JUDGMENT NO. 97 YEAR 2020

This case considered the constitutionality of a provision of the Prison Law that banned the exchange of objects among inmates subject to the special rules for inmates involved in criminal organizations. Considering the provision as interpreted and applied by courts, that is, with general application to all such inmates, including those assigned to the same "socialization group" within prisons, the Court struck down the provision. The Court held that, as a blanket rule, the provision was unreasonable and purely punitive, citing the fact that it could not be justified by the purpose of the special prison rules, that is, to sever ties between inmates and their criminal organizations, since inmates in the same socialization groups had ample occasions to communicate with words and gestures, without resorting to the symbolic meanings of objects. The Court pointed out that the rigorous application of ordinary prison rules sufficed to meet the needs claimed as a justification for the unconstitutional provision, citing specific rules already in place to permit the reshuffling of socialization group membership and to limit the kinds and quantities of objects that could be brought into group settings.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 41-*bis*, paragraph 2-*quater*, letter *f*) of Law No. 354 of 26 July 1975 (Provisions regulating the prison system and the execution of measures involving deprivation and limitation of liberty), initiated by the First Criminal Division of the Supreme Court of Cassation, in proceedings against G.G. and C.G., with two referral orders of 23 October 2019, registered, respectively, as numbers 222 and 223 of the 2019 Registry of Referral Orders and published in the *Official Journal* of the Republic No. 50, first special series 2019.

Having regard to the entries of appearance of G.G. and C.G., as well as the intervention of the President of the Council of Ministers;

after hearing Judge Rapporteur Nicolò Zanon on 5 May 2020, remotely and without oral argument, in accordance with the Decree issued by the President of the Court of 20 April 2020, Article 1) (*a*) and (c);

after deliberation in chambers on 5 May 2020

[omitted]

Conclusions on points of law

1.– The First Criminal Division of the Supreme Court of Cassation, with two referral orders of similar content, and in reference to Articles 3 and 27 of the Constitution, raises questions as to the constitutionality of Article 41-*bis*, paragraph 2-*quater*, letter *f*) of Law No. 354 of 26 July 1975 (Provisions regulating the prison system and the execution of measures involving deprivation and limitation of liberty [hereafter, Prison Law]), "insofar as it provides that all necessary security measures be taken in order to ensure that it is absolutely impossible for prison inmates subject to special prison rules to exchange objects with other inmates belonging to the same socialization group."

2.– In both cases, the referring court was petitioned to adjudicate appeals from the Ministry of Justice against orders handed down by the Supervisory Court of Perugia, which was hearing appeals concerning the implementation of the special prison rules under Article 41-*bis* of the Prison Law, particularly the prohibition of exchanging objects between inmates provided by paragraph 2-*quater*, letter *f*) of the aforementioned

article and applied by the prison authorities with relative service orders, also meant to implement the Prison Administration Department [*Dipartimento dell'amministrazione penitenziaria*, DAP] Circular No. 3676/6126 of 2 October 2017.

The Supervisory Court of Perugia – in the first case finding in favor of the inmate's application and in the second denying the application of the Ministry of Justice – ordered the directors of prison institutions to allow the exchange of objects between inmates subject to the special rules under Article 41-*bis* of the Prison Law and belonging to the same "socialization group" (specifically, foodstuffs obtained from family packages, from the commissary, or from the food provided by the prison authorities, as well as necessary items for personal hygiene or cleaning one's cell).

The challenged provision requires, as written, the adoption of "all necessary security measures, including through logistical precautions concerning the detention spaces, in order to guarantee that it is absolutely impossible for inmates belonging to different socialization groups to communicate, exchange objects" ("and cook food," the provision stated prior to this Court's Judgment No. 186 of 2018, which declared the last part unconstitutional). The court adjudicating the application, in its interpretation of the provision, held that the prohibition it establishes, as applied to inmates belonging to the same socialization group, would not be justified by "security reasons."

Indeed, it held, there is "no congruity" between the aforementioned prohibition and "the purpose of the special rules, that is, the need to sever the ties between the inmates and the criminal organization to which they belong."

Having stated this as a fact, the referring court highlights that the job of the interpreter is "to verify the constitutionality of the legal provisions that, without stretching or forcing in terms of interpretation, cannot take on a different regulatory meaning," and, as need be, investing this Court with the relevant questions as to constitutionality.

