



NEWS REPORT

Date: 19 December 2010
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Title: Age discrimination found in the State's refusal to fund radical prostatectomy to patients aged 65 or more.
Country: Cyprus
Context

Issue at stake: The Equality Body finds age discrimination in the State's refusal to cover the expenses of patients aged 65 or more in order to have radical prostatectomy conducted abroad.

Ground of discrimination: Age

Source: Equality Body Decision dated 24/11/2010, Ref. AKR 164/2008, AKR 63/2010

Field: Access to health

Legislative provisions: The Combating of Racial and Other Forms of Discrimination (Commissioner) Law 2004, Article 32; Cypriot Constitution Article 28; European Convention on Human Rights Article 8 and Article 14; Fundamental Rights Charter Article 21; Draft Directive on the Implementation of the principle of equal treatment of persons irrespective of religion or believe, disability, age of sexual orientation (COM (2008) 426 of 2 July2009) Article 3.

Content

Case: Two complainants applied to the Equality Body against the Ministry of Health alleging age discrimination in the rejection of their applications for funding in order to have radical prostatectomy conducted abroad. The position of the Ministry of Health was that the State covers the expenses of robotic prostatectomy conducted abroad to patients with a life expectancy of over 10 years. For patients aged 65-70, the State provides the procedure of open radical prostatectomy which can be conducted in state hospitals in Cyprus. Robotic prostatectomy is made available (through funding in order to travel abroad to have it done) only to patients aged under 65. The

competent Urologists Committee set the ceiling of 65 as the age justifying treatment abroad for the purpose of preserving the erection nerves during the radical prostatectomy; patients aged above 65 were not funded to have this operation abroad, as the open prostatectomy was available in Cyprus. Although the chances of survival are the same in both methods of treatment, the open prostatectomy entails the possibility of losing the function of an erection.

In deciding on the ceiling of 65 as the age until which the state covers the expenses of patients having the robotic prostatectomy, the Ministry of Health took into consideration its own presumption that men aged over 65 have, to a higher or lesser degree, problems with erection which become increasingly serious with age.

Decision of the Equality Body: In its decision, the Equality Body stated it was not convincing that the exception to the principle of equal treatment practiced in relation to the covering of expenses for persons over 65 is based on a legitimate aim or that the measures are necessary. Furthermore, in spite of the seriousness of the consequences from the Ministry's decision over a large group of persons, the considerations of the Ministry are expressed in a very vague manner¹ and do not derive from research or reliable data. Also, the calculation of life expectancy of Cypriot men was based on the Ministry's personal assessment which is not justified by data nor is it consistent with contemporary realities such as the increase of life expectancy in EU countries. The report expresses particular concern over the Ministry's attribution of erection problems to all men over 65 without objective data irrespective of their state of health and in complete disregard to their rights to sexual life, adding that this sweeping generalisation based on a groundless 'life expectancy' leads to the exclusion and discrimination of patients over 65 and ignores critical personal matters, touching upon the nucleus of the right to family life and human dignity. The Equality Body recommends that the applications of the two complainants are re-examined in light of the findings of this report. It further recommends that the Ministry's scheme for funding operations abroad be revised so as to eliminate age discrimination, which should be allowed only exceptionally and justified strictly in relation to a particular aim based on data derived from research of scientific knowledge.

¹ The reference here is to the Ministry's expressed position that men over 65 have erection problems of higher or lesser degree.



Internet link source:

At the time of writing, the report had not yet been uploaded on the Equality Body's website.