



T., J. C. v. Ministerio de Salud

C. 881. XLVIII.

Country: Argentina

Region: Americas

Year: 2013

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

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

Human Rights: Right to health, Right to life

Facts

The plaintiff filed a precautionary measure with First Instance Family Court of La Matanza [Juzgado de Familia N° 7 de La Matanza] against the Ministry of Health of the province of Buenos Aires for it to provide health care and radiation treatment for her disease. The provincial court held that it lacked competence to solve the dispute because the main respondent was the National State so the case should be solved by the federal courts. The case was brought to the National First Instance Civil and Commercial Court [Juzgado Nacional en lo Civil y Comercial Federal N°1] who also held that the competent court was the Federal jurisdiction. The case reached the Federal First Instance Civil and Commercial Court [Juzgado Federal en lo Civil, Comercial y Contencioso Administrativo N° 2 de San Martin] which held that it lacked competence because the executive organ of the "PROFE Salud" Program was the Ministry of Health of the Province of Buenos Aires so the case should be decided by the local jurisdiction.

The case was sent to the Supreme Court of Justice to determine which Court was competent to decide upon the case.

Decision and Reasoning

The Supreme Court of Justice held that the competent court was the First Instance Family Court of La Matanza [Juzgado de Familia N° 7 de La Matanza] 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 execution and jurisdiction, by provincial decree 1532/10. This criteria was adopted also in the jurisprudence "González Fabiana L.v. PROFE Salud".

Decision Excerpts