



Fernández, Damiana v. PROFE Salud et al.

C. 677. XLVIII.

Country: Argentina

Region: Americas

Year: 2013

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

Health Topics: Disabilities, Health care and health services, Health systems and financing

Human Rights: Right to health, Right to life

Facts

The plaintiff filed a guarantee of protection of individual constitutional rights (amparo protection) to the First Instance Labor Court of La Plata [Tribunal del Trabajo n 3 del Departamento Judicial de La Plata] against the responsible of the Federal Program of Health [PROFE Salud] to provide health coverage. The First Instance Labor Court of La Plata first held that was incompetent to solve the lawsuit because the National State was a party of the case so it corresponded to the Federal jurisdiction and send the case to the Federal First Instance Court of La Plata [Juzgado Federal Instancia n° 2 de La Plata]. The Federal Court held that as the province of Buenos Aires was the executive organ of the PROFE Salud program, the case should return to local jurisdiction. The case was sent to the Supreme Court of Justice to decide the competence of the case.

Decision and Reasoning

The Supreme Court of Justice held that the competent court was the First Instance Labor Court [Tribunal del Trabajo n°3 del Departamento Judicial de La Plata] because even though the Federal Program of Health was created by the National Ministry of Health, it celebrated agreements with the provinces, in this case with the Ministry of Health of the Province of Buenos Aires so the program is under provincial jurisdiction by provincial decree 1532/10. At the same time, if a case was brought to Federal jurisdiction on the basis of the character of the respondent, the National State, and the competence was declined then the case should be solved by the local jurisdiction.

Decision Excerpts