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**COMMISSION FOR PROTECTION AGAINST DISCRIMINATION**

35, Dragan Tsankov str.; 1125 Sofia, BULGARIA

Phone: +359 2 807 30 30, fax: +359 2 870 84 84

e-mail: [kzd@kzd.bg](mailto:kzd@kzd.bg)

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*Rectangular stamp:*

**COMMISSION FOR PROTECTION AGAINST DISCRIMINATION**

**Outgoing No 44-00-982**

**Dated March 28<sup>th</sup>, 2011**

**TO**

**TOSHKI NIKOLOVA BOSHEVA**

**1000 SOFIA**

**55, ISKAR STR.**

**REGARDING:** Decision No 183/02.08.2010 of five-member expanded panel of the Commission for Protection against Discrimination under Case File No 146/2009 as per docket of CPD

Enclosed, we are sending you **Decision No 183/02.08.2010** of five-member expanded panel of the Commission for Protection against Discrimination.

The decision is subject of appeal before the Supreme Administrative Court, according the procedure of the Administrative Procedure Code via the Commission for Protection against Discrimination, within 14 /fourteen/ days upon receipt.

**Annex:** according to the text.

*Signed:* **Hristo Nachkov**

*Director of Direction "Administrative-legal and information attendance"*

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**DECISION**

No. 183

Sofia, August 2<sup>nd</sup>, 2010

FIVE-MEMBER specialized panel of the Commission for Protection against Discrimination (CPD), with the following members:

ROSSITSA GEORGIEVA – chairperson,

ANELI CHOBANOVA – rapporteur; and

MEMBERS: ass.prof. BLAOGOY VIDIN;

ZORA GENCHEVA

LALO KAMENOV,

at working session on Case File No 146/09, as per docket of CSD, where, complying the facts as established in proceedings before the Commission under this file case and the evidence presented thereon with the effective anti-discrimination legislation, took the following decision.

The proceedings have been initiated on the grounds of art. 50, item 1 of the Law for Protection against Discrimination (LPDiscr) upon the complaint of T. N. B., entered under No. 44-00-108 on June 22nd, 2009 in the CPD against the Ministry of Health of the Republic of Bulgaria.

The complaint contains allegations for discrimination, resulting from the breach of the constitutionally set civil rights of plaintiff B., expressed in the lack of rhythm of delivery and shortage of the drugs Arimidex® and Herceptin® for treatment of all people suffering oncological diseases as she is, taking these drugs.

In support of the allegations, made in the complaint, evidence have been provided: Epicrisis from the Clinic of Thoracic Surgery at Specialized Hospital for Active Treatment on Oncology EAD; Protocol No 400b/March 18th , 2009 of District Dispensary for Oncological Disease with Stationary (DDODS), Sofia city and Decision of the Oncological Committee at same medical institution, dated October 28<sup>th</sup>, 2008. The Commission is asked to order the interruption of this infringement and to establish equality in treatment.

The complaint meets the requirements of art. 51, par. 2 of the LPDiscr that makes it admissible and valid legal ground for proceedings initiation under same law. Therefore, by Order of the CPD Chairperson No 321/July 10th, 2009 is initiated a Case File No 146/09 as per the Commission docket, for discrimination on the grounds of “personal status” and “disability”, that is assigned to be examined and decided in FIVE-MEMBER EXPANDED PANEL of the Commission.

The plaintiff T. B. alleges to be patient suffering oncology disease, due to which she has undergone a surgical intervention; chemo- and radio-therapy. She is prescribed treatment with “Arimidex®” and “Herceptin®” afterwards. According to the allegations,

the prescribed drugs are monthly granted under the respective procedure by the Ministry of Health (through DDODS Sofia-city Sole Ltd., in her case). In this relation the plaintiff's claims that both drugs are granted for her monthly treatment without bearing in mind the number of days in a month. It is explained that the treatment with Herceptin is done under the form of infusion of 4 ampoules at interval of 21 to 28 days. For that reason sometimes infusion is to be made twice in a month (at the beginning and at the end). This circumstance is not taken into consideration by the Ministry of Health and therefore sometimes given patients do not receive at all or on time the necessary drug doses for the consecutive infusion. In this relation B. indicates that in May 2009 no infusion had been practiced to her, as she was not foreseen to receive Herceptin®.

