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EL SALVADOR IS RESPONSIBLE FOR OBSTETRIC VIOLENCE AND VIOLATION OF THE RIGHT TO HEALTH OF A WOMAN WITH A HIGH-RISK PREGNANCY DUE TO LACK OF PROTOCOLS FOR ADEQUATE MEDICAL CARE

San José, Costa Rica, December 20, 2024. Today, the Inter-American Court of Human Rights notified its judgment in *Beatriz et al. v. El Salvador*. In its decision, the Court found the State of El Salvador internationally responsible for failing to comply with its obligation of due diligence by guaranteeing the rights of access to effective judicial remedies, personal integrity, health and privacy of a woman experiencing a pregnancy that involved numerous risks in a situation of obstetric violence resulting from the legal uncertainty concerning the legality of the actions of the medical personnel involved in her case.

The victim, known as Beatriz, suffered from numerous underlying diseases including systemic lupus erythematosus, lupus nephritis and rheumatoid arthritis. Following a first pregnancy that exacerbated her medical conditions, during her second pregnancy, the victim faced situations within the framework of the public health and the administration of justice systems that gave rise to legal uncertainty in terms of opportune and adequate medical care, and obstetric violence. In fact – and even though Beatriz’s situation called for a duty of special protection from the State – the lack of legal certainty in relation to how her case should be dealt with led to the bureaucratization and judicialization of the required medical care, and this infringed the personal integrity of the victim and of her family, including the child from her first pregnancy who, at the time of the events, was just over one year old. Consequently, the Court established that the State was responsible for the violation of the American Convention on Human Rights and the Convention of Belem do Pará and ordered, among other measures of reparation, that the State establish directives and guidelines for judicial and medical personnel, by adapting existing medical protocols or any other legislative measure that guaranteed legal certainty in the treatment of similar cases.

The official summary and the full text of the judgment can be consulted (in Spanish) [here](#).

Beatriz suffered from the underlying diseases of systemic lupus erythematosus, lupus nephritis and rheumatoid arthritis. In 2012, she became pregnant for the first time and survived severe preeclampsia. In 2013, Beatriz became pregnant again and in view of her underlying diseases the pregnancy was considered high-risk. Following several ultrasounds, it was determined that the fetus was anencephalic, a condition that was incompatible with life outside the uterus. The Medical Committee of the National Maternity Hospital examined Beatriz’s case, but decided to subordinate the decision on medical treatment to a series of legal consultations with different competent authorities.

A second meeting of the Medical Committee considered the risk to the life and health of the mother and possible courses of action, including ending the anencephalic pregnancy



before 20 weeks. However, no decision was taken because, at the time of the events and as the Minister of Health at the time advised, no protocols existed for attending to cases such as that of Beatriz.

During the international proceedings, the State acknowledged that “a situation of confusion existed” and that “the protocols could have been much better and would have allowed the doctors to have certainty in relation to a decision recommended by the Medical Committee for this particular situation that combined a series of circumstances that had never happened.”

Since time was passing, an application for amparo was filed in Beatriz’s name requesting the ending of the pregnancy in order to preserve her life and health. As she was already more than 20 weeks pregnant, the Institute of Forensic Medicine submitted an expert opinion to the process indicating that the pregnancy did not entail a risk to the mother’s life. Based on this opinion, the Constitutional Chamber found that the conduct of the defendant authorities had not jeopardized the life or health of Beatriz.

Finally, when she was 26 weeks pregnant, she underwent a cesarean section and the newborn, named Leilany Beatriz, died five hours after the birth as a result of its condition of anencephaly. Beatriz survived the procedure.

In its judgment, the Court indicated clearly that it was not incumbent on it to rule on the different medical opinions or speculate – based on the information submitted – on the validity of the conclusions set out in the reports issued by official bodies, either the Medical Committee of the National Maternity Hospital on the one hand, or the Institute of Forensic Medicine, on the other. It also indicated that it was not for the Court to establish the best way to approach the medical care that Beatriz should have received. Therefore, the Court considered that, in this case, it was not in order to rule on the right to life linked to presumed risks to life resulting from the medical opinions and decisions *per se*. Additionally, it should be pointed out that Beatriz died on October 8, 2017, after contracting nosocomial pneumonia while being treated for a traffic accident. In view of the fact that no causal nexus was proved between the death of Beatriz in 2017 and the medical care during her second pregnancy in 2013, the Court also found that it was not in order to rule on the State’s responsibility for her death.

However, in its judgment, the Court did establish that Beatriz’s underlying medical conditions required a special duty of protection by the State, through the provision of opportune and diligent medical care. Nevertheless, the absence of protocols for the treatment of pregnancies involving high risks to the health of the mother, as in the case of Beatriz, meant that the medical personnel did not consider that they were authorized to take adequate and opportune medical decisions. The lack of legal certainty as regards how to approach the case of Beatriz led to the bureaucratization and judicialization of the required medical attention, which had numerous consequences.

First, due to the inexistence of protocols for appropriate care, the long hospital stays and waiting in order to determine the appropriate care led to dehumanizing treatment that constituted obstetric violence. Second, the situation violated the personal integrity of the victim and her family, including her son from her first pregnancy who, at the time of the events, was just over one year old. Lastly, the bureaucratization and judicialization of the case resulted in ineffective remedies and, therefore, the Court concluded that the State had failed to comply with its obligations regarding access to an effective remedy and to adopt the necessary measures to protect and ensure the rights protected by the American Convention.

Following the facts of this case, El Salvador adopted several protocols for attending women during pregnancy, childbirth and puerperium, including the “Technical guidelines for the application of Code Yellow in the integral and integrated health service networks”



which establish the possibility of ending a pregnancy in case of sepsis, and the “Technical guidelines for obstetric surgical techniques and procedures” which includes surgical procedures in ectopic pregnancies. Nevertheless, the Court found that there are still gaps in the legislation as regards the adequate and opportune care for cases such as that of Beatriz.

Based on the foregoing, the Court found that the State was internationally responsible and ordered various measures of reparation. As a guarantee of non-repetition, it established the duty to adopt directives and guidelines for medical and judicial personnel in the case of pregnancies that place the life or health of the mother at risk. The State may comply with this measure by adapting existing protocols, issuing a new protocol, or any other legislative measure that guarantees legal certainty in the attention provided to situations such as those of this case.

Judge Humberto Antonio Sierra Porto informed the Court of his concurring and partially dissenting opinion.

The Court’s composition for the delivery of this judgment was as follows: Judge Nancy Hernández López, President (Costa Rica); Judge Rodrigo Mudrovitsch, Vice President (Brazil); Judge Humberto Antonio Sierra Porto (Colombia); Judge Eduardo Ferrer MacGregor Poisot (Mexico); Judge Ricardo C. Pérez Manrique (Uruguay) and Judge Verónica Gómez (Argentina). Judge Patricia Pérez Goldberg excused herself from participating in this case and, therefore, did not take part in the deliberation and signature of the judgment.

This press release was prepared by the Secretariat of the Inter-American Court of Human Rights which is, therefore, solely responsible for the content.

For further information, please consult the webpage of the Inter-American Court www.corteidh.or.cr or send an email to Pablo Saavedra Alessandri, Registrar, at corteidh@corteidh.or.cr. For the press office, contact Danniell Pinilla, Director of Communications and Press, at prensa@corteidh.or.cr.

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