In substance, the referring court stresses that it cannot endorse the interpretation embraced by the Supervisory Court of Perugia as one that conforms to the Constitution, since such an interpretation would amount to an opposite reading from the one clearly intended by the meaning of the words used by the legislator, according to their context. Therefore, it adopts the interpretation accepted in the case law of the Supreme Court of Cassation, according to which, "taking into account the meaning and context of the words and graphics utilized, as well as the logical meaning of the text," "the need to ensure that it is 'absolutely impossible' to exchange objects regards all exchanges between inmates, and is not limited to exchanges between inmates belonging to different socialization groups" (reference is made, in particular, to the Judgment of the First Criminal Division of the Supreme Court of Cassation No. 5977 of 8 February 2017).

Once it had explained the regulatory contents of the provision, the referring court went on to hold that it infringed upon Articles 3 and 27 of the Constitution, and then raised the questions as to constitutionality indicated above.

2.1.– The referring court states, as a preliminary matter, that, according to constitutional case law, the purpose of suspending the ordinary prison rules under Article 41-*bis* of the Prison Law is to "sever the ongoing ties both between inmates belonging to the same criminal organizations, as well as between said inmates and the other members of the organization who remain free" (reference is made to Judgments No. 122 of 2017, 143 of 2013, 417 of 2004, 192 of 1998 and 376 of 1997).

However, the court also mentions the limits the same case law imposes upon the special rules.

The first of these limits, which is directly connected with Article 3 of the

Constitution, is, according to the court, connected with "the congruity of the measures applied with respect to the purpose they pursue." The second, which is imposed in compliance with Article 27 of the Constitution, allegedly means that the restrictions ordered under Article 41-*bis*(2) of the Prison Law cannot "completely undermine the necessary rehabilitative purpose of punishment" and, furthermore, cannot "violate the ban on inhumane treatment" (reference is made to Judgments Nos. 149 of 2018, 351 of 1996, and 349 of 1993).

In light of these principles, the court concludes that the ban on exchanging objects, as applied indiscriminately to all inmates subject to the special rules under discussion, including those who belong to the same socialization group, cannot be considered to "serve to allay any danger to public safety, assuming 'a meaning that is strictly punitive,'" and which is unjustifiable even in cases where it is intended to prevent the establishment of positions of supremacy within the prison community.

The referring court submits that the fact that inmates belonging to the same socialization group are permitted, "from an even earlier stage, to exchange any and all information, without the need to resort to exchanging objects," reveals the provision's incongruity with the purpose of severing ongoing ties between inmates subject to the special rules under Article 41-*bis* of the Prison Law and between these inmates and other members of the same criminal organization outside the prison.

The referring court argues that the challenged ban serves no purpose also in terms of preventing the formation or consolidation of abuse-of-power dynamics within the same socialization group, which can be prevented (in accordance with principles reiterated most recently in this Court's Judgment No. 186 of 2018) by "defining prison regulations and rigorously and impartially applying them." Among these, the general rule established by Article 15 of Presidential Decree No. 230 of 30 June 2000 is particularly relevant (Regulations on the prison system and measures involving deprivation and limitation of liberty), which only permits the transfer or exchange of "objects of little value."

Moreover, the referring court claims that the ban in question infringes upon the principle of the rehabilitative purpose of punishment, enshrined in Article 27 of the Constitution, as well as adding a limitation to the ordinary prison rules that runs contrary to humane treatment.

2.2.– As far as the grounds for relevance are concerned, the referring court points out that only striking down Article 41-*bis*, paragraph 2-*quater*, letter *f*) of the Prison Law, even if only *in parte qua*, "would eliminate the legal basis for the prison authority's actions giving rise to the [original] application," permitting the supervisory judge to disapply them and to issue opposing orders to the prison authorities.

3.– The two referral orders challenge the same provision and refer to the same constitutional provisions. The proceedings, therefore, must be joined and decided with a single judgment.

4.– The referring court has raised the aforementioned questions as to constitutionality after having identified the regulatory meaning of the challenged provision on the basis of an unequivocal reading of the text, and after having specified that the literal meaning of the text prevents a different interpretation.