On the other hand, B. complains that due to the shortage of the drug Arimidex®, provided in Bulgaria for the treatment of patients with cancer diseases, the quantities are not enough for everybody and in practice the drug is received by those who managed to go earlier on the scheduled days to receive it. Therefore the plaintiff alleges that on June 16<sup>th</sup>, 2009 she was supposed to receive the due doses of the drug, but before her the available quantity had finished and she was left without treatment for this month. As per MoH and the administrative head of DDODS Sofia-city Sole Ltd. – N. information, it was made clear that users of this drug are 375 patients for whom the MoH has foreseen 200 and the Dispensary, by own funds has managed to purchase other 100 doses. According to plaintiff B., the rest 75 patients were deprived from the possibility to receive treatment for certain time period, being for the concrete month she namely among this group of patients. She also explains that she is going to receive this medicine not till the month of July same year and considers that this troubles her treatment and endangers her health and her life, as well as the monthly worry if she is to receive drugs or not represents continuous harassment to her.

Alleging the pharmaceutical products Arimidex® and Herceptin® fall into the group of expensive drugs, which payment in principle is wholly on the account of State budget, plaintiff B. pretends discrimination towards her that due to her health condition – suffering of cancer disease, she is deprived from the life-supporting prescribed drugs, in comparison to other patients suffering of cancer disease, using treatment with same medicine and whose treatment has not been interrupted due to shortage of prescribed drugs. She seeks from the CPD to interrupt the infringement until the establishment of situation of equal treatment, as well as the application of the sanctions and precautionary administrative measures, provided for the LPDiscr.

To her complaint Mrs. B. has attached: Protocol No 2074a/19.05.2009 of DDODS Sofia-city Sole Ltd. for prescription of medicine, where it is obvious that in its part, stating “*The Commission proposes further treatment of the patient to be administered with the following*” is written: “*Arimidex®*”; Protocol No 400b/March 18th, 2009 of DDODS Sofia-city Ltd., from where it is obvious that to T. N. B., as a result of diagnosed “*infiltrant ductal carcinoma*” have been applied surgical therapy, chemotherapy and drug therapy, due to which she is in condition of full remission with prescription “*to continue treatment with “Herceptin®”, powd. Inf. 150 mg, supplied under Ordinance for the procedure of payment from State budget the treatment of Bulgarian nationals for diseases, out of the scope of obligatory health insurance, for the time period of two months*”. From the last sentence of same protocol it becomes clear that it is valid until September 18th, 2009. In the vacant field at the bottom of the protocol is written

autographically the text: “*For the Vth month there was no drug! T. B.*”, followed by a signature. To the complaint is also enclosed Decision of the Oncological Committee to District Dispensary for Oncological Disease with Stationary, Sofia-city Ltd, where on October 28th, 2008 the diagnosis of T. N. B. is described and it is decided that: “*The patient has finished her adyuvant QT on occasion of RTMG at high risk. For treatment with adyuvant Herceptin® with protocol to the commission in MoH*”, afterwards follow the signature of the committee members. Enclosed is also an Epicrisis, issued by SHATO-EAD, Clinic of Thoracic Surgery, of T. N. B. for surgical treatment period starting March 12<sup>th</sup>, 2008 until March 24<sup>th</sup>, 2008.

