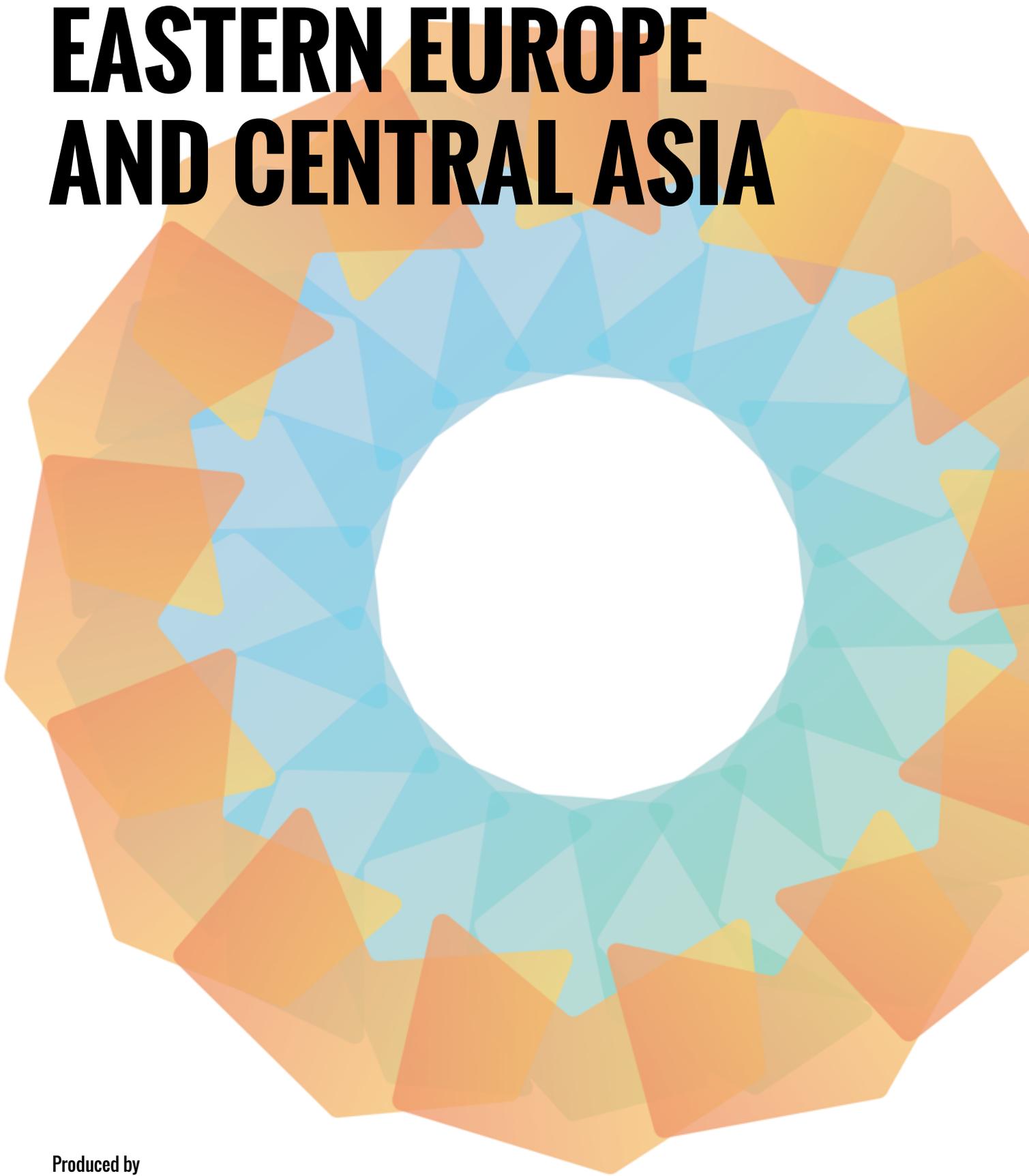


REGIONAL HIV CRIMINALISATION REPORT EASTERN EUROPE AND CENTRAL ASIA



Produced by



On behalf of
**HIV JUSTICE
WORLDWIDE**

Supported by a grant from



HIV Criminalization Scan

Regional Report Eastern Europe and Central Asia
Written by Jessica Whitbread and Svitlana Moroz

Introduction

The criminalization of HIV exposure and transmission is a growing human rights concern in Eastern Europe and Central Asia. This report presents the findings carried out by a regional team of advocates as well as local community partners in relation to laws, policies and legislation that criminalize people living with HIV in the region.

HIV Criminalization

HIV criminalization refers to the use of existing criminal laws or HIV specific legislation in regards to transmission and/or perceived risk of exposure to HIV. The overly broad use of laws that criminalize people living with HIV is a public health concern because it undermines evidence-based public health strategies for HIV prevention, treatment, care and support for those living with HIV and ignores scientific advancements relating to the risk of HIV transmission. Criminalization increases stigma surrounding HIV status and casts people living with HIV as predisposed to criminality, which in turn increases discrimination. Critically, rather than reducing transmission of HIV, fear of prosecution may deter many people living with HIV, in particular women and key populations (such as people who use drugs, sex workers, migrants, men who have sex with men and transgender people) from accessing needed treatment care and support, discourage disclosure, and increase the vulnerability of people living with HIV to violence¹.

By shifting responsibility for HIV solely to a person living with HIV the criminalization of HIV creates an atmosphere of false sense of security for the general public and weakens messages regarding safe sex practices. In many cases the additional burden and criminal implications of not disclosing one's HIV status intensifies the challenges to openly talk about HIV within a given context such as sexual relationship, in a workplace setting, or in relation to parenthood. As a result, people are not more protected by HIV criminalization, in fact it can be the opposite.

A misguided focus on criminalization creates an atmosphere of false efficiency of the state, by reducing focus and energy on proven and evidence-based strategies for responding to the HIV epidemic. Criminalization distracts from investment and focus on these strategies while being counterproductive to the effective dissemination of information and support for proven prevention programs.

For all these reasons, a growing coalition of international human rights advocates are calling for the elimination of criminal laws that unjustly target people living with HIV.

Eurasian Women's Network on AIDS

The [Eurasian Women's Network on AIDS](#) (EWNA) brings together representatives from 11 countries in Eastern Europe and Central Asia. EWNA is affiliated as the EECA regional network of the [International Community of Women Living with HIV](#) (ICW). We are a network of regional leaders who advocate the rights of women living with HIV and those vulnerable to HIV in the region. These rights relate to access to health services, including reproductive

¹ International Community of Women Living with HIV. (2015). Criminalization of Women Living with HIV: Non-disclosure, exposure and transmission. Retrieved from <https://tinyurl.com/yab9rg9l>

health, the elimination of violence against women, HIV criminalization and the criminalization of key populations, and for women living with HIV to be involved in the public and political debate on which they depend for their lives and health.

EWNA are working with the [Global Network on People Living with HIV](#) (GNP+) and the [HIV Justice Worldwide](#) to contribute to the current body of literature on HIV criminalization both regionally and globally. Educating our communities and building capacity in our networks and beyond to ensure that people living with HIV that policy and programs in regards to have been aimed at removing barriers to the expansion of prevention services, treatment and care for HIV.

Purpose and Objectives of this Report

The purpose of the report is to update and analyze the current legal environment in regards to HIV criminalization in Eastern Europe and Central Asia. The report also brings opportunity for new partnerships and strengthening EWNA's involvement in the regional and global HIV movements to end criminalization. For this report EWNA worked closely with a team of local and regional advocates concerned about the current state of HIV criminalization in not only their countries but within the region and as well as global trends. Every step of this report was developed jointly and led by people, in particular women, living with HIV. Therefore, the team used a gendered lens when collecting data and analyzing the findings. This information will be supporting the development of *Advancing HIV Justice 3* which will compile all the regional updates in regards to HIV criminalization laws. While this is a regional report, it focuses on reviews of 7 countries: Belarus, Georgia, Kazakhstan, Moldova, Russia, Ukraine and Uzbekistan, and performs a more limited review on 2 more countries Tajikistan and Estonia. EWNA plans to continue and expand this project to more countries in the EECA region in 2018, funding pending.

Methodology

This project was led by the EWNA who prioritized community based research methods for all data collection inclusive of report writing and other follow up communications. For this review a team of community based peer data collectors was established as well as a project coordinator, regional data coordinator, communications specialist and a final report writer. The methodology included:

1. A broad review of existing information on HIV criminalization in EECA using the former [HIV Criminalization Scan](#), [HIV Justice Network](#) resources inclusive of [Advancing HIV Justice 2 report](#), and the [Barring the Way to Health: Legal and regulatory barriers which impede the HIV care continuum in Europe](#).
2. Development of research and reporting tools for in country community based partners and media monitoring report system.
3. Selection of EWNA affiliated community advocates and/or focal points working in country.
4. Provision mini grants to conduct the following activities in country:
 - community interviews, review laws and legislation pertaining to HIV criminalization,
 - documenting and/or data collection about HIV criminalization cases through informants, state legal records
 - media monitoring between 2015 – 2017 (with some variations depending on country),
 - formation a database of organizations and experts, providing legal support.
5. Analysis and further exploration of data collected.
6. Drafting of final report.
7. Dissemination of materials and findings in regards to HIV criminalization through the EWNA social media channels.

Sources of Data

- Criminal Codes of countries;
- Codes of Administrative Offences of countries;
- Official websites of public authorities;
- Websites and pages in social networks of non-governmental organizations;
- Media outlets and other news sources;
- Information provided by representatives of civil society organizations;
- Responses of the governmental bodies to activists official requests.

Data Collection Team

Regional Coordinator - Svitlana Moroz,

Regional Consultant - Natalia Sidorenko,

International Consultant - Jessica Whitbread,

Communications – Alina Yaroslavska,

In country community experts - Olga Turkina, Belarus; Ekaterine Gardapkhadze, Georgia;

Elena Bilokon, Kazakhstan; Natalia Palamar, Moldova; Maria Godlevskaya, Russia; Olena Stryzhak, Ukraine.

Acknowledgments

Lachin Aliev, Estonia; Medea Khmelidze, Georgia; Svetlana Garkusha, Kazakhstan; Vilkhovaya Zhanna, Moldova; Valentina Frolova and, Alyona Tarasova, Russia; Sergiy Kondrtyuk and Alyona Druzhinina, Ukraine.

EWNA would also like to acknowledge the work of the numerous informants that shared information that for safety reasons cannot be listed here.

Report Limitations

This report does not cover the full extent of the ever-changing landscape of HIV criminalization in EECA. Due to time and resource limitations there may be gaps in the comprehensivity of information at the country level, including the existence of additional laws and restrictions placed on people living with HIV. It is also noted that because of the multiple languages in the region, there may be slight variations in translation from original form or meaning². The knowledge know about increased sentencing and mandatory testing, is in many cases anecdotal from community informants opposed to being documented in legal text. Finally, the data collected in the EECA did attempt to be inclusive of key populations such as sex workers, people who use drugs and the LGBTQ communities.

² Legal language in English was cross check with the HIV Criminalization Scan in cases where no changes in the law had occurred.

Executive Summary

There are 20 countries that make up the Eastern European and Central Asian (EECA) region³. In the EECA region there are currently 15 countries that have HIV specific laws with sentencing that ranges from community service to 15 years in prison. In 3 other countries they use existing criminal laws to prosecute people living with HIV. In Albania, and Bosnia and Herzegovina, for example, there are currently no HIV specific laws though there is consensus that general criminal laws could potentially be used to prosecute people living with HIV.

Countries	HIV Specific Laws	HIV Non Specific Laws	Cases
Albania	No	No	No/Unknown
Armenia	Yes	Yes	Yes
Azerbaijan	Yes	Yes	Yes
Belarus	Yes	Yes	Yes
Bosnia and Herzegovina	No	No	No/Unknown
Estonia	No	Yes	Yes
Georgia	Yes	Yes	Yes
Kazakhstan	Yes	Yes	Yes
Kyrgyzstan	Yes	Yes	Yes
Latvia	Yes	Yes	Yes
Lithuania	No	Yes	No/Unknown
Macedonia	No	Yes	No/Unknown
Moldova	Yes	Yes	Yes
Montenegro	Yes	Yes	No/Unknown
Russian Federation	Yes	Yes	Yes
Serbia	Yes	Yes	Yes
Tajikistan	Yes	Yes	Yes
Turkmenistan	Yes	Yes	No/Unknown
Ukraine	Yes	Yes	Yes
Uzbekistan	Yes	Yes	Yes

All of the HIV specific laws, in some form, criminalize exposure and/or transmission. Within the region the laws range in severity. For example, in the Russian Federation Criminal Code Article 122: *HIV transmission* in 2003 was amended to include a note which states that if a person living with HIV discloses their status and a person voluntarily agrees to perform the actions that may create a risk of HIV transmission then the person living with HIV no longer holds criminal liability for any potential transmission that may occur (see section on the Russian Federation for more detail). Several countries have similar clauses in their legislation that can protect a person living with HIV. In countries such as Belarus and Uzbekistan, these do not exist. Criminal charges can be brought against a person living with HIV whether or not the partner or “victim” wishes to proceed with criminal charges. In many cases, it is a partner’s

³ Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, the Russian Federation, Serbia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

diagnosis of HIV that alerts the authorities of the said crime. Since 2015, there has been a drastic increase of HIV criminalization cases in Belarus (at least 50 counted in the region of Gomel in the first half of 2017), many of cases being brought to court even when a person had disclosed their HIV status and their partner agreed to continue with the relationship.

