

# **LEGAL SUBSTANTIATION FOR THE USE OF ADAPTIVE PHYSICAL EDUCATION AS ONE OF THE MEASURES OF SOCIAL SUPPORT OF HIV-INFECTED PERSONS**

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Аннотация: В статье рассматриваются юридические аспекты реабилитации людей, живущих с ВИЧ. Несмотря на довольно обширный спектр правовых гарантий, которые предусмотрены действующим законодательством, положение ВИЧ-инфицированных в РФ характеризуется как неудовлетворительное. Кроме того, в исследовании проводится анализ реализации социальных прав ВИЧ-инфицированных при занятиях физическими упражнениями.

Annotation: The article concerns juridical aspects of the rehabilitation for people with HIV infection. Despite the fact that there are many legal safeguards provided by legislature, social status of HIV-infected people in Russia is characterized as unsatisfactory. Besides, the study analyzes the social rights of HIV-infected patients performing physical work-outs.

## **Introduction**

HIV infection is a global problem, which extends to almost all spheres of public life. There is no exception for jurisprudence as well. Legal science studies HIV in order to settle relations between a particular HIV-infected person, the state and society about the phenomenon in question. Nowadays, the issues of the legal status of HIV-infected individuals directly or indirectly are regulated by the rules of civil, labor, family, administrative, criminal and other branches of law.

The purpose of the study is legal substantiation of using physical training for the HIV-infected people.

During the research, it has been analyzed more than 15 international legal acts, 7 normative legal acts and subordinate legal acts of the Russian Federation which are related to HIV issues. The results of 5 integrated scientific researches on the impact of adaptive physical education the state of HIV-infected people were also taken into account. These researches are relevant and were held in different parts of the world over the past few years.

During the research, the universal dialectical approach and methods of observation, description, analysis, synthesis, and deduction have been applied.

## **The results of research**

On 13 May, 1989 the World Health Organization adopted Resolution WHA41.24 «Avoidance of Discrimination in Relation to HIV-Infected People and People with AIDS". It is the first normative act that secured the legal status of HIV-infected individuals, pointing to the need to respect and respect for their civil rights and freedoms, the impossibility of any

discrimination of such people. Moreover, this act became a starting point for the development of international law-making procedure on this topic. General principles of respect and protection of the rights of HIV-Infected people were developed and adopted only in 1996 at the Second International Consultation on HIV/ AIDS, organized by the United Nations in collaboration with the WHO. Among the fundamental principles, a norm that requires all UN member states to develop and adopt a national legal framework on the problems of prevention, combat and treat HIV / AIDS as well as the consolidation of the legal status of infected individuals became number one. By the moment, there are lots of various legal acts (declarations, laws, concepts, national policies, etc.) on the legal situation of HIV-infected people and measures to control the spread of the virus in most countries of the world including the USA, the UK, Germany, Australia, Brazil, China, and etc.

The main legal act that is dedicated to the problem of HIV-positive people in the Russian Federation is the Federal Law N 38-FZ "On the Prevention of Spread of the disease caused by the human immunodeficiency virus (HIV)" (hereinafter – the Act) was adopted on March 30, 1995. In addition to measures aimed at prevention and combating the virus, the Act provides delegation of infected or at risk individuals of certain legal guarantees and opportunities.

Thus, according to a regulatory act, the following is guaranteed: the availability of medical examination for the detection of HIV, providing care for HIV-infected people, welfare assistance to those infected patients free provision of drugs for medical use for the treatment of HIV infection in the outpatient treatment. Dealing with the question of the legal status of HIV-infected people, Article 5 of the Act proclaims the equality of citizens of Russia, regardless of their HIV status, and indicates that infected citizens have all the rights and freedoms as well as they bear responsibilities established by the current legislation on general grounds.

Moreover, the legislator takes a very hard stand in relation to HIV-infected people without citizenship of the Russian Federation. Firstly, foreign citizens and stateless people are required to confirm the lack of HIV infection when they enter the territory of the Russian Federation (otherwise enter the territory is not possible). Secondly, if the virus is found within a foreign citizen that has already reached the territory of the Russian Federation, he will be definitely deported from the Russian Federation in accordance with the law.