In the course of the study under the case file, by letter with Outgoing No 18-00-73/20.08.2009 of the CPD is send a request to the Head of DDODS Sofia-city Ltd., which requires information on the complaints in the claim, namely: what were the reasons for not doing infusion of “Herceptin®” in May 2009 and for not giving the drug “Arimidex®” on June 16<sup>th</sup>, 2009 to T. N. B., as well as under what criteria is done the assessment which of the oncological patients are going to receive and which are not going to receive the prescribed drugs. Information has also been asked regarding the established in the medical institution practice for granting due drugs to patients, as well as the relative legal regulation, which is applied in implementing the corresponding procedure. On same issues by letter with Outgoing No 90-05-56/20.08.2009 of the CPD is required an explanation from the Dr. B. N., Minister of Health.

In the answer of the B. D., Administrative head of DDODS Sofia-city Sole Ltd. to the Sofia Municipality, the following explanations are given:

– the applicable regulation is “*Ordinance No34/25.11.2005 for the procedure of payment of State budget of the treatment of Bulgarian nationals, suffering diseases out of the scope of obligatory health insurance*”, according to which the drugs under Annex No1, included in part “A” and part “B” of the Positive list of drugs (PLD) are paid. According to art. 15, par. 1 “*drugs under part “B” of Annex No 1 of the PLD are prescribed by Committees, proposed by the heads of respective medical institutions and endorsed by the Minister of Health, the Committee is to draft a protocol of the work done, valid for a period of six months.*”

– According to art. 15, par. 3 of Ordinance No 34, pharmaceuticals prescribed by the Committee are to be approved by the Central Committee at the MoH, which arguments in written its decision and elaborates criteria for administering the drugs under part “B” of Annex No1 of same Ordinance. Criteria are endorsed by the Minister of Health and the Central Committee approves thereon or rejects to approve the protocols of the corresponding committees.

– According to art. 23 of same Ordinance, to receive the necessary quantities of prescribed pharmaceutical products the medical institutions prepare two-months orders that are sent electronically to the MH and the Regional Healthcare Centre until the 5<sup>th</sup> day of the month, preceding the period of the order. On the basis of the orders and reports, the MoH allocates the drugs to the corresponding medical institutions (art. 28 of the Ordinance) within the limits of the contracted for the year quantities.

From the information, given in the letter, for the performed to plaintiff B. infusions of “Herceptin®” from January until August 2009, it is obvious that these were made as follows: on January 20<sup>th</sup>; on February 10<sup>th</sup>; March 10<sup>th</sup>; April 07<sup>th</sup>; April 29<sup>th</sup>; June 02<sup>d</sup>; July 01<sup>st</sup>; August 26<sup>th</sup>, alleging that infusions are planned and performed in the shortest periods possible after the receipt of the distributed by the MoH drug quantities by names, which are as follows: December 23<sup>th</sup>, 2008; on January 01<sup>st</sup>, 2009; on March 31<sup>st</sup>; on April 24<sup>th</sup>; on May 29<sup>th</sup>; on June 30<sup>th</sup>; July 27<sup>th</sup>; on August 25<sup>th</sup>, 2009. It is also alleged that quantities are allocated by the MoH for one calendar month and the MoH requires from the medical institutions timely redistribution of the quantities not being used for previous periods. All this, according to Dr. D., troubles the observance of the therapeutic rhythm and this is the reason for not performing the infusion to the plaintiff on time in May 2009 (granted quantity was delivered on April 21<sup>st</sup> and applied on April 29<sup>th</sup>, the following allocation was on May 29<sup>th</sup> – Friday and it was done on the first possible working day / Monday June 2<sup>nd</sup>, 2009), the reason being duly explained to Mrs. B. by her treating physician.

