



HIV CRIMINALIZATION SCAN

IN THE COUNTRIES OF EASTERN
EUROPE AND CENTRAL ASIA



FOR 2018-2022

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The study was conducted within the framework of the Eurasian Women's Network on AIDS (EWNA[1]) project "HIV Criminalization Scan in EECA", which is part of a program within the HIV Justice Global Consortium[2] called "Growing global movement for HIV justice through an international coalition of global and regional networks and legal/advocacy organizations" and funded by the Robert Carr Foundation. The goal of the EWHA project is to develop community capacity to reduce and/or eliminate the criminalization of people living with HIV in the EECA region.

**HIV JUSTICE
WORLDWIDE**

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About the

organization: The Eurasian Women's AIDS Network is a network of activists from 12 countries in Eastern Europe and Central Asia who advocate for the rights of women living with HIV and those vulnerable to HIV. An important element of the network's work is the strengthening of the role of women in public and political discussions, on which their lives and health depend. The EWHA also strives to make its own contribution to the modern analysis of the situation with HIV criminalization, not only at the regional, but also at the global level. EWJC maintains effective collaboration with the Global Network of People Living with HIV[3] and the Global HIV Justice Network[4].

[1] Eurasian Women's AIDS Network [2]

The Global Consortium includes: HIV Justice Network, AIDS and Rights Alliance for Southern Africa (ARASA), Eurasian Women's Network on AIDS (EWNA), Global Network of People Living with HIV (GNP+), HIV Legal Network, Sero Project, Southern Africa Litigation Center

[3] Global Network of People living with HIV (GNP+)

[4] HIV JUSTICE WORLDWIDE

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I Introduction

I. INTRODUCTION

One of the key International Guiding Principles on HIV and Human Rights identifies the need for states to review and reform criminal laws and prison systems to ensure that they comply with international human rights obligations, are used in good faith in the context of HIV, and are not directed against vulnerable populations [5].

Obviously, such actions must also take into account another fundamental, universal principle of the rule of law. It is key to an effective rights-based response to HIV, and public health interests must not conflict with human rights.

Conversely, it is generally accepted that in a society where human rights are respected, fewer people become infected with HIV, and people already living with HIV are more successful in coping with the difficulties caused by the disease.[6]

This report focuses on the criminalization of HIV transmission, which remains a major human rights issue in EECA countries, and includes findings from country whistleblowers, including women living with HIV, on laws and policies that criminalize people, living with HIV in the EECA region.

HIV criminalization describes the unfair application of criminal law to people living with HIV based solely on their HIV status. It includes the use of HIV-related special criminal procedures or basic criminal law to punish people living with HIV for inadvertent transmission of HIV, suspected or potential HIV infection, and/or failure to disclose known HIV-positive status.

HIV criminalization is a rapidly growing, global phenomenon that undermines not only human rights but also public health in general, thereby weakening the response to HIV[7].

Criminal prosecution places the responsibility for HIV solely on people living with HIV, thus creating an atmosphere of false peace of mind for the rest of society about their health. In many cases, the added burden of possible criminal liability for not being HIV-positive only exacerbates the problems by making it difficult to speak openly about HIV in relationships, workplaces, and families. As a result, society is not protected from HIV infection by the existing criminal legislation against people living with HIV, but vice versa.

We draw attention to the fact that human rights and HIV are inextricably linked. Discriminatory, coercive and punitive approaches only increase vulnerability to HIV and increase the impact of the epidemic on families and communities.

Therefore, a growing coalition of international human rights activists is constantly calling for the repeal of criminal laws that unfairly target people living with HIV.

[5] International Guidelines on HIV/AIDS and Human Rights. UNAIDS, 2006 [6] Id. [7] HIV Justice Worldwide. FAQ. What is HIV criminalization _____

In December 2019, more than a hundred organizations supported the Statement of national and regional networks and civil society organizations regarding the criminalization of HIV infection in the EECA region [8].

In turn, the women's community is actively developing and opposing the criminalization of HIV. Research conducted by the women's community, as well as examples of documented personal stories and court convictions, clearly demonstrate that the criminalization of HIV not only does not protect women from HIV infection, but, on the contrary, worsens their position in society. Laws that criminalize HIV make women more vulnerable to growing HIV-related violence and structural inequalities.

