HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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Protection of the rights of people living with HIV/AIDS

I. Introduction

HIV/AIDS was identified in 1981. In Greece, the first case was reported in 1983 and since 1986 it became mandatory for HIV cases to be reported. Since 2000 the Hellenic Center for Disease Control and Prevention (hereinafter HCDCP) operates the Record for HIV-infected Persons maintaining anonymity and medical confidentiality. The total number of HIV-infected persons who have been reported in Greece from 1983 to the 31.10.2010 is 10.452. HIV infection in Greece has significantly increased after 2004. Especially in 2008 and 2009 the reported cases are over 600. In 2010, 519 new cases were reported. However, it has to be noted that the data collection for 2010 is yet to be completed. From the monthly records available it is estimated that the number of infections will be quite high, probably higher than that of 2009.

The NCHR decided to address the issue of human rights protection of people living with HIV/AIDS because of the established deficit in the enjoyment of fundamental rights, further intensified by stigmatization, discriminatory treatment, violation of confidentiality etc.

The NCHR was motivated by the Supreme Court's judgment 676/2009 which basically sanctioned the legality and the conditions under which an HIV-positive employer was dismissed. Given the importance of this judgment – as it constitutes the first case in Greek case-law addressing the issue- and the fact that it dealt with a single but essential aspect of the problems which people living with HIV (hereafter PLHIV) face, the NCHR convened a consultation with several institutions and stakeholders to discuss the protection of people living with HIV/AIDS. Several issues were raised, but the ones considered as a priority

are: a) HIV/AIDS stigma, b) discriminatory treatment of PLHIV, especially in employment, d) access to health services and e) protection of privacy.

II. HIV/AIDS stigma

In 1987 J. Mann, at the time the Director of WHO's World AIDS Program, specified the three stages of HIV/AIDS epidemic as follows: the epidemic of HIV infection, the epidemic of AIDS itself, and the epidemic of stigma, grinding down its victims with shame and isolation.

UN/AIDS defines HIV-related stigma and discrimination as: "…a 'process of devaluation' of people either living with or associated with HIV and AIDS… Discrimination follows stigma and is the unfair and unjust treatment of an individual based on his or her real or perceived HIV status."

During ILO's Conference in June 2010 Rec. 200(2010) concerning HIV and AIDS and the World of Work was adopted. According to the Recommendation, "stigma" means "the social mark that, when associated with a person, usually causes marginalization or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV".

HIV stigma and the resulting unequal treatment increases the impact of infection on the patients, because they risk to be marginalized, not to have access to health services, to get fired or not to have access to the labor market, etc. Because of the stigma, PLHIV persons may not inform their closest relatives and friends about their situation and it might be difficult for them to take measures to protect their partners. People who are suspecting that they might be HIV positive may avoid the examination and therefore the treatment. Thus, the stigma and the discriminatory treatment might be both the consequence and the cause of HIV status.

It will be proven that all the problems that PLHIV people face are directly or indirectly connected with the stigma. The fact that it is not an airborne transmitted disease that may be transmitted by ordinary social contact with PLHIV, hasn't been fully understood by the public and, therefore, results in fear and prejudice against PLHIV.

The only way to combat HIV stigma is through the constant and detailed information of the general population, and of specific professional groups such as nurses, doctors, judges etc. We also need to note that accurate information is necessary not only for combating HIV stigma but also for preventing new infections.

According to the Committee on Economic, Social and Cultural Rights, article 12 par. 2 (c) of the ICESCR requires the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, as well as information campaigns. The ILO's Rec. 200/2010 also provides that prevention of all means of HIV transmission should be a fundamental priority, that measures to address HIV/AIDS in the world of work should be part of national development policies and programmes, including those related to labor, education, social protection and health, and that Member States should take every opportunity to disseminate information about their policies and programs on HIV/AIDS and the world of work through organizations of employers and workers, other relevant HIV/AIDS entities, and public information channels (par. 3 (d), (j) and 8).