In light of constitutional case law, it bears highlighting, as a preliminary matter, that this argument, which appears in both referral orders, is correct, and allows for a review of the merits. Indeed, this Court has consistently held that, when the referring court has considered the possibility of an interpretation that would eliminate the doubt as to constitutionality, and has provided reasons for rejecting it, evaluating whether or not the chosen interpretative option is correct goes not to the admissibility of the

question raised, but rather to the merits of the question (see, among many, Judgments No. 50 and 11 of 2020, 241 and 189 of 2019, and 135 of 2018).

5.– Law No. 94 of 15 July 2009 (Public safety provisions), which contains a broad range of measures in the of public safety, had a profound effect on the rules contained in Article 41-*bis* of the Prison Law, by means of a set of modifications having the clear purpose of rendering the special prison rules harsher.

As concerns the matter under discussion, paragraph 2-*quater* of Article 41-*bis* was modified to eliminate all discretion in applying the special detention conditions, as the literal meaning of the provision makes clear, in that the ministry provision suspending the prison rules now "shall provide" (and no longer "may provide") the measures described at the following letters (except as provided at letter *a* of the same paragraph, which will be discussed at point 8 below). In essence, the updated provisions list a series of specific measures which make up the typical and necessary contents of the special rules (Judgments No. 186 of 2018 and 122 of 2017). These measures, which were the fruit of an assessment carried out by the legislator in a general sense and *ex ante*, are mandatory to apply to all inmates subject to the special rules.

Included among these measures are those provided at letter *f*) of Article 41-*bis*, paragraph 2-*quater*, of the Prison Law, which are the object of the present constitutional proceedings. These measures, while they ensure that even this segment of inmates shall have access to indispensable periods and forms of "socialization" within the prison, confine social relationships to small groups, made up of no more than four people, and also place limits on how long they can last.

Socialization groups are the means chosen by the legislator for meeting both the essential purpose of the special rules (i.e. preventing the most dangerous inmates from keeping up active ties with the criminal organizations to which they belong) and the need to guarantee access to the aforementioned crucial forms of socialization.

In this regard, the prison authorities are charged, above all, with adopting "all necessary security measures, including through logistical precautions in the detention spaces, intended to guarantee that it is absolutely impossible for inmates belonging to different socialization groups to communicate, exchange objects."

Thus, the provision has the basic objective of containing in-prison encounters within set "socialization groups," and to prevent contact between inmates belonging to different groups. The makeup of each individual group, which may always be changed to address any needs that may arise, is determined by applying complex criteria (currently provided for at point 3.1 of DAP Circular No. 3676/6126 of 2 October 2017), based on the need to prevent any opportunity for criminal ties to be strengthened, as well as any possibility that orders, information, and news be exchanged with persons on the outside.

For this reason, as mentioned above, the basic contents of letter *f*) are that it be "absolutely impossible for inmates belonging to different socialization groups to communicate," the underlying presumption being that, on the contrary, an inevitable communication relationship will develop among inmates assigned to the same socialization group.

Under the reading provided by the referring court, the additional prohibition, that banning the exchange of objects, also takes on special significance. Distinct from the other in both syntax and form, it takes on a meaning that is not subservient or ancillary to the ban on communication between inmates assigned to different groups, but rather has an independent regulatory import, applicable to all inmates subject to the special rules, even if they belong to the same socialization group, thus preventing the exchange of objects even between inmates authorized to pass some hours a day together within

the prison.

In reality, this separate meaning was not discussed during the drafting of Law No. 94 of 2009, and the first DAP circular that followed the passage of that law (No. 286202 of 4 August 2009, containing rules on the "[o]rganization of the prison divisions dedicated to holding inmates subject to the special prison rules") paraphrased the challenged provision, without stating it word for word, by underscoring the need to ensure that it is "absolutely impossible to communicate or exchange objects between inmates assigned to different socialization groups."

The fact of the matter is, however – and this is, ultimately, determinative – that the case law of the Supreme Court of Cassation (starting with Judgment No. 5977, First Criminal Division, 8 February 2017) later settled on the reading adopted by the referring courts, holding that, "the ban on exchanging objects has general effect and that, therefore, a different interpretation that would restrict its application only to cases of different socialization groups is impermissible" (see, in particular, Supreme Court of Cassation, First Criminal Division, No. 38223 of 16 September 2019).

6.– Therefore, the constitutionality of the provision must be assessed on the basis of its meaning as described, in light of the constitutional provisions indicated by the referring court.