In EECA, heterosexual sexual encounters were by far the most commonly implicated in HIV criminalization cases. The data collection in this report showed that regionally slightly higher numbers of men being charged than women. However, our in-country informants gather numerous stories of women living with HIV who were charged with exposure or transmission or threatened by a partner to do so. In these case studies, women shared experiences of violence, threats and blackmail against them based on fear of their HIV status being used against them in a court of law. Many of the women looked for legal supports in peer-based settings sometimes after enduring years of threats and/or abuse. HIV criminalization is a gendered issue. Previously the laws were thought to protect women from HIV. Unfortunately is not the reality as HIV criminalization is leaving women more vulnerable to increased violence and structural inequalities in relation to HIV. HIV criminalization leaves women susceptible to property loss, removal of children, shunning in their communities and economic consequences⁴.

Finally, the data collected in the EECA did attempt to be inclusive of key populations such as sex workers, people who use drugs and the LGBTQ communities. While there were cases of sentences being increased based on a person's HIV status, such was the case of a woman living with HIV who was charged with a drug related offense in Uzbekistan, but cases involving key populations living with HIV criminalization were limited. This is most likely due to other laws that criminalize sex workers, men who have sex with men, transgender people and people who use drugs in any of the regional countries. The knowledge know about increased sentencing and mandatory testing, is in many cases anecdotal from community informants opposed to being documented in legal text.

In general, EECA countries have strict and in some instances non-flexible laws pertaining to HIV non-disclosure, exposure and transmission. Despite this there are numerous community non-government organizations and advocates working on this issue at the region. This report synthesizes the data collected for 7 of the 20 countries as well as providing updates for 2 other countries.

⁴ ATHENA Network. (2009). 10 Reasons HIV Criminalization is Bad for Women. Retrieved from <https://tinyurl.com/ybz9kcdk>

Country:**Belarus****Law**

Criminal Code of the Republic of Belarus, Article 157. *Infecting with Human Immunodeficiency Virus*. Both exposure and transmission are subject to prosecution.

Part 1. Deliberately endangering another person by infecting with Human Immunodeficiency Virus (HIV infection) - is punished by fine or deprivation of freedom for a term up to three years.

Part 2. Thoughtlessly or with indirect intention infecting another person with HIV infection by the person who knew that he has this illness - is punished by deprivation of freedom for a term of from two up to seven years.

Part 3. The act envisaged by part 2 of the present article committed to two or more persons or to a minor, or with direct intention - is punished by deprivation of freedom for a term from five up to thirteen years.

Other Laws for Consideration:

Part 3 of Article 166 of the Criminal Code provides a punishment of imprisonment for 8 - 15 years where HIV infection occurs through an act of rape.

Part 3 of Article 167 of the Criminal Code also provides a punishment of imprisonment for 8 - 15 years where HIV is transmitted negligently through 'forcible acts of a sexual nature'.

There is no relevant provision in the Code of Administrative violations. However, the Code consists of the article 16.2 Concealment of Source of Venereal Disease or deviation from the inspection.

Prosecution

128 cases related to HIV transmission were registered with the Ministry of Internal Affairs between 2015 and June 2017. It is unknown if there are other exposure related cases. Since 2013 184 people were convicted under the Article 157. The Gomel region reported the highest amount of cases in the country with 83 cases being before the courts under Article 157. Between 2012 and 2016, 38 cases were reported. But by the first half of 2017, at least 50 cases had been filed⁵. There has been a drastic increase in 2016 (30 cases) and 2017 compared to 2013 (19 cases), 2014 (17 cases), and 2015 (12 cases).

The vast majority of the cases involve people heterosexual relationships. The law is understood and applied in a way that a person living with HIV has not only duty to disclose but duty to not put another person at risk of acquiring HIV. While some cases brought to the courts include non-disclosure, a large number of them are between sero-discordant couples where both parties are aware of HIV in the relationship. Charges are laid by the state and are regardless of the partner's desire to prosecute and/or protective measures were taken by the person living with HIV such as wearing a condom or having an undetectable viral load.

Cases are often found out when people report their sexual relationship status to people living with HIV to health care providers or when a pregnancy is involved. In order to be charged the person living with HIV has to know their HIV status and be registered with the state.

⁵ Следственный комитет Республики Беларусь (Investigative Committee of the Republic of Belarus). (2017). Retrieved from <https://tinyurl.com/ybtbpvo4>

Discussion

As per community reports, people living with HIV are not getting the proper treatment, care and support that they need because of legal barriers that Article 157 creates in the lives of people living with HIV.

In practice, the laws in Belarus keeps people who learn anonymously of their HIV status from accessing treatment, education and counseling in relation to their HIV status. People in Belarus can know about their HIV status and not be registered. Without being formally aware of the presence of HIV, then a person can avoid is not criminally liable. When people face the threat of criminalization, ignorance of the diagnosis of HIV can be the most effective legal protection. This in turn affects the spread of HIV, in the country. People who are not registered as living with HIV with the state do not receive anti-retroviral treatment and therefore endanger themselves and their sexual partners.

Article 157 of the Criminal Code of the Republic of Belarus contradicts international and national legal norms. Under current legislation, a person living with HIV is denied other rights as provided in their legislation such as Article Article 22, 28 and 32 of the Belarus Constitution, and Article 13 from the Marriage and Family Code. The Constitution states that citizens are equal before the law and are entitled without any discrimination to equal protection of rights and legitimate interests. Based on this article, people are not allowed to be discriminated against due to illness.

In sero-discordant couples, any attempt to conceive a child can be interpreted as posing an HIV-negative partner to the risk of contracting HIV. Therefore, couples that conceive (or attempt to conceive) children could potentially have the partner who is living with HIV be charged under Article 157. Among preventive measures that reduce the risk of HIV transmission, only antiretroviral therapy is currently available in addition to condoms though these are not taken into consideration in regards to Article 157. Sperm washing is not included in the clinical protocols and in practice couples may refuse to conduct it. Pre-exposure prophylaxis and post expose prophylaxis not regulated in Belarus.

Criminal cases are pursued against people who live in couples where one partner is HIV-positive, under part 1 and 2 of Article 157 of the Criminal Code, even if they have informed their partner about HIV status. In couples with children there is a risk of the children remaining in single-parent families or without parental care, because of this law. The Article 32 of the Constitution of the Republic of Belarus guarantees protection by the state of such important institutions as marriage, family, motherhood, fatherhood and childhood. The state can not deprive an individual of their rights. Article 28 of the Constitution of the Republic of Belarus states that “everyone has the right to protection from unlawful interference in his private life”. Currently, an HIV positive partner in a discordant couple is criminally liable even when their partner knows about HIV and takes responsibility for maintaining his own health.

The Belarusian Community of People Living with HIV notes that in the criminal laws of other countries there is the possibility of a person living with HIV to be released from criminal responsibility if they disclose and receive consent from another person and/or took appropriate measures to greatly reduce the risk of transmission. The application of this rule, as prescribed in the law, will protect the rights and interests of people living with HIV in Belarus. Though ultimately, this is not enough to counteract the damage to the HIV response caused by criminalization.

In November 2017, the Belarusian Community of People Living with HIV sent an appeal to the Constitutional Court of the Republic of Belarus with a proposal to introduce a note to Article 157 of the Criminal Code, providing for special exemption from criminal liability⁶. And also made a proposal to apply Article 157 only in cases when there are victims and a statement about intentional HIV transmission.

Media monitoring

Year	Publications	Total
2015	Case 1: Svetlogorsk, Gomel region, man, 40 y/o http://www.aif.by/social/zhitelya_svetlogorska_zarazivshego_podrugu_vich_posadili_na_dv_a_goda https://www.sb.by/articles/v-svetlogorske-dali-3-goda-muzhchine-zarazivshemu-sozhitelnitsu-vich-infektsiey.html http://gp.by/category/news/crime/news49781.html	3
2016	Case 2: Slonim, Grodno region, woman https://news.tut.by/society/517388.html	1
	Case 3: Lida, Grodno region, woman https://news.tut.by/society/513914.html http://www.aif.by/krim-news/v_lide_budut_sudit_muzhchinu_i_zhenshchinu_za_zarazhenie_svoih_partnerov_vich https://www.sb.by/articles/v-lide-zhenshchina-i-muzhchina-zarazili-partnerov-vich.html https://news.mail.ru/incident/27266787/	4
	Case 4: Lida, Grodno region, man https://news.tut.by/society/513914.html http://www.aif.by/krim-news/v_lide_budut_sudit_muzhchinu_i_zhenshchinu_za_zarazhenie_svoih_partnerov_vich https://www.sb.by/articles/v-lide-zhenshchina-i-muzhchina-zarazili-partnerov-vich.html https://news.mail.ru/incident/27266787/	4
	Case 5: Buda-Koshelev, Gomel region, man, 35 y/o https://news.tut.by/society/501813.html http://www.aif.by/krim-news/sud_prigovoril_zarazivshego_dvuh_zhenshin_vich_k_semi_godam_kolonii https://www.sb.by/articles/muzhchina-zarazivshiy-vich-dvukh-zhenshchin-poluchil-sem-let-kolonii.html https://www.sb.by/articles/v-buda-koshelevo-muzhchina-zarazil-vich-dvukh-partnersh.html	4
	Case 6: Baranovichi, Brest region, man, 28 y/o https://news.tut.by/society/481379.html	1
	Case 7: Bobruysk, Mogilyov region, woman, 29 y/o https://www.sb.by/articles/bobruychanke-zarazivshey-partnera-vich-grozit-7-let-tyurmy.html	1
	Case 8: Mogilyov, man, 34 y/o https://www.sb.by/articles/mogilevchanin-zarazil-svoyu-partnershu-vich.html	1
	Case 9: Pinsk, Brest region, man, 34, y/o https://www.sb.by/articles/v-pinske-narkoman-zarazil-vich-svoyu-sozhitelnitsu2016.html	1
2017	Case 10: Svetlogorsk, Gomel region, woman, 45 y/o http://sk.gov.by/ru/news-usk-gomel-ru/view/na-gomelschine-zafiksirovan-rost-prestuplenij-po-zarazheniju-vich-4916/ https://news.tut.by/society/551401.html	2
	Case 11: Rechitsa, Gomel region, woman, 38 y/o http://sk.gov.by/ru/news-usk-gomel-ru/view/na-gomelschine-zafiksirovan-rost-prestuplenij-po-zarazheniju-vich-4916/	1
	Case 12: Korma district, Gomel region, woman, 29 y/o	1

⁶ Белорусское сообщество людей, живущих с ВИЧ. О внесении поправки (примечания) в ст. 157 УК РБ - Заражение вирусом иммунодефицита человек (20.10.2017) (Belarusian community of people living with HIV. On the introduction of an amendment (note) in Article 157 CC RB - Infection with the human immunodeficiency virus (October 20, 2017))
<http://www.hiv.by/index.php/component/content/article/56-primer/1291-o-vnesenii-popravki-v-st-157-ku-rb>,
<http://www.ewna.org/belarus-106-ugolovnih-del-hiv/>

http://sk.gov.by/ru/news-usk-gomel-ru/view/na-gomelschine-zafiksirovan-rost-prestuplenij-po-zarazheniju-vich-4916/	
Case 13: Gantsevichi, Gomel region, woman https://news.tut.by/society/547651.html https://news.tut.by/society/544008.html http://www.aif.by/krim-news/zhitelnica_gancevichey_osuzhdena_na_pyat_let_za_zarazhenie_vich-infekciey http://www.aif.by/krim-news/v_gancevichah_zhenshchina_umyshlenno_zarazila_vich_dvuh_polovykh_partnerov https://www.sb.by/articles/zhitelnitsu-gantsevichey-osudili-na-pyat-let-za-umyshlennoe-zarazhenie-partnerov-vich.html https://www.sb.by/articles/zhitelnitsa-gantsevichey-umyshlenno-zarazila-dvukh-muzhchin-vich.html https://www.kp.by/daily/26681.5/3704720/ https://www.kp.by/online/news/2778595/ https://news.mail.ru/incident/30093437/	9
Case 14: Baranovichi, Brest oblast, woman, 25 y/o https://news.tut.by/society/538602.html https://news.tut.by/society/532068.html	2
Case 15: Rechitsa, Gomel region, man, 44 y/o https://news.tut.by/society/529010.html www.sb.by/articles/v-rechitse-gorozhanin-zarazil-sozhitelnitsu-vich-.html	2
Case 16: Mozyr, Gomel region, man, 27 y/o https://www.sb.by/articles/v-mozyrskom-rayone-vozbuzhdeny-ugolovnye-dela-v-otnoshenii-nositeley-vich-oni-ne-rasskazali-svoim-pa.html	1
Case 17: Zhlobin, Gomel region, woman, 37 y/o https://www.sb.by/articles/v-zhlobine-gorozhanka-infitsirovannaya-vich-za-seks-bez-prezervativa-predstanet-pered-sudom-.html	1
Case 18: Rechitsa, Gomel region, woman, 28 y/o https://www.sb.by/articles/za-nezashchishchenny-seks-vich-infitsirovannoy-rechichanke-grozit-do-3-kh-let-lisheniya-svobody.html https://www.sb.by/articles/rechichanka-infitsirovannaya-vich-podvergala-opasnosti-svoikh-polovykh-partnerov.html http://gp.by/category/news/crime/news150980.html http://gp.by/regionsfact/crime/news150980.html https://news.mail.ru/incident/30304955/	5
Case 19: Buda-Koshelev, Gomel region, woman, 27 y/o https://www.sb.by/articles/v-buda-koshelevo-selchanka-zarazhennaya-vich-za-polovoy-kontakt-bez-mer-bezopasnosti-osuzhdena-na-2-.html	1
Case 20: Rechitsa, Gomel region, man, 35 y/o https://www.sb.by/articles/v-brestskoy-oblasti-zarazhenny-vich-infitsiroval-zhenu-i-postavil-pod-ugrozu-mastera-po-manikyuru.html	1
Case 21: Brest region, man www.sb.by/articles/v-mozyre-budut-sudit-zhenshchinu-zarazivshuyu-svoego-partnera-vich-.html	1
Case 22: Mozyr, Gomel region, woman, 38 y/o https://www.sb.by/articles/v-mozyre-budut-sudit-zhenshchinu-zarazivshuyu-svoego-partnera-vich-.html	1

Informants

Belarus Community of People Living with HIV <http://www.hiv.by/>

Country:

Estonia

Law

Penitentiary Code of Estonia⁷

Article 118. *Causing of Severe Health Damage:*

Part 1. 1) threat to someone's life; 2) a health disorder that lasts at least four months and is associated with a permanent disability of at least 40 percent of full working capacity; 3) severe mental disorder; 4) termination of pregnancy; 5) incurable damage, a significantly disfiguring face; 6) loss of an organ or its functioning; 7) death, - is punished by imprisonment for a term of four to twelve years.