It is women who are more exposed to the risks associated with HIV criminalization (loss of property, separation from children, avoidance and discrimination in communities, economic consequences, etc.), due to:

- the potential use of breastfeeding as a means of direct influence; harassment of women with HIV
- living in discordant couples, even if they have an undetectable viral load and/or condoms are used, and also when their partner has voluntarily agreed to sexual intercourse; active criminalization of sex workers and people living with drug addiction; improper transfer
- of confidential medical information to law enforcement
- organs.

HIV criminalization in the EECA region is directly related to other types of criminalization (substance use, sex work), which increase the burden of discrimination, rights violations and violence against women living with HIV.

Mobilization of the women's community, meaningful participation of women living with HIV, their allies and allies in advocating for legislative changes, protection of rights, preparation of alternative reports to the UN Committees are a necessary condition for countering the criminalization of HIV.

We believe that women's leadership can transform political declarations into reality for women living with HIV and vulnerable to HIV.

[8] Statement by national and regional networks and civil society organizations regarding the criminalization of HIV infection in the EECA region. 2019

II. Summary of the report

II. REPORT SUMMARY

The report “Scan of HIV criminalization in EECA for 2018-2022” was compiled based on data from 11 countries of the Eastern Europe and Central Asia (EECA) region: Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan, Ukraine and Estonia. It also includes available information about the territories controlled by the unrecognized Nagorno-Karabakh and Pridnestrovian Moldavian Republics.

The situation with the criminalization of HIV transmission remains a serious problem in the field of human rights protection in the EECA countries. Currently, most countries in the region have specific legal provisions criminalizing exposure to and/or exposure to HIV. At the same time, the consequences can be very serious - imprisonment up to ten years (depending on the crime and the country). However, once diagnosed, people living with HIV are often required to sign a form confirming that they are aware of the criminal liability for exposure to and/or infection with HIV.

However, it is clear that the mere existence of special criminal provisions for the purpose of “preventing the spread of HIV” already contradicts the guiding international principles on HIV and human rights[9]. While in some EECA countries these norms remain only formal, in some they have practical application with negative consequences for people living with HIV.

At the same time, only in Estonia there are currently no special criminal provisions providing for responsibility for the transmission of HIV. However, even here the general norms of criminal law have been used to prosecute people living with HIV.

A rather widespread phenomenon is a note in the criminal law on exemption from liability if a person put at risk of contracting HIV was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created the risk of infection (hereinafter referred to as the note on exemption from liability). liability and/or note).

That is, the mutual awareness of partners about the presence of HIV indicates that both parties are responsible for the state of health and possible transmission of HIV. This, in turn, makes it impossible to bring legal liability, which is individual. At the same time, there are problems with the algorithms for fixing voluntary consent and its legal execution.

General information about general and special criminal norms, notes to them and cases of their application are indicated in the table below:

[9] International Guidelines on HIV/AIDS and Human Rights. UNAIDS, 2006

Countries	Special criminal norms	General criminal norms	cases persecution of people living with HIV	Availability of an exemption note responsibility
Armenia	Yes	Yes	Yes	No
Belarus	Yes	Yes	Yes	Yes
Georgia	Yes	Yes	Yes	No
Kazakhstan	Yes	Yes	Yes	Yes
Kyrgyzstan	Yes	Yes	Yes	Yes
Moldova	Yes	Yes	Yes	Yes
Russia	Yes	Yes	Yes	Yes
Tajikistan	Yes	Yes	Yes	No
Uzbekistan	Yes	Yes	Yes	No
Ukraine	Yes	Yes	Yes	No
Estonia	No	Yes	Yes	---

In most of the countries studied, the total number of criminal cases on exposure to the risk of infection and / or HIV infection tends to zero (no more than 1-2 cases per year), or there are no such cases in the period under review (2018 - the first half of 2022). At the same time, the criminal laws of five countries where there is a similar trend towards a decrease in the number of cases of actual criminalization of people living with HIV, in the presence of special rules criminalizing HIV, do not contain a note on exemption from liability (Armenia, Georgia, Tajikistan, Ukraine, Uzbekistan).

That is, criminal laws that unreasonably and unfairly criminalize HIV, although not often applied in practice, remain significant stigmatizing and discriminatory factors that directly affect people living with HIV.

Estonia does not have specific criminal legislation on HIV at all, but only general rules on liability for causing harm to health. However, these norms have been used to prosecute people living with HIV.