In what concerns the drug “Arimidex®”, it is explained that still at the beginning of 2009 there were actually serious problems with the central supply from the MoH. Problems concerned both the volume and the rhythm of the delivery. The management of DDODS Sofia-city Sole Ltd. has informed more than once the Drug Policy Department at the MoH thereof, which is the case of the Commission on Healthcare and Social Policy to its principal – the Sofia Municipality. Alleging that DDODS has planned extremely precisely its needs for these and other pharmaceutical products, the following evidences are supplied: “Order for receiving pharmaceutical products for the treatment of diseases under Annex No1 for the period May 1<sup>st</sup>, 2009 until June 30<sup>th</sup>, 2009 of DDODS Sofia-city Ltd.”; Acknowledgment of receipt No 71/18.05.2009; Allocation of ...(*illegible*) of “Arimidex®” 1 mg tabl., according to RD 17-111/23.01.2009; Acknowledgment of receipt No (*illegible*), dated April 28<sup>th</sup>, 2009; Letter-information about the centrally supplied medicine for 2009 with Outgoing No 245/15.07.2009 by B. D., Head of DDODS Sofia-city Ltd. to S. S. – Director of the Medical Activities and Drugs Procurement Directorate at MoH; to K., MD – Director of the Regional Centre for Healthcare, Sofia-city and to N. D.; Communication with Outgoing No 147/16.06.2009 by the B. D., Head of DDODS Sofia-city Ltd. to the Dr. E. Z., Minister of Health; Letter with outgoing No 146/15.06.2009 by D. T., Head of Pharmacy at DDODS Sofia-city to Dr. N. R. – Director of the Drug Policy Department at MoH, both requesting cooperation for solving the problem, related to the lack of the medicine “Arimidex®” 1mg, tabl.; Letter with Outgoing No 205/11.08.2009 by the Head of DDODS Sofia-city Ltd. to N. R. - Director of the Drug Policy Department at MoH with same request; Communication by Dr. B. D., Head of DDODS Sofia-city Ltd. to the ass. prof. L. E., Chairperson of the Permanent Committee on Healthcare and Social Policy at Sofia Municipality.

It is also alleged that the Dispensary has procured more than once by own budget, according to its available financial resources, additional to the granted drug quantities, but these could not fully fill-in the missing from the central supplies volumes. It is declared that in the spirit of good medical practice on behalf of DDODS Sofia-city Sole Ltd. has been done everything possible not to fail the therapeutic cycle and the rhythmic administration of medicinal schemes, but this is nor enough, neither possible without the collaboration of the main supplier – MoH.

On its turn, in the response of the Ministry of Health is contained a description of the procedure for granting both drugs, object of the file: “Herceptin®” and “Arimidex®”. However, no answer is given for the lack of enough quantity from the ordered medicine “Arimidex®”, but the following documents are applied: copy of the Distribution order No 20-P-511/16.05.2009 for the pharmaceutical product “Arimidex®” for June 2009; Copy of Distribution order of the medicine “Trastuzumab®” for April 2009 with No 20-P-287/25.3.09; Copy of Distribution order of the medicine “Trastuzumab®” for May 2009 with No 20-P-330/15.4.08 and copy of Distribution order of the medicine “Trastuzumab®” for June 2009 with No 20-P-539/25.5.08, alleging therein that under position 52 to plaintiff B. have been granted 4 vials of the medicine for April 2009; under position 44 – to the same person for May 4 vials of the drug have been allocated and under position 43 – 4 vials were allocated for June.

Both parties were given the possibility to get to know the materials under the case and within the given deadline. For the MoH by power of attorney from Dr. E. Z., Minister of Health, enclosed to the case, it was junior jurist-consult E. G. M. to get acquainted with the case, as well as the authorized by Dr. B. N., Minister of Health in his capacity of principal and assignee of MoH, junior jurist-consult E. L. T..

In the course of the sitting, celebrated on February 15<sup>th</sup>, 2010, the parties were given the possibility provided for in art. 62, par. 1 of LPDiscr., but the plaintiff claimed her desire for the examination of the disputes on the merits.

The Ministry of Health, as respondent, through its legal representative the jurist-consult V. S. raises objection for the number of allocated doses of the drug “Arimidex®” for the period in question, basing her argument on the documentation enclosed to the case. It has been clarified that on behalf of the MoH there were granted not 200, but 290 pcs. from the total of 375 of the ordered doses of the drug.