Part 2. The act provided by this article, committed by a legal entity, - is punished by pecuniary punishment.

Article 119. *Causing of Severe Health Damage out of Negligence.*

Part 1. Causing of severe health damage out of negligence - is punished by pecuniary punishment or imprisonment for up to one year.

Part 2. The same act, which caused severe health damage of two or more people, - is punished by imprisonment for up to three years.

Part 3. An acts in part 1 or part 2 of this article committed by a legal person - is punished by pecuniary punishment.

Other Laws for Considerations:

Article 121. Physical abuse. Damaging the health of someone else, hitting, kicking or other form of physical abuse causing pain - is punished with fine or up to three years in jail. The same act is punished up to 5 years in jail, if it lasting not less than four weeks; committed in close or dependent relationships; or committed repeatedly.

Article 141. Rape. Having sexual intercourse with someone against her/his will or abusing her/his condition where he/she was not capable of understanding what is happening or expressing resistance is punished by imprisonment with one to five years. The same act is punished with 6-15 years in jail, if the victim is under 18 years old, if the act is carried out by two or more people, if the act has caused the victim a severe health damage or the death of the victim, if the act has driven the victim to suicide or suicide attempt or if the act has been carried out by a person, who has previously already committed a rape.

Prosecution

There appears to be 4 cases that resulted in at least 3 convictions in Estonia. In 2017, a case⁸ on HIV criminalization was highlighted in Estonia. An HIV positive man was sentenced to 3 years and 6 months of imprisonment under the article 118 "Causing of Severe Health Damage" by the Harju County Court of Tallinn. Prosecution authorities made the case open to the public inclusive of this name, photo and HIV status.

Discussion

In Estonia, there is no HIV specific law. All HIV related cases are based in the criminal law and classified as causing health damage or abuse. While the 2017 case was sensationalized by the media there were a number of prominent voices that did speak out publicly in the media to talk about the harms of HIV criminalization in regards to the case.

⁷ Jurist Aitab (A Lawyer will Help). (March, 12 2015). Пенитенциарный Кодекс (PenitentiaryCode). Retrieved from <https://tinyurl.com/y6u2cwqr>

⁸ Eurasian Women's Network on AIDS. (December 2017). «Дело Антона К.» ("The case of Anton K."). Retrieved from <http://www.ewna.org/delo-antona-k/>

Media monitoring

Year	Publications	Total
2017	Case 1: Tallinn, man, 34 y/o https://rus.err.ee/636260/v-iestonii-muzhchinu-posadili-v-tjurmu-za-prednamerennoe-zarazhenie-zhenwin-vich https://rus.postimees.ee/4275377/sud-otpravil-v-tyurmu-klubnogo-serdceeda-kotoryy-soznatelno-zarazhal-zhenshchin-vich https://m.ru.sputnik-news.ee/news/20171013/7522414/sud-prigovoril-tjurjma-prednamerennoje-zarazhenije-vich.html https://rus.postimees.ee/4341897/nelli-kalikova-sem-boleznennyh-urokov-odnogo-prestupleniya https://rus.postimees.ee/4343031/zhurnalist-otvechaet-nelli-kalikovoy-eto-za-granyu-dobra-i-zla https://rus.err.ee/648796/nelli-kalikova-zarazivshij-vich-zhenwinu-muzhchina-vinovat-lish-na-50	6

Informants

Estonian Network of People living with HIV <http://ehpv.ee/en/>

Country:
Georgia

Law

The Criminal Code of Georgia, Chapter XXI,

Article 131 “*Creating risk to human life and health*”:

Part 1. Intentionally creating a threat of giving AIDS to another person - is punished by imprisonment for a period of three to five years.

Part 2. Intentionally contracting AIDS to another person - is punished by imprisonment for the term ranging from four to seven years.

Part 3. Contraction of AIDS to another person due to professional negligence - is punished by imprisonment for the term of two to five years and by deprivation of the right to occupy a position or pursue a particular activity for up to three years in length.

Part 4. The action referred to in parts 2 or 3 of this Article which is perpetrated: a) against two or more persons; b) against a pregnant woman or a minor at the previous knowledge of the criminal - is punished by imprisonment for five to ten years in length, by deprivation of the right to occupy a position or pursue a particular activity for up to three years in length.

Other Laws for Considerations:

Article 132 of the Criminal Code, the *creation of a threat of infection with a particularly dangerous infectious disease* - is punished by a large fine, 6 months of public works or imprisonment for up to 1 year. Part 2 of the same article indicates that a person can be held liable for intentionally creating a threat for contracting an especially dangerous infectious disease to others and in accordance can be punished by a fine, community service for up to a year and a prison sentence of up to two years. Aggravating circumstances for these crimes include intentionally creating threat of contracting or contracting an especially dangerous infectious disease to two or more people or a pregnant woman or a minor. The punishment in such circumstances is deprivation of freedom for two to five years.

Law of Georgia on HIV Infection/AIDS⁹, Article 11 - Duties and responsibilities of persons infected with HIV and/or ill with AIDS: 1. Persons infected with HIV and/or ill with AIDS shall be responsible for creating a threat of infecting persons and transmitting AIDS to other persons as provided for by the legislation of Georgia. 2. Persons infected with HIV and/or ill with AIDS who know about their HIV positive status are obliged to inform their spouse and/or sex partner about their HIV infection in a prescribed manner.

Prosecution

Since the law was created in 1995 and later updated in 2000 there has been little data collected in Georgia. In previous work done by the HIV Justice Network and the GNP+ HIV criminalization scan respondents provided information about two cases involving heterosexual couples¹⁰. In the data collection process, local informants gave information regarding a possible additional case of a male who transmitted HIV to his wife and was sentenced to 4 years in prison and served 2. It is unknown if this is the same case as one of the two previous cases.

⁹ Legislative Herald of Georgia. (2009). Law of Georgia On HIV Infection/AIDS. Retrieved from <https://matsne.gov.ge/ru/document/download/90088/3/en/pdf>

¹⁰ Global Network of People Living with HIV. (2009). HIV Criminalization Scan: Georgia. Retrieved from <http://criminalisation.gnpplus.net/country/georgia>

Discussion

While in Georgia there are both HIV specific laws as well as general laws that can be used to convict a person living with HIV of exposure and/or transmission the data is limited in the application of these laws in practice.

Media monitoring

No media stories were found in relation to HIV criminalization in Georgia.

Informants

Georgian Harm Reduction Network <http://hrn.ge/>

Country:
Kazakhstan

Law

The Criminal Code of Republic of Kazakhstan,

Article 118.¹¹ *Infection with human immunodeficiency virus (HIV/AIDS)*

Part 1. Deliberately endangering another person by HIV/AIDS - is punished by by a fine in the amount of from 200 (two hundred) monthly calculation indicators or correctional labor in the same amount, or by bringing to public works for up to 180 (one hundred and eighty) hours, or by arrest for up to sixty days.

Part 2. Infection of another person with HIV/AIDS by a person who knew that he had the disease - is punished by imprisonment for a term up to five years.

Part 3. The action envisaged in part 2 of this article, committed against two or more persons, or against a minor - is punished by an imprisonment for a term from four to eight years.

Note. A person who committed acts specified in parts one or two of this article shall be released from criminal liability in the event that another person placed at risk of infection or infected with HIV/AIDS was timely warned about the presence of this disease and voluntarily agreed to commit the acts that created risk of infection.

Other Laws for Considerations:

Article 429 of the Code of the Republic of Kazakhstan on Administrative Offenses¹². *Evasion from medical examination and treatment of persons in contact with HIV-infected persons, AIDS patients, venereal diseases, tuberculosis, as well as persons who consume narcotic drugs or psychotropic substances without prescribing a doctor:*

1. Evasion of medical examination and treatment of persons in contact with HIV-infected people, AIDS patients, venereal diseases, tuberculosis, continuing after a written warning issued by the health care institution - entails a fine in the amount of five monthly calculation indicators.

2. Evasion of medical examination and treatment of persons recognized as sick with alcoholism, drug addiction and substance abuse, or for which there is sufficient evidence that they use narcotic drugs or psychotropic substances without prescribing a doctor - entails a penalty in the amount of ten monthly calculated indicators.

Prosecution

There is limited data as to how many people have been charged and convicted with HIV related offenses in Kazakhstan. Under Article 116 there have been at least 5 known cases of people living with HIV being convicted of transmission of HIV including 1 in 2017. Additionally, as reported by HIV Justice Network in 2015, 98 sex workers living with HIV were identified by police and their clients tracked for possible transmission but no further information regarding prosecutions could be found. On May 19, 2017, in Astana, police conducted raids and forcibly tested 163 women sex workers for HIV^{13,14}.

¹¹ Уголовный кодекс Республики Казахстан от 3 июля 2014 года № 226-V (с изменениями и дополнениями по состоянию на 09.01.2017 г.) (The Criminal Code of the Republic of Kazakhstan of July 3, 2014 No. 226-V (with amendments and additions as of January 9, 2017)). Retrieved from <https://tinyurl.com/y97oh86x>

¹² Статья 116. Уголовный Кодекс РК “Заражение вирусом иммунодефицита человека (ВИЧ/СПИД)”. (Article 116. Criminal Code of the Republic of Kazakhstan “Infection with the human immunodeficiency virus (HIV/AIDS)”). Retrieved from http://kodeksy-kz.com/ka/ugolovnyj_kodeks/116.htm

¹³ Проституток в Астане проверяют на ВИЧ и ставят на учет в рамках ОПМ & Правопорядок (Prostitutes in Astana are checked for HIV and put on record in the framework of the PKO & Law and Order). (March 19, 2017). Sputnik News. Retrieved from <https://tinyurl.com/yafyfz66>

¹⁴ Проституток Астаны проверили на ВИЧ (Prostitutes of Astana checked for HIV). (March 19, 2017). *Tengrin News*. Retrieved from https://tengrinews.kz/kazakhstan_news/prostitutok-astanyi-proverili-na-vich-318412/

Under Article 429, which speaks to medical malpractice in relation to HIV 21 health care providers were convicted with sentences varying from 9 months to 8 years in prison in 2007¹⁵.

Discussion

Although the number of cases of HIV criminalization appear small in Kazakhstan, there are a concerning number of reports in relation to human rights violations of sex workers in regards to forced testing. In these cases, there is concern that if any of the sex workers did test positive for HIV then what measures would be taken towards them.

Media monitoring

Year	Publications	Total
2014	Case 1. Temirtau, Karaganda region, man http://today.kz/news/proisshestviya/2014-07-17/534164-v-temirtau-vich-inficirovannogo-muzhchinu-osudili-za-umyshlennoe-zarazhenie-zhenshin/	1
2016	Case 2. Karaganda, man, 40 y/o http://catoday.org/public/centrasia/v-kazahstane-osudili-na-4-goda-taksista-zarazhavshego-zhenschin-spidom http://shymkent.kz/index.php/%5C%5C%5C%22?previd=75858	2
	Case 3. Karaganda, women http://ekaraganda.kz/?mod=news_read&id=48132	1
2017	Case 4. Shymkent, man, 49 y/o https://kokshetau.asia/proisshestviya-mobile/15162-namerenno-zarazivshego-vich-infeksiej-sozhitelnitsu-i-rebjonka-osudili-muzhchinu https://rus.ozodlik.org/a/28281234.html	2

Informants

Amelia NGO <https://www.facebook.com/profile.php?id=100012864245574&fref=ts>

¹⁵ Global Network of People Living with HIV. (2009). HIV Criminalization Scan: Kazakhstan. Retrieved from <http://criminalisation.gnpplus.net/country/kazakhstan>

Country:
Moldova

Law

Criminal Code, Chapter VIII, Offenses against Public Health and Social Cohabitation¹⁶,
Article 212. *Contamination with AIDS disease:*

Part 1. Deliberately exposing another person to the risk of contamination with AIDS - is punished by imprisonment up to 1 year.

Part 2. Contamination with the AIDS disease by a person who knew that s/he had the disease - punished by imprisonment from 1 up to 5 years

Part 3. The same offense exercised: a. repeatedly b. against two or more persons c. deliberately with a juvenile (minor)- is punished by imprisonment from 3 up to 8 years.

Part 4. Contamination with the AIDS disease as a result of non-exercising or unsatisfactory exercising of functional duties by a medical professional - is punished by imprisonment up to 5 years with deprivation of the right to occupy particular position or exercise particular activity for a period of up to 3 years.

Part 5. Criminal responsibility is waived for part 1 and 2 of this article if the person has prior notified the person placed in the risk to HIV transmission, or if the exposed person knew the other one is HIV infected but has consented to engage in activities that exposed her/him to HIV transmission.

Legislation of Transnistria

The Criminal Code¹⁷,

Article 119 “*Infection with HIV*”:

Part 1. Knowingly placing another person at risk of contracting HIV - is punished by imprisonment for up to 1 year.

Part 2. Infection of another person with HIV by a person who knew about the presence of this disease - is punished by imprisonment for a term of up to five years.

Part 3. The action envisaged in part 2 of this article committed against two or more persons, or against a knowingly minor - is punished by imprisonment for a term of 3 to 8 years.

Part 4. Infection of another person with due to improper performance by a person of their professional duties - is punished by imprisonment for a term of up to 5 years with deprivation of the right to occupy particular positions or engage in particular activities for a term of up to 3 years.

