



Case 007-11-EE

Corte Constitucional Case No. 007-11-EE, July 27, 2011.

Country: Ecuador

Region: Americas

Year: 2011

Court: Constitutional Court [Corte Constitucional]

Health Topics: Diet and nutrition, Disasters and emergencies, Public safety

Human Rights: Right to health, Right to life, Right to work

Facts

This case was a decision on the constitutionality of an executive decree ordering the declaration of a state of emergency intended to prohibit the sale and consumption of alcoholic beverages throughout the country for 72 hours, due to cases of poisoning from alcoholic beverages adulterated with methanol. Articles 165 and 166 of the Constitution and Articles 119, 120, 121, 122, 123, 124 and 125 of the Organic Law of Jurisdictional Guarantees and Constitutional Controls set forth conditions that a declaration of a state of emergency must meet to be constitutional, including the civil rights that may be limited thereby.

The court found that the death of more than 15 people caused by the adulterated alcoholic beverages was a serious situation that affected the rights to health and life of many people and could potentially continue to affect that of many more. Therefore, the court held that the emergency constituted an exceptional circumstance that merited the adoption of urgent measures which could protect the rights to life and health of the inhabitants of Ecuador.

This was the first and only judicial instance.

Decision and Reasoning

The Constitutional Court decided on the constitutionality of the executive decree that imposed a state of emergency, suspending all sales of alcoholic beverages for 72 hours in order to recall (including authorizing the police to seize) and prevent that sale of the adulterated alcoholic beverages that were causing deaths and serious illnesses. The Court analyzed the legal nature and purpose of the state of emergency, and its compliance with the substantive and procedural requirements under the laws and verified that the decree would not limit or suspend any fundamental rights protected under the Constitution, such as the right to carry out economic activities. It thus decided that the decree was relevant and necessary in order to prevent the public health emergency, and to protect the lives and health of people in the country. The decree was therefore declared constitutional.

Decision Excerpts

“Sean deberes primordiales del Estado garantizar, sin discriminación alguna, el goce efectivo de los derechos humanos establecidos en la Constitución, pero particularmente la educación, la salud, la alimentación, la seguridad social y el agua para sus habitantes. El Estado asume un rol protagónico en el respeto de estos derechos, por lo cual, en el artículo 32 de la Constitución se compromete a garantizar el ejercicio del derecho a la salud mediante políticas económicas, sociales y culturales, así como el acceso permanente y oportuno de los servicios de salud.”

“The State’s primary responsibilities are to guarantee, without any discrimination whatsoever, the effective enjoyment of the human rights set forth in the Constitution, but particularly the rights to education, health, food, social security, and water for the State’s inhabitants. The State plays a primary role in the protection of these rights, and therefore, according to Article 32 of the Constitution, the State is committed to guaranteeing the exercise of the right to health through economic, social and cultural policies, as well as permanent and timely access to health services.”

“Esta Corte encuentra que la declaratoria de excepción buscaba proteger los derechos a la vida y a la salud.

Al respecto, el derecho a la salud no puede ser únicamente entendido como un derecho a estar sano, puesto que también involucra el derecho a no padecer injerencias, por ejemplo, a que no se afecte la salud a través del envenenamiento de bebidas alcohólicas. Se verifica entonces que el decreto ejecutivo supra es adecuado porque contribuye a un fin constitucionalmente legítimo.

“This Court finds that the declaration of the state of emergency sought to protect the rights to life and to health. In this respect, the right to health cannot only be understood as the right to be healthy, given that it also includes the right to not suffer injury, for example, the right to not have one’s health affected by poisoning from adulterated alcoholic beverages. It is confirmed, then, that the executive decree here in question is appropriate, because it contributes to a legitimate constitutional purpose.”

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