary ruling.

44 In those circumstances, the Court considers, after hearing the Advocate General, that there is no need to order the reopening of the oral part of the procedure.

Consideration of the questions referred

Admissibility

45 The EGC and GTA and the Public Prosecutor's Office plead that the questions referred for a preliminary ruling, which are irrelevant for the purpose of ruling in the case in the main proceedings, are inadmissible They maintain that since Article 2(c) of the LOA excludes from the scope of that law acts which, on account of their aim, may be classified as terrorism, in accordance with Directive 2017/541, and which have also intentionally caused serious breaches of human rights, those questions are hypothetical.

46 The Spanish Government invokes the hypothetical nature of the fourth question, in the light of the absence, in the present case, of the intentional commission of serious breaches of human rights.

47 In that regard, it should be recalled that, in proceedings under Article 267 TFEU, it is solely for the national court before which the dispute in the main proceedings

has been brought, and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is in principle bound to give a ruling. It follows that questions relating to EU law enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgments of 13 July 2000, *Idéal tourisme*, C-36/99, EU:C:2000:405, paragraph 20, and of 2 December 2025, *Stichting Right to Consumer Justice and Stichting App Stores Claims*, C-34/24, EU:C:2025:936, paragraph 39 and the case-law cited).

48 In the present case, it follows from the order for reference that, by its first eight questions, the referring court asks, in essence, whether the conditions by which the LOA excludes from its scope offences under Directive 2017/541 and determines the conditions of application of the amnesty comply with that directive and other rules and principles of EU law. The doubts expressed by the referring court arise from the fact that while the offences at issue in the main proceedings benefit in principle from the amnesty under the LOA, they fall, in its view, within the concept of participating in a terrorist group, for the purposes of that directive. It follows that an answer to those questions is necessary in order to allow that court to reach a decision in the main proceedings.

49 By contrast, by its ninth question, the referring court asks the Court of Justice about the interpretation of Article 4(2) TEU and Article 20(2)(a) and Article 21(1) TFEU.

50 It asks, in essence, whether those provisions preclude national legislation such as the LOA, in so far as it exempts from any criminal liability persons accused of offences committed with the aim of achieving the secession of part of the national territory of the Member State concerned. In that regard, according to the referring court, the LOA would give rise to a risk of the repetition or spreading of such acts, which would undermine the territorial integrity of the Member States and the freedoms of movement and residence of Union citizens.

51 As is apparent from the actual wording of Article 267 TFEU, the preliminary ruling sought by a national court must be 'necessary' to enable the referring court to 'give judgment' in the case before it. In such proceedings, there must therefore be a connecting factor between that dispute and the provisions of EU law whose interpretation is sought, by virtue of which that interpretation is objectively required for the decision to be taken by the referring court (see, to that effect, judgments of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C-558/18 et C-563/18, EU:C:2020:234, paragraphs 45 and 48, and of

18 December 2025, *Tenergie (Request for remission of import duties)*, C-259/24, EU:C:2025:1013, paragraph 28, and the case-law cited).

52 In the present case, it is quite obvious that whether, in general, an amnesty measure is capable of undermining the territorial integrity of a Member State or the free movement of Union citizens, referred to in Article 4(2) TEU and in Article 20(2)(a) and Article 21(1) TFEU, bears no relation to the subject matter of the dispute in the main proceedings.

53 That dispute concerns criminal proceedings against persons accused of acts that may fall within the scope of the LOA, so that the interpretation sought is not objectively necessary for the decision that the referring court is called upon to make.

54 It follows that the first eight questions are admissible, while the ninth must be declared inadmissible.

Substance

55 By the first to eighth questions, which it is appropriate to examine together, the referring court asks, in essence, whether Directive 2017/541, read in the light of the principles of primacy and sincere cooperation, legal certainty, equal treatment and non-discrimination, must be interpreted as precluding a national amnesty law which provides for the extinction of criminal liability of any person who has committed, in a given period and in the context of the pursuit of independence of part of the national territory of a Member State, acts covered by that directive which have not intentionally caused serious breaches of human rights, the exact nature or degree of seriousness of which is not specified by that law.

56 It should be noted at the outset that the LOA, which is the subject of the referring court's questions, provides in Article 2(c) that acts which on account of their aim may be classified as terrorism, in accordance with Directive 2017/541 and which have also intentionally caused serious breaches of human rights, in particular those governed by Articles 2 and 3 ECHR and by international humanitarian law, are to be excluded from the application of the amnesty.