Therefore, in order to fight HIV stigma and promote prevention, it is necessary to immediately implement the National Action Plan for HIV/AIDS of the Ministry of Health & Social Solidarity, which provides for information activities. Moreover, given that: a) the average age of sexually active people has decreased, and b) there is an information deficit at schools- according to HCDCP officers who have made presentations at schools- it is necessary to introduce sex education at schools.

III. Discriminatory treatment of people living with HIV/AIDS in employment

A) HIV status as ground of discrimination

It should be noted that no international, European or national binding instrument which addresses the prohibition of discrimination in general or in the field of employment in particular, refers expressly to HIV status as a discriminatory ground.

a) European Union Law

Directive 2000/78/EC prohibits direct or indirect discrimination in employment and occupation for several grounds, including disability without defining it. Law 3304/2005 transposing the Directive reiterates these prohibitions.

The question arising is whether the term "disability" encompasses HIV status. The European Court of Justice hasn't so far adjudicated upon this issue. However, in the case *Chacon Navas* the Court held that: "The concept of 'disability' is not defined by Directive 2000/78 itself. Nor does the directive refer to the laws of the Member States for the definition of that concept. It follows from the need for uniform application of Community law and the principle of equality that the terms of a provision of Community law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an autonomous and uniform interpretation throughout the Community, having regard to the context of the provision and the objective pursued by the legislation in question." It also held that: "Directive 2000/78 aims to combat certain types of discrimination as regards employment and occupation. In that context, the concept of 'disability' must be understood as referring to a limitation which results in particular from physical, mental or psychological impairments and which hinders the participation of the person concerned in professional life. However, by using the concept of 'disability' in Article 1 of that directive, the legislature deliberately chose a term which differs from 'sickness'. The two concepts cannot therefore simply be treated as being the same. Recital 16 in the preamble to Directive 2000/78 states that the 'provision of measures to accommodate the needs of disabled people at the workplace plays an important role in combating discrimination on grounds of disability'. The importance which the Community legislature attaches to measures for adapting the workplace to the disability demonstrates that it envisaged situations in which participation in professional life is hindered over a long period of time. In order for the limitation to fall within the concept of 'disability', it must therefore be probable that it will last for a long time. […] The prohibition, as regards dismissal, of discrimination on grounds of disability

contained in Articles 2(1) and 3(1)(c) of Directive 2000/78 precludes dismissal on grounds of disability which, in the light of the obligation to provide reasonable accommodation for people with disabilities, is not justified by the fact that the person concerned is not competent, capable and available to perform the essential functions of his post."

On the basis of the aforementioned it is evident that a national court which adjudicates on a case concerning the treatment of an HIV-positive person in employment or occupation, may or -in the case of a court of the last instance- must, according to article 267 of the EU Treaty, request a preliminary ruling from the European Court of Justice in order for the latter to clarify the meaning of Directive 2000/78 in that respect and the case to be resolved in compliance with EU law.

b) International human rights treaties

According to Resolutions of the Commission on Human Rights the term "or other status" used by several Human Rights Treaties concerning the prohibition of distinctions in the scope of their application (such as article 2 par. 1 of the ICCPR) should be interpreted in such a way so as to include the health status of the individuals, including HIV/AIDS. Furthermore, the Committee on Economic, Social and Cultural Rights has interpreted the term "other status" of article 2 of the Covenant as referring to the health status of a person and by consequence to HIV status, which it uses as an example of ground for differential treatment.

ILO Convention concerning Discrimination in Respect of Employment and Occupation (No 111) does not refer to HIV status. However, according to article 1 par. 1 (b) the protection of the Convention may be extended to any "other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies." For the more effective protection of PLHIV in employment, HIV status should be included in the grounds of discrimination prohibited by the Convention.

