

Important Judgement of the Supreme Court of Chile in relation to a person with Down Syndrome

Historical judgement of the Supreme Court indicates that Down Syndrome is not a disease and therefore, a person cannot be deprived of coverage of the “Isapre” [Health Private Insurers] on the grounds of this reason.

“... an individual with Down syndrome cannot be classified as sick, since their condition is a differentiation in their genetic makeup that gives rise to one more variant within the natural and characteristic diversity of human nature, but which in no case can place them in the category of pathological, and even less in a position of impairment of their dignity, in which they must be considered under conditions of equality, and even more so in the legal field and in the full acquisition and enjoyment of their rights”. Denying him coverage in his health care sets up “... a situation of discrimination.”

This judgement has an even greater projection, since in the triage carried out in health centers there could not be a negative selection in relation to a person with Down Syndrome considering him / her “sick” and therefore his / her right to receive all supports for the maintenance of life must be fulfilled, including the mechanical respirator.

In addition, it extends to the situation of other persons with disabilities whose situation is also at risk of exclusion such as the diversity of the autistic spectrum or cerebral palsy.

The judgement closes all doubts, restoring the rule of law and the due protection to the affected person. It becomes a precedent for all the courts in our country, an international example and a powerful signal for the protection of the rights of persons with disabilities.

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Web site: <https://www.un.org/development/desa/disabilities/resources/special-envoy-of-the-secretary-general-on-disability-and-accessibility.html>