



NEWS REPORT

Date: 08 December 2011
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Title: Ombudsman report on access to the labour market by HIV positive persons
Country: Cyprus
Context

Issue at stake:
Ground of discrimination: Disability
Source: Ombudsman Report dated 17.11.2011 (Ref. A/P 587/2010, A/P 1616/2010, A/P 2309/2010)
Field: Employment (access to)
Legislative provisions: N/A

Content

Case: In 2010 the Ombudsman received three complaints from HIV positive persons complaining about access to the labour market. The two complaints were directed against the Labour Office and alleged discrimination against HIV positive people on the ground that they were not being sufficiently supported to find employment and that the kind of employment positions for which they were given priority, in accordance with a scheme set up by the Council of Ministers,¹ was very restricted. The third complaint was directed against the Ministry of Health and was submitted by a HIV positive person who had been working at a state hospital as a cleaner for the past four years and was forced to come into daily contact with infectious waste which could affect his health. Although he had repeatedly asked to be transferred to another position, his request was not satisfied. A previous investigation of the Ombudsman into the vocational rehabilitation of HIV positive persons² had shown that there are problems in the implementation of the said scheme. Amongst other things, the procedure foreseen in the scheme

¹ By a Council of Ministers decision Ref. 52.186 dated 21/7/2000, a scheme aiming at the labour integration of HIV positive persons was adopted, providing for the preferential employment of HIV positive persons in hourly jobs as night guards, day guards, gardeners, park keepers, park cleaners, etc.

² Ombudsman Report on access of HIV/AIDS carriers in the labour market dated 23.11.2005 (File No. A/P 1015/2005)

involves the registration of prospective applicants with the Labour Office who must declare that they are HIV positive, fact that is in turn communicated to the Minister of Labour for further communication to the Ministry involved and to the Head of Department where the applicant is applying for employment.

In the case of the complaint against the Ministry of Health, the Director of the General Hospital where the complainant was working stated that the complainant's request for a transfer was taken into consideration and that he will be called as a candidate when there would be vacancies in the categories foreseen by the relevant decision of the Council of Ministers. He added that when the complainant applied for employment at the hospital, he presented a medical certificate that his condition was not prohibitive for his employment at a state hospital.

Decision of the Equality Body: The report welcomes the adoption of positive measures towards the labour integration of HIV positive persons, pointing out however that the mere adoption of a scheme cannot bring about the desired results unless measures are taken for its effective implementation. The report attributes the low response of HIV persons to the said scheme, ten years after its introduction, to the restricted scope of positions for which preferential employment is exercised as well as the procedures foreseen for the evaluation of the applicants. The nature of the duties involved in the positions included in the scheme is such that the HIV positive persons are isolated from the rest of the task force or are in an outside space (night guard, park keeper, gardener, etc.) which significantly reduces the possibilities of these persons to socialize through work and to benefit from the positive outcomes of employment, cancelling to a large extent the benefit intended by the said scheme. In addition, the procedure of notifying all the persons involved in the evaluation of the applicant that the latter is HIV positive does not serve any purpose but instead poses additional obstacles to the employment of HIV positive persons due to the prejudice which persists around this issue (a fact acknowledged by the Permanent Secretary of the Ministry of Labour). Apart from the fact that a person's seropositivity might be a reason to be rejected for a job applied for, the notification of his/her position to a number of persons every time s/he applies for a job position may be a deterrent in his/her decision not to take

advantage of the said scheme. Besides, the notification of the competent Minister and of the Head of Department of an applicant's seropositivity does not meet any purpose at the stage of the evaluation, since the vacancy in question has already been considered and found suitable for HIV positive persons. The report recommends the acceleration of the procedures for enlarging the list of positions in which HIV positive persons can be employed as a matter of preference, as also previously recommended by the Ombudsman's 2005 report. The report further recommends that the applications of HIV positive persons should be forwarded to the departments concerned without notification of the applicant's condition, at least until the final determination by the employer as regards successful applicants.

In the case of the complainant working as a cleaner at the hospital, the Ombudsman noted that the position he held did not fall within the scope of the scheme approved by the Council of Ministers and that the medical certificate recommended the employment of this person in the hospital and not in the specific position; the Ombudsman recommended the acceleration of the process for the transfer of this person to a position within the scope of the scheme where the conditions do not pose any health risks.

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