

"PABELLÓN 13 CASE"

1. What is the situation of patients with HIV in the National Institute for Respiratory Diseases (INER)?

Since the first reports of AIDS cases, the respiratory system has been the most affected by this disease. Patients who live with HIV / AIDS usually present different lung infections such as bacterial pneumonia or tuberculosis. Up to 70% of people living with HIV present respiratory complications during their illness.

The National Institute for Respiratory Diseases "Ismael Cosío Villegas" (hereinafter "INER") is the National Institute of Health that treats the greatest amount of people who live with HIV in Mexico, providing active, hospital and ambulatory care, to about 1,200 people who are in this situation.

In the INER, almost all HIV patients are hospitalized in late and advanced stages of this disease and are admitted by lung diseases and respiratory failures, conditions that require intensive care. This is the group of individuals with the largest number of deaths recorded in the INER, where AIDS is the leading cause of death from infectious diseases in people between 18 and 45.

This way, the complications observed in patients living with HIV / AIDS require the design of facilities that will generate a balance of specialized clinical care given and the proper control of microorganisms through containment mechanisms. The clinical care area must be controlled through proven methodologies that reduce the chances of any exposure.

Currently, the INER does not count with a specialized clinical service for the care of patients with HIV / AIDS that meet the specifications and requirements to provide adequate conditions of attention, care and treatment for patients with HIV / AIDS.

After not having the appropriate facilities to take care for patients with HIV / AIDS, it has been necessary to occupy part of the Institute's Oncological Pneumology Service or "Clinical Service 4".

Some of the current characteristics of this clinical service are: 32 beds of which 6 are assigned to patients with HIV / AIDS –generally 2 for women and 4 for men-; shared rooms for up to 3 or even 4 patients with different medical conditions (including HIV / AIDS); 4 bathrooms shared between all 32 patients; no air conditioning system; etc...

The occupation of an area like the Clinical Service 4 for the care of patients with HIV / AIDS, involves a huge number of risks, and requires the existence of a clinical service that can guarantee de access to the right of health of this patients in particular.

2. What is “Pabellón 13”?

In 2007 INER authorities initiated the necessary procedures to carry out the refurbishment of INER’s “Clinical Service 4”, in order to make the necessary changes to improve the quality of the medical care (in this case, better infrastructure) provided to INER’s HIV patients.

The original project of remodelling was approved by the Technical Committee of the Health Social Protection System under the name of "Refurbishment of Clinical Service 4".

After the results of the development of a final design on the possible expansion and renovation of Clinical Service 4, INER’s health authorities identified that the needs of people living with HIV, could not be satisfied with a simple makeover, as the infrastructure must be designed to:

- i. Prevent and reduce the co-infection between patients and,
- ii. It must meet the demand for specialized clinical care for patients with HIV / AIDS.

Therefore, INER authorities considered that the best way to meet with the real needs of the patients was to carry out the construction of a new building, as this offered greater advantages for them. This way, the original project of remodelling clinic 4 was cancelled, and instead the authorities approved a new project called "Construction and Equipment of Clinical Service 13 for patients with HIV / AIDS" – project known as construction of “Pabellón 13” -. This project would satisfy the real needs of patients with HIV / AIDS by providing a better and more appropriate medical care and service.

The adoption of this new project involved the approval of a financial support for the INER of the amount of \$ 7'500, 000.00 pesos for the development of a new executive project, same that was delivered in October 2010.

Since then, the INER began the processing of all the permits and certificates required to carry out the construction of “Pabellón 13”.

To this date, the project for the construction of “Pabellón 13” has not been executed. There is no legal argument or reason that justifies this omission.

3. Which is Fundar’s participation in this case?

Fundar, along with the Committee of Patients that live with HIV / AIDS and receive medical care in the INER (“USINER” for its acronym in Spanish) and a group of doctors of the INER, noticed that the actual conditions of the Clinical Service 4 that bring hospital and medical care to patients with HIV / AIDS, are not appropriate nor cover the minimum conditions that are required to give medical care and attention to this patients.

Hence, after analysing the different options, the Strategic Litigation area of Fundar decided that litigation was a good option to fight against the Mexican State and the responsible authorities through a strategic case.

This way, Fundar prepared a writ of amparo that was filed on December, 2012, before the Mexican Administrative Courts. Along with this writ of amparo, we filed a complaint before the Federal Commission of Human Rights for violations against the right to health of the patients of the INER.

4. What are the main demands of the strategic litigation case?

This case is one related to Economic, Social and Cultural Rights, so our main request in this case is the enforceability of the right to health of patients of the INER living with HIV / AIDS.

Our main alleged violations are: right to health, right to life, no discrimination, enforceability of Economic, Social and Cultural Rights, and the correct application and execution of the recent human rights constitutional reforms as well as a correct and fair application of the federal budget.

5. Which is the current situation of the case?

At this point all of the defendant authorities had filed its answers to the amparo and the constitutional hearing has been held, so now the Judge has up to 3 months to notify to the parties its final ruling.