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FLASH REPORT

Country:	Albania
Title:	The Equality Body decided for discrimination, due to the disability of the complainant by the Ministry of Health and Social Protection and the University Hospital Centre of Tirana (UHCT)
Date:	23 July 2019
Expert:	Irma Baraku
<u>Context</u>	
Issue at stake:	Discrimination of the patient on ground of disability
Grounds of discrimination:	Disability
Field of application:	Social protection (health service)
Source:	National equality body (Commissioner for Protection from Discrimination (CPD), Decision No.17, dated 05.02.2019)
Applicable law:	Law "On protection from discrimination", 10 221/2010; Law "On compulsory health insurance in the Republic of Albania", amended, 10383/2011 Decision of the Council of Ministers "On the Registration and Identification of Persons Insured by Compulsory Health Insurance", amended, 307/2014

Content

Case development: The Commissioner for Protection from Discrimination (the Equality Body, CPD) dealt with the complaint of a patient (diagnosed with Haemophilia B) represented by the "Together for Life" Association, claiming discrimination due to "health status" by the Ministry of Health and Social Protection (MHSP) and the University Hospital Centre of Tirana (UHCT).

The complainant suffers from Haemophilia B, a fact evidenced by a number of acts issued by medical institutions and by the Medical Commission for Determining Disability at Work (according to the decision of this Commission his impairment is qualified as a disability).

In his family history there are other relatives who suffer from the same disease. The complainant is treated with medication called 'Factor IX', which is a coagulant; the lack of such medication or its inadequate supply causes partial or total invalidity. The current mode of treatment of the complainant is through the UHCT Emergency, because currently patients as the complainant are not treated with prophylaxis, which has caused his partial disability to increase to 50 %, preventing him from participating in social life and any other activity. The complainant alleges that he has never received the appropriate amount of medication, as there is insufficient amount of Factor IX in the pharmacology of UHCT to cope with the needs of haemophilic patients treated at this hospital (claims evidenced by written documents of the UHCT structures and e-mail requests that the complainant has addressed to the MHSP, informing them of the lack of medication). In addition, the complainant and other patients with Haemophilia B are

discriminated based on the "health status", contrary to the Law on Protection from Discrimination (LPD) and the National Strategy on Blood Disease Management (2009 - 2010).

Decision of the CPD and of the Court: On 5 February 2019, the CPD decided that the treatment of the complainant by the Ministry of Health and Social Protection and by the University Hospital Centre of Tirana (UHCT) amounted to discrimination. The decision did not explicitly specify which form of discrimination was found.

The Decision of the CPD is very important because it finds discrimination of a very vulnerable group (persons with disabilities) and in a sensitive area such as the adequate health service. The CPD states that:

- The complainant is a person with disabilities, and not treating him with the appropriate amount of Factor IX medication has delayed and accelerated his partial disability.
- Based on international acts (ratified by Albania) and national legislation, health care for persons with disabilities constitutes an important obligation for the Albanian state and these individuals have the right to free health care and medication services.
- The LPD guarantees special protection against discrimination in the area of goods and services, including health care.
- According to the CPD, the responsible institutions should have taken the necessary measures to forecast and request the budget needed to provide the Factor IX medication for Haemophilia B patients, especially when there is a high likelihood of patients with this disease having disabilities. The relevant structures of the MHSP and the UHCT administer accurate information on the actual number of patients with Haemophilia B which gives the opportunity to provide the budget and the amount of medication to be procured. However, the right to health is a right that cannot be conditioned by the state's limited budget, especially when it comes to providing the appropriate treatment for an individual with disabilities as the complainant.
- The Commissioner considers that the absence of a protocol or specific guidelines for the treatment of haemophilia has been a factor that has affected the applicant's medical needs by failing to provide the Factor IX medication in the necessary amount and by not considering this disease as a priority.
- The Commissioner has ascertained that the complainant was exposed to an unfair and unfavourable treatment compared to other persons with disability.

On 18 June 2019, the First Instance Administrative Court of Tirana decided to dismiss the lawsuit of the MHSP for the abrogation of the CPD's Decision in this case and confirmed the finding of discrimination.

Internet link source: https://kmd.al/wp-content/uploads/2019/05/Vendim-nr.-17-date-05.02.2019-B.N.-kunder-QSUT-etj_.pdf.