



Immigration and
Refugee Board of Canada

Commission de l'immigration
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Venezuela: Whether employers regularly test for HIV/AIDS as part of the screening process for prospective employees; treatment by employers of individuals who test positive for HIV/AIDS
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

According to the government of Venezuela's published opinion on HIV testing in the labour market, *Dictamen Sobre el Uso de la Prueba de VIH en el Campo Laboral*, pre-employment HIV/AIDS testing is a violation of human rights (8 Aug. 2007). However, three Venezuela-based sources stated in correspondence with the Research Directorate that, despite a legal ban on the practice, employers regularly test for HIV/AIDS as part of the screening process for prospective employees (ACSOL 18 Aug. 2009; UNAF 18 Aug. 2009; Lawyer 21 Aug. 2009).

A Caracas-based lawyer specializing in gay, lesbian, bisexual and transgender (GLBT) issues stated that pre-employment HIV/AIDS testing is "almost impossible to avoid" when conducting a job search (21 Aug. 2009). According to a representative of Unión Afirmativa de Venezuela (UNAF), an organization focussed on GLBT rights, "[t]here is no ... effective manner to detect or sanction" pre-employment HIV/AIDS testing in Venezuela (18 Aug. 2009).

A representative of Acción Solidaria (ACSOL), a Caracas-based non-profit organization founded in October 1995 to address HIV/AIDS issues (ACSOL n.d.), provided the following information in correspondence with the Research Directorate:

Our Law on Working Conditions, approved in 2005, contained a provision which called for "preventive tests" for workers, both when applying for employment or yearly during the relationship with the employer, private or public. This created a situation in which employers were free to do the HIV test and discriminate against people with HIV. We, together with two other organizations, worked with the Labor Department in order to include a provision, in the Law on Working Conditions, to prohibit the taking of HIV tests both for people applying for a job or for those already employed. This came into effect at the end of 2007 [see also Venezuela 8 Aug. 2007]. Unfortunately, since our Health Department has not worked nationally on campaigns informing about HIV and calling for non-discrimination, many employers, both from public and private sector, are still making people take the test. Knowing that this is now illegal, in many cases this is hidden under the figure of "pre-employment profile", and the HIV test is not mentioned.

...

Since we handle the national HIV helpline, we regularly receive calls regarding discrimination at work. In many cases, even [if] there is no clear proof that this discrimination is the result of an HIV positive test, we have approached the companies and, at the end, have been able to make evident that HIV was the cause. In some cases, the Human Resource Department of those companies does not know yet about the prohibition to [perform] the test ... and most have said that they will not keep on doing the test. However, we have friends and volunteers in different public and private companies, who have confirmed that the test is being done surreptitiously.

We have been able to work with some companies with a program called "Business Responds to HIV/AIDS" to try to dismount these discriminatory and illegal practice[s], but our reach, as well as that of the field of the Venezuelan AIDS Service Organizations, is still limited.

Another situation which is reported to us refers to gay men who might have effeminate manners, or who might have act[ed] in some way that makes them "suspect" of being gay. In these cases, they are also subjected to discrimination. This is evident, for example, in medical settings, in which, if a man is gay or "acts" gay, is asked uncomfortable questions and referred to take the HIV test. (ACSOL 18 Aug.

2009)

According to the UNAF Representative, an individual may be fired if their HIV/AIDS test result is positive (18 Aug. 2009). The United States (US) Department of State *Country Reports on Human Rights Practices for 2008* states that "[a]ccording to the NGO Citizen Action Against AIDS, persons diagnosed with HIV/AIDS frequently were discriminated against at the workplace..." (25 Feb. 2009, Sec. 5).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Acción Solidaria (ACSOL). 18 August 2009. Correspondence with a representative.

_____. N.d. "Organización." <<http://www.acsol.org/?seccion=101>> [Accessed 26 Aug. 2009]

Lawyer, Caracas. 21 August 2009. Correspondence with the Research Directorate.

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Venezuela. 8 August 2007. Instituto Nacional de Prevención, Salud y Seguridad Laborales. "Dictamen Sobre el Uso de la Prueba de VIH en el Campo Laboral." <<http://www.inpsasel.gov.ve/documentos/dictamen.pdf>> [Accessed 26 Aug. 2009]

Additional Sources Consulted

Oral sources: Attempts to contact representatives of Acción Ciudadana Contra el SIDA (ACCSI), Alianza Lambda de Venezuela, Asesoría en educación y salud de Venezuela (ASES) and Movimiento Gay Revolucionario de Venezuela were unsuccessful. A representative of the International Gay and Lesbian Human Rights Commission (IGLHRC) was unable to provide information.

Internet sites, including: Amnesty International (AI), British Broadcasting Corporation (BBC), European Country of Origin Information Network (ecoi.net), Fédération internationale des ligues des droits de l'homme (FIDH), Freedom House, *Gay Times*, GlobalGayz.com, Human Rights Watch (HRW), International Gay and Lesbian Human Rights Commission (IGLHRC), International Lesbian and Gay Association (ILGA), Office of the United Nations High Commissioner for Human Rights (OHCHR), Pink Triangle Trust, Refworld, Sodomy Laws, U.S. Committee for Refugees and Immigrants (USCRI).

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