Note. A person who committed acts specified in parts 1 or 2 of this article shall be exempted from criminal liability if the person who placed at risk of infection or infected with HIV was timely warned about the disease and voluntarily consented to the actions that created danger of exposure.

Other Laws for Consideration:

Article 211 of the Criminal Code of Moldova “Transmission of venereal diseases”¹⁸: A person who knew that he/she had a venereal disease transmits it to another person - is punished by a fine in the amount of 500 to 850 conventional units, or by unpaid public work for a period of 120 to 200 hours, or by imprisonment for up to 1 year. The same offense exercised: a.

¹⁶ Республика Молдова (Republic of Moldova). (2009). Уголовный Кодекс Республики Молдова (Criminal Code Republic of Moldova). Retrieved from <https://tinyurl.com/y8mhobw1>

¹⁷ Закон Приднестровской Молдавской Республики (Law of the Transnistria Moldova Republic). (2017). Уголовный кодекс Приднестровской Молдавской Республики (The Criminal Code of the Transnistria Moldova Republic). Retrieved from <https://www.ulpmr.ru/ul/show/WJahzpDOLjNkRXXM0rxT7Uipd41BqhhZZ0uIM=>

¹⁸ Республика Молдова (Republic of Moldova). (2009). Уголовный Кодекс Республики Молдова (The Criminal Code of Republic of Moldova). Retrieved from <http://lex.justice.md/ru/331268/>

repeatedly b. against two or more persons c. deliberately with a juvenile (minor) - is punished by a fine in the amount of 550 to 1050 conventional units, or by unpaid public work for a period of 180 to 240 hours, or by imprisonment for up to 2 years.

AIDS Law of the Republic of Moldova¹⁹, Chapter VII, Article 29: The responsibility of people living with HIV shall act responsibly to protect their personal state of health and prevent HIV transmission. A person aware of his/her HIV status and knowingly endangering the contamination of another person can be charged with a criminal offense.

In Transnistria, the Code of Administrative Offenses²⁰, Article 6.3: “Concealment of the source of HIV infection, venereal disease and contacts creating a risk of infection”: The concealment by a person who sick HIV, venereal disease, the source of infection, as well as information about people who had contacts with the specified person, creating a risk of contracting these diseases - is punished by an administrative fine in amount of from 50 to 150 estimated minimal wage.

Prosecution

The use of the criminal laws in relation to HIV exposure or transmission is rare in Moldova and the territory of Transnistria. However, there are at least 5 people who have been charged and convicted using Article 212 with the most recent case identified in June of 2017²¹. Three of these cases were based on a failure of the person living with HIV to disclose their HIV status in a heterosexual relationship and one case in 2015 included a patient living with HIV “intentionally pricking” a nurse with a needle.

The statistics of cases on HIV related articles of the Penal Code in Transnistria are not reflected in official sources. However, according to information received from representatives of non-governmental organizations, as well as medical institutions, in such cases prosecutors decline to bring charges and even less often result in sentencing. In 2014, on the official web page of the investigation committee of Transnistria²² information about 32 year old man who was living with HIV was published including his name, year and place of birth as well as the year he was diagnosed with HIV. He was sentenced to 3 years of imprisonment under article 119, part 3 of Criminal Code, for HIV exposure to a minor. The confidentiality of another person was violated by the same authorities in 2015 they published a public document about a 33 year old man living with HIV who was sentenced for the crime not related with HIV exposure (theft)²³.

For this report, civil society partners working in country, gave detailed case studies between 2015 – 2017 of 10 people living with HIV’s experience having their sexual partners and, in one case a health care practitioner, report to the police about their non-disclosure of HIV which thereby “putting them at risk of transmission.” In the majority of these cases there was some

¹⁹ Published on 20 April 207, last amendment on 01 June 2012

http://lex.justice.md/document_rus.php?id=462D3331:0985314B

²⁰ Last amendment dated 16 January 2017 <https://www.ulpmr.ru/ul/show/5SXmDs4sunfcM5OjFIE2ad66Di8BF+U0fGyw=>

²¹ http://jurisprudenta.csj.md/db_col_penal.php

²² Следственный комитет Приднестровской Молдавской Республики (Investigative Committee of the Transnistria Moldova Republic). (2014). Гражданин Республики Молдова осужден Бендерским судом за заражение ВИЧ инфекцией, лица, не достигшего совершеннолетия (A citizen of the Republic of Moldova was convicted by the Bendery court for HIV infection, a person under the age of majority). Retrieved from <http://www.skpmr.org/index.php/ru/novosti-komiteta/478-grazhdanin-respubliki-moldova-osuzhden-benderskim-sudom-za-zarazhenie-vich-infektsiej-litsa-ne-dostigshego-sovershennoletiya>

²³ Следственный комитет Приднестровской Молдавской Республики (Investigative Committee of the Transnistria Moldova Republic). (2015). Новости комитета в Слободзее осужден вор, промышлявший хищениями из дачных домиков (News of the Committee: In Slobodzey convicted of a thief engaged in theft of cottages). Retrieved from <http://skpmr.org/index.php/ru/novosti-komiteta/895-v-slobodzee-osuzhden-vor-promyshlyavshij-khishcheniyami-iz-dachnykh-domikov>

police intervention but these amongst other cases could not be further researched within a country context.

Discussion

In Moldova it is believed difficult to prove guilt when there are many variables in relation to HIV. For example, in a heterosexual context many couples test positive first during a couple's pregnancy. Due to the nature of the current law it is difficult to prove the elements of the legal case including whether the HIV was known prior to the relationship and this creates further difficulties proving the required element of intent of either individual. There are numerous situations after the dissolving of a couple where one party approaches the police stating that they were put at risk of HIV transmission. Civil society organizations have reported that these cases are frequently recognized as retaliation or spite, and are therefore not frequently pursued by prosecutors in country. In addition, a person's sexual history can be used in a criminal trial which makes legal action potentially undesirable for those who seek to bring cases regarding not being able to prove causation and guilt as well the potential for the trauma of having their sexual history used to discredit them in court.

The issue with the application of Article 212 of the Criminal Code is that the composition of the crime is not correct by the terminology. While there is common understanding of the difference between the HIV and AIDS definition, the Criminal Code of the Republic of Moldova applies the concept of "AIDS disease", which is incorrect from the medical point of view. No one is infected with AIDS; AIDS is not an infectious agent²⁴. UNAIDS Terminology Guidelines²⁵ also call to stop the use incorrect terminology and indicates the preferable use of language such as "the risk of contracting HIV" or "the risk of exposure to HIV".

The criminal laws of Moldova and Transnistria contain special offenses for cases of deliberate and intentional transmission of HIV by a person who knows of the existence of such a disease or by a medical worker in the event of non-fulfillment (improper performance) of professional duties.

Media monitoring

Year	Publications	Total
2012	Case 1. Beltsi, man, 41 y/o http://esp.md/2012/08/04/za-iznasilovanie-i-zarazhenie-vich-9-let	1
2014	Case 2. Bendery, Transnistria, man, 32 y/o http://www.skpmr.org/index.php/ru/novosti-komiteta/478-grazhdanin-respubliki-moldova-osuzhden-benderskim-sudom-za-zarazhenie-vich-infektsiej-litsa-ne-dostigshego-sovershennoletiya https://novostipmr.com/ru/news/14-02-26/grazhdanin-rm-osuzhdyon-za-soznatelnoe-zarazhenie http://moldnews.md/rus/news/65864 https://news.pmrgid.com/news-pmr/13122-grazhdanin-rm-osuzhdjon-za-soznatelnoe-zarazhenie-nesovershennoletnej-vich-infektsiej	4
2015	Case 3. Yedintsi, man https://www.kp.md/daily/26360.7/3241431/	1

²⁴ UNAIDS. (2015). AIDS Terminology Guidelines. Retrieved from http://www.unaids.org/sites/default/files/media_asset/2015_terminology_guidelines_en.pdf

²⁵ UNAIDS. (2011). AIDS Terminology Guidelines. Retrieved from http://www.unaids.org/sites/default/files/media_asset/JC2118_terminology-guidelines_en_1.pdf

Informants

Moldavian Institute for Human Rights (IDOM), Chisinau <http://hiv-legalaid.org/en/index.php?id=1375723456>

Information Center “Healthy Future” NGO, Tiraspol
<https://www.facebook.com/ZdorovoeBudushee/>

“Center for social support “Trinity” NGO, Rybnitsa <https://www.facebook.com/triniticentr/>

Country:
Russian Federation

Law

The Criminal Code of the Russian Federation,
Article 122²⁶. *HIV transmission*

Part 1. Deliberately endangering another person by infecting with HIV infection - is punished by imprisonment for up to three years, or public service for up to one year, or imprisonment for up to six months, or imprisonment for up to one year.

Part 2. Infection of another person with HIV by a person who knew that he had the disease - is punished by imprisonment for a term up to five years.

Part 3. The action envisaged in part 2 of this article committed against two or more persons, or against a minor - is punished by imprisonment for a term up to 8 years, with deprivation of the right to occupy particular positions or engage in particular activities for up to ten years or without it.

Part 4. Infection of another person with HIV as a result of improper fulfillment of professional duties - is punished by public service for a term up to five years, with disqualification to occupy particular positions or engage in particular activities for up to three years or without it, or imprisonment for up to five years, with deprivation of the right to occupy particular positions or engage in particular activities for up to three years.

Note. A person who commits an act stipulated by part 1 or 2 of this Article shall be exempt from criminal liability if the another person set out in the risk of infection or infected with HIV, was a timely warned of the presence of the disease and voluntarily consented for the acts that created the risk of infection transmission²⁷.

Other Laws for Considerations:

Administrative Code of the Russian Federation, Article 6.1. *Concealment the source of infection with HIV, venereal disease and contacts that create the danger of infection:* Concealment by a person who sick HIV, venereal disease, the source of infection, as well as information about the persons who had contacts with the specified person, creating a risk of contracting these diseases - is punished by an administrative fine in the amount of five hundred to one thousand rubles.

Prosecution

The Russian Federation is leading the region in prosecuting people living with HIV for transmission and exposure. In 2015, there were 45 people convicted, increasing to 55 in 2016. And by June 2017 there were already 26 cases reported. The 2015 – 2017 data collection shows that all the 126 cases have applied to heterosexual relationships.

In total for the period 1997 - the 1st half of 2017, 548 people living with HIV convicted under the article 122 (part 1-4), and 255 people - under additional qualifications.

Administrative Code of the Russian Federation Article 6.1. concerns a person living with HIV “*Concealment the source of infection with HIV, venereal disease and contacts that create the danger of infection.*” While it was difficult getting numbers of total number of cases in relation to people living with HIV being charged with Article 6.1 from the Administrative Code, since

²⁶ Уголовный кодекс РФ 2017 Актуальная редакция (The Criminal Code of the Russian Federation). (2017). Статья 122 УК РФ. Заражение ВИЧ-инфекцией (Article 122 of the Criminal Code. Infection with HIV). Retrieved from <http://ukodeksrf.ru/ch-2/rzd-7/gl-16/st-122-uk-rf>

²⁷ Note introduced by the Federal Law of 08.12.2003 N 162-FZ

2015 there have been 398 cases. With 125 in 2015 and 205 occurring in 2016. 68 cases had been reported in the first half of 2017.

This offense is committed by a person's inaction or omission. For example, if a person living with HIV does not inform health care workers of the "necessary" information for the state to properly conduct an epidemiological investigation. An epidemiological investigation includes reporting from whom a person may have contracted HIV, and those persons endangered by HIV transmission. First of all, they are family members, sexual partners, and in case a person living with HIV uses drugs - all persons with whom s/he jointly injected drugs. The responsibility can be ascribed to a person reached 16 who learnt their HIV status after medical examination.

The fine under this article is small, but the judicial procedure is stigmatizing. A fine is the punishment received mainly by those who do not appear at their court hearing. Those who do attend their court date states they do not know how they was infected. By answering this them or their previous lovers they are not punished.

Discussion

In the Russian Federation, people living with HIV are mandated to register with the public health authorities as well as inform health care workers and those close to the person living with HIV of their HIV status. If not a person faces possible legal action through Article 6.1 of the Administrative Code. This practice enables and perpetuates HIV stigma through administrative means and public shaming. Many people living with HIV avoid potential breaches in by not showing up to the hearing making them automatically liable to pay a set fine. These fines while limited are often an additional administrative and financial burden for many people living with HIV in the Russian Federation. For example, in 2016 there were a total of 205 cases and a total of 359,600 rubles in total fines.

Civil society partners reported that women in particular are harmed by breeches in their confidentiality as their HIV has then led to be used to justify violence and abusive situations. 17 year old young woman living with HIV who was sexually and physically assaulted, was later accused on putting the 31 year old man who abused her at risk refused to use condom²⁸. He blackmailed her by shared her photos and information about her HIV status. She was interrogated by police without legal representation despite being a minor. To assist in countering these gender based inequalities, the Association of Patients and Professionals, helping people with HIV, Hepatitis and other socially significant diseases "EVA"²⁹, has a program *Equal Protects the Equal* that provides free legal support to women living with HIV. This program reported numerous case studies of women living with HIV who have been blackmailed, threatened, and experienced violence using Article 122 to threaten police intervention if the women do not comply.

