



Press Office of the Constitutional Court

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FEMALE INMATES WITH CHILDREN SUFFERING FROM SERIOUS DISABILITIES: YES TO “SPECIAL” HOUSE ARREST, WITHOUT LIMITS ON THE CHILDREN’S AGE

Female inmates with children suffering from serious disabilities may serve their prison term under house arrest, regardless of their children’s age and the length of their sentence, provided that the competent court does not find this to pose a material danger to public safety.

This was held by the Constitutional Court in Judgment no. 18, filed today (Judge Rapporteur: Marta Cartabia). The judgment accepts as well-founded the challenges made by the Supreme Court of Cassation regarding the constitutionality of Article 47-*quinquies*(1) of the Prison Law (Law no. 354 of 1975), insofar as it does not provide for granting “special” house arrest also to women having children over 10 years of age who suffer from serious disabilities under Article 3(3) of Law no. 104 of 1992.

In line with the 2003 ruling on “ordinary” house arrest (Judgment no. 350, Judge Rapporteur: Fernanda Conti), the Constitutional Court has now removed, from “special” house arrest too, the limit of 10 years of age applying to children suffering from serious disabilities. Indeed, the purpose of this provision is principally that of protecting the children, who are innocent third parties and need a daily relationship with and care by their mothers, who are detained in prison.

This judgment is one of a large body of constitutional case law that considers the closest human relationships – and family relationships especially – as decisive factors in the provision of effective protection to the most fragile individuals. Therefore, the Court considered that house arrest should be granted to women with children suffering from serious disabilities, in light of their particularly vulnerable physical and psychological state, regardless of their age – this also in the

name of protecting motherhood (Article 31 of the Constitution), that is, the bond between mother and child, which is by no means exhausted in the early stages of the child's life.

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