ILO Rec. 200/2010 refers also to ILO Convention No 111. According to par. 10 of the Recommendation "real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities consistent with the provisions of the Discrimination (Employment and Occupation) Convention". Moreover, according to par. 12 of the Recommendation: "When existing measures against discrimination in the workplace are inadequate for effective protection against discrimination in relation to HIV and AIDS, members should adapt these measures or put new ones in place, and provide for their effective and transparent implementation".

Because HIV status is not expressly included in Law 3304/2005, PLHIV fall under the protective scope of the Law via the discriminatory ground of disability. The term disability is not defined by the Law. In theory several definitions of 'disability' have been developed based on its medical or social model perception. The latter seems to be prevailing given also the definition of 'disability' provided by the UN Convention on the Rights of Persons with Disabilities.

Irrespective of any definition, the fact that in Greece PLHIV belong, on the basis of a Ministerial Decision, to the categories of persons with disabilities, renders clear that they fall under the protection of Law 3304/2005.

B) HIV status and employment

Discriminatory treatment of PLHIV in employment or occupation may have different manifestations: mandatory HIV screening as a precondition for hiring, denial of promotion or/and downgrading, dismissal or enforced resignation. At this point we need to note that PLHIV thanks to antiretroviral treatment may live for many years and be capable for employment.

a) Access to employment

The Legal department of HCDCP has received complaints against public institutions and the private sector (banks, public enterprises, hotels, casinos),

which had requested HIV negative status certificate in order to employ or promote employees. The Greek General Confederation of Labour has also received complaints by employees with HIV positive status concerning either their unequal treatment after their status became public or their fear for unfavourable treatment in employment and further in the society if their status is made known.

According to ILO Recommendation 200 (2010) HIV testing or other forms of HIV screening should not be required from workers and must be genuinely voluntary and free of any coercion. Furthermore, testing programmes must respect international guidelines on confidentiality, counseling and consent (par. 24 and 25).

Moreover, according to recommendations and guidelines of international organizations HIV testing should not be a requirement for employment.

A typical example of violation of the above is the complaint filed to the Greek Ombudsman by the NGO "Kentro Zois", which provides psycho-social support to people living with HIV/AIDS. According to the complaint in order for the selected students to enroll in the Professional Schools of the Organisation of Tourism Education and Training they had to submit medical examinations, including HIV testing. It should also be noted that for the traineeship of students in tourism enterprises the issuance of a health booklet by the Health Prefectural Authorities is required, some of which request HIV testing. The Greek Ombudsman reached the conclusion that: "the request of specific medical exams as certification of the health status of the students or trainees, which could result in their disqualification is problematic on the basis of article 5 par. 1 of the Constitution and articles 1, 2, 4 par. 1 (b), 7, 8, 9 of Law 3304/2005 given that this constitutes indirect discrimination on the basis of disability, which in accordance with Circulars of the Ministry of Health is not justified by the nature of the specific professional activities".

Therefore, conditions for hiring requesting HIV testing do not comply both with international recommendations and the national law and should, thus, be omitted.

This should apply to all professions. Any effect of HIV status on the performance of some duties related to a specific profession e.g. pilot, may be

ascertained or excluded via general testing –patient's medical history, symptoms, neurological testing, and not HIV testing.

b) Remaining in employment

The two cases that follow illustrate how HIV status results or might result in dismissal.

The first case concerns a Naval Officer, who was dismissed after he was diagnosed with HIV status, although his physical condition was perfect. His dismissal was due to the fact that according to PD 133/2002 on the physical ability in the armed forces, persons with HIV status fall under category I4 (i.e. to be discharged due to impairment or inadequate physical and/or mental condition).

According to the Greek Ombudsman, the dismissal of a person who does not pose any risk to his environment and whose ability to perform his/her duties is not reduced contravenes the Constitution (article 22). Furthermore, PD 133/2002, on the basis of which the Naval Officer was discharged, provides that "physical impairment does not preclude service in the Armed Forces, if it does not affect the mission or vice versa" (article 3 par. 1). According to the Greek Ombudsman the dismissal was not legal because it was not necessary, appropriate and proportionate to the HIV positive status.