Article 122 was first drafted in 1996, and was later amended in 2003 to make a person living with HIV "*exempt from criminal liability if the another person set out in the risk of infection or infected with HIV, was a timely warned of the presence of the disease and voluntarily consented for the acts that created the risk of infection transmission.*" This amendment showed some improvement form the original draft and some flexibility from the Russian Federation. An opportunity opened for further changes to be made to the federal law based on Clause 15 of the Plan of Measures for the Implementation of the State Strategy for HIV Response in the

²⁸ Klimova, M. (November 17, 2017). «Я спросила: а презервативы? - Он такой говорит: нет, не нужно» ("I asked: but condoms? He says this: no, you do not need"). Zone Media. Retrieved from <https://zona.media/article/2017/11/24/viktoria>

²⁹ EVA. (2017). Retrieved from <https://evanetwork.ru/en/>

Russian Federation for the Period to 2020 and Further Prospects, approved by the Russian Federation Government Resolution No. 2203-r of October 20, 2016. It is expected that the Ministry of Health, the Ministry of Communications, the Ministry of Internal Affairs, and the Ministry of Justice will be open to input from representatives of civil society may submit proposals to the draft law in regard of liability for HIV transmission³⁰.

Media monitoring

Year	Publications	Total
2014	Case 1. Penza region, woman http://serdobsportal.ru/jitelnica-penzenskoi-oblasti-osyjdena-za-zarajenie-partnera-vich-infekciei-2/	1
	Case 2. Omsk, man http://rusplt.ru/society/naprasnyie-svyazi-8183.html	1
	Case 3. Kyshtym, Chelyabinsk region, man, 33 y/o http://chelyabinsk.74.ru/text/gorod/784677.html	1
2016	Case 4. Perm region, man, 38 y/o http://perm.mk.ru/articles/2016/10/28/zhitel-prikamya-osuzhden-za-zarazhenie-nesovershennoletney-vich.html http://newsregions.ru/2016/10/	2
	Case 5. Novokuznetsk, Kemerovo region, man http://www.kuzbass.aif.ru/health/epidemiya_kak_v_kuzbasse_rasprostranyaetsya_vich	1
	Case 6. Andjero-Sudzhensk, Kemerovo region, man http://www.kuzbass.aif.ru/health/epidemiya_kak_v_kuzbasse_rasprostranyaetsya_vich	1
	Case 7. Nizhneartovsk, man, 30 y/o https://news.vse42.ru/feed/show/id/27225563	1
	Case 8. Kemerovo region, man, 34 y/o http://www.kuzbass.aif.ru/incidents/muzhchina_iznasiloval_zhenu_druga_i_zarazil_ee_vich	1
2017	Case 9. Kirovo-Chepetsk, Kirov region, man, 35 y/o https://prochepetsk.ru/news/12331	1
	Case 10. Velikiy Novgorod, man https://regnum.ru/news/2225471.html	1
	Case 10. Labytnagi, Yamal-Nenets Autonomous District, man, 38 y/o http://www.interfax.ru/russia/545831	1
	Case 11. Troitsko-Pechorsk, Komi Republic, man, 40 y/o https://news.sputnik.ru/zdorovje/2e538bcadb2c6ac9efc7f829a887114abfce3bcd https://komiinform.ru/news/146429/	2
	Case 12. Chelyabinsk, man http://www.chelproc.ru/prosveschenie/low/?id=1533	1
	Case 13. Prikamje, Perm region, man, 26 y/o http://rusgosnews.com/2017/07/19/v-prikame-zarazhenniy-vich-nasilnik-osuzhden-za.html	1
	Case 14. Chelyabinsk, man, 31 y/o https://vecherka.su/articles/accidents/129966/	1
	Case 15. Serov, Sverdlov region, man https://www.znak.com/2017-12-06/sud_vynes_prigovor_sverdlovchaninu_zarazivshemu_sozhitelnicu_vich http://serovglobus.ru/serovchanin-zarazivshij-sozhitelnicu-virusom-immunodeficitno-aktivno-znakomitsya-s-zhenshinami-v-internete/	2
	Case 16. Syzran, Samara region, woman, 17 y/o https://zona.media/article/2017/11/24/viktoria	1
	Case 17. Ulianovsk, man and woman http://1ul.ru/city_online/proishestviya/news/ulyanovec_zarazil_17letnyuyu_devushku_vich_hinfekciey_poluchennoy_ot_byvshey_zheny/	1
Case 18: Spasskiy district, Nizhniy Novgorod region, woman, 27 y/o https://www.nnov.kp.ru/online/news/2973210/	5	

³⁰ Yuriva, N. (February 15, 2017). ВИЧ приравняют к туберкулезу (HIV is equated with tuberculosis). Утро (Morning). Retrieved <https://utro.ru/articles/2017/02/15/1316471.shtml>

http://nn.mk.ru/articles/2017/12/25/nizhegorodka-poluchila-uslovnyy-srok-za-zarazhenie-partnera-vich.html https://vnews34.ru/regions/8665-usloynyj-srok-za-smertelnyj-virus-sud-vynes-verdikt.html https://progorodnn.ru/news/72517 http://ukrday.net/socei/548352-nizhegorodka-poluchila-usloyny-srok-za-zarazhenie-partnera-vich.html	
--	--

Informants

Association of Patients and Professionals, helping people with HIV, hepatitis and other socially significant diseases “EVA” <https://evanetwork.ru/en/project/peers-defending-peers-2017/>

Country:
Tajikistan

Law

Criminal Code of the Republic of Tajikistan³¹,

Article 125. *Infecting with Human Immunodeficiency Virus.*

Part 1. Knowingly exposing another person in danger of HIV infection - is punished by restriction of freedom for up to three years or imprisonment for up to two years.

Part 2. Infection of HIV of another person by a person who knew that he had this disease - is punished by imprisonment for a term of five years.

Part 3. The act envisaged in part 2 of this article, committed: a) against two or more persons; b) against a minor - is punished by imprisonment for a term of five to ten years.

Prosecution

While collecting data for this report a key informant from Tajikistan shared information disclosed by other legal practitioners in a legal training. The two cases shared involved heterosexual sexual encounters. One of the cases settled outside of court and the results of the second are unknown.

Discussion

In previous reports, there appeared to be no known HIV criminalization cases. What has been reported by in country informants is that key populations experience human rights abuses such as mandatory HIV testing of sex workers and gay men.

A more in depth data collection process needs to be completed in country.

Media monitoring

No media stories could be found in relation to HIV criminalization cases.

Informants

Not disclosed

³¹ Уголовный кодекс Республики Таджикистан (The Criminal Code of the Republic of Tajikistan. Dated May 21, 1998 N 574 with amendments and additions as of July 23, 2016). Retrieved from http://www.wipo.int/wipolex/ru/text.jsp?file_id=237375

Country:
Ukraine

Law

The Criminal Code of Ukraine³²,

Article 130. *Infection with HIV or any other incurable contagious disease*

Part 1. Knowingly placing of a person in danger of HIV exposure or any other incurable contagious disease dangerous to human life, - is punished by arrest for a term up to three months, or by restraint of liberty for a term up to five years, or imprisonment for a term up to three years.

Part 2. Infection of another person with HIV or any other incurable contagious disease by a person who was aware of himself or herself being a carrier of this virus, - is punished by imprisonment for a term of two to five years.

Part 3. Acts envisaged in part 2 of this Article, committed against two or more persons or a minor, - is punished by imprisonment of three to eight years.

Part 4. Deliberate contamination of another person with HIV or any other incurable contagious disease dangerous to the person's life, - is punished by imprisonment for a term of five to ten years.

Other Laws for Considerations:

Article 132. *Disclosure of information on the conduct of a medical examination for the detection of infection with the human immunodeficiency virus or other incurable infectious disease.* Disclosure by an official of a medical institution, an assisted employee who has received information unauthorized, or a medical worker about the conduct of a medical examination of a person for the detection of infection with the human immunodeficiency virus or other incurable contagious disease dangerous to human life or the acquired immune deficiency syndrome (AIDS) and its results, which became known to them in connection with the performance of official or professional duties, - is punished by a fine of fifty to hundred tax-free minimum incomes of citizens or public works for up to two hundred and forty hours, or correctional labor for up to two years, or restriction of freedom for up to three years, with deprivation of the right to occupy particular positions or engage in particular activities for up to three years or without it.

The Law On the Response to the spread of diseases caused by the human immunodeficiency virus (HIV), and the legal and social protection of people living with HIV (AIDS Law) in Ukraine³³. Chapter II, Article 12: *Duties of People living with HIV*

- 1) take measures to prevent the spread of HIV infection, proposed by health authorities;*
- 2) notify the persons who were their partners before revealing the fact of infection, about the possibility of their infection;*
- 3) refuse donation of blood, its components, other biological fluids, cells, organs and tissues for their use in medical practice.*

Infection with HIV or a virus of another incurable infectious disease that occurred as a result of inadequate performance by a medical, pharmaceutical or other employee of his or her professional duties due to careless or dishonest treatment of them qualifies under Article 131 Criminal Code of Ukraine and is punished by imprisonment up to 3 years or the same with the

³² Уголовный кодекс Украины (Criminal Code of Ukraine). (1998). Раздел 2 - Уголовного Кодекса Украины.

Преступления против жизни и здоровья личности (Section 2 - Criminal Code of Ukraine, Crimes against life and health of the person). Retrieved from <http://meget.kiev.ua/kodeks/ugolovniy-kodeks/razdel-1-2/>

³³ Законодавство України (Legislation of Ukraine). (2012). Про протидію поширенню хвороб, зумовлених вірусом імунодефіциту людини (ВІЛ), та правовий і соціальний захист людей, які живуть з ВІЛ (On the response to the spread of diseases caused by the human immunodeficiency virus (HIV), and the legal and social protection of people living with HIV). Retrieved from <http://zakon4.rada.gov.ua/laws/show/1972-12>

deprivation of the right to occupy particular positions or engage in particular activities for up to three years. Under this article in 2012 the doctor from Mariupol, Donetsk region, was found guilty for contracting HIV to 3 children in 2005³⁴ and sentenced for 5 years to prison. Under Article 132 - for disclosure of the confidential information - medical worker of the orphanage institution in Simferopol, Crimea, was found guilty³⁵ in 2013.

Prosecution

The law states that the placing of another person at the risk of HIV transmission may include, in particular, the implementation, without precautionary measures, of sexual contacts, regardless of their hetero- or homosexual orientation; the provision by the donor-HIV-infected person - of his blood or tissues; non-compliance with preventive measures aimed at preventing the spread of HIV infection (for example, sharing needles for injecting narcotic drugs). However, the known legal cases filed in the Ukraine are in relation to heterosexual relationships and at least one case of biting³⁶. From 2015 – mid 2017 there were 29 new cases registered with 8 convictions.

The crime in relation to Part 1 of Article 130, responsibility of lies in that of the person living with HIV. Responsibility needs to be taken regardless if a person knows their HIV status or if it could be assumed that they were living with HIV because of high risk activity (for example a sex worker or person who uses drugs). It is not defined by the courts what constitutes a “threat” or risk. This has been subject the judges knowledge and interpretation. Article 130, part 1 of the Criminal Code of Ukraine "Infection with the human immunodeficiency virus or other incurable infectious disease" punishes placing another person at risk of contracting HIV or another incurable infectious disease, even without actual intention to do so or actual transmission of the infection to another person.

Discussion

Ukraine has some strong human rights language and legislation to protect people living with HIV. The rights of people living with HIV are described in the AIDS Law. The Rights and Social Protection of People Living with HIV and Their Family Members are presented in; Article 13. The right of people living with HIV to information. Protection of information about a person's HIV positive status from disclosure and disclosure to third parties; Article 14. Equality before the law and prohibition of discrimination against people living with HIV and people belonging to high risk groups for contracting HIV; Article 15. Other rights of people living with HIV; Article 16. Protection of the right to work and other social rights of people living with HIV, their relatives and friends; Article 17. Compensation for harm caused to human health in the event of infection with HIV; Article 18. Rights of parents of HIV-infected children and children suffering from HIV-related illness; and Article 19. State aid to HIV-infected children and children suffering from HIV-related illness.

The provisions in the Criminal Code of Ukraine contradict the implementation of state policy aimed at counteracting HIV infection. In particular, Article 4 of the AIDS Law indicates that the state guarantees the implementation of a consistent policy aimed at creating a tolerant attitude towards people who are at high risk of HIV infection and people living with HIV; carrying out information activities aimed at creating a tolerant attitude and the inadmissibility of discrimination against people belonging to high risk groups for contracting HIV and people

³⁴ <https://www.unian.net/society/594839-vracha-kotoraya-zarazila-detey-vich-infektsiye-osudili-na-5-let.html>,
<https://www.obozrevatel.com/health/medical/81326-vpervyie-v-ukraine-vrach-osuzhden-za-zarazhenie-spodom.htm>,
<http://fakty.ua/145590-sejchas-u-vseh-detey-kotorym-vlili-v-krov-plazmu-s-vich-uzhe-chetvertaya-stadiya-spida>,
<https://novosti-n.org/ukraine/read/33797.html>

³⁵ <https://news.pn/ru/public/74399>

³⁶ <http://www.reyestr.court.gov.ua/Review/49764820>

living with HIV. Article 130, part 1 of the Criminal Code of Ukraine “Infection with the human immunodeficiency virus or other incurable infectious disease” punishes placing another person at risk of contracting HIV or another incurable infectious disease, even without actual intention to do so or actual transmission of the infection to another person. Although this norm is aimed at reducing the level of HIV transmission, in practice it leads to the opposite effect: it increases the stigmatization of people living with HIV, limits their access to treatment and reduces the effectiveness of government measures to combat HIV. For women, it increases the risk of them contracting, violence, and gender inequality in healthcare facilities, in society and in the family.

Ukrainian legislation does not correspond to modern practice of legal regulation of HIV criminalization because it is discriminatory towards partners of discordant couples, and also increases the risk of transmission in these case due to partners not wanting to access treatment. Key population groups, such as people who use drugs and sex workers, are pathologized and considered contagious carriers of HIV and other transmittable infections. They are often blamed for the HIV epidemic, rather than overcoming structural barriers to health services.

