



## **European network of legal experts in gender equality and non-discrimination**

### **NEWS REPORT**

<b>Country:</b>	Cyprus
<b>Title:</b>	Equality Body report on the rights of Jehovah's Witnesses to equal access to healthcare
<b>Date:</b>	8 January 2016
<b>Expert:</b>	Corina Demetriou
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The Equality Body affirms that the right to equal access to healthcare for Jehovah's Witnesses may involve the covering of costs for treatment in the private sector where the public sector cannot provide treatment compliant with the patient's religious beliefs
<b>Ground of discrimination:</b>	Religion
<b>Source:</b>	File No.22/2015, Report of the Anti-discrimination Authority regarding the handling of the Ministry of Health for the provision of suitable healthcare to a Jehovah's Witness, 22 December 2015
<b>Field:</b>	Access to healthcare
<b>Applicable law:</b>	Law on the combating of racial and other forms of discrimination (Commissioner) N. 42(I)/2004

### **Content**

**Case:** In April 2015 a Jehovah's Witness filed a complaint at the Equality Body against the Ministry of Health regarding the medical treatment provided to him and to Jehovah's Witnesses in general and the refusal of the ministry to cover the costs of medical treatment in the private sector, where treatment in accordance with his religious beliefs could be provided. In 2011 the complainant had applied to be placed on the waiting list of a public hospital for an operation. Even though he had declared from the beginning that he was a Jehovah's Witness and that, for religious reasons, he required a that blood transfusions would not be performed during the operation, he was placed in the waiting list of a hospital that did not have the necessary equipment for this kind of operations. On 19 May 2014 he was notified by the hospital authorities that surgery would take place on 28 May 2014 without referring to any "bloodless methods". When he visited the hospital, the doctor in charge informed him that he had to apply to the Ministry of Health for referral to another hospital that had the necessary equipment available for a "bloodless operation". He applied to the ministry and was referred to another hospital which informed him that they could conduct the required operation but refused to share any information as regards to the method and equipment to be used. The events created a reasonable doubt in the complainant's mind as to whether public hospitals could adequately respond to his demand for a "bloodless operation" in accordance with his religious convictions. He applied to the ministry again for coverage of the costs in order to have the operation in the private sector, but his application was rejected at the first and second instance.

**Decision of the Equality Body:** The report issued by the Equality Body stated that although it recognised the legal complexity of medical treatments which may endanger a person's life, the right of a person to lead his life in the way he chooses includes the right to choose a treatment that may be risky to his health condition; this was recognised by the ECtHR in a 2010 decision<sup>1</sup> where the imposition of a medical treatment contrary to a person's consent infringed article 8 of the ECHR. The issues surrounding the medical treatment of Jehovah's Witnesses had been raised by the Equality Body in 2007<sup>2</sup> with a report which included recommendations for equal access to state services which had been ignored by the health authorities in spite of the fact that at the time the systemic gaps and witnesses had been admitted to by the health authorities. The failure of the authorities to consider and address the complainant's request for "bloodless treatment" and the refusal of the health authorities to provide him with the requested information amounted to a failure to provide equal access to healthcare to the complainant and led to a serious deterioration of his health condition. The delay of several years and the entire unsatisfactory handling of his case by the health ministry created a reasonable doubt in the complainant's mind that public hospitals were unable to provide a service that would be respectful of his religious convictions. The report concluded that the complainant was denied access to state health services on the ground of his religious convictions as a result of the unwillingness or ignorance or the prejudice of public hospitals to address his case. Given the failure of the public hospitals to address the complainant's request, the report found that the state was under an obligation to cover the costs of treatment in the private sector in order to ensure access to health services that complied with his religious beliefs and do not violate his religious freedom. A list of recommendations as regards the handling of request for treatment by Jehovah's Witnesses was offered, inviting the health ministry to a consultation.

**Internet link source:**

[http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/7DA7435AA1C3A4E5C2257F1500453DD7/\\$file/%CE%91%CE%9A%CE%A187\\_2011\\_17112015.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/7DA7435AA1C3A4E5C2257F1500453DD7/$file/%CE%91%CE%9A%CE%A187_2011_17112015.doc?OpenElement)

Last accessed 06/01/2016.

---

<sup>1</sup> ECtHR, Jehovah's Witnesses of Moscow and others v. Russia (2010), Application no. 302/02, 10 June 2010.

<sup>2</sup> Report of the Anti-discrimination Authority regarding the treatment and blood transfusion of a patient who is a Jehovah's Witness at the Larnaca General Hospital and the general treatment of Jehovah's Witnesses at public hospitals on the ground of their religious beliefs (*Έκθεση Αρχής κατά του Ρατσισμού και των Διακρίσεων αναφορικά με τη νοσηλεία και μετάγγιση αίματος σε ασθενή Μάρτυρα του Ιεχωβά στο Γενικό Νοσοκομείο Λάρνακας και τη γενικότερη ιατρική μεταχείριση που τυγχάνουν οι Μάρτυρες του Ιεχωβά στα κρατικά νοσηλευτήρια λόγω των θρησκευτικών τους πεποιθήσεων*) File No. AKP 46/2006, 11 December 2007.