57 Exclusion from the scope of the amnesty provided for in Article 2(c) of the LOA is therefore subject to two cumulative conditions. Thus, acts excluded from the amnesty must, first, in the light of their purpose, be capable of being classified as terrorism within the meaning of that directive and, secondly, have intentionally caused serious breaches of human rights. It is in particular in the light of those considerations that the questions submitted by the referring court should be answered.

58 In this respect, it should be noted that even though the adoption and revocation of an amnesty fall within the competence of the Member States (see, to that effect, judgment of 16 December 2021, *AB and Others (Revocation of an amnesty)*,

C-203/20, EU:C:2021:1016, paragraph 40), the fact remains that, when exercising that competence, the Member States are required to comply with their obligations deriving from EU law (see, to that effect, judgment of 30 April 2024, *Procura della Repubblica presso il Tribunale di Bolzano*, C-178/22, EU:C:2024:371, paragraph 44 and the case-law cited).

59 In the present case, it follows from Article 1 of Directive 2017/541 that, in accordance with Article 83(1) TFEU, it establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as measures of protection of, and support and assistance to, victims of terrorism.

60 Moreover, Articles 3, 4, 13, 14 and 15 of that directive require the Member States, first, to define as terrorist offences a series of acts committed with a terrorist aim, secondly, to penalise offences relating to a terrorist group or to terrorist activities, as well as aiding and abetting those offences, inciting the commission of such offences and attempting to commit them as well as, thirdly, to provide for effective, proportionate and dissuasive criminal penalties, which must be heavier than those imposable under national law in the absence of terrorist intent.

61 Under the third paragraph of Article 288 TFEU, a directive is binding, as to the result to be achieved, upon each Member State to which it is addressed, but will leave to the national authorities the choice of form and methods. Whilst that provision leaves Member States to choose the ways and means to ensure that a directive is implemented, that freedom does not affect the obligation on the Member States to which the directive is addressed to adopt, in their national legal systems, all of the measures necessary to ensure that the directive is fully effective, in accordance with the objectives pursued thereby (judgment of 26 February 2026, *Commission* v *Belgium (Directive 2016/1164 – Double imposition)*, C-524/23, EU:C:2026:111, paragraph 64 and the case-law cited).

62 It is common ground that, in accordance with the obligation referred to in the above paragraph of the present judgment, Directive 2017/541 was properly transposed into Spanish law before the expiry of the transposition deadline of that directive. The referring court notes, however, that the fact of waiving, by means of an amnesty, the application of penalties laid down by the law giving effect to that transposition may infringe the provisions of that directive.

63 In that regard, it should be noted that Directive 2017/541 contains no specific provision relating to national mechanisms for extinguishing criminal liability, such as amnesties, and it does not therefore expressly determine the limits in relation to such mechanisms.

64 The application of an amnesty such as that provided for by the LOA has the effect that acts which may be classified as terrorism and falling within the scope of that law, in the present case acts committed between 1 November 2011 and

13 November 2023 in the specific context of the movement for Catalan independence, can no longer be prosecuted in Spain.

65 Inasmuch as an amnesty law such as the LOA entails limitation inter alia of the application of penalties provided for under Article 15 of Directive 2017/541, it must be held that that amnesty law directly affects the implementation of that directive.

66 However, as the Advocate General stated, in essence, in point 76 of his Opinion, the adoption of an amnesty law comes in principle under the prerogative of each Member State, in particular in the pursuit of an objective of national reconciliation or political compromise, not to prosecute certain acts, even where they constitute serious offences, where the amnesty granted in that respect may be conceived as an instrument capable of de-escalating major political or social conflict.

67 Having regard to that specific nature of an amnesty law, the absence of any reference to that particular mechanism for the extinction of criminal liability in Directive 2017/541 must be understood as meaning that the minimum rules it establishes, in accordance with Article 1 thereof, concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, do not have the effect of excluding, in principle, recourse to amnesties by the Member States pursuant to that directive.

68 In the present case, the Tribunal Constitucional (Constitutional Court, Spain), in judgment 137/2025 of 26 June 2025 (BOE No 183, of 31 July 2025, p. 103781 (ES:TC:2025:137)), held that the LOA was in principle constitutional, after finding, in essence, that the amnesty adopted under the LOA seeks to reduce the institutional and political tensions created by the pursuit of Catalan independence and to facilitate a scenario for reconciliation.

69 However, in so far as an amnesty law such as the LOA entails, as is apparent from paragraph 65 of the present judgment, a limitation of the application of the penalties provided for under Article 15 of Directive 2017/541, it is appropriate, in the first place, to ascertain that that law is not such as to compromise the effectiveness of that directive.

