



Press Office of the Constitutional Court

Press release of 22 June 2021

COVID EMERGENCY: THE SECOND EXTENSION OF THE SUSPENSION OF ENFORCEMENT PROCEEDINGS CONCERNING DEBTORS' MAIN RESIDENCES IS UNCONSTITUTIONAL

The second extension (from 1 January to 30 June 2021) of the suspension of all activities relating to enforcement proceedings concerning debtors' main residences is unconstitutional.

This was held by the Constitutional Court in Judgment [No. 128](#), filed today (Author of the Judgment – Giovanni Amoroso), ruling on questions of constitutionality raised by the Ordinary Courts of Barcellona Pozzo di Gotto and of Rovigo with regard to Article 13(14) of Decree-Law No. 183 of 31 December 2020 (the so-called *milleproroghe* measure).

In particular, the Court deemed that the balance between the judicial protection afforded to creditors and that provided to debtors, in enforcement proceedings concerning debtors' main residences, is no longer proportionate. This, in the light of the fact that civil proceedings (including those for enforcement), after the initial blanket suspension, gradually resumed as procedures compatible with the pandemic were introduced. Differently, the suspension envisaged under the challenged legal provision remained unchanged and was extended, from 1 January 2021, for an additional 6 months.

The Court – while confirming that the right to a home is a “social right” – emphasized that the sacrifice asked of creditors should take into consideration the debtors' actual need for protection, indicating appropriate selection criteria. As for the second extension of the suspension of enforcement proceedings concerning all main residences, no such criteria could be found that could justify the further duration of the suspension.

At the same time, the Court specified that it is for the Legislator, if the development of epidemiological emergency so requires, to adopt the most appropriate measures

to achieve a different balance, that is reasonable and proportionate, between debtors' right to a home and judicial protection of creditors in the context of enforcement proceedings.

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