

# HIV AND PRIVATE INSURANCES IN SPAIN

The three most common problems in this field are:

Is difficult to find an insurance company willing to sell an insurance policy to people with HIV

If you are able to find one, they do not cover the problems related with HIV

If a person contracts after purchasing an insurance policy, insurers refuse to cover this new diagnosis

People must declare with good faith their pre-existing conditions to the insurer

The problem is focused in three types of private insurances:

Life Insurance

Health Insurance

Burial and Funeral Insurance

In what moment are our laws in this field:

- Spanish Constitution: S.14 "Spaniards are equal before the law and **may not in any way be discriminated** against on account of birth, race, sex, religion, opinion **or any other personal or social condition or circumstance.**"

Can we apply this part of the Spanish Insurance Contract Law to people with HIV?  
DEPENDS → disagreement in disability concept

- Spanish Insurance Contract Law 50/1980: A.D. 4ª "It shall not discriminate against people with **disabilities** in the provision of insurance."

EU Cases C-335/11 and C-337/11 S.41: "if a curable or incurable illness entails a limitation which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers, and the limitation is a long-term one, such an illness can be covered by the concept of 'disability' within the meaning of Directive 2000/78"



Why this is happening?

Three major types of disability theories:

1. Religious
2. Medical
3. Social → Adopted by:

UN Convention on the Rights of Persons with Disabilities

EU Court of Justice

ICF



Spain R.L.D 1/2013: "Shall be considered persons with disabilities those who were recognized a degree of disability equal or superior to 33 percent"



Spain is not applying the social concept of disability in its Laws.

THEREFORE: Only people with a degree of disability equal or superior to 33% can use the protection of Spanish Insurance Contract Law.



What can we do? Try to change the Law or the way in which the Law has been interpreted?