

ADPF 187

Public Demonstrations in Favor of Drug Legalization — “Marijuana March”

Country:

Brazil

Court:

Federal Supreme Court

Competent Court:

Full Court

Format of the Session:

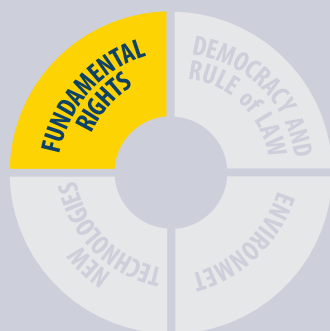
In-person

Rapporteur:

Justice Celso de Mello

Decision Date:

June 15, 2011

Matter:


CASE SUMMARY

A Claim of Non-Compliance with a Fundamental Precept (ADPF) in which the validity of court decisions prohibiting public demonstrations in favor of the legalization of drugs was questioned on the grounds that such demonstrations would constitute an apology for crime (article 287 of the Penal Code), since the sale and possession of drugs are criminal offenses in Brazil. The plaintiff argued that the contested decisions constitute an affront to the freedom of expression (article 5, items IV and IX, and article 220 of the 1988 Federal Constitution) and assembly (article 5, item XVI of the 1988 Federal Constitution) and violate the right of minorities to defend alternative positions that displease the government or contradict the values of the majority in society.

LEGAL REASONING

Freedom of expression guarantees citizens the possibility of debating a wide range of issues, including the legalization of drugs, freely, peacefully and without interference from the State (article 5, items IV and XX of the 1988 Federal Constitution). The right of assembly is an instrument for realizing the freedom of expression, the right to protest, to make demands and to propose the adoption of public measures (article 5, item XVI of the 1988 Federal Constitution). In this sense, it guarantees citizens the right to participate in the public debate and in the political life of the Democratic Rule of Law. The debate on the legalization of drugs is part of the democratic exercise and cannot be restricted based on disagreement regarding the content of the statements. Freedom of expression also protects ideas that diverge from the majority position, even if the opinions or demands are controversial, unpleasant, daring or unpopular, while respecting ethical and constitutional limits.

DECISION OF THE COURT

The Federal Supreme Court (STF) ruled that the ADPF was admissible on the basis of the fundamental freedoms of assembly, expression and petition provided for in the 1988 Federal Constitution, and rejected the understanding that demonstrations in defense of the legalization of drugs or other narcotic substances constituted an apology for crimes.

ADDITIONAL NOTES

This decision is part of the context of the prohibition by the Brazilian Judicial Branch of the public demonstrations called “Marijuana March”, scheduled to take place in several Brazilian cities in 2008 and 2009, in defense of the legalization of this substance.



part 1



part 2



part 3



part 4



part 5



part 6



part 7