Legal regulation of the social sphere of life of HIV-infected people is presented in the third chapter of the Act. In accordance with Article 20, the legislator guarantees non-discrimination and the provision of state support for HIV-infected people in the field of labor, medicine, economic and education. There are also legal safeguards and support measures for infected people who are under the age of 18. In particular, patients and caregivers of HIV-positive are assigned with a social pension, benefits and are provided with social support

measures, which established for children with disabilities by the legislation of the Russian Federation (Article 19).

Despite broad spectrum of legal safeguards provided by the applicable legislation, the situation of HIV-infected people in Russia can hardly be described as satisfactory.

Firstly, if the order of providing medical care for HIV-infected people in the second chapter of the Federal Law N 38-FZ adopted on March 30, 1995 is described in details and it is revealed by other regulations as well, the measures of social support have more framework character and succinctly stated in four articles of chapter 3 of the Act. The law does not contain any clarification or a list of specific measures and steps that the State undertakes to implement the social support of the vulnerable categories of citizens. At the same time in the United States people living with HIV or AIDS are equated to categories of disabled people at the federal legislative level, and therefore have the relevant social, economic and other rights.

Secondly, there is much more serious problem of the enforcement of both national and international current legislation dedicated to the subject. Despite the adoption and codification of a huge amount of legal acts (declarations, recommendations, resolutions and other documents), modern civil society still has no chance to avoid discrimination against HIV-positive people. Present-day society, including the Russian one, consider HIV-infected people negatively. It can be explained by the absence of a sufficient level of knowledge in the field of HIV infections, as well as the influence of rumors, speculation and superstition. It is possible to face with the discrimination based on HIV-status almost everywhere. For example, colleagues avoid HIV-infected people and try to minimize contact with them. It should be mentioned that it is also a difficult task to find a job for HIV-positive people in Russia. There are quite frequent protests of parents who have learned that their children have to study together with an HIV-infected child at school, in the kindergarten or other educational institutions. According to statistics, 46% of respondents believe that people with HIV should be isolated from the society; 55% of respondents would transfer their child to another kindergarten (school), if they knew that there was an HIV-infected child. However, the low effectiveness of legislation cannot be entirely eliminated by using legal mechanisms (the implementation of new acts or amendments to already existing laws). This problem is caused by social factors rather than a gap in the legal technique and can be overcome only with the help of methodological work in order to improve the overall level of legal consciousness of the population. Such work should be carried out by information propaganda in various forms, starting from workshops with the participation of medical professionals at schools, universities, labor groups and finishing with administrative enforcement of the media to create socially-oriented products that will be aimed at condemnation and combat the discrimination of HIV-positive citizens.

However, the most difficult question is the psycho-emotional state of HIV-positive people. The acquisition of an incurable disease is a serious shock to each individual and it often leads to the development of various kinds of mental disorders, stressful experiences, suicidal ideation, frustration, apathy, phobias, etc. According to statistics from the interregional public organization "The community of people living with HIV", more than 78% of respondents have experienced various negative feelings about themselves because of their HIV-status; 13% of respondents have admitted that their suicidal thoughts visit them from time to time. An HIV positive status of a person can also strongly influence the psyche of his relatives. At the same time, even if we eliminate all discriminatory factors and qualitatively improve the efficiency of current legislation, the problem of HIV-infected atomization will not be solved immediately. Thus, it is impossible to influence the process of deterioration of social ties between HIV-infected individuals and society with the help of various mechanisms of legal regulation.

However, the interdisciplinary method can provide medical and social assistance to people affected by HIV and can help them to return to full social activity.

One way of medical and social support within the framework of this interdisciplinary approach requires participation of a specialist in physical culture and sport. This interaction is considered as a mutual activity of a specialist in physical culture and people living with HIV with the purpose to reduce the negative impact of HIV infection on the quality of life. The use of physical training as a kind of medical and social support of HIV-infected people promotes the implementation the maximum maintaining of social functioning and increases the quality of life.