In 2017, USAID's HIV Reform in Action Project, assessed the political and legal environment in the relation to the HIV response in Ukraine with the participation of a number of national and international stakeholders³⁷. Among the key recommendations that were given to the legislative branch and the Ministry of Health of Ukraine on the topic “Equality and Legal Protection”, the following was proposed:

- Exclude articles 130 and 133 from the Criminal Code of Ukraine as those that criminalize the transmission of HIV.
- Review article 121 of the Criminal Code of Ukraine (on intentional infliction of grievous bodily harm) and remove therefrom references to HIV. To introduce similar changes in the Rules of forensic medical determination of the severity of bodily injuries, approved by order of the Ministry of Health of Ukraine from 17.01.1995 No. 6, so that they no longer apply to HIV-infected persons.
- Remove the words “human immunodeficiency virus”, “HIV”, “Acquired Immunodeficiency Syndrome Syndrome”, “AIDS” from the Criminal Code of Ukraine, as well as the names of any other diseases that are used in the context of criminal liability of persons who carry the causative agents of these diseases, as being discriminatory on the basis of the state of health.
- Amend the Rules for Forensic Medical Determination of Severity of Bodily Injuries, approved by Order No. 6 of the Ministry of Health of Ukraine of 17.01.1995, with the aim of regulating the procedure for determining the severity of injuries in case of HIV infection or the causative agent of another sexually transmitted disease.

In 2016, the All-Ukrainian Network of People Living with HIV prepared the bill “On Amendments to Certain Legislative Acts of Ukraine Concerning Criminal Responsibility for the Transmission of the Human Immunodeficiency Virus (HIV) and Other Infectious Diseases.” This bill proposes to exclude articles 130 (“Infection with human immunodeficiency virus or other incurable disease”) and 133 (“Venereal disease”) from the Criminal Code of Ukraine. It also stated to stop discriminatory legal practices, which do not prevent the spread of HIV and states that these criminal laws against people living with HIV lead to the fear of criminal prosecution and the refusal of medical examination and follow up in services. International institutions such as UNAIDS and UNDP also advocate in country to end HIV criminalization. To the date of this report the Ministry of Internal Affairs of Ukraine does not indicate readiness for change on this issue.

³⁷ USAID, PEPFAR, Deloitte. (2017). Legal Environment Assessment for HIV in Ukraine. Retrieved from http://www.hivreforminaction.org/eng/wp-content/uploads/2017/05/HIV-Legal-Assessment-final_EN.pdf

Media monitoring

Year	Publications	Total
2015	Case 1. Mykolaiv, woman https://news.pn/ru/politics/176056	1
2017	Case 1. Kharkiv, man, 30 y/o http://interfax.com.ua/news/general/462577.html https://inshe.tv/society/2017-11-17/282979/ https://politeka.net/news/538203-kak-nakazali-vich-infitsirovannogo-nasilnika-5-letnego-rebenka/ https://rian.com.ua/incidents/20171116/1029494200/kharkov-vich-pedofil.html https://narodna-pravda.ua/2017/11/17/harkivskogo-retsdyvista-z-vil-za-zgvaltuvannya-5-richnovi-dytny-posadyat-nadovgo/	5

Informants

All-Ukrainian Network of People Living with HIV <http://network.org.ua/>
“Positive Women”, Ukraine <https://www.women-union.org.ua/>

Country:
Uzbekistan

Law

The Law of the Republic of Uzbekistan,

Article 113. *Spreading of a sexually transmitted disease or HIV-infection/AIDS*³⁸

Part 3. Deliberately endangering another person or infecting them with HIV-infection/AIDS - is punished by imprisonment from five to eight years.

Part 4. Infection of another person by HIV-infection/AIDS due to non-fulfillment or inadequate performance by a person of their professional duties - is punished by a fine of one hundred to two hundred minimum monthly wages or compulsory public works from three hundred and sixty to four hundred and eighty hours, or correctional labor up to two years, or restriction freedom from two to five years or imprisonment up to five years.

In 2010, in Article 113 in the title and disposition of the part 4 of the word “AIDS disease”, replaced, with the words “HIV-infection/AIDS”.

All couples who want to register civil marriage, should pass mandatory HIV testing as stipulated by the Family Code of Uzbekistan.

Prosecution

While it is difficult to say how many cases have been brought before the courts using Article 161 because there is limited documentation in the public court systems and even less available in the media. One case involving a heterosexual couple, transmission and reported non-disclosure of an individual’s HIV status is currently on record in 2016³⁹. There is also a case regarding 13 doctors and health care providers prompted the changes to add a provision that makes health care practitioners liable for transmission of HIV after 147 children contracted HIV in Namangan^{40,41} following poor sanitation and precautionary practices in 2016. Fourteen of the children later died. Prosecutors found that doctors had failed to sterilize catheters, had reused disposable syringes and needles for taking blood samples, and also had falsified sterilization records and later destroyed evidence. Twelve were sentenced to prison for 5-8 years. Nine other health care workers from district hospitals in Namagan region were investigated, but the government has not made any information available. In 2017, another group of doctors in Andijan were also charged with negligence resulting in their patients contracting HIV^{42,43}.

³⁸ Article 113 as amended by the Law of the Republic of Uzbekistan dated 24 May 2010 No. ZRU-248 - SZ RU, 2010, No. 21, Article 161 O'zbekiston Respublikasining milliy qonun hujjatlari bazasi (National Database of Legislation of the Republic of Uzbekistan). (May 2010). 113-modda O'zbekiston Respublikasining qonunlarida tahrir qilingan (Article 113 as amended by the Law of the Republic of Uzbekistan). Retrieved from

http://www.lex.uz/pages/GetAct.aspx?lact_id=1629386&ONDATE=25.05.2010%2000#1629619

³⁹ Гражданин Узбекистана будет осужден за заражение супруги ВИЧ (Uzbek citizen to be convicted for HIV spouse infection). (March 5, 2016). Anhor. Retrieved from <https://anhor.uz/society/grazhdanin-uzbekistana-budet-osuzhden-za-zarazhenie-suprugi-vich>

⁴⁰ Врач, отсидевшая в тюрьме за массовое заражение детей ВИЧ-инфекцией, восстановлена в должности (The doctor, who was imprisoned for mass infection of children with HIV, was reinstated). (April 30, 2016). Radio Ozodlik. Retrieved from <http://rus.ozodlik.mobi/a/27708670.html>

⁴¹ Бывшая врач-зек, восстановленная в должности после тюрьмы, отправлена на пенсию (The former doctor-Zek, who was reinstated after the prison, was sent to retirement). (November 8, 2016). Radio Ozodlik. Retrieved from <http://rus.ozodlik.mobi/a/27785578.html>

⁴² Fitzpatrick, C. (June 2, 2010). Uzbekistan Passes New Law Punishing HIV-Related Medical Malpractice. Retrieved from <http://www.eurasianet.org/node/61207>

⁴³ Muhiddinov, S. (November 11, 2011). Uzbekistan: Doctors infected over 40 children with HIV?... Fergan News. Retrieved from

Civil society informants gave details of other 4 other cases, of which 2 cases involved heterosexual couples. In both cases, the partners were informed of the HIV status prior to their HIV acquisition but their partners were convicted for 3 – 5 year sentences. In one of the cases, after contracting HIV, an HIV positive man’s wife was deported back to her home country after contracting HIV while her husband was sentenced to 5 years in prison. Another case concerns a doctor charged under Article 113, for not notifying a pregnant woman of the HIV status of her future husband prior to her becoming pregnant. The doctor was sentenced to 2 years in prison plus had to pay damages. Neither the woman or the child contracted HIV. Finally, civil society shared a case of a woman living with HIV that was convicted of drug related charges but due to her have status the court increased the length of her sentencing as well as charging her under Article 113.

There have been other instances where people have had other general laws used to convict them such as in the case of an Uzbek psychologist who created and distributed HIV educational information that talked about using condoms and harm reduction for people who use drugs was sentenced to 7 years in prison⁴⁴. He was found guilty of numerous crimes that did not refer to the creation and distribution of information about HIV under several articles of the Uzbek Criminal Code, including “Involving a minor in antisocial behavior” and “Involvement in the use of narcotic drugs or psychotropic substances”.

Discussion

In Uzbekistan, there is limited knowledge about HIV and it is rarely in the media. While HIV criminalization is an issue in Uzbekistan because of strict regulations of the government it is extremely difficult for NGOs and civil society to know and/or intervene in such cases.

In regards to Article 113, “knowingly” means that the person was aware of the presence of HIV oneself, and nevertheless puts another person in at risk of potential transmission regardless of the act risk. Article 113 of the Criminal Code is characterized by intent, since it has a formal composition. Despite couples having evidence indicating that the HIV negative partner is aware of the HIV positive status of the other partner, it is usually not taken into account in criminal investigations. In the eyes of the law a crime has occurred regardless of the testimony of both parties and the person living with HIV is convicted.

Media monitoring

Year	Publication	Total
2015	Case 1. Labour migrant, man, 36 y/o	2
2016	https://life.ru/t/%D0%BD%D0%BE%D0%B2%D0%BE%D1%81%D1%82%D0%B8/166825 https://anhor.uz/society/grazhdanin-uzbekistana-budet-osuzhden-za-zarazhenie-suprugy-vich	

Informants

Not disclosed

<http://enews.fergananews.com/news.php?id=836&print=1>

⁴⁴ Пропагандиста борьбы со СПИДом выпустили из узбекской тюрьмы (The advocate of the fight against AIDS was released from the Uzbek prison). (August 30, 2011). *Leta*. Retrieved from <https://lenta.ru/news/2011/08/30/popov>

Eurasian Women's Network on AIDS

HIV Criminalization Case Studies Eastern European and Central Asian Region

Internal Supporting Documentation
December 2017

Below are actual cases collected by the Eurasian Women's Network on AIDS (EWNA) in country data collection team to support the HIV Criminalization Scan: Eastern European and Central Asian Regional Report. This document is an internal document to be used by EWNA and HIV Justice Worldwide. It is not to be disseminated broadly as some of the cases have sensitive information that could cause result in negative consequences to either the informants or the individuals involved in the cases. Unless otherwise stated the cases occurred between 2015 – 2017.

Belarus

Name: Y

Gender: Male

Age: 45

Location: Zhlobin, Belarus

Y is living with HIV. He is married to a woman. Together they have 1 child. Y's wife knew about his HIV status and continued the relationship. A case was filed by state law enforcement agencies after his wife tested positive for HIV and registered at the clinic. Y was charged and convicted under Article 157 and sentenced to 2 years in a correctional facility on November 2, 2017. On November 13, the prosecution applied for an appeal to add 1.5 years to the sentence. Y's wife contacted the Belarusian Community of People Living with HIV to get legal support for her husband's case because they did not have money for a defense lawyer to represent Y.

Name: V

Gender: Male

Age: 35

Location: Gomel region, Belarus

"I found out about my HIV status in 1999, when I had a medical examination in the army. In 2004, they gave me a paper about my criminal liability. I asked the doctor - how do I go on living with HIV and build relationships? The doctor replied, *Like all other people – there are no problems*. In 2014, the infectious disease doctor repeatedly asked me to sign on a paper about my criminal liability." V refused to do so. In 2014, V met a woman and they started a serious relationship, which continues today. They moved in together. V told her about his HIV status and his responsibilities as directed by the health care workers. She understood and they continued in their relationship. In 2017 the woman had a medical check up for her work, including an HIV test. The results for HIV were positive. In June 2017, she was registered as living with HIV and was asked to clarify with whom she lived. Both partners were aware of Article 157, but they did not understand that in the absence of her wanting to charge him, that he could still be charged. They did not conceal relations with each other. After she told the doctor that she is in a relationship with an HIV positive man, V was summoned to law enforcement agencies. Here he was asked him to explain how his wife contracted HIV. He was detained for 3 days. His wife and sister immediately went to the prosecutor and asked to release him from their custody.

Twice they took tests from V and his partner for the genotyping of HIV. The test was inconclusive. Realizing the threat of a criminal sentence for her partner, during her testimony she stated that she had multiple sexual relations with other men during the period of relations with V. As of October 2017, the case was in its 4th month in process. V was suspected of Article 157, part 157, part 1 "setting another person at risk of infection" and part 2 "thoughtlessly or with indirect intention infecting another person with HIV infection" He is in contact with the Belarusian Community of People Living with HIV. Received legal advice under Article 157.

Name: Unknown

Gender: Male

Age: 40

Location: Svetlogorsk, Belarus

A 40 year old man was aware of his HIV status, and disclosed his HIV status to the woman he was in a relationship with. They reported not using condoms. They got pregnant and had a baby that was born HIV negative. She became HIV positive. One evening there was a fight in the family and the child was hurt but the father. During the investigation the authorities found information that man was registered with an infectious disease doctor. This prompted that a criminal case be opened under part 2 of Article 157 in relation to his partner "thoughtlessly or with indirect intention infecting another person with HIV infection". The man was sentenced to three years in prison. After the amnesty, the term was reduced to two years in a high security correctional institution. They applied for help to the Belarusian Community of People Living with HIV.

Name: J

Gender: Female

Age: 34

Location: Zhlobin, Belarus

On March 30, 2009 J was registered by an infectious disease doctor as HIV positive. In the doctor's office she was made aware of her responsibilities and possible criminal liability. She was asked to sign a form stating that she understood.

At the end of 2008, J met her future husband and immediately told him about her HIV status. The man accepted this, and the couple formed a family in January 2011. They did not have a sexual relationship until 2009. They used condoms. The young family acquired an apartment and decided to have a child together. After a mutual decision, the couple stopped using the condom to conceive a child. In September, J became pregnant. Her husband became HIV positive. In 2011, the man was not registered because he did not undergo a second test to confirm HIV infection. The husband has no complaints about this issue and they continue to live in the same family. In 2017 he was registered.