Thus, this Court must determine whether the legislative ban on exchanging objects, as necessarily applied also to inmates subject to the special rules in the same socialization groups, causes congruous and proportionate effects, both with regard to the purposes of the special rules themselves, as well as to the limits that apply to their application, as defined by the settled case law of this Court.

As far as the purposes are concerned, the special rules provided by Article 41-*bis*, paragraph 2, of the Prison Law aims to limit the dangerousness of individual inmates, and extends beyond the prison by, in particular, inhibiting ties between inmates who belong to criminal organizations, and between these inmates and the members of their criminal organizations who are free. These ties can be maintained by means of the kind of contact with the outside world that the prison system normally encourages, as tools that foster reintegration into society (Judgments No. 186 of 2018, 122 of 2017, 376 of 1998, and Orders No. 417 of 2004 and 192 of 1998).

Above all, the special prison rules are designed specifically to prevent incarcerated members of a criminal organization from taking advantage of the ordinary prison rules to continue to impart instructions to their free affiliates (in theory relying particularly on visits from family members or others), thus maintaining control over the criminal activity of the organization itself, even from prison (see, again, Judgments No. 186 of 2018, 122 of 2017 and 143 of 2013).

As for the limits that apply to the special rules category, constitutional case law has explained that Article 41-*bis*, paragraph 2, of the Prison Law can only be used to suspend the application of prison rules and institutions that concretely conflict with the aforementioned requirements of order and security. Relatedly, this Court has held that measures may not be adopted which, due to their contents, cannot be traced back to those concrete requirements, because such measures would be patently incongruous and inadequate with respect to the purpose of the act assigning the inmate to the special rules category. In the event such measures are adopted, not only would they no longer respond to the reason why the law permits their adoption, but they would also take on a different meaning, "becoming unjustified exceptions to the ordinary prison rules, with a purely punitive scope that cannot be traced back to the function the law grants to measures adopted by the ministry" (Judgment No. 351 of 1996).

7.– This assessment of the challenged provision results in a negative outcome,

and the questions as to constitutionality raised are well founded, since the provision infringes upon Articles 3 and 27(3) of the Constitution.

In conflict with Article 3 of the Constitution, the ban on exchanging objects, in the part in which it also applies to inmates in the same socialization group, is neither in function of nor congruous with the typical, essential purpose of a measure subjecting an individual inmate to the special rules, which is to prevent him or her from communicating with people outside. In these conditions, the exception created by the ban to the ordinarily applicable rules for prisoners, which allow them to exchange "objects of little value," is not justified (Article 15(2) of Presidential Decree no. 230 of 2000), and the ban ends up taking on a purely punitive meaning, in violation of Article 27(3) of the Constitution.

As discussed more thoroughly below, the disproportionate nature of the ban in question, which further infringes upon the constitutional provisions mentioned above, is clear if we consider the legislative choice to make it a necessary part of the special rules, to be applied, without regard for the specific needs of a concrete case, every time an inmate is assigned to the special rules category.

7.1.– This Court has acknowledged – albeit with regard to another prohibition, that of exchanging books and magazines with the outside, derived from the application of the measures found in letters *a*) and *c*) of paragraph 2-*quater* of Article 41-*bis* – that "any object may abstractly lend itself to assume – by virtue of a prior agreement, because of its inherent symbolic value, or simply because of the interpersonal relationship between the parties – a specific communicative meaning, when not also to act as an 'anomalous' substitute for the usual paper format for setting down messages, or as a container for concealing them inside." (Judgment No. 122 of 2017).

In this case, the symbolic or agreed-upon meaning intrinsic to the exchanged object could hypothetically be easily turned into a communication to be transported to the outside, for example during a visit from family members or (in the exceptional cases in which this is permitted) third parties.

On close consideration, however, this justification is unconvincing, precisely on grounds that it is not in congruity with the objective.

The fact is that inmates who belong to the same socialization group are often able to orally communicate messages of all kinds among themselves, without being overheard, except for the chance perceptions of the guards who supervise the common areas, and except for individual recordings that may take place in the space and must be specifically authorized by the judicial authorities. On such occasions, although they are subject to constant video surveillance, inmates may very well communicate through gestures, the meaning of which is not easily intelligible.

