



CONSTITUTIONAL COURT OF SPAIN
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THE PLENARY OF THE CONSTITUTIONAL COURT UNANIMOUSLY UPHOLDS THE PROVISIONAL IMPRISONMENT OF DOLORS BASSA BECAUSE THIS MEASURE PURSUES A LEGITIMATE CONSTITUTIONAL PURPOSE

The Plenary Session of the Constitutional Court has unanimously rejected the application for constitutional protection (*"recurso de amparo"*) filed by Dolors Bassa i Coll against the Decisions (*"Autos"*) of the Supreme Court dated 23 March 2018, issued by the investigating judge in the particular case 20907-2017. This judge ordered the provisional and communicated imprisonment of the accused without bail, on charges of rebellion and embezzlement of public funds. Likewise, the appeal challenged the decision of 17 May 2018 of the Appeals Chamber of the Criminal Chamber of the Supreme Court, which confirmed in its entirety the decision of the said judge.

The judgement of the Constitutional Court, which was drafted by Magistrate Antonio Narváez, considers that the precautionary measure adopted by the Supreme Court was based on *"an appropriate assessment and served a constitutionally legitimate purpose"*.

The plaintiff considered that the contested decisions had violated her right to freedom (Article 17 of the Spanish Constitution [CE]) and to an effective judicial protection (Article 24.1 CE).

Both the special investigator appointed to this case and the Criminal Chamber of the Supreme Court assessed that the purpose of the precautionary measure of imprisonment was equally grounded on the risk of absconding and the potential reiteration of a criminal offence. However, they recognized in their rulings that the *amparo* appellant had behaved in a respectful manner with regard to the precautionary measures and the summons made by the judicial authority to date.

Yet, the Constitutional Court endorses the view expressed by *"both judicial organs in their decisions to consider that this [the plaintiff's behaviour] may be altered in the near future as a result of the substantial progress made during the pre-trial phase of the judicial proceedings and the formal act of indictment"*.

Following this line of reasoning put forward by the investigating judge, the judgment of the Constitutional Court stresses that *"the alleged determining factor justifying the precautionary measure is in compliance with the constitutional standards guaranteed by this Court, because it is grounded on a reasonable element such as a potential risk of absconding and of avoiding the appearance before the court. Indeed, the hypothesis of the absconding of several investigated persons, which are now facing criminal proceedings and that are supported by a permanent organizational structure – has been duly considered by the Court. The decision has assessed appropriately the obstacles that would result from that situation (as noted by the Appeals*

Chamber in its Decision of 17 May 2018) to bring them back before to the Spanish justice system through the ordinary mechanisms of international judicial cooperation".

The judgement also rejects the claim related to the failure to assess and take into consideration the personal situation of the appellant. The judgement states that *"family relationships and financial resources are not relevant justifications to prevent the risk of absconding, considering the obvious easiness of relocating within the European Union with the help of the international structure support at the disposal of the plaintiff and other persons under the same investigation, based on the reasoning of the contested decisions"*.

Madrid, 9 April 2019