Provisions which automatically result in the dismissal of a person exclusively because of his/her HIV positive status, even in the case of armed or security forces -which Law 3304/2005 excludes from its scope (article 8 par. 4)-, do not comply with the Constitution and the principles of necessity and proportionality and must, therefore, be abrogated.

The second case concerns the dismissal of an HIV-positive employee (hereinafter referred as X), who was working on the Orders Department of an enterprise. After the state of his health became known, his colleagues claimed that his presence caused insecurity and posed a threat to their health and put pressure to their employer to fire X, which he actually did. X sought recourse to courts and won the case both in the 1st and 2nd instance. The Appeals Court of Athens in its judgment 764/2008 held that: "the concerns of his colleagues, as

well as their reaction, in the context of which they requested his dismissal, were scientifically unjustified. Given the ways the virus is transmitted, for which they were informed by the Labour physician, there was no risk to their health. Thus, ***the fear and concerns were in essence the result of prejudice and not of an existing danger and therefore X's disease could not adversely affect the regular functioning of the enterprise.*** The Appeals Court taking also into account the legitimate expectation of X to be employed in a difficult moment in his life, held that on the basis of the good faith principle X's interest to preserve his employment prevails.

On the contrary Areios Pagos in its judgment 676/2009 held that the dismissal was legal, given that: "the dismissal did not take place due to vengeance or hostility towards X, but it was completely justified by the interests of his employer since it aimed at assuring the tranquility of the others employees and restoring the regular functioning of the business that had been seriously disturbed by the grave and contagious disease of X, which had provoked insecurity and fear for their own health." Thus, it overturned the decision of the Appeals Court.

It needs to be noted that none of the courts took into consideration Directive 2000/78/EC or Law 3304/2005. On the basis of the aforementioned, the Appeals Court could have requested a preliminary ruling by the ECJ, which would have been very useful; although the Areios Pagos was obliged to do so, it eventually did not.

It is quite clear that the dismissal of an employee with HIV positive status when the pressure is exclusively or mainly due to the infection is illegal and constitutes prohibited discrimination on the basis of Law 3304/2005.

Beyond the legal aspects, the Areios Pagos' judgment demonstrates the issue of stigmatization and prejudice towards PLHIV, which unfortunately the Court embraced.

c) Conditions of employment

According to article 11 of National General Collective Labour Agreement 2004-2005 "employees under contract who have been employed for four years by

the same employer, live with HIV/AIDS and are capable for employment, are entitled to an additional month of paid leave each year, after notifying their employer." Furthermore, Law 3304/2005 in articles 10 (reasonable accommodation for disabled persons) and 12 (positive action and specific measures) provides for the adoption of measures to facilitate the exercise of their duties.

The implementation of the above provisions, in particular the one concerning the additional leave, however, is hindered by the reluctance of PLHIV themselves to invoke them, as this presupposes that their health status is made known. Due to the stigma and prejudice, and the fear/risk of being dismissed they prefer to conceal it.

IV. Access to health services

A) Denial of health services

The notion of Health Services includes all medical or other services provided by a physical (physician, psychologist, nurse) or legal (hospital, clinic, social security body) person of the health sector to a healthy or not individual. In several cases PLHIV reveal their HIV status to medical staff, in order for the latter to take all necessary precaution for the prevention of a potential infection. However, this may result in the refusal of provision of health services. The Greek Ombudsman has, indeed, received complaints concerning refusal of treatment and hospitalization.

According to article 9 par. 2 of the Code of Medical Ethics, "a doctor may not refuse to provide services for reasons which are not related with his/her scientific proficiency, unless the provision of services is not objectively feasible due to a specific reason". Moreover, according to article 441 of the Penal Code "Doctors and midwives, who without justified obstruction refuse to perform their duties […] are punished with a fine or detention up to three months […]". Furthermore, the refusal to provide health care may constitute the objective requirements of other crimes, such as, exposure to danger (article 306 PC). In addition, according to ILO Recommendation 200/2010 States should ensure that workers living with HIV benefit from full access to health care, whether this is

provided under public health, social security systems or private insurance or other schemes.