At this time in 2017, J was accused of violating Article 157 part 2. In the courtroom her husband confirmed the testimony of his wife J and said that he knew about his wife's HIV status, but did not think that she was criminally liable if he consented to the risk. According to Article 105 of the Criminal Code of Procedures each evidence is subject to assessment in terms of relevance, reliability, and all the evidence collected in their totality, from the point of view and the resolution of the criminal case in the court session. The court verified with certainty that all the evidence examined in the court session is relevant and admissible. In accordance with part 7 of Article 293 of the Code of Criminal Procedure, the state prosecutor partially refused the charge and asked the court to exclude "thoughtlessly", as she was prosecuted for "indirect intent" under part 2 of Article 157.

J was given a reduced sentence in the form of restriction of freedom without referral to correctional institution for a period of two years. J appealed for help to the Belarusian Community of People Living with HIV NGO. The organization connected for the legal consultation Center for the Advancement of Women's Rights - Her Rights.

Georgia

Name: A
Gender: Male
Age: 31
Location: Tbilisi

Based on Verdict of Tbilisi City Court Criminal Cases Panel
Case N1/2771-14, September 2014

A registered at the National AIDS Center from May, 2006. He was charged by his wife in 2014 for intentionally transmitting HIV to her. Due to her claim he was in detention from March 2014 up to end of 2016 as of being convicted guilty article 131, part 2 of the Criminal Code by the Verdict of Tbilisi City Court Criminal Cases.

Though A refused it was intentional, the witness statements including his wife's and their doctors' were used against him. His wife claimed he was against using condoms during sex and the doctors confirmed that he had been consulted several times about using protective measures. A disclosed his HIV status to his wife when she said they were expecting a baby. His wife claimed A pushed for an abortion as he thought the baby would also become HIV positive. That information made his wife get and HIV test. It was positive. After consultation with doctors she refused to have abortion because she learned that being on treatment a woman can deliver and HIV negative baby.

Based on the information above the court made a verdict convicting A guilty. He was sentenced to 4 years imprisonment. But according to 2012 national Law on Amnesty 4 year was decreased to 3 and finally he was released in 2 years in 2016.

The court case was lead by K. Kvashilava the Executive Director of Rights Defender Organization Center for Protection of Constitutional Rights now the Executive Director of Georgian Harm Reduction Network.

Moldova

Name: E
Gender: Female
Age: 38
Location: Tiraspol, Transnistria, Moldova

E and G were married for two years. E has been HIV positive for over 10 years, is on medication. She has an undetectable viral load. When the couple talked about marriage and family planning she disclosed her HIV status. He continued to be with her and also supported her in her treatment and accompanied her to her appointments. She did not report her disclosure to her husband at the time to her health care providers and therefore there was no formal documentation.

After a fight and under influence G made a statement to the legal authorities that E had not disclosed her HIV status and they had sex without a condom. A criminal case was filed on the article on posing the risk of contracting HIV (Part 1, Article 119 of the Criminal Code of Transnistria). Shortly after G realized that he acted in haste and requested to recoil the statement. Unfortunately, the investigation had begun. At the preliminary investigation stage, E presented evidence that her husband was aware of her diagnosis. She had witness testimony from family members and the AIDS Center employees, provided text messages that confirmed he knew, and also tried to explain that according to the latest studies about the difficulty of HIV transmission with an undetectable viral load.

The investigator was still preparing to send the case to the court. While the preliminary investigation lasted, the spouses reconciled. The applicant wanted to withdraw the application submitted earlier,

but according to the Criminal Code this article does not apply to cases of private prosecution and it is impossible to "take a statement" on it. G confessed to giving a false statement. The case against Elena was closed, and her husband was prosecuted for knowingly giving a false statement to police. Legal aid E was provided by the lawyer of the organization "Healthy Future" in Tiraspol.

Name: A

Gender: Male

Age: 37

Location: Tiraspol, Transnistria, Moldova

A is an HIV positive man who is part of the drug user community. He has in the past had issues with law enforcement agencies. He is open about his HIV status with friends and family. One evening, he met V. They were both under influence and had sex without using a condom. Two weeks later the woman was feeling ill and went to the AIDS Center to have an HIV test. It was positive. She went to the police to tell them of the encounter with A who has already been aware of his HIV status.

During the trial, A explained that she was aware of his HIV status and, in accordance with the note to the article of the Criminal Code, he should not be held liable if his partner was aware of the risks and he agreed to these risks. However, the court did not take this circumstance into consideration. The woman said that she was not aware. During the trial the woman's previous sexual encounters were not used as evidence against her, inclusive of a relationship with another man who was at that time incarcerated and living with HIV. Due to prison ethics A did not use this information to protect himself. A was found guilty of deliberately transmitting HIV and sentenced to 1 year in prison.

Legal and other assistance to both participants of the process was provided by consultants of the Healthy Future Information Center.

Name: A

Gender: Male

Age: 40

Location: Slobodzeysky district, Transnistria, Moldova

G was a first-year student at the university, she came to the city from the countryside. There she met a man named A, who made a strong impression on her and they started a relationship. It was her first serious relationship. It was later that she learned that he had a family, a criminal record and had issues with substance use. The relationship continued until G fell ill. She got an HIV test and it was positive. She wrote a statement to the police that she was infected with A. A criminal case was opened under Art. 119 part 2 of the Criminal Code of Transnistria. The case was accessible for all police officers to review, and a statement referring to the article of the Criminal Code on individuals' HIV statuses was in the electronic database of prosecuted cases in production available to a number of police officers. G already regretted that she applied to the police, because a number of her friends were in training to become police officers. Her case would not be confidential.

A was threatened with up to 5 years of imprisonment, but he, as previously convicted and had more experience with the law enforcement agencies, was more prepared for the development of events. Despite the fact that he was living with HIV, he explained that she had had sexual intercourse with the applicant. He stressed her promiscuous relationships with men. In confirmation, he gave a list of friends and classmates of the G. To confirm this information, he asked the police to make inquiries about their HIV status with regard to all the men mentioned, and to call the police to confirm or deny the fact of intimate relations with the applicant.

G was so afraid of her HIV status being known public and to be shamed by her peers that she did not defend herself and ceased to present any evidence to the case against A. His case was dropped.

Name: O

Gender: Female

Age: 35

Location: Rybnitsa, Transnistria, Moldova

O and I lived together. O was HIV positive, and was registered at the local AIDS Center for 8 years. She had an undetectable viral load for 5 years. She was aware of the very low risks of transmission for her sexual partners, and decided not to tell I about her HIV status because she didn't know if it would be serious. I was had many relationships with women, including while with O and did not use condoms. They ended the relationship after 6 months.

A short time after their break up he was tested for HIV in connection with an upcoming surgery. He tested HIV positive and later confirmed that he had advanced stages of AIDS. The medical officer informed I that O was HIV positive. I decided that O transmitted HIV to him and he reported the case to the police. A criminal case was opened under Article 119 part 2 of the Criminal Code of Transnistria.

The investigator made a request to the AIDS Center regarding the diagnosis of I and O. The health care worker presented convincing evidence that I was diagnosed with AIDS (not HIV), and O, although long identified as living with HIV, has an undetectable viral load. During the criminal case, relations with O and I improved. He later gave testimony about numerous connections with other women. The investigator, taking into account the joint testimony of the participants in the process, confirmed the statement by O health care provider. The case against O was dropped. O and I were advised by the experts of the Public Organization Trinity, Rybnitsa.

Name: A

Gender: Female

Age: 31

Location: Rybnitsa, Transnistria, Moldova

A is HIV-positive, she is on dispensary registration for about 8 years. She is on therapy and has an undetectable viral load. She as in a long term relationship with V. From the beginning of the relationship she listened to the advice of her doctors and read literature about entering into a sexual relationship with another person and starting a family. V's HIV status was unknown when they started dating. He was disinterested in talking about this topic.

After a lapse of one and a half years of living together, V was convicted on drug related charges and sent to prison. During his sentence he was took an HIV test. The test came back positive. He decided that A transmitted HIV to him and used it for his personal gain. During the 3 years in prison he called N and threatened to press charges and publicly talk about her HIV status if she did not bring him different goods such as cigarettes and cash transfers. Fearing to be charged, she did as he demanded. She was not interested in continuing with her relationship but didn't know what to do.

As the blackmailing increased A sought legal advice from Trinity NGO, Rybnitsa, and, having understood the risks, stopped fulfilling the requirements of the spouse and stopped all relations with him. And after a while they reconciled and now again live together.

Name: A
Gender: Female
Age: 28
Location: Criuleni district, Moldova

A is an HIV positive woman from a rural village in the Criuleni district. She is on treatment for her HIV. When planning a pregnancy, she took into account all the recommendations of doctors and knew that, having an undetectable viral load, does not pose a high risk to others. However, due to discrimination and fear that everyone knows her in the community she did not want to give birth to a child in the local hospital and moved with her relatives in the Grigoripol district. There she applied for medical help in connection with childbirth. Upon admission to the hospital, A did not tell the doctors about her diagnosis of HIV. At first the doctors did not pay attention to records in her medical chart that were made by doctors in her home town. She brought with her everything she needed to help her, including disposable tools, and gloves for the health care providers. However, after the child was born, the doctor saw a record of the diagnosis of HIV in her medical record. The health care providers were upset that she had not disclosed this before giving birth and stated that A posed a risk to the health care team for HIV exposure.

A argued that, with all the universal precautions that medical workers are required to follow in relation to any patient, doctors do not carry the risks of contracting HIV. However, the doctor insisted that he would file an application with law enforcement agencies to charge A for posing a risk of contracting HIV under part 1, Article 212 of the Criminal Code of the Republic of Moldova. A asked for help from a lawyer of a non-governmental organization, after which doctors were given information about that confirmed that their case was not grounded. Her case was dismissed.

Name: I
Gender: Male
Age: 32
Location: Ungheni, Moldova

I, a native of Ungheni, was in a relationship with a young woman. She was a minor. They lived with her together in a rented apartment for about one year. The relationship was known to the girl's parents, but at first they did not object and did not interfere with their relationship. After some time, the girl's mother changed her attitude and appealed to law enforcement agencies with a statement about bringing to justice I for having entered into a relationship with her daughter who was a minor. During the clarification of the circumstances of the case, inquiries were made regarding the identity of the suspect. It was revealed that I was registered as HIV positive as well as a person who uses drugs. He had been aware of his HIV status since 2008 but he did not disclose to his girlfriend. The girl was advised to have an HIV test. It determined that she was HIV positive.

According to the girl and her mother, she had not previously had relationships with other men and could not gotten HIV in another way. The girl had signs of cognitive disorder and in conversations with the social worker it became apparent that she did not understand the situation. She expressed sympathy for I, did not understand the essence of the incident, and also did not adequately understand the information about her HIV status. She did not want to press charges and wanted to maintain relations with him.

To this end, she asked for advice to the Center for Social Support and to the lawyer of a non-governmental organization. I also had mental health issues. During the investigation I did not deny his guilt in transmitting HIV to his girlfriend. Questions about entering into relations with a minor during the investigation were dropped. He did however, get a 3 year sentence in prison for transmitting HIV to a minor. This was the minimum sentence in relation to this article. Legal advice to the victim was provided by a lawyer from the Institute for Human Rights of Moldova (IDOM).

Name: V
Gender: Female
Age: 30
Location: Criuleni district, Moldova

V was living with HIV for 7 years. She is on treatment but may take them irregular because she has a high viral load. V has a husband with whom she does not live with. The couple parted after it was revealed that he was also now HIV positive.

His doctor encouraged him to press charges. He decided not to pursue this. The state filed a statement about V and collected evidence of her guilt. Because of V substance use she often had sex with other men. There was evidence that a number of men tested HIV positive and gave V name on their list of past sexual partners. Men were contacted and suggested to charge V but due to their own confidentiality did not pursue this.

Therefore, the health care worker decided to independently apply to the police. They brought forward 5 cases of transmission, or at least high probability, against V.

The case was never filed because V disappeared. For the provision of legal advice to a lawyer provided by the Institute for Human Rights of Moldova (IDOM), the spouse of V applied.

Name: N
Gender: Female
Age: 36
Location: Rezina, Moldova

N was married to G for 12 years. They have two young children. The oldest daughter is ten years old and the youngest was born recently. When N was pregnant for the second time, she was tested for HIV. The test was positive.

G lived in Russia for a number of years to earn money to support his family. Later it was revealed that he had another family in Russia but he also came home from time to time. When N found out about her HIV diagnosis and about the risks for her future child, she immediately reported this to her husband, who was in Moscow. She asked him to also be tested for HIV, which he allegedly did. He informed her that his HIV status was negative. He did not provide any supporting documents. G, who already had a long relationship with another woman he met in Russia, wanted to create a new family and end the marriage with N. He began to threaten her that he would apply to the police with a statement about bringing her to justice for posing a risk of him contracting HIV from her. In exchange for silence, he demanded from her and the children to move out of their house. Natalia was very intimidated, afraid that she would be sent to prison and asked for a lawyer from the Institute for Human Rights of Moldova (IDOM).

When she explained her case, the lawyer, together with N, assessed the circumstances of the case, on the basis of which it was clear that G would most likely not apply to the police with this statement. N was sure that she had no contacts representing the risk of contracting HIV from anyone other than her spouse in the last five years, after surgery, when she was tested for HIV. G told her about his HIV negative status with showing her proof. However, during a conversation with a lawyer, she remembered that a few years ago he was deported from Russia as a foreign citizen for the reason he had hidden from her. After this, he changed his name to her surname and got a new passport. Based on this, it was possible to assume that he was tested for HIV at the time of his employment in Russia, was identified as HIV positive and deported. It was thought that he had known for several years about his HIV diagnosis and did not disclose to N. After consulting a lawyer, N stopped being afraid and refused to leave the house, and then got a job and moved to a rented apartment, collecting alimony from her husband. G, of course, did not file statements to the police about posing him at risk of contracting HIV.

Name: L
Gender Female:
Age: 40
Location: Rezina, Moldova

L is an HIV positive woman. She is on a dispensary registration for 12 years, and for 8 years she has been taking HIV treatment. She has an undetectable viral load. She has no family, and her partner died two years ago. Even before her relationship to her deceased partner, she had a relationship with A. He was her neighbor in the district with whom they drank together. They used condoms often but, not always.

