



Case 0028-10-TI

Corte Constitucional Case No. 0028-10-TI, July 22, 2010

Country: Ecuador

Region: Americas

Year: 2011

Court: Constitutional Court [Corte Constitucional]

Health Topics: Disabilities, Health care and health services, Health systems and financing, Occupational health, Sexual and reproductive health

Human Rights: Right to health, Right to social security

Facts

This case was a review of the constitutionality of the Agreement on Social Security signed between the governments of Spain and Ecuador, to provide nationals working in the companion State with the same benefits as they would receive in their home country. In Spain's case, this required provision for temporary disability during mass outbreaks of illness, maternity and at-risk pregnancies, and permanent disability, among others, and in Ecuador's, for sick leave, maternity leave and disability insurance, among others. This was the only judicial instance for this decision.

Decision and Reasoning

Considering that the Agreement would protect the right to social security, a primary right guaranteed by the State which formed an integral part of the fundamental right to a person's well-being, and considering that the Agreement did not restrict or limit any other constitutional rights or guarantees, the Court held that the Agreement was constitutional.

Decision Excerpts

“Constituye uno de los deberes primordiales del Estado: 2.-Garantizar sin discriminaci3n alguna el efectivo goce de los derechos establecidos en la Constituci3n, y en los instrumentos internacionales, en particular la educaci3n, la salud, la alimentaci3n, la seguridad social y el aguparar sus habitantes.”

“One of the State's primary responsibilities is to: 2.- Guarantee, with no discrimination whatsoever, the effective enjoyment of the rights set forth in the Constitution and international instruments, in particular the rights to education, health, food, social security and water for the State's inhabitants.”

“Es importante destacar que el derecho a la seguridad social es un derecho que se halla interrelacionado con otros derechos fundamentales que tambi3n se encuentran amparados por la Constituci3n de la Rep3blica, principalmente, con derechos como: a una vida digna; el derecho a la igualdad; el derecho a la salud; el derecho al Trabajo, y el derecho a la seguridad social.”

“It is important to note that the right to social security is a right that is interrelated with other fundamental rights that are also protected by the Constitution of the Republic, primarily such rights as: the right to a dignified standard of living; the right to equality; the right to health; the right to work; and the right to social security.”