



Case 1316B/1995

Country: Hungary

Region: Europe

Year: 1996

Court: Constitutional Court

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

Human Rights: Freedom from discrimination, Right to health

Facts

A petition was filed challenging the constitutionality of Section 24 Paragraph 4 of Government Decree 103/1995 (VIII. 25.) on Certain Issues of Social Security Funding of Health Care and its Annex No. 6. It was argued that as a result of these provisions, equal in patient care as a constitutional right, was violated. Financing was provided based on the kind of services provided by each hospital. Thus a specialty hospital may receive higher funding than a general hospital. This was argued as not guaranteeing equal opportunities to and discriminating between citizens based on the size of the hospital and the services it offers. This violated Articles 70A(right to equality) and 70D (right to health)

Decision and Reasoning

On the issue of whether people were discriminated against based on unequal financing of health services, the Court held in the negative. This was because the legal equality principle enshrined in the Constitution did not apply to aspects outside the law. An uneven development of health institutions and subsequently different levels of financing for it did not fall under the equality principle.

As to whether the right to health was violated, the Court once again held in the negative. As distinct services were provided by each hospital in different regions and therefore there was no dearth of healthcare services. Moreover, the challenged decree did not affect social service entitlement, as patients could still avail of benefits regardless of services offered by hospitals.

Decision Excerpts

"The differences in health care services of citizens arising due to the uneven development of health care institution system and taking these into consideration when financing the institutions does not result in an unconstitutional discrimination infringing Article 70/A of the Constitution." (Page 2)

"Judging what system and financing of health care and medical care is organized by the State to fulfil its obligation from Article 70/D of the Constitution pertains to the freedom and responsibility of the legislator, and constitutional judgment of the system – except for extreme cases (e.g. if certain regions completely lack health care institutions or medical services) - does not have a constitutional standard." (Page 2)