After their relationship together ended, A met two other women from the same area, and then lived with a third, about whom L reliably knows that they are HIV positive. She used drugs with one of them, and she met with two others at the AIDS Center on admission to an infectious disease doctor. She did not know about the HIV status of A, but she assumed that he is also HIV positive, given the contacts he maintains with women.

After the death of her husband, L periodically saw A and support him in taking injection treatment. They also continued to drink together. One time, when L came to visit him. He drank too much and he severely abused her and locked her in his apartment. After getting out of the apartment the following day, L went to the doctor, recorded the violent encounter and then went to the police. A criminal case was initiated against A. After that, he began to threaten L and said that if she did not withdraw her statement about the assault, he would file a statement to her that she had infected him with HIV using Part 2, Article 212 of the Criminal Code of the Republic of Moldova.

As it turned out, he was also HIV positive, but was identified later by L, which was reflected in the medical documentation. Fearing to be charged, L appealed to the lawyer of a public organization for advice. During the analysis of the circumstances of the incident, L came to the conclusion that under no circumstances could A prove her guilt in his contracting HIV. After understanding the situation and assessing the risks, she refused to withdraw her statement from the police. At present, the case is being investigated on the assault against L. He did not submit his counter-statement. Legal assistance to L was provided by a lawyer from the Institute for Human Rights of Moldova (IDOM).

The Russian Federation

Name: M
Gender: Female
Age: Unknown
Location: Volgograd, Russia

M is a single mother. She met a man and had sex without using a condom. After the act, M told the man that she was living with HIV. After hearing this man began to threaten that he would sue for contracting HIV (though it is not known if he had HIV prior to them having a sex). He blackmailed her for the cost of the testing. M transferred him 1,900 rubles, to have a test. He did not provide the results. Further, he recorded a conversation with M, where she said that she had HIV. He used this to continue to threaten her. The began to said that the treatment of HIV costs 1.5 million rubles and he needed treatment abroad. He began to demand more money saying that if M did not pay he would call the authorities and she would go to prison under Article 122. M applied to the EVA Association in their Equal protects the Equal program that helped her to respond with legal support to the man's threats. The project provides legal support and fund-raising for participation in the public defender's case.

Name: V
Gender: Female
Age: 17
Location: Syzran, Russia

A was acquainted with a 17 year old girl on social media. He offered her a job cleaning the floors of an apartment. When V came to clean the floors the water was turned off, so she could not do her job. He invited her to come bathe with him and ultimately have sex with him. She said no, but he insisted and was violent towards V. He was 30 years old. She was living with HIV but did not feel safe to disclose. She asked him to use a condom but he said it was not necessary. They had sex multiple times (2-3) on different occasions. She understood that her HIV could be transmitted, making the act even more difficult.

V got scared and started hinting about HIV, said she has a girlfriend who has HIV. He insisted that she get an HIV test. When the test was positive, she told him that she did not know about her HIV status. As a result, he said that they would find out using police and charge her under Article 122. He began writing about her in social media, talking publicly about her HIV status, about their sexual encounters. She was interrogated by police and despite being a minor had no support. Her documents were sent to the wrong address and extended the process lasting over 1.5 years. During her trial the prosecutor was replaced and the court moved once against delaying and confusing the young woman. V applied to the EVA Association for support from the Equal Protects the Equal program. The project provides legal support and fund-raising for participation in the public defender's case.

Name: O
Gender: Female
Age: Unknown
Location: Nefteyugansk, Russia

O was diagnosed with HIV in September 2016. She was invited to the infectious medicine room, for a second examination and registration. There they collected her information for her documentation. One question asked her to list her sexual partners. O is a lesbian, but for her safety did not mention her sexual orientation. The person interviewing her threatened that if she does not say to whom she was had sex with, O's situation would become worse. As a result, O received a fine under Article 6.1 of the Code of Administrative Offenses. She applied to the Equal Protects the Equal Project. She was offered to write a legal letter to the prosecutor's office. O declined out of fear that her HIV status would be made public and her confidentiality breached.

Name: Unknown
Gender: Female
Age: 27
Location: Spasskiy district, Nizhniy Novgorod region, Russia

In the Spassky district, a 27-year-old local resident, who transmitted HIV to her her partner, was convicted. This was reported by the press service of the prosecutor's office of the Nizhny Novgorod region in Russia. The court found that from May 20 to May 31, 2017 the woman hid this fact from the man that she was was having a sexual relationship with. They had sex several times. It was assumed that he contracted HIV during one of these sexual encounters.

The woman was convicted under article 122, part 2, of Criminal Code "HIV infection transmission by a person who knew about the presence of this disease". The criminal case was examined in a special order.

The court, agreeing with the position of the state prosecutor, found the defendant guilty and ordered her to be sentenced to 2 years imprisonment, with a probation period of 1 year.

Tajikistan

Name: Unknown

Gender: Female

Age: “young woman”

Location: Unknown, Tajikistan

An investigator who attended the training in Rudaki region (not far away from capital Dushanbe) had a case of a young woman who had passed HIV on her husband. It all began with a medical premarital survey. This is obligatory for future spouses in Tajikistan. The testing didn't make her HIV status public. When she and her future husband had the test, and the young woman's parents found out that she had HIV. The parents bought a spare certificate with HIV negative result as the future spouses are obliged to familiarize each other with the test results. They were married. Somehow her HIV status became known and the case was transferred to the court.

Name: Unknown

Gender: Male

Age: Unknown

Location: Dushanbe, Tajikistan

The woman contracted HIV before her marriage by another man who comes Dushanbe through unprotected anal sex. She charged the man who she contracted HIV from.

Ukraine

Name: Unknown

Gender: Female

Age: Unknown

Location: Mykolayiv Region, Ukraine

March 29, 2016 <http://www.reyestr.court.gov.ua/Review/56808670> Decision of the Appeal Court of the Mykolayiv region, which left unchanged the decision of the court of first instance <http://www.reyestr.court.gov.ua/Review/53086423>, which the defendant under Part 1 of Art. 130 was justified in connection with the lack of evidence of guilt.

On July 19, 2010, the defendant was pregnant and at this time, became aware of her positive HIV status. During the period January-August 2013, the defendant has regularly sexual relations without using a condom with her partner. Her partner informed the court that she had not informed him about her HIV status and, therefore, she deliberately put him in a danger of HIV exposure. However, the court concluded that the allegation was not proved that the defendant had not notified her sexual partner of having HIV. In addition, there were no transmission of HIV from the actions of the defendant. This therefore excludes the possibility of bringing her to justice for an unintentional crime. Court partially agreeing with the prosecutor that: “Relations between partners created the threat of the risk of him contracting HIV. But, firstly, the elements of the crime are actions that create a threat of risk, but only the actions that directly create a danger. Secondly, the pre-trial investigation authorities and the prosecutor incorrectly assign responsibility for creating a threat with such a danger to the accused.” In this case the court took into consideration the 16 year age difference between the woman and the man, as well as his history of numerous sexual relationships with other women (inclusive of women that he has children with). They concluded that he had a greater responsibility to manage his sense of risk as he had more experience than the younger woman.

Name: Unknown
Gender: Male
Age: Unknown
Location: Chernivtsi, Ukraine

June 30, 2015 <http://www.reyestr.court.gov.ua/Review/49764820> - the verdict of the Shevchenkivskiyi district court of the city of Chernivtsi, to which an HIV-positive person has been sentenced to 4 years of imprisonment for committing a criminal offense under art. 125 part 1, st.130 part 1, part 2 of article 186, part 2 of article 15 of part 2 of article 18 of the Criminal Code of Ukraine. After committing a robbery, the man was caught by the owner of the house. The home owner tried to detain the robber until the arrival of the police. In order to escape from the scene, the robber bit the man's hand. The court sentenced a man for the act of the robbery but also under part 1 of Article 130 he deliberately put another person in danger of contracting HIV through biting. In court, the convict pleaded guilty to the charges.

Name: Unknown
Gender: Female
Age: Unknown
Location: Rubezhnoye, Lugansk region, Ukraine

May 21, 2014 <http://www.reyestr.court.gov.ua/Review/39448431> The resolution of the Rubezhnoye city court of the Lugansk region, which applied to the HIV positive woman sentenced to 2 years imprisonment to the Law of Ukraine "On Amnesty in 2014" . The verdict of the Rubezhnoye city court of the Lugansk region <http://www.reyestr.court.gov.ua/Review/32125804> , the convict was found guilty of committing a crime under part 1 of Article 130 and sentenced to imprisonment for 2 years. On the basis of Article 75, 76 of the Criminal Code of Ukraine, she was released from serving the sentence with the trial, a probation period of 2 years was established, obliging her to periodically appear in the enforcement authorities of punishment at the place of residence for registration.

From November 2012 to January 2013, was warned by health care providers about her obligations as a person living with HIV to use preventative measures to not transmit the virus. She had sex with her husband without using a condom, exposing him to the HIV virus. She plead guilty to the charge.

Name: Unknown
Gender: Male
Age: Unknown
Location: Kirovograd (currently Kropivnitskiy), Ukraine

February 17, 2014 <http://www.reyestr.court.gov.ua/Review/37183035> The verdict of the Leninsky District Court of Kirovograd, which approved an agreement on reconciliation between the accused and the victim. He was found guilty of committing a criminal offense under Part 2 of Article 130 and appointed the penalty agreed by the parties in the form of 2 years imprisonment. On the basis of Article 75 of the Criminal Code of Ukraine, he served 1 year after the trials with probation. An HIV-positive man, who did not report his status to the woman he was living with, practiced unprotected sexual relations. Transmission of HIV did occur.

Uzbekistan

Name: M

Gender: Male

Age: 40

Location: Bekabad, Uzbekistan

M has been registered Tashkent Oblast AIDS Center since 2010. At the end of 2014 he met a woman who he told about his HIV status. She wrote a statement stating that she had been informed of his HIV status. They registered together in their domestic dwelling. Having lived 1 month together they had an argument. In September 2014, she went and wrote a statement about him at the police department of the city of Bekabad in relation to him not disclosing his HIV status to her. M was detained on suspicion of committing a crime under article 113 of the Criminal Code of the Republic of Uzbekistan. On the basis of the current legislation of the Republic, a lawyer was appointed to M. The court did not take into account the previous statement from his wife that she was aware of his HIV status. He was sentenced to 5 years in prison. In March 2015 he was convicted. He served two years, was released with the replacement of $\frac{1}{4}$ of the term for correctional work at the state enterprise (3 years).

Name: U

Gender: Male

Age: 38

Location: Tashkent, Uzbekistan

On December 12, 2016 U was convicted under Article 113 of the Criminal Code of Uzbekistan. In the middle of June, his wife (a citizen of the Kazakstan) was hospitalized and a number of tests were performed including an HIV test. The result was positive. During the registration of her HIV status, it was found out that U was already registered in the Tashkent. Although his wife was informed before their marriage about U's HIV status, the authorities did not take this into consideration when pressing charges. She did not want to charge him. During the time of the pre-trial proceedings, U was asked to voluntarily leave Uzbekistan by the authorities. Nothing is known about the fate of the child. On December 20, 2016, U was sentenced to 5 years in prison under Article 113 of the Criminal Code of the Republic of Uzbekistan.

Name: L

Gender: Female

Age: 39

Location: Tashkent, Uzbekistan

Since 1999, L had been using injectable drugs. She has been registered with the Tashkent City Narcotics Dispensary. In 2005, she was registered in the Tashkent AIDS Center after testing HIV positive.

In September 2013, L was convicted for drug related charges and sentenced to 8 years in prison. L lived with an operative of the Yunus-Abad district department of internal affairs (i.e. police office) through whom she obtained drugs. L was not open about her HIV status. In April 2013, Lola decided to earn some money, and called her friend, offering to throw together on heroin. Her friend asked her to bring it over. L was caught in a trap and detained with heroin in her possession. During the investigation it was necessary for her to give information about her partner. In September 2013, she was convicted only on the drug related charges and her HIV status was not discussed. In the judge's last statement she wanted the court to take into account her HIV status and that she had 3 young children. At the trial, L's partner found out about her HIV status. In addition, she was sentenced using Article 113 to increase her sentencing.

Name: N
Gender: Male
Age: 56
Location: Tashkent, Uzbekistan

The National Security Service of the Republic of Uzbekistan received a complaint against a doctor of the regional family polyclinic. During the investigation, the following facts were revealed. The patient M applied to the clinic for registration of her pregnancy. As a result of giving general tests, she was diagnosed with HIV. Transmission occurred from her spouse who concealed the fact of his HIV status. He had died of complications with tuberculosis. His HIV status was known to the head physician, N. As a result, charges were brought against N concerning the untimely notification to the pregnant woman about the HIV status of her future husband. This led to her contracting HIV. The patient M claimed that N was to blame because the doctor showed negligence and did not inform her. The doctor N was sentenced to 2 years imprisonment on parole and order to pay a fine.

Estonia

Name: A
Gender: Male
Age: 34
Location: Tallinn, Estonia

A was arrested on November 23, 2016, one week after a statement by one of the women that he had allegedly transmitted HIV to. The charge was issued on October 13, 2017. A was sentenced to 3 years and 6 months in prison under the article “Causing of Severe Health Damage” by the Harju County Court of Tallinn.

The court stated that A knew about his HIV status, and was supported by health care workers, , did not take medication, did not undergo regular medical examination and therefore had a particularly highly contagiousness HIV viral load. In addition, he engaged in unprotected sex with six different partners, without informing them of his HIV status.

Two out of six women were later diagnosed with HIV, which, according to the courts, is a sustained, prolonged and life-threatening health disorder. With regard to one woman, the court found the man's guilt proven.

A's mother appealed to the Estonian Network of PLHIV for support and assistance.