70 That would be the case if that amnesty law were to have the effect of calling into question the effective implementation of Directive 2018/541 in the Member State concerned.

71 However, it is consistent with the specific objective referred to in paragraph 68 of the present judgment that that law merely provides, *a posteriori*, for the absence of prosecution for certain offences committed in the sole specific context of the movement for Catalan independence.

72 In this respect, under Article 2(c) thereof, the LOA excludes any amnesty for acts which have intentionally caused serious breaches of human rights, in particular those governed by Articles 2 and 3 ECHR and by international humanitarian law.

73 Thus, having regard to the cumulative conditions laid down in Article 2(c) of the LOA, that law permits the prosecution and punishment of terrorist offences which intentionally caused serious breaches of human rights, even if those acts were committed in the context of the movement for Catalan independence.

74 Moreover, it follows from the preamble to, and from Articles 9 to 11 of, the LOA that it is, in accordance with judicial independence, for the courts having jurisdiction to identify the specific acts which, under Article 2(c) of that law, are excluded from the amnesty.

75 In those circumstances, it is apparent that the extinction of liability provided for by an amnesty law such as the LOA, adopted with a view to reducing institutional and political tensions and to facilitate a scenario for reconciliation and whose specific purpose is defined in line with such objectives, is not such as to compromise the effectiveness of Directive 2017/541.

76 As regards, in the second place, the compatibility of such an amnesty law with the other principles referred to by the referring court, and, first, compliance with the requirements arising from the principle of legal certainty of the definition, in Article 1 and Article 2(c) of the LOA, of terrorist offences which may be the subject of an amnesty, it should be noted that the principle of legal certainty requires, on the one hand, that legal rules be clear and precise and, on the other hand, that their application be foreseeable for those subject to the law, in particular, where they may have adverse consequences. Thus, the legislation in question must enable those concerned to know precisely the extent of the obligations imposed on them, and those persons must be able to ascertain unequivocally their rights and obligations and take steps accordingly (see, to that effect, judgments of 29 July 2024, *Belgian Association of Tax Lawyers and Others*, C-623/22, EU:C:2024:639, paragraph 36 and the case-law cited, and of 22 January 2026, *AK Dlhopolec and Others*, C-590/24, EU:C:2026:41, paragraph 73).

77 According to the preamble thereto, the LOA 'seeks to provide legal certainty, respect for the principle of legality and a legal framework for the impartial protection of fundamental rights'. From that point of view, a 'definition of acts eligible for amnesty has been established in order to ensure legal certainty and equality before the law'.

78 In that regard, it should be noted that the LOA is based, as emphasised in the preamble thereto, on a 'clear distinction between the legislative and judicial powers in the implementation of amnesty' which does not lead to the inapplicability of provisions of the criminal code or the *ex lege* extinction of criminal liability, but to a prohibition of prosecution which must be found by the

judicial bodies at any stage of the criminal procedure for offences falling within the scope of the amnesty as defined in Article 1 of that law.

79 Thus, it is in an objective and abstract manner that the LOA determines, in accordance with the very words used in the preamble thereto, the scope of the amnesty. This applies both to the acts capable of being subject to amnesty in the presence of the substantive and temporal conditions defined in Article 1 of that law and to the exclusions from the amnesty contained in Article 2 thereof. It is for the courts having jurisdiction alone to interpret and apply the provisions governing the scope of the LOA, set out in Article 1 of that law, and the exclusions to that law, which include, inter alia, Article 2(c) thereof.

80 In that context, it must be noted that a legislative technique consisting in the use of abstract formulations or general categories rather than exhaustive lists is not such as to call into question the principle of legal certainty, provided that their interpretation is reasonably foreseeable. (see, to that effect, judgments of 28 March 2017, *Rosneft*, C-72/15, EU:C:2017:236, paragraphs 165 and 167, and of 22 January 2026, *AK Dlhopolec and Others*, C-590/24, EU:C:2026:41, paragraphs 75 and 76).

81 Article 1 of the LOA describes the acts giving rise to criminal, administrative or accounting liability, committed in the context of the movement for Catalan independence, and specifies the period in which, in order to benefit from the amnesty, those acts must have been committed, that is to say, from 1 November 2011 to 13 November 2023. The objective determination of the scope of the LOA in Article 1 of that law does not appear to entail elements such as to give rise to difficulties either in its interpretation for the courts having jurisdiction or its foreseeability for subjects of the law.