Such communication may take place during the two daily hours inmates spend outdoors, in the so-called "walking courtyards," where they are allowed to engage in physical exercise and bring only very few objects with them, the type and quantity of which are expressly prescribed. It may also occur in communications between cells, given that, according to the common regulations for the special rules category, the secure doors of the detention chambers are left open from 7:00 until 22:00 in summer, and 20:00 in winter, and during these hours inmates from the same socialization group are allowed to talk among themselves, since their cells are generally fairly close to one another.

Prisons also ordinarily provide "recreation rooms" – to serve as libraries, gyms and hobby rooms – for common cultural, recreational, or sports activities, accessible for one hour a day (following the shifts established by the prison management) and by means of tools provided by the authorities.

The "walking courtyards" and "recreation rooms" are searched every time a group enters or exits. In the recreation rooms and gym, as in the courtyards, only a few objects, of an expressly indicated type and quantity, may be brought in.

During all of these chances for socialization, even leaving aside any clear and unequivocal (and hypothetically unheard) messages between inmates, it is very possible that the most cryptic symbolic or agreed-upon meaning of an exchanged object may easily be replaced with words or gestures that appear random, but in reality have a meaning that is clear (only) to another inmate who hears or sees them.

In the final analysis, this hypothetical justification for the ban (halting the transmission outside the prison of messages that serve the illegal activities of a criminal organization) is incongruous with the purpose. This ruling necessarily, and consequentially, therefore leads to the conclusion that the measure is needlessly and merely punitive.

This is the same assessment that this Court gave concerning the limits and duration provided for meetings between inmates subject to the special rules and their attorneys under Law No. 94 of 2009 (Judgment No. 143 of 2013): since the provision obviously could not eliminate these meetings entirely, it imposed limits that, while punishing for the inmate's defense, did not even partly prevent the transfer of instructions and information between the outside world and the prison. In that case, the judgment pointed out, the indisputable compression of the right of defense caused by the challenged provision did not correspond to any commensurate increase in the protection of public order or safety.

Ultimately, in this case, too, the certain compression of a minimal form of socialization – which, moreover, involves an extremely limited circle of individuals, and consists of the exchange of items of little value and immediate utility, as a function of a (decidedly partial) "normality" in interpersonal relationships between inmates – does not correspond with an increase in the guarantees of protecting society and public safety.

The ban in question, while understandable in reference to inmates belonging to different socialization groups, proves to be unreasonable if it is necessarily applied to inmates in the same group, as well.

7.2– The assessment is no different if we consider the other possible *ratio* for the application of the ban within the same socialization group: that is, that the prohibition is justified for purposes of preventing one of the group members from acquiring, through the exchange of objects, a position of superiority in the prison context, with symbolic significance for criminal organizations that bears communicating, as such, to persons outside the prison.

This Court (in Judgment No. 186 of 2018) has already held that manifestations of forms of "power" within the prison by stronger or more affluent inmates, which tend also to reinforce criminal organizations, must be prevented "by means of the definition and rigorous and impartial application of the prison rules," and, "conversely, the adoption of harsher measures for individual inmates in the form of mere negative discrimination, with no other justification, cannot be considered lawful."

The aforementioned general rule imposed by Article 15(2) of Presidential Decree No. 230 of 2000, allows inmates to give or exchange only objects of "little value." Thus, the argument that goods of significant value may be used as a means to gain power within the prison may reasonably be rejected, thanks to the application of the general rule.

In the pending proceedings, for example, the items that inmates intended to exchange with other members of their socialization group were foodstuffs (sugar, coffee

and the like) or other basic necessities (personal hygiene or cell cleaning products) sent from people outside – which are, therefore, subject to further limitations under Article 41-*bis*, paragraph 2-*quater*, letter *c*) of the Prison Law, or purchased at the so-called commissary.

State Counsel has pointed out that the exchange of objects may be "imposed" within a given socialization group by the group member with the highest criminal rank, for the purpose of demonstrating his or her ability to maintain or reinforce a position of supremacy by exercising the ability to force other members to deprive themselves of essential and scarce items, thus creating "conditions of subjugation" within the group. These conditions, too, have greater symbolic value within criminal organizations, to the extent that they are able to be transferred in various forms outside the prison.

With regard to this point as well, however, the ordinary prison rules that govern socialization groups allow for constant surveillance of the groups, as well as swift changes to their makeup as need be. This may very well be done in response to learning that exchanges are taking place at an unusual rate, and without reciprocity.