We note that when the State Chemical Laboratory (SCL) of Greece refused to examine syringes that had been used by drug addicts the Prosecutor of Areios Pagos issued an advisory opinion stressing that the obligation of SCL to execute the requests of police authorities [let alone the obligation of doctors to provide their services] "is not precluded by the potential risk of infection". The potential exposure to risk should be addressed in the same way it is addressed by all those exposed to the same risk (doctors, medical personnel, etc), i.e. by taking the necessary precautions, (use of gloves, masks etc.)

It becomes evident that the denial of health services apart from being illegal, forces PLHIV to conceal their HIV status. International organizations recommend the general use of preventive measures, and several countries have adopted the recommendation. Thus, HIV status of patients and/or health professionals becomes irrelevant as to the prevention of infections and may not constitute a basis for discriminatory treatment. However, the generalized use of preventive measures is more costly and it has been argued that the cost is disproportionate to the small number of infections prevented; thus, the targeted use of preventive measures in the case of PLHIV has been recommended. Nevertheless, this practice may result in refusal of provision of health services, in HIV testing without the consent of the patient, and even in potential infection when the PLHIV conceals their status or are not aware of it.

In Greece, individuals that are to be operated are often tested for HIV without having previously consented to that. However, this practice provides no actual safety because: a) precautionary measures need to be taken for all infectious diseases (which are numerous and more frequent than HIV), and b) the testing might take place during the so-called "window period", i.e. the period between HIV infection and the production of antibodies. During this time, an antibody test may give a 'false negative' result even though a person is infected with HIV.

Furthermore, testing without the consent of the patient contravenes article 47 of Law 2071/1992 and articles 11 and 12 of Law 3418/2005, requiring that the patient is informed for every medical action and consents to it.

On the other hand, the conflict of rights that might arise should not be ignored. For example, a surgeon who has taken all precautionary measures during the surgery is scratched with the scalpel. In that case the surgeon has valid interest (the protection of his/her health) to request from the patient to be tested for HIV. The patient's consent is necessary. However, in case he/she refuses the testing, the person who has a legitimate interest to protect his/her health should be able to have recourse to a competent authority capable of ensuring the balanced satisfaction of conflicting rights.

Furthermore, the staff should be trained on protection from contagious diseases; this certainly does not entail the testing of all patients, but rather taking specific sterilization measures provided for and applied in Greece and elsewhere.

The Greek Ombudsman after having investigated the complaints submitted and having held meetings with health professionals in hospitals, reached the conclusion that the refusal or delays in providing health services to PLHIV is due to fear on the part of part of the medical personnel. The fact that even in the case health professionals there may be prejudice vis-a-vis PLHIV, manifests the need for further information and training on HIV/AIDS. Moreover, the Greek Ombudsman noted that the lack of clear clinical instructions and guidelines concerning the legal responsibility that such a refusal of provision of services entails, further aggravates the problem.

B) Access to antiretroviral treatment

Unhindered access to antiretroviral treatment is crucial, as if the patient does not receive the treatment even for one day, the virus may become more resistant. People living with HIV receive their treatment from the Special Infections Units in hospitals covered by their social security schemes. However, several problems have arisen in practice:

a) Greek seamen are covered by their social security body for the time they are not aboard. While they are aboard they are covered by private insurance companies -paid by the shipping company- which, however, do not cover people living with HIV. Given that antiretroviral treatment is provided on a monthly

basis by the hospital Units the people concerned may not receive their treatment for the entire period they are aboard.