The respondent DDODS Sofia-city Ltd., through its administrative head B. H. D., recognizes that there is lack of rhythm and shortage in drug supply for patients with cancer in Sofia-city, due to which drugs are given according to the order of appearance of the patient, until it runs out in the Pharmacy of the Oncological Dispensary. Thus the patients who arrived earlier receive their drug and the rest, if not covered by the procurement, own for the DDODS Sofia-city, are left without treatment for the corresponding month. In line with this the respondent expresses opinion that due to the specific scheme of application of the treatment with “Herceptin®”, the allocation of the drug month per month is not the best way to give the medicine and often the prescribed drug is substituted by another, although not being justified from medical point of view. It is underlined that when ordering 380 packages per month of the drug “Arimidex®”, the DDODS Sofia-city has made exact calculation and if the annual order of DDODS Sofia-city was to be correctly executed by the MoH, there would be no drug shortage. According to Dr. D.’s explanations, this shortage was caused due to the circumstance that in the DDODS Sofia-city order were provided 30 tablets per month (i.e. the order is done on the basis of number of tablets) and the MoH has ordered one packing, containing 28 tablets per month per patient (i.e. the supply is done on the basis of number of packing).

The allegations of the respondent DDODS Sofia-city Ltd. in the person of the head of same medical institution, that on his behalf within his powers was done the necessary to satisfy the need of drugs of his accountable patients with cancer diseases, are confirmed by the enclosed by the party written evidence, namely: *Order for receipt of*

*pharmaceutical products for the treatment of diseases under Annex No1 for the period May 01<sup>st</sup>, 2009 until June 30<sup>th</sup>, 2009 and Acknowledgment of receipt No 71/18.05.2009 for the allocation of Arimidex® 1 mg tabl*x28. This evidence indicate that at the moment of the order the applicant - DDODS Sofia-city Ltd. disposed of 5 964 tablets of Arimidex® 1 mg and ordered 21 000 pcs. from same drug, that is the result by multiplying 350 patients by 30 tablets per patient for the time period of the order. The made order, in addition to the available at the moment of its drafting drugs, totally ensure the need of the medicine Arimidex® 1 mg for 375 patients, that is also what the respondent alleges. From the presented by the MoH and DDODS Sofia-city Ltd. *Order-distribution for May and June 2009* one can see that given quantities of Arimidex® 1 mg by the MoH to DDODS Sofia-city Ltd. (position 11) for both periods are 290 packages x 28 tablets in packing, or the total of 8 120 tablets of the drug for each month. Moreover, it is obvious that the unit price of one package Arimidex® 1 mg is BGN 207,32.

In its defense, the respondent MoH has submitted: Order-distribution by names for April, May and June 2009 for Herceptin® 150 mg INN-Trastuzumab®, respectively with outgoing numbers: 20-P-287/25.3.09; 20-P-330/15.4.08 and 20-P-539/25.5.08. To each of the orders it is enclosed the Distribution by names of Herceptin® – powd. Inf. 150 mg INN-Trastuzumab® for September 2009 to the plaintiff T. B.. However, thus presented written evidences are not relevant to the dispute in question and these are not fit to support the respondent's allegation, stated in letter with outgoing No 94-T-14/16.09.2009, that plaintiff B. has received the necessary prescribed doses to be infused from this drug for the claimed time period.

In relation to the above, the present panel considers for established the following:

At first place it is out of dispute that plaintiff B. is a person, suffering cancer disease and which post-operation treatment is administered under explicit medical prescription and according to certain scheme with the drugs Arimidex® 1 mg tabl. and Herceptin® 150 mg INN-Trastuzumab®. The time period of intake and application of the treatment, set in the prescribed by the physician scheme, are not arguable.