82 As regards Article 2(c) of the LOA, as stated in paragraph 73 of the present judgment, acts which, first, may, by their objective, be classified as terrorism in accordance with Directive 2017/541 and, secondly, intentionally caused serious breaches of human rights, in particular those covered by Articles 2 and 3 ECHR and by international humanitarian law are excluded from the amnesty by that law. That condition for exclusion refers to legal concepts of criminal law, such as intention, causality and the seriousness of a breach of human rights, which, for the courts having jurisdiction, cannot raise difficulties in terms of application in order, as the case may be, to exclude an act from the benefit of amnesty.

83 In those circumstances, it must be concluded that the abstract definition of acts falling within the scope of the exclusion from amnesty provided for in Article 2(c) of the LOA and in particular the fact that that law does not specify in detail either the exact nature of all the acts or set a threshold of seriousness to be attached to them does not undermine the requirements of the principle of legal certainty, where the courts having jurisdiction are capable of determining, in the light of Directive 2017/541, the terrorist offences excluded from the amnesty.

84 As regards, secondly, compliance with the principle of equal treatment and non-discrimination enshrined in Articles 20 and 21 of the Charter, it follows from paragraph 65 of the present judgment that a limitation of the application of the penalties provided for, in accordance with Directive 2017/541, directly affects the implementation of that directive. There is therefore a degree of connection between the LOA and that directive above and beyond the matters covered being closely related or one of those matters having an indirect impact on the other, so that it concerns a situation that falls within the concept of 'the implementation of EU law', within the meaning of Article 51(1) of the Charter (see, to that effect, judgment of 29 July 2024, *protectus*, C-185/23, EU:C:2024:657, paragraph 42 and the case-law cited).

85 In that regard, it must be noted that, in accordance with the Court's case-law, it must be noted that the principle of equal treatment, of which non-discrimination constitutes a specific expression, requires that comparable situations must not be treated differently and that different situations must not be treated in the same way unless such treatment is objectively justified. The requirement that situations must be comparable, for the purpose of determining whether there is a breach of the principle of equal treatment, must be assessed in the light of all the elements that characterise those situations and, in particular, in the light of the subject matter and purpose of the act that makes the distinction in question, while the principles and objectives of the field to which the act relates must also be taken into account (judgment of 26 February 2026, *Commission* v *Hungary (Right to provide media services in a radio frequency)*, C-92/23, EU:C:2026:108, paragraph 192 and the case-law cited).

86 However, in the context of an amnesty such as the LOA, which has the specific aim of promoting political reconciliation in the sole context of a particular political movement, the offences committed in that context and those committed in other contexts cannot be regarded as comparable situations.

87 As regards, thirdly, the principles of primacy and sincere cooperation, it follows from the foregoing considerations that the adoption of an amnesty law, such as the LOA, does not undermine the effectiveness of Directive 2017/541, read in the light of the principles of legal certainty, equal treatment and non-discrimination. It follows that such adoption cannot breach either the principle of primacy, by virtue of which all Member State bodies must give full effect to the various EU provisions (judgment of 24 June 2019, *Popławski*, C-573/17, EU:C:2019:530, paragraph 54 and the case-law cited), or the principle of sincere cooperation, enshrined in Article 4(3) TEU, which requires the Member States to refrain from any measure which could jeopardise the attainment of the European Union's objectives (judgment of 29 April 2025, *Commission* v *Malta (Citizenship by investment)*, C-181/23, EU:C:2025:283, paragraph 94 and the case-law cited).

88 In the light of all the foregoing considerations, the answer to the first to eighth questions is that Directive 2017/541, read in the light of the principles of primacy and sincere cooperation, legal certainty, equal treatment and non-discrimination,

must be interpreted as not precluding a national amnesty law which, in order to reduce institutional and political tensions and to facilitate a scenario for reconciliation, provides for the extinction of criminal liability of any person who has committed, within a defined period and in the context of the pursuit of independence of part of the national territory of a Member State, acts covered by that directive which did not intentionally cause serious breaches of human rights, the exact nature or degree of seriousness of which is not specified by that law, where the courts having jurisdiction are in a position to determine the terrorist offences excluded from the amnesty.

Costs

89 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, read in the light of the principles of primacy and sincere cooperation, legal certainty, equal treatment and non-discrimination,

must be interpreted as not precluding a national amnesty law which, in order to reduce institutional and political tensions and to facilitate a scenario for reconciliation, provides for the extinction of criminal liability of any person who has committed, in a defined period and in the context of the pursuit of independence of part of the national territory of a Member State, acts covered by that directive which did not intentionally cause serious breaches of human rights, the exact nature or degree of seriousness of which is not specified by that law, where the courts having jurisdiction are in a position to determine the terrorist offences excluded from the amnesty.

[Signatures]