



NEWS REPORT

Date:	17 May 2011
Expert:	Biljana Kotevska
Title:	Study on HIV presents findings on legal framework for protection against discrimination of people living with HIV
Country:	Republic of Macedonia
<u>Context</u>	
Issue at stake:	Protection against discrimination of people living with HIV
Ground of discrimination:	Sexual orientation (also health condition and belonging to a marginalised group as protected grounds in national legislation)
Source:	UN Theme group on HIV/AIDS, CRPRC Studiorum
Field:	All fields
Legislative provisions:	Articles 3, 4 (item 3), 5 (item 11), 16, 17, 24, 34-41, Law on prevention and protection against discrimination (2010)

Content

Development: A recent analysis entitled “HIV/AIDS in legislation in Republic of Macedonia from Human Rights perspective – Legal analysis” screened all relevant international and existing national legislation and policies in relation to HIV/AIDS, placing protection against discrimination within its focus. The analysis conducted by the Centre for Regional Policy Research and Cooperation “Studiorum” on behalf of the UN Theme Group on HIV/AIDS revealed severe problems related to the legal framework for protection against discrimination for people living with HIV. According to the legal analysis, alarming loopholes exist within the analysed legal framework which can be coupled with issues relating to the non-implementation of the legislation in place.

The analysis also underlined the absence of protection of sexual orientation as ground for discrimination in the comprehensive legislation on discrimination – the Law on prevention and protection against discrimination, and in other laws containing anti-discrimination clauses - . This recalled the problem of the narrow anti-discrimination clause laid



down in the national Constitution. This clause, containing the protected grounds, is closed (and does not contain HIV, health status and sexual orientation) and grants limited protection to citizens of the country only. The analysis also touched upon the importance of the equality body, and of having such a body established in compliance with international standards for national human rights institutions. It noted that the Law on prevention and protection against discrimination does not provide conditions for establishment of an independent equality body (the equality body foreseen with this law is the Commission for protection against discrimination).

It stressed the need for amending this situation.

There has been no single case of alleged discrimination against people living with HIV referred to any of the institutions dealing with anti-discrimination thus far. However, this low number is not characteristic to HIV discrimination cases only, but rather constitutes a general trend in the country when it comes to cases of discrimination. Reasons for such low numbers are the non-existence of an effective system for protection against discrimination, or misinformation/no information as well as fear to file cases of discrimination. Both this analysis and the 2010 Annual Report of the Ombudsman (March 2011) stated that the number of cases filed did not present a realistic picture of the situation in the country.

Internet link source and additional information: UNDP (2011). “HIV/AIDS in legislation in Republic of Macedonia from Human Rights perspective – Legal analysis”

Law on Prevention and Protection Against Discrimination [*Закон за спречување и заштита од дискриминација*]. Official Gazette of the Republic of Macedonia. No. 50/2010. 13 April 2010.

Ombudsman of the Republic of Macedonia (2010). Annual report of the Ombudsman of the Republic of Macedonia for 2010 [*Годишен извештај на Народниот правобранител на Република Македонија за 2010 година*]. Website of the Ombudsman of the Republic of Macedonia.

http://www.ombudsman.mk/comp_includes/webdata/documents/lzvestaj%202010-MK.pdf . Last accessed: 03 April 2011.