At this point we would like to note the issue of private insurance companies. According to draft private insurance agreement and under the title "Dangers excluded", diagnose tests and treatment which are due in whole or in part, directly or indirectly to AIDS and its complications are not covered. On the basis of this clause private insurance companies have refused to sign a contract with PLHIV.

b) In case one changes his/her social security institution, due to bureaucratic delays, there might be a period during which an HIV-positive has no social security.

c) Greeks with no social security and annual income under 9.000 € are entitled to have the so-called 'booklet of destitute', with which they can receive antiretroviral treatment. Once more, the person in question may stay without social security, as the issuance of the aforementioned booklet may take two months.

d) The treatment of Greeks without social security and income over 9.000 € is usually covered after their case is examined by the Committee of Social Welfare and after a doctor's statement on the cost of the treatment (a portion of the cost may be requested by the person concerned). Again the problem arises with the in between period.

HCDCP has recommended the antiretroviral treatment to be covered by the States budget and to be provided irrespective of the social security status of the person involved.

V. Protection of privacy

A) Private life

Private life of an individual is according to article 9 of the Constitution "inviolable". The notion of private life, according to the prevailing social views, includes the domains of love life, physical handicaps, and health problems. Therefore, HIV positive status is protected under article 9 of the Constitution and

article 8 of ECHR. The ECtHR has dealt with cases of PLHIV in the context of article 8.

In case *Z v. Finald,* the ECtHR held that the writing of the name of the complainant in a court's judgment which referred to her HIV status and which led to the publicizing of her health status in newspapers violated article 8 ECHR. The ECtHR also noted that the disclosure of such data may dramatically affect his/her private and family life, as well as social and employment situation, by exposing him/her to opprobrium and the risk of ostracism. For this reason it may also discourage persons from seeking diagnosis or treatment and thus undermine any preventive efforts by the community to contain the pandemic.

In the case *I v. Finland* which concerned an HIV positive nurse receiving treatment in the hospital where she was employed, the ECtHR held that there was a violation of article 8 because all personnel had access to the patients' files of the hospital. The ECtHR also noted that it is crucial not only to respect the sense of privacy of a patient, but also to preserve his/her confidence in the medical profession and in the health services in general.

Moreover, the ECtHR has noted that obligations for the States Parties may concern the adoption of measures for the protection of private life, even in the case of private actors. Therefore, the State needs to care for the protection of private life and to create a protective 'fence' against potential violations of the said right irrespective of whether they originate from public or private actors.

B) Protection of personal data

The protection of personal data constitutes a right provided for by article 9A of the Constitution and regulated by Law 2472/1997 "Protection of individuals with regard to the processing of personal data". Article 23 par. 1 of Law 3471/2006 replaced in article 7A par. 1 of Law 2472/1997 the term "medical data" by the term "health data". The term "health data" is broader and includes besides patient's medical history ('medical data") and genetic data, any other information related to health, such as use of drugs, medicines etc. Health data and therefore, HIV status, fall under the notion of sensitive personal data.

In practice several issues have arisen concerning the protection of personal data on health. The most significant is the citation of the disease in public documents.

For instance, the indication 'HIV/AIDS' was often noted in the dismissal certificates issued by the army. The Hellenic Data Protection Authority (HDPA) with its decision 1620/2000 held that: The certificate of military service status needs to state: 1) that a person has completed his military service, and 2) in case of exemption, that he was exempted according to the law, without mentioning the specific reason of exemption. However, this is not always the case and several complaints have been filed with NGOs.

Moreover, while the disease is not mentioned in the health booklets, the disability certificates issued by the Health Committees of the Prefectures do mention it. The HDPA has held that the certificates of the Health Committees which are required by Law in order for one to fall under the protective provisions for the disabled, should not state the type of disability and/or disease. The percentage of disability and its chronic character suffices.

Furthermore, it is necessary to control the use of data by the administrative services of the hospitals; the latter should have access only to the information required for the provision of health services. For example the administrative services should use codes in order for the patient's identity not to be revealed and by extension his/her health status.

Thus, beyond the strict implementation of the HDPA decisions further measures need to be taken for the effective protection of personal data and, consequently, the private life of PLHIV.

