



Pro Familia Asociaci3n Civil v. Gobierno Ciudad Aut3noma de Buenos Aires et al.

C. 783. XLVIII.

Country: Argentina

Region: Americas

Year: 2012

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Naci3n Argentina]

Health Topics: Hospitals, Sexual and reproductive health

Human Rights: Right to bodily integrity, Right to family life, Right to liberty and security of person, Right to privacy

Facts

The plaintiff filed a suit to the First Instance Contentious Administrative and Tributary Court of the City Buenos Aires [Juzgado N14 Contencioso Administrativo y Tributario de la Ciudad Aut3noma de Buenos Aires] against the City of Buenos Aires [Ciudad Aut3noma de Buenos Aires] to obliged them to declare the nullity of the Resolution N1174 MSGC-07 which regulates the "Procedure for professional attention for the practice of legal abortion -article 86 inc 1 and 2 Criminal Code." In the process they requested a precautionary measure that ordered the City of Buenos Aires to abstain to performing any act that would end the life of an unborn child. Their motivation was a statement released in a newspaper where Mauricio Macri said that a legal abortion was going to be performed in the City of Buenos Aires the 9th of October 2012. They requested for the abortion not to take place.

The First Instance Contentious Administrative and Tributary Court of the City Buenos Aires dismissed the case, so the plaintiff filed an appeal of reversal and subsidiary appeal to the same Court. The appeal of reversal was denied but the subsidiary appeal was conceded. At the same time the plaintiff brought the case to the National First Instance Civil Court which declared the suspension of the abortion that was going to take place 9th of October 2012. The Contentious-Administrative and Tributary Courts of Appeal of the City of Buenos Aires rejected the subsidiary appeal against the First Instance Contentious Administrative and Tributary Court of the City Buenos Aires but as there was a contradictory judgement from the National Civil Court, decided to send the case to the Supreme Court to decide which Court was competent.

Decision and Reasoning

The Supreme Court of Justice held that in this case the measure that should prevail is the one that is in conformity with the precedent "F.A.L s/ medida autosatisfactiva" (March 13 2012) which determined and requested the provincial powers and the city of Buenos Aires to abstain the judicialisation to access legal abortions. It declared the suspension of the National Civil Court judgement and authorized the immediate procedure of the legal abortion.

Decision Excerpts

"Que, adem1s, frente a lo decidido por esta Corte sobre la base de la interpretaci3n de textos constitucionales e infraconstitucionales en la sentencia dictada en la causa F.259.XLVI "F .A. L. s/ medida autosatisfactiva", sentencia del 13 de marzo de 2012 (voto de la mayoria), la medida que se adoptar1, es la demostraci3n m1s concluyente del modo en que ha de realizarse por los poderes judiciales de la Naci3n, de las provincias y de la Ciudad Aut3noma de Buenos Aires, la exhortaci3n dada por el Tribunal para que se abstengan de judicializar el acceso a los abortos no punibles." Paragraph 7

"Regarding the decision of this Court based in the interpretation of constitutional and infraconstitutional texts in the case1 F.259.XLVI "F .A. L. s/ medida autosatisfactiva" of March 13 2012, the measure that will be adopted would be the demonstration in the way that National, Provincial and the City of Buenos Aires judicial powers should proceed, given the Court's exhortation for them to abstain from creating judicial obstacles to access the legal abortion" Paragraph 7

