



## NEWS REPORT

**Date:** 28 February 2011  
**Expert:** Athanasios Theodoridis  
**Title:** Consultative opinion of the Greek National Commission of Human Rights on issues of protection of the rights of persons who suffer from AIDS / HIV, including discrimination on the ground of disability  
**Country:** Greece  
**Context**  
**Issue at stake:** How to combat discrimination (on the ground of disability) against persons who suffer from AIDS / HIV  
**Ground of discrimination:** Disability  
**Source:** Non binding opinion of the Greek National Commission of Human Rights  
**Field:** Health, employment  
**Legislative provisions:** Law 3304 /2005 on the application of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation

### Content

#### **Political development:**

On 27 January 2011, the National Commission on Human Rights, which is a statutory National Human Rights Institution having a consultative status with the Greek State on issues pertaining to human rights protection and promotion,<sup>1</sup> issued a non-binding decision on issues of protection of rights of persons who suffer from AIDS / HIV. Discrimination on the ground of disability was one of the issues that had been examined, discussed and finally included in the decision of the NCHR.

#### **Decision of the NCHR:**

The decision analyses thoroughly all issues concerning the existence of extreme prejudice against persons who suffer from AIDS / HIV. The

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<sup>1</sup> In accordance with the 1993 Paris Principles.

Commission admits that sickness from AIDS /HIV is not explicitly regarded as a ground of discrimination in any international or European legal text, and that the Greek Law 3304/2005 on discrimination does not refer to this specific condition. However, it points out that, according to Resolutions of the U.N. Commission on Human Rights, the term “condition”, to which several legal conventions refer, should be interpreted in a way that includes the health condition of a person (and therefore its condition as an AIDS / HIV patient). Furthermore, the U.N. Commission on Economic, Social and Cultural Rights has already interpreted the term “other condition”, that is included in Article 2 of the Covenant, as related to a person’s situation of health, and uses sickness from AIDS /HIV as an example.

According to the NCHR, since the notion of “disability” is not explicitly and clearly described in the Greek legal framework, it is legally possible to interpret this term in a broad way that could include “sickness from AIDS / HIV” as well. This form of interpretation could be based on Article 111 of the ILO Convention. (International Labour Organisation), according to which the legal protection of the Convention could be extended to “any other discrimination, exclusion or preference resulting in abolition or differentiation of equality of chances and treatment in the field of employment”.

Furthermore, the NCHR refers to the International Recommendation on Labour No 200/2010 regarding AIDS /HIV, which also emphasises that according to Article 111 of the ILO Convention the interpretation of the term “discrimination” should be broad. The above Recommendation clearly mentions that “real or possible sickness from AIDS /HIV cannot constitute a reasonable basis for discrimination that would deter such real or possible patients from being hired or continuing their working life”.

Moreover, according to the NCHR, the definition of “disability” as described in the text of the U.N. Convention on the Rights of Persons with Disabilities (Article 1) includes “all diseases of long duration of time”. Finally, the NCHR highlights the Ministerial Decision Φ21/2361 (ΦΕΚ Β’ 819/1993) strictly stipulating that AIDS/HIV patients fall within the category of disabled persons.

**Internet link source and additional information:**

[http://www.nchr.gr/document.php?category\\_id=164&document\\_id=1342](http://www.nchr.gr/document.php?category_id=164&document_id=1342)

U.N. Commission on Human Rights, *“The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immune*

*deficiency syndrome (AIDS)*”, E/CN.4/R ES/1994/49 (04 March 1994), para. 1, E/CN.4/RES/1995/44 (03 March 1995), para. 1, E/CN.4/RES/1996/43 (19 April 1996), para. 1

U.N. Committee on Economic, Social and Cultural Rights, *General Comment No. 20 : Non discrimination in Economic, Social and Cultural Rights (art. 2, para.2 of the International Covenant on Economic, Social and Cultural Rights)*, E/C.12/GC/20 (2 July 2009), para.33, see also, *Human Rights Committee, Concluding Observations on Trinidad and Tobago*, CCPR/CO/70/TTO (10 November 2000), para 11.