C) Violation of medical confidentiality

Breach of medical confidentiality constitutes one of the many violations of PLHIV's private life. HCDCP, NGOs and the Greek Ombudsman have received complaints concerning this issue.

Medical confidentiality is mainly regulated by article 13 of the Code of Medical Ethics (Law 3418/2005, OG A' 287). Its breach constitutes a criminal

offence under article 371 of the Penal Code, and also entails the disciplinary responsibility of the physician (article 36 of Law 3418/2005).

Because of HIV/AIDS stigma an atmosphere of confidence is required so that patients overcome their reluctance to use health services. Therefore, medical confidentiality needs to be strictly observed.

A conflict of rights situation may arise in the case of lifting medical confidentiality when informing a person of the HIV positive status of their partner.

According to article 13 par. 3 of the Code of Ethics lifting medical confidentiality is permitted when […] 'the physician aims at safeguarding a legitimate or otherwise justified, substantial public interest or interest of the physician or of another person, which may not be preserved otherwise'.

The prevention of a disease and the direct protection of third person may justify the breach of confidentiality. However, informing a third person without the patient's consent should be the last resort.

Public health professionals consider the notification of the sex partner as a method of prevention and access to treatment. Various laws and practices apply in different States, which require or encourage PLHIV to inform their partners themselves. In case they refuse to do so, the health professionals may be allowed to inform the third party after they have exhausted all other means and under specific conditions.

According to *Recommendation No. R (89) 14 of the Committee of Ministers to Member States on the Ethical Issues of HIV Infection in the Health Care and Social Settings,* States should ensure that as a general rule there is no notification of the partner without the consent of the patient, and should consider procedures of consultation in accordance with national codes of medical ethics and regulations for the extreme case where a patient refuses to co-operate in the notification of an unsuspecting third party known to the health care worker.

Thus, if an HIV-positive is not persuaded to inform his/her partner of his/her condition, the physician should have recourse to the Legal Committee of the HCDCP, to the Ethics Committees provided by law, to the Public Prosecutor, or to the HDPA to be given permission.

VII. Recommendations

On the basis of the aforementioned the NCHR recommends the following:

- Information and sensitization campaigns for the general public on HIV/AIDS aiming at prevention and at combating social stigma;
- Implementation of the National Action Plan on HIV/AIDS 2008-2012 of the Ministry of Health & Social Solidarity;
- Introducing sex education in schools;
- Incorporation of the provisions of ILO Recommendation 200 (2010) on HIV/AIDS;
- Making use of a) the important role of workplaces in terms of information, prevention, access to treatment, care and support for combating HIV/AIDS at the national level and b) the special role of labour unions and employers associations to promote and support national efforts to address HIV/AIDS within and via the field of employment;
- Providing for the institutional participation of NGOs, in particular those representing people living with HIV/AIDS, in the social dialogue on HIV/AIDS;
- Ratification of the UN Convention on the Rights of Persons with Disabilities;
- Inclusion of HIV status in the grounds of discriminatory treatment of Law 3304/2005 and expansion of its *ratione materiae;*
- Abrogation of HIV testing as a requirement for access to employment or education, where such requirement exists;
- Abrogation of HIV negative status as a requirement for remaining employed, where such requirement exists;
- Announcement of HIV status to the person concerned exclusively by medical staff and provision of psychological support by specialised staff;
- Ensuring effective access of PLHIV to competent controlling mechanisms (e.g. Labour Inspection Body) and their protection on the part of the latter;
- Specialised and periodic training of health and administrative hospital personnel concerning HIV/AIDS and their obligations while performing their duties;

- Organising a system of co-operation between the patients' physicians and the hospital of admission;
- Generalised implementation of precautionary measures for contagious diseases in all hospitals;
- Implementation of provided criminal and disciplinary sanctions in cases of breach of medical confidentiality by the competent authorities.

Athens, 27 January 2011