

INTER-AMERICAN COURT OF HUMAN RIGHTS

CASE OF BEATRIZ AND OTHERS V. EL SALVADOR

JUDGMENT OF NOVEMBER 22, 2024

(Merits, Reparations, and Costs)

SUMMARY ISSUED BY THE INTER-AMERICAN COURT OF HUMAN RIGHTS¹

(Unofficial Translation using DeepL)

On September 22, 2024, the Inter-American Court of Human Rights (hereinafter "Inter-American Court," "Court," or "Tribunal") issued a Judgment holding the Republic of El Salvador (hereinafter "State" or "El Salvador") internationally responsible for failing to exercise due diligence in guaranteeing the rights to effective judicial remedies, personal integrity, health, and private life of a woman who underwent a high-risk pregnancy amid obstetric violence caused by legal uncertainty regarding the legality of the actions of the medical personnel involved in her case.

The victim, known as Beatriz, suffered from a series of illnesses, including systemic lupus erythematosus, lupus nephropathy, and rheumatoid arthritis. After a first pregnancy that worsened her medical condition, during her second pregnancy, the victim faced challenges within the public health and judicial systems that created legal uncertainty regarding timely and adequate medical care and led to obstetric violence. Despite Beatriz's situation requiring a special duty of protection from the State, the lack of legal certainty regarding her case resulted in the bureaucratization and judicialization of the medical care she needed, affecting the personal integrity of the victim and her family, including her first child, who was just over one year old at the time of the events.

Consequently, the Court found the State responsible for violating the American Convention on Human Rights and the Convention of Belem do Para. It ordered, among other reparations, the establishment of guidelines and protocols for medical and judicial personnel by adapting

¹ **Composition of the Court:** Nancy Hernández López, President; Rodrigo Mudrovitsch, Vice President; Humberto Antonio Sierra Porto, Eduardo Ferrer Mac-Gregor Poisot, Ricardo C. Pérez Manrique, and Verónica Gómez. On March 20, 2023, Judge Patricia Pérez Goldberg requested to recuse herself from the present case, explaining that she suffers from systemic lupus erythematosus, which was triggered during pregnancy, endangering her life and resulting in a permanent physical disability. She argued that this situation, combined with her public statements on the matter, could compromise the perception of impartiality and the legitimacy of the Tribunal. She based her request on Article 19.2 of the Court's Statute, emphasizing the importance of ensuring judicial objectivity to protect the Tribunal's legitimacy and the resolution of the case. The Court's Presidency accepted her recusal. Therefore, Judge Patricia Pérez Goldberg did not participate in the public hearing, deliberation, or signing of this Judgment. Also present were Secretary Pablo Saavedra Alessandri and Deputy Secretary Gabriela Pacheco Arias.

Confidentiality Measures: The petitioning party requested that the Inter-American Commission maintain confidentiality regarding the name of the alleged victim, asking that she be referred to as "Beatriz." Additionally, they requested confidentiality for her family members' information. This request was reiterated by the representatives before the Court in their brief of pleadings, arguments, and evidence. Accordingly, the Court will refer to the alleged victim as "Beatriz" and her family members by their initials.

existing medical protocols or implementing other normative measures to ensure legal certainty in similar cases.

Consequently, the Court declared that El Salvador violated the rights to personal integrity, private life, health, and access to justice, as enshrined in Articles 5, 11, 26, and 25 of the American Convention on Human Rights (hereinafter “American Convention”), in relation to Articles 1 and 2 of the same instrument, as well as the right to live free from violence established in Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (“Convention of Belém do Pará”), to the detriment of Beatriz. Additionally, the Court recognized the violation of the right to personal integrity of her mother, her mother’s husband, her son, and the father of her son.

I. FACTS

Beatriz was born on October 30, 1990, and at the time of the events, she lived in poverty in the municipality of Jiquilisco, El Salvador. In 2009, she was diagnosed with systemic lupus erythematosus, lupus nephropathy, and rheumatoid arthritis (hereinafter “underlying condition”). She experienced her first pregnancy between 2011 and 2012, which was deemed high-risk due to her underlying condition. Her delivery was complicated by severe preeclampsia, requiring her to undergo a cesarean section on March 4, 2012. Due to his premature birth, her son, J.M.C.G., had to remain hospitalized for 38 days before being discharged.

On February 18, 2013, at the Rosales National Hospital, it was determined that she was 11 weeks pregnant, and due to her underlying condition, this pregnancy was also classified as high-risk. Several ultrasounds confirmed that the fetus she was carrying had anencephaly, a condition incompatible with extrauterine life. Considering this and Beatriz’s underlying condition, she was referred to the National Maternity Hospital “Dr. Raúl Argüello Escolán” (hereinafter “National Maternity Hospital”).

