

**Decision T-1258/2008.**  
**Mauricio González Cuervo**  
**December 15th, 2008**

In 2008 the Colombian Constitutional Court granted certiorari to a case involving the Rights of equality and personal dignity of a person that suffered from “dwarfism”. According to the plaintiff, the lack of a front desk fitted for persons with the mentioned condition at the Constitutional Court, represented an obstacle to the access to justice and to information, turning into a humiliating and uncomfortable situation for them. In this opportunity the Tribunal recognized the alleged rights and sustained the claim reversing the appealed decision.

In this opportunity the Constitutional Court had to consider whether or not the Administrative Chamber of the Superior Judiciary Council –which is the judicial body in charged of the infrastructural modifications in the judiciary- violated the right to equality and access to justice when implicitly denying special treatment to persons with the “dwarfism” condition by not foreseeing architectonical design to guarantee the convenient accessibility of disable people to the front desk.

Despite the inter-partes nature of the motion for constitutional protection – “tutela”- the Constitutional Court dictated a inter-comunis –or erga omnes- decision –binding not only the parties involved- in which it established that people suffering from “dwarfism” are entailed with specific rights directed to facilitate the access to ordinary goods and services. Its motivation was build upon a comparative study of the legal protection of “dwarfism” in different constitutional jurisdictions, especially through the lens of the right to equality. The decision also covers a deep analysis on discrimination, active discrimination and discrimination by default. By using a rationality test - which is implemented in order to determine whether or not the existence of any of the discrimination measures is reasonable- the Constitutional Court seeks to establish the possible violation of the equality right.

The final decision of the Colombian Constitutional Court was to establish a common venue between people with “dwarfism” condition and the Administrative Chamber of the Superior Judiciary Council oriented to think of an organizational policy directed towards the tailoring of the judiciary’s infrastructure in a way in which it would not violate the claimant’s –and all of those suffering from the same condition- rights to equality and access to justice. In the same decision the Constitutional Court ordered the respondant to take into the account the 2009’s proposal for the infrastructural modification of the Court’s accessibility facilities. Along with this holding the Constitutional Tribunal extended the effects of the decision to all of those cases in which a person with “dwarfism” finds difficulty to get the judiciary information that is requiring.