



# Lawyers Alert

## PRESS RELEASE

### **LAWYERS ALERT SUES THE ATTORNEY-GENERAL/MINISTER FOR JUSTICE OVER NON-IMPLEMENTATION OF HIV WORKPLACE POLICY BY EMPLOYERS IN NIGERIA**

The HIV and AIDS (anti-discrimination) Act was enacted in 2014. It discourages discrimination against persons living with HIV and AIDS, in particularly at the workplace. To this end, the Act stipulates that Agencies and Employers put in place a workplace policy on HIV and AIDS in their institutions.

In specific, Section 21 (1) of the HIV and AIDS (anti-discrimination) Act, 2014 stipulates that “an employer employing five or more persons shall, in consultation with the employees or their representatives, adopt a written workplace policy that is consistent with the National HIV and AIDS workplace policy for its working environment”.

Subsection 2 of the same section goes further to state that the workplace policies shall be lodged with the Minister for Labour and Productivity, currently known as Minister for Labour and Employment.

Section 24 (1) of the same Act goes on to repose the duty of ensuring compliance and enforcement of the entire provisions of the Act on the Attorney-General of the Federation. The HIV and AIDS (anti-discrimination) Act, 2014, therefore specifically reposes the duty to ensure compliance with the entire HIV and AIDS (anti-discrimination) Act, 2014, including section 21 (1) of the same Act on the Attorney-General of the Federation.

By virtue of section 150 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Attorney-General of the Federation who is also the Minister for Justice, is the Chief Law Officer in Nigeria, and therefore responsible for and oversees all legal affairs of the nation.

Lawyers Alert under our free legal assistance project for vulnerable groups, are in court in several cases, where persons living with HIV are discriminated against and either denied employment even when qualified and able, or outrightly dismissed on account of their status and no more. This is a gross violation of their human rights, and the right to work.

Recently Lawyers Alert secured judgment in matter of dismissal of account of HIV status wherein the National Industrial Court held that dismissing employees on the basis of their perceived or actual HIV-status is unlawful and discriminatory. Justice Agbakoba of the Abuja Industrial Court found that the 2014 HIV and AIDS Anti-Discrimination Act is clearly applicable against private employers and prohibits discrimination against existing and prospective employees.

Notwithstanding, Lawyers Alert is witnessing increasing acts of discrimination against Persons Living with HIV and AIDS in workplaces in Nigeria, as evidenced by more uptake of similar cases by Lawyers Alert. Determined to ensure compliance with the law and access to justice for persons living with HIV, Lawyers Alert on November 2, 2018, served a Freedom of Information request on the Minister for Labour and Employment, requesting the document containing a list of workplaces/ministries that have complied with the provisions of section 21 (1) of the HIV and AIDS (anti-discrimination) Act, 2014 which requires employers of labour maintain a workplace policy and lodge same with the minister.

Unfortunately, despite a series of follow-ups on the FOI by Lawyers Alert, for over three (3) months, there was no document at all with the Minister for Labour and Employment containing such information.

Lawyers Alert has now approached the National Industrial Court of Nigeria, Abuja judicial division, with a suit against the Attorney-General of the Federation for neglecting and not overseeing his duty to ensure compliance with section 21 (1) of the HIV and AIDS (anti-discrimination) Act, 2014, and compelling him to forthwith carry on his stipulated duties as provided by the HIV and AIDS (anti-discrimination) Act, 2014.

Lawyers Alert notes that an Act which was enacted 5 years ago is yet to be complied with. Lawyers Alert believes that if Attorney-General of the Federation carries out his duties as the Chief Law Officer of the nation in ensuring compliance with HIV workplace policies by employers of labour, stigma and discrimination will be addressed, rights to work and access to justice enhanced for persons living with HIV.

The suit which is in Court 3 of the National Industrial Court has been mentioned and comes up on the 29<sup>th</sup> of October 2019 for Lawyers Alert to address the court on the issue of locus standi which to say whether Lawyers Alert has any interest above that of the society for us to approach the court on the issue.

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