The head of the Perinatology Service at this medical center, Dr. Guillermo Ortiz, decided to seek the opinion of the hospital’s Medical Committee to address Beatriz’s case from a medicolegal perspective and safeguard the mother’s life. The Medical Committee met on March 20, 2013, and reached the conclusion to “request the opinion of the Office of the Attorney General on life-related issues and prepare a clinical summary for the Minister of Health to issue an opinion.” Similarly, on March 22, 2013, the Head of the Legal Unit of the Maternity Hospital requested the legal opinion of the Coordinator of the Child Protection Board. The responses provided by the authorities to the queries made by the National Hospital did not resolve the doubts regarding the approach to be taken in Beatriz’s case.

On April 11, 2013, when Beatriz was approximately 18 weeks pregnant, her legal representatives filed a constitutional protection (amparo) claim with the Constitutional Chamber of the Supreme Court, requesting that the authorities of the Hospital be ordered to terminate Beatriz’s pregnancy to save her life.

On April 12, 2013, the Medical Committee of the National Specialized Maternity Hospital met for the second time to analyze Beatriz’s case. By majority consensus, they agreed to terminate

the pregnancy, considering the fetus's fatal prognosis and the likelihood that the mother's condition would worsen as the pregnancy progressed. It was noted that this stage of the pregnancy (before 20 weeks) presented the least risk of complications for carrying out the termination. However, the Committee expressed doubts about the legality of their actions.

On April 17, 2013, when Beatriz was approximately 19 weeks pregnant, the Constitutional Chamber admitted the amparo claim and issued a precautionary measure. On April 23, 2013, the then-Minister of Health sent a communication informing the Constitutional Chamber of the lack of protocols to address Beatriz's case. Subsequently, the Constitutional Chamber ordered an expert opinion from the Institute of Legal Medicine. In its report of May 3, 2013, when Beatriz was 21 weeks pregnant, the Institute concluded that there was no imminent risk of death to Beatriz. It recommended continuing the pregnancy and, should complications or reactivation of the previously described chronic conditions arise, proceeding with termination through the appropriate means.

On May 15 and 16, 2013, the Constitutional Chamber held an evidentiary hearing on the case.

On May 23, 2013, when Beatriz was approximately 24 weeks pregnant, the Medical Committee met for a third time and established a management plan for her case. They requested evaluations by the heads of rheumatology, nephrology, anesthesiology, and cardiology, and planned to schedule a cesarean section based on these evaluations, but before reaching 27 weeks of pregnancy. Additionally, it was indicated that emergency intervention would occur if there were any changes in her maternal condition.

On May 28, 2013, the Constitutional Chamber denied the amparo claim, determining that there was no omission on the part of the accused authorities that posed a grave danger to Beatriz's rights to life and health.

On June 3, 2013, when Beatriz was approximately 26 weeks pregnant, the presence of polyhydramnios was detected, leading to a cesarean section. With her consent, a sterilization procedure was also performed. The newborn, Leilany Beatriz, passed away five hours after birth due to her anencephaly condition.

Between June 7 and June 9, 2013, Beatriz experienced health complications, requiring an increased dosage of her antihypertensive medications and a red blood cell transfusion. She was ultimately discharged on June 10, 2013.

On October 4, 2017, Beatriz was admitted to the Jiquilisco National Hospital for facial and thoracic trauma resulting from a traffic accident. She was discharged on October 6, 2017.

Later, she developed symptoms of cough and difficulty breathing, prompting her transfer to the San Juan de Dios National Hospital in San Miguel, where she was diagnosed with nosocomial pneumonia. While hospitalized, she suffered a cardiorespiratory arrest and passed away on October 8, 2017.

II. BACKGROUND

A. Rights to Personal Integrity, Private Life, and Health

The Inter-American Court recalled its consistent jurisprudence on the right to health, particularly regarding States' obligations related to care during pregnancy, childbirth, and the postpartum period. It has established that States must provide adequate and differentiated care during these stages. Furthermore, the Court held that the lack of adequate medical care or accessibility issues to certain procedures could result in violations of Article 5.1 of the American Convention. It also noted that, in the context of pregnancy, women might be subjected to harmful practices and specific forms of violence and mistreatment.

In this particular case, the Court emphasized the complexity of Beatriz's situation, as her high-risk pregnancy was compounded by the following factors: she suffered from systemic lupus erythematosus with renal involvement (lupus nephritis), rheumatoid arthritis, a history of prior uterine surgery (a cesarean section from her first pregnancy), severe preeclampsia, a prior preterm birth, and a diagnosis of anencephaly in the fetus, a condition incompatible with extrauterine life. Additionally, the Court noted that the State acknowledged the lack of protocols at the time to adequately address Beatriz's case or regulate timely responses in cases of severe maternal risk.