The interest on quality of life levels of patients with various diseases has been growing within public health sector during the past decades. The quality of life is looked at as an integration of physical, psychological, emotional, and social functioning of a patient with focus on subjective perception. Investigating quality of life issue is important has scientific and practical implications on functioning of public health to protect and maximize medical services available in order to improve the quality of live of patients. Importance of researching quality of live of people living with HIV/AIDS (PLHA) is explained by the fact that HIV is one of the most sinister, dangerous and fast spreading disease in the current world. This highly dangerous and incurable disease is a source of a constant stress in patient's life which leads to limitations in all aspects of one's life as well difficulty to socially and psychologically adapt to living with the disease. Social integration of PLHA allows HIV victims to have longer and more productive life, which brings positive input into family and society and prevent further spreading of the disease. A very important role to ingrate PLHA plays physical activity.

Effect of exercise on health status of HIV patients have been extensively researched since the beginning of the HIV pandemic. Earlier exercises have been used in HIV patients to maintain muscle mass, more recently they have been used to slow down body fat redistribution syndrome. Studies show that use of adaptive physical activity in rehabilitation not only improves psycho-social status of HIV patients, but also positively affects their clinical condition. One of the acceptable types of adaptive physical activity used in HIV population rehabilitation is adaptive movement reaction. At this time there is strong development of the theoretical base of adaptive movement reaction being a subtype of the adaptive physical activity. Recreational physical activity involves integration of functionally important activities into the rehabilitation with great focus on social functioning and quality of life. Recreational rehabilitation boosts patient's sense of control over a situation and minimizes perception of being disabled.

There is a large number of international scientific researches that show the positive experience of the usage of different means of adaptive physical activity in rehabilitation purposes for HIV-infected individuals. Thus, an international nonprofit organization Cochrane Collaboration has recently published reports of two complex studies. According to their empirical results, it was found that the involving of HIV-infected people, on a permanent or periodic basis, into a series of aerobic exercise for at least 20 minutes with a frequency of three times a week adduce to a substantial improvement of general-physiological state (increase strength, endurance and a significant decrease in stressful experiences). It should be said that in a series of practical experiments, HIV-infected people were offered lots of sports and fitness techniques and other types of physical activity, including exercises on bikes, treadmills, rowing, swimming and much more. However, the type of physical activity which a patient selected did not correlate with the overall results of the study and in general had the same positive effect on physiological condition and emotional background of an HIV-infected person. It also strengthens the immune system.<sup>1</sup>

Another noteworthy study was conducted by a group of scientists in Puerto Rico in 2004. The test group was consisted of 68 men and women with a positive HIV status, and the purpose was the validation of the theoretical results of scientific researches with the main hypothesis that there is a direct connection between the level of physical activity of HIV-infected people and their sense of social satisfaction. In the experiment, people who lead an active life claim that in general they do not feel any discrimination or harassment because of their HIV-positive status and are satisfied with the quality of life. However, representatives of the slow-moving test group complain about their poor positions both socially and medically. Clinical studies have not confirmed the significant difference in terms of medical representatives of different test groups

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<sup>1</sup> (O'Brien K and others., 2010)

(in particular the level of CD4 cells was approximately equal). Thus, the researchers concluded that the use of adaptive physical education has a positive impact on the emotional well-being of people living with HIV and promotes their socialization.<sup>2</sup>

These studies show that sustained interaction of the specialist in physical culture with an HIV-infected person optimizes functional, emotional and mental state of people living with HIV; improves fitness and social quality of life of HIV-infected people.

Unfortunately, principles of adaptive movement reaction training as part of rehabilitation of PLHA did not find wild application in Russia. Since specialists in adaptive reaction training are rarely involved in rehabilitation of PLHA this issue has to be studied in greater detail.

### **Conclusion**

Thus, it seems appropriate to adopt a legal act that will provide as a measure of social support to implement adaptive physical education for HIV-infected people at the regional level of the Kaliningrad region. This initiative will allow a short-term (presumably three years) social experiment aimed at obtaining empirical data on positive effects of physical culture and sport on the emotional and mental state of HIV-infected individuals. The regional level of the experiment will allow not amending current federal laws. Material-technical base of the experiment: the budget of the Kaliningrad region, budget of the city district "The city of Kaliningrad", budgetary appropriations and private donations. As specialists in physical culture and sport, it is offered to attract graduates from the Faculty of Physical Education and Sport of Immanuel Kant Baltic Federal University, which currently has developed and conducted a training course "Pedagogical features of the use of physical training at medical and social support of people living with HIV." Conducting this research within the Kaliningrad region suggests that the result obtained by mathematical analysis of the data can be modeled for each subject of the Russian Federation.

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