



Press Office of the Constitutional Court

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COLLECTION COMMISSION [*AGGIO*] DUE ON UNPAID TAX: LEGISLATION MUST BE ENACTED URGENTLY

The legislator must assess whether the collection commission [*aggio*] still has “any rationale – considering that it risks imposing disproportionately on certain taxpayers the overall costs associated with activity that is now carried out almost entirely by the tax authorities and no longer by private concession holders – or whether it has become anachronistic and is a cause of systemic efficiency”. The excessive scale of uncollected public revenues, totalling around one thousand billion euros over twenty years, is an anomaly under an international comparison. It has a negative effect on tax collection, giving rise to the paradoxical outcome whereby a limited number of taxpayers, identified with reference to their solvency (albeit at a later stage than the time when the taxes were assessed), is required to bear a solidarity burden that is neither proportionate nor reasonable, as it is in actual fact caused by the massive cost of the State’s substantial inability to collect taxes.

This is the essence of the reasons provided for [judgment no. 120](#), filed today (author Luca Antonini). In this case, the Constitutional Court ruled on the question of constitutionality raised by the Provincial Tax Board for Venice concerning the remuneration of the collection agent by the collection commission provided for under Article 17(1) of Legislative Decree no. 112 of 13 April 1999

(Rearrangement of the national collection service, implementing the delegation provided for under Law no. 337 of 28 September 1998), as applicable in 2014.

The Court declared the question inadmissible, but considered it appropriate to issue a strong warning to the legislator to the effect that the legislation must be reformed as a matter of urgency. This is because the serious inefficiency within collection enforcement has a negative effect on an essential part of the process for collecting public revenues. It affects not only the reasonableness and proportionality of the collection commission, but also causes serious interference in particular with the duty to pay tax, the aim of which is to finance the system of constitutional rights.

The inadequacy of the legislative mechanisms for enforced collection in our country thus *de facto* have the effect of preventing the Republic from removing the obstacles referred to under Article 3(2) of the Constitution, as adequate collection “is essential not only for the protection of social rights, but also for most civil rights, in view of the massive scale of resources required both for the administration of justice and for public security, both of which are indispensable in order to guarantee those rights”.

Even a duty to pay tax on a reduced scale, as is often applicable in relation to local taxes, manifests the inderogable duty of solidarity provided for under Article 2 of the Constitution, and must be recognised as such by the legal order. The failure to do so will result not only in the loss of significant streams of revenues but also the dissemination of confusion and bitterness amongst those who pay tax on time, thus creating a further reason for many others to decide not to pay taxes of their own accord.

However, the structure of a reform that seeks, on the one hand, to resolve the aspects of unreasonableness within the contested legislation on collection

premiums (the essential core of which is reiterated within the applicable legislation) whilst, on the other hand, guaranteeing adequate resources and solutions in order to ensure the efficient operation of enforced collection must be left in the first instance to the discretion of the legislature. It may choose from amongst a variety of possibilities ranging, *inter alia*, from the covering of collection costs through general taxation - as occurs in the largest European countries (Germany, France, Spain and the United Kingdom) - to mixed solutions providing for suitable criteria and limits for establishing a proportionate “collection premium”.

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