Beatriz's medical circumstances imposed a special duty of protection, requiring her treating physicians to provide diligent and timely care, taking into account that her condition could worsen over time. However, the lack of legal certainty regarding her situation resulted in the bureaucratization and judicialization of her case. This process began with various requests to different state entities, which provided contradictory responses, and later escalated to a constitutional protection (amparo) claim. This situation endangered Beatriz's health. Indeed, she was hospitalized for an extended period, separated from her young son, which caused her deep anguish and psychological suffering. Thus, it was determined that the actions and omissions in handling Beatriz's case constituted a violation of her right to health.

The prolonged delays in determining the appropriate treatment due to the absence of adequate care protocols also amounted to dehumanizing treatment, constituting obstetric violence, and infringed upon her private life.

Regarding the risk to Beatriz's life, the Court noted that it is not its role to arbitrate between differing medical opinions or speculate, based on the information presented, about the validity of conclusions reached by official entities such as the Medical Committee of the National Maternity Hospital or the Institute of Legal Medicine. The Court also stated that it could not determine the best medical approach to Beatriz's care. Therefore, it concluded that this case did not warrant a ruling on the right to life concerning alleged life-threatening risks arising from medical decisions or opinions per se.

Moreover, it was noted that Beatriz passed away on October 8, 2017, after contracting nosocomial pneumonia while being treated for injuries from a traffic accident. Since no causal link was established between her death in 2017 and the medical care she received during her second pregnancy in 2013, the Court concluded that it could not attribute State responsibility for her death.

The Court determined that the lack of protocols and the prevailing environment of legal confusion inhibited healthcare providers, who feared incurring criminal liability, from acting decisively. This led them to seek authorization for the medical treatment from various state entities. Similarly, Beatriz's representatives were compelled to file an amparo claim for the same purpose. However, this ineffective bureaucratization and judicialization of the medical

treatment obstructed the timely and adequate protection of Beatriz's rights to personal integrity and health, amounting to a violation of Article 2 of the Convention.

For all these reasons, the Court concluded that the State violated Beatriz's rights to personal integrity, private life, and health, guaranteed under Articles 5, 11, and 26 of the Convention in relation to Article 1 of the same instrument and Article 7 of the Convention of Belém do Pará. The lack of protocols providing legal certainty for healthcare personnel to guarantee the right to protection of life and health for pregnant women at risk also constituted a violation of Article 2 of the American Convention.

B. Right to an Effective Remedy

The Court examined the amparo claim filed by Beatriz's legal representatives in light of the standards developed on access to justice. It found that, in its resolution of the amparo claim, the Constitutional Chamber failed to provide a clear and diligent solution to the legal problem it was called to resolve. Instead, it adopted a vague position that did not address the controversy at hand. The Court concluded that the resolution did not provide an adequate response to the request. It considered that the Constitutional Chamber's decision perpetuated the situation of legal uncertainty, leaving medical personnel without clear guidance and instructing them to "assume the risks inherent in the practice of their profession." Consequently, the Court determined that the remedy was not effective in this specific case, establishing a violation of Article 25.1 of the American Convention.

C. Right to Personal Integrity of Family Members

The Court found that Beatriz's suffering, prolonged hospitalization, and the lack of certainty regarding her treatment also affected her family members. Specifically, it highlighted the impact of her separation from her 13-month-old son at the time of the events. Therefore, the Court concluded that the right to personal integrity of her mother, her mother's husband, her son, and the father of her son was violated.

III. Reparations

The Court established that its Judgment, in itself, constitutes a form of reparation. Additionally, it ordered the following measures of comprehensive reparation:

1. **Rehabilitation Measures:** The State must provide medical, psychological, and/or psychiatric treatment to Beatriz's family members who request it.
2. **Satisfaction Measures:** The State must publish the Judgment and a summary thereof.
3. **Guarantees of Non-Repetition:** The State is required to adopt all necessary normative measures to provide directives and guidelines for medical and judicial personnel when dealing with pregnancies that pose risks to the life and health of women. This may include adapting existing protocols, issuing a new protocol, or implementing any other normative measures that ensure legal certainty in addressing situations like the present case. Additionally, the State must develop a training plan for healthcare personnel in maternity care units, justice operators, and relevant state personnel to disseminate these measures.
4. **Compensation:** The Court ordered compensation for material and immaterial damages, as well as reimbursement of costs and expenses.

Judge Humberto Antonio Sierra Porto issued a concurring and partially dissenting opinion.

The Inter-American Court of Human Rights will oversee full compliance with the Judgment in the exercise of its duties under the American Convention on Human Rights. The case will be closed once the State fully complies with the Judgment.

The full text of the Judgment can be accessed at the following link:
<https://jurisprudencia.corteidh.or.cr/es/vid/1061937459>