Second, both respondents admit the lack of rhythm of the above drugs delivery, as well as their shortage, mainly of the drug Arimidex® 1 mg tabl., which shortage the respondent the Ministry of Health justifies with its financial deficit.

Third, the oral confessions of the respondents and the provided written evidence incontestably prove the plaintiff's allegations, regarding the attitude towards her, representing direct discrimination, according to art. 4, par. 2 of the Law on protection against discrimination, which also materializes the corpus delicti of the offence "harassment" under the meaning of § 1, item 1 of the Additional provision of same act. The aim of the respondent, the Ministry of Health, to justify the lack of organization and sufficient care for preserving the health and life of oncologically-ill Bulgarian nationals with the lack of funds can not be considered reasonable, as it was indisputably proven that the price for one packing Arimidex® 1 mg tabl. is BGN 207,32, which means that for the rest 85 patients the not-sufficient financial resources to ensure the drug is BGN 17 622,20 per month. Given the calculations, the restringing measure imposed by the Ministry of Health is not-proportional to the objective, namely – safeguarding the health and life of 85 Bulgarian nationals, thus being unreasonable (unjustifiable).

After discussing the circumstances, established under the present file case and after considering them with view to the effective legislation in the field of prevention and

protection from discrimination and ensuring equal opportunities for the exercise of the human rights and fundamental freedoms, the present panel has come to the following **conclusions**:

The right of life is fundamental and irrevocable right of every person. It is established in a number of international acts, as well as in the Bulgarian Constitution and developed in various regulations of our internal law. The right of life corresponds directly to the rights of decent existence and quality healthcare. With regards to the protection of these rights the regulations of the following provisions are unequivocal:

– Art. 12 of the International Covenant on Economic, Social and Cultural rights (promulgated in SG 43/23 May 1976), namely: *“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:....(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”*

– Art. 13, item 1 of the European Social Charter (revised), (promulgated in SG 43/4 May 2001), namely: *“With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake: 1.to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;*

– Art. 51, par. 3 of the Constitution of the Republic of Bulgaria (CRB), namely: *“The aged without relatives and unable to support themselves, as well as invalids and the socially weak shall receive special protection from the State and society.”*, moreover in art. 52, par. 3, stating that: *“The State shall protect the health of all citizens and shall promote the development of sports and tourism.”*

– Art. 2 of the Health Act (promulgated in SG 70/10 Aug 2004, subs. Amend. SG 41/2 June 2009), namely: *“The protection of the citizens' health as a condition of full physical, mental and social wellbeing is a national priority and it shall be guaranteed by the government through the application of the following principles:*

1. *equality in the use of health services;*
2. *ensuring accessible and high-quality healthcare, giving priority to children, pregnant women and mothers of children aged up to one year;*
3. *priority of health promotion and the integrated disease prevention;*
4. *prevention and reduction of the health risk to citizens as a result of adverse effects of environmental factors;*
5. *special health protection of children, pregnant women, mothers of children aged up to one year and people with physical and mental disabilities;*
6. *participation of the government in the financing of activities aimed at protecting the health of citizens.”*, as well as in art. 86, par. 1, item 3 and 11, stating that: *“In the capacity of a patient, every person shall be entitled to: ...3. accessible and high-quality medical aid;... 11. access to contemporary methods of treatment.”*



According to the Code of Professional Ethics, issued by the Ministry of Health (prom. SG 79/29 September 2000): “*Medical ethics represents a system of rules of conduct entirely serving the life and health of the individual and the community. The rules of professional medical ethics are obligatory to every doctor.*”; and in art. 3 of same act is stated that: “*A doctor shall act in the interest of the life, physical and mental health of the patient and to collaborate for his/her social re-adaptation.*”

In line with the above, art. 6 of the Law against the discrimination is written that: “*The prohibition of discrimination shall act in reference to everybody, while exercising and protecting the provided by the Constitution and the laws of the Republic of Bulgaria, rights and freedoms.*” Responsible for the implementation of the provisions of the LADiscr. are all public and local self-governance bodies, which within their powers must undertake all possible and necessary measure for achieving its objectives (art. 10 of the LADiscr).