In conclusion, an evaluation of the *ratio* in question does not alter the conclusion reached above, but rather confirms on these grounds as well that Articles 3 and 27(3) of the Constitution have been breached.

8.– Just as inmates subject to the special rules have no fundamental right to cook food (Judgment No. 186 of 2018), nor do they have a fundamental right to exchange objects, even with other inmates assigned to the same socialization group. Yet, both cooking food and exchanging objects are faculties of the human individual, even one who is detained, which belong to the "small gestures of everyday normality" (again, Judgment No. 186 of 2018) that become all the more precious for the fact that they represent the last remaining areas in which the freedom of the inmates themselves may expand (see, similarly, Judgment No. 349 of 1993, followed by Judgments No. 20 and 122 of 2017, as well as 186 of 2018).

Therefore, compressing the chance to exchange objects with other inmates in the same group (an expression of an albeit minimal faculty of socialization), and the resulting exception to the application of the ordinary prison rules, may be justified not as a general and abstract matter, but only in the event that, in the specific actual circumstances, a concrete need to guarantee public safety, and a well-supported need to prevent – as Article 41-*bis*, paragraph 2-*quater*, letter *a*) of the Prison Law states – "contact with the criminal organization of membership or ongoing reference, clashes with members of competing criminal organizations, interactions with other inmates or detainees belonging to the same organization or to organizations allied with it."

Given this, applying the ban on exchanging objects in a mandatory and generalized way on inmates in the same socialization group, goes beyond the bounds of an *ex ante* balancing carried out by the legislator, irrespective, therefore, of a concrete verification of the aforementioned safety requirements, and without any possibility to make calibrated adjustments based on the characteristics of an individual case.

Ultimately, the *ex lege* provision of the absolute ban amounts to a disproportionate measure, and on these grounds, too, infringes upon Articles 3 and 27(3) of the Constitution.

On the contrary, even after this Judgment of unconstitutionality, prison authorities will remain able to govern how objects are exchanged among inmates in the same group on the basis of letter *a*) of paragraph 2-*quater* of Article 41-*bis* of the Prison Law, according to which suspending the rules and institutions under paragraph 2 may include "adopting measures of heightened internal and external security" (for example if the exchange concerns objects that cannot be carried during socialization periods,

providing an annotation to this effect in the relevant registers), as well as to predetermine the conditions under which potential restrictions may be put in place (with reference to particular objects which are particularly suited to become vehicles of hard-to-decipher communications, as has already been done, for example, for the ban on exchanging books or partial copies of books between inmates, regulated by the aforementioned DAP Circular of 2 October 2017, independently of the general ban challenged in this case).

Naturally, these limitations must be justified by precise needs, which must be explicitly described; and they are subject to judicial review on these grounds, from time to time and in relation to concrete cases, by supervisory courts, implementing Articles 35-*bis*, paragraph 3 and 69, paragraph 6, letter *b*) of the Prison Law.

9.– In conclusion, the ban on exchanging objects provided by the challenged provision, if necessarily applied to inmates assigned to the same socialization group, violates Articles 3 and 27(3) of the Constitution. Thus, it is justified for this Court to adopt a ruling of unconstitutionality, guiding the challenged provision within the limits of the aforementioned constitutional provisions, eliminating the need to apply it to inmates in the same group, and limiting its application to inmates assigned to different socialization groups.

Article 41-*bis*, paragraph 2-*quater*, letter *f*) of the Prison Law must, therefore, be declared unconstitutional insofar as it provides for the adoption of the necessary security measures intended to guarantee that it is "absolutely impossible for inmates belonging to different socialization groups to communicate, exchange objects," rather than to ensure that it is "absolutely impossible to communicate and exchange objects between inmates belonging to different socialization groups."

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

having joined the judgments,

declares that Article 41-*bis*, paragraph 2-*quater*, letter *f*) of Law No. 354 of 26 July 1975 (Provisions regulating the prison system and the execution of measures involving deprivation and limitation of liberty) is unconstitutional insofar as it provides for the adoption of the necessary safety measures intended to guarantee that it is "absolutely impossible for inmates belonging to different socialization groups to communicate, exchange objects," rather than "absolutely impossible to communicate and exchange objects between inmates belonging to different socialization groups."

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta*, 5 May 2020.

Signed by: Marta CARTABIA, President
Nicolò ZANON, Author of the Judgment