



Fontana, Lilia Marcela s/denuncia

C. 959. XLVI.

Country: Argentina

Region: Americas

Year: 2011

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Nación Argentina]

Health Topics: Child and adolescent health, Chronic and noncommunicable diseases, Health care and health services, Health systems and financing, Hospitals, Medicines

Human Rights: Right to housing, Right to life

Facts

The plaintiff brought the case to the Federal Criminal Court of Lomas de Zamora [Juzgado Federal en lo Criminal y Correccional N° 2] against the responsible of the Federal Program of Health [Programa Federal de Salud (P.R.O.F.E.)] who were not providing the medicines and dialysis equipment for the treatment of her seven year old daughter, an affiliate of the program.

The Federal Criminal Court found that it was not competent to solve the lawsuit because there were no National State's interests at stake and therefore no federal jurisdiction and send the case to the provincial jurisdiction [Juzgado de Garantías N° 2 de Lomas de Zamora]. The local court [Juzgado de Garantías N° 2 de Lomas de Zamora] found that it was not clear that there were no National State's interests at stake so send the case back to federal jurisdiction. The Federal Court raised the question of competence to the Supreme Court of Justice.

Decision and Reasoning

The Supreme Court held that as the Province of Buenos Aires designated the "Instituto de Obra Médica Asistencial (IOMA)" as the executive organ of the Federal Health's Program, there were no National State's interests affected, so the provincial jurisdiction was the competent to solve the lawsuit.

Decision Excerpts