As sole body of the Executive power, competent to manage and coordinate the healthcare activities in the Republic of Bulgaria, within the meaning of art. 25 of the statutory regulations of the Council of Ministers, in relation to art. 108, par. 3 of the CRB, the Minister of Health in the face of Dr. E. Z. at the filing of the complaint before the CPD didn't undertake the necessary measures in implementation of the obligations he was assigned, thus committing violation of above regulations. By inaccurate implementation of his obligations as in law, the Minister of Health in the person of Dr. E. Z. created a prerequisite for inequality in the treatment of some persons in comparison to others that are in similar situation and in need of same measures from one and the same legally obliged subject. One of these persons is namely plaintiff T. B., who as holder of the right of life and good health and in need of adequate, timely and quality healthcare, was put in an environment, jeopardizing her health and life, as a result of the negligent performance by the Minister of Health of his duties.

Lead by the above and on the grounds of art. 47, par. 2, item 4 and art. 40, par. 1, in relation with art. 65 of the LPDiscr., FIFTH specialized panel of the Commission for protection against discrimination,

#### **DECIDED:**

**THE COURT ASCERTAINS that the Minister of Health of the Republic of Bulgaria, in what concerns the plaintiff T. N. B., has exercised direct discrimination under art. 4, par. 2 of the LPDiscr. and harassment within the meaning of §1, item 1 of the Additional Provisions of LPDiscr., that pursuant to art. 5 of same act are considered as discrimination on the grounds of “disability”, provided for in art. 4, par. 1 of the law.**

**UPHOLDS the claim of T. N. B. and DECREES the interruption of the breach by applying adequate measures for timely and rhythmic administration of the drugs and medicine, necessary for her treatment, as well as by ensuring access to quality healthcare according to the principles of the special care from the State; of the principles set in the Health Act and the Community law regulations for the preservation of the life and health of people in need.**

**On the grounds of art. 80, par. 1 of the LPDiscr. and the above reasons, THE COURT IMPOSES to Dr. E. Z. a FINE at the amount of BGN 250 for the fact that in his capacity of sole State Authority, entrusted with certain powers and in his capacity of Head of the Ministry of Health, pursuant to art. 108, par. 1 of the Constitution of the Republic of Bulgaria, in relation with art. 25 of the Statutory regulation of the Council of Ministers, he hasn't undertook the necessary measures, according to art. 10 of the LPDiscr., in relation with art. 2 of the Health Act and the above listed international acts.**

**As sign of its preventive function under art. 40, par. 1 in relation to art. 47, item 2 of the LPDiscr, THE COURT RECOMMENDS to the Minister of Health to respect the principles of equality and non-discrimination, as well as the established in the Constitution and laws of the Republic of Bulgaria rights of the citizens and in particular – non-admission of lack of rhythm and timeliness in the supply of live-supporting and necessary for safeguarding the health of the patients, suffering cancer diseases in our country, drugs and medicines.**

The decision must be sent to the parties of present proceedings, to the Minister of Health of the Republic of Bulgaria and to Dr. E. Z. via the Ministry of Health administration.

The decision is subject to appeal within the period of 14 days after its receipt under the procedures of the Administrative Procedure Code, via the Commission for Protection against Discrimination before the Supreme Administrative Court.

EXPANDED PANEL of the CPD:

Signed: ROSITSA GEORGIEVA

Signed: ANELI CHOBANOVA

Signed: ass.prof. BLAOGOY VIDIN

Signed: ZORA GENCHEVA

Signed: LALO KAMENOV

Round stamp: COMMISSION FOR PROTECTION AGAINST  
DISCRIMINATION, REPUBLIC OF BULGARIA