At the same time, in our opinion, the most critical situation with HIV criminalization remains in Belarus, Russia, Tajikistan and Uzbekistan.

In Belarus, during the reporting period, an exemption note was introduced into the criminal code. According to the Information Center of the Ministry of Internal Affairs of the Republic of Belarus, since the entry into force in 2019 of the note on exemption from liability to Article 157 of the Criminal Code of the Republic of Belarus, there has been a decrease in the number of sentences by 72%: from 133 in 2018 to 37 in 2020. In 2021, 38 crimes were registered,

the number of defendants in completed investigations is 32[10]. For the period from 2019 to 6 months of 2021, 92 people were convicted under article 157 of the article, of which 60% are women[11]. At the same time, from 2019 to 6 months of 2022, 129 people were convicted, of which 82 were women (64%).

In Russia, with a valid waiver note, the number of convictions against people living with HIV in 2021 was 59 convictions based on basic qualifications, of which 20 were against women. It is impossible not to note the increase in the number of sentences handed down, from 60 in 2017 to 94 in 2021. Of these, in 2021 - 22 cases against women.

In Uzbekistan, the average annual number of criminal cases against people living with HIV is about 140, of which 97 are referred to the courts (40 of them against women).

At the same time, the criminal legislation does not even contain the note mentioned above, which has the consequence of not accepting the opinion of a person who is "put at risk of infection".

As you can see, the presence of a note on exemption from liability does not guarantee the complete absence of real cases criminalizing people living with HIV, however, their implementation allows at least a significant reduction in their number, effectively eliminating from the risk zone cases of awareness of a positive HIV status and acceptance responsibility for the health status of both partners.

Thus, in some countries of the region, not only the work aimed at the complete decriminalization of HIV, but also the possible mitigation of approaches in criminal law by adopting notes on exemption from liability remains relevant.

The criminalization of HIV transmission is exacerbated by adoption bans, prohibited occupation lists, mandatory HIV testing for marriages, restrictions on admission to shelters based on HIV status, and the criminalization of people who use psychoactive substances and sex workers.

Gender-disaggregated data and documented case studies show that HIV criminalization disproportionately affects women in some countries. Belarus stands out in particular, where in 2019-2020, 80.6% of sentences in cases of putting the infection at risk were made against women. In Russia, the breakdown by sex is conducted only for sentences based on the main qualification.

In Tajikistan, sex workers often suffer, even when the "injured party" has no claims against them and HIV infection has not occurred. Media headlines in Tajikistan are often full of stigmatizing phrases about women living with HIV and make them the perpetrators of the spread of the infection.

In Ukraine, in 2008-2018, 64.3% of sentences under the first part of Article 130 of the Criminal Code of Ukraine (putting the risk of infection) were issued against women.

[10] Analysis of the legal environment in Georgia, the Republic of Belarus, the Kyrgyz Republic and the Republic of Uzbekistan in the context of the criminalization of people living with HIV. 100% of life, 2022 [11] Women's leadership in the decriminalization of HIV. Experience of the EECA region. 2021

In Uzbekistan, trans* people living with HIV are subject to double criminalization - HIV and homosexual relationships.

In 2021, activists from Russia in just a few months documented 8 cases of blackmail and intimidation in bringing charges under Article 122 of the Criminal Code of the Russian Federation.

These cases once again confirmed the vulnerability of women living with HIV, in particular to the manifestation of violence from a partner. The case descriptions also provide examples of mediation and advocacy of the rights and interests of women living with HIV (who may have suffered from criminal prosecution) by peer counselors and friendly non-governmental organizations.

During the period from 2017 to 2022, there were also some significant changes in the legislation of the studied countries regarding the criminalization of HIV.

For example, in 2021, a new criminal code came into force in Armenia, which, unlike the previous one, does not contain any mention of "knowingly endangering" HIV transmission. In the current norms of Articles 177, 178 of the Criminal Code, liability is established only for the transmission of HIV, but at the same time, a note on the release of liability has not been made. In 2022, the ban on the admission of HIV-positive people to centers providing social services was lifted, which will enter into force in 2023.

In Kazakhstan, since 2018, references to AIDS have been excluded from the criminal code, which was essentially an anachronism, and since 2019, the upper limit of punishment for HIV transmission has been lowered (part 3 of article 118). In November 2022, by order of the Minister of Health, HIV infection was excluded from the list of diseases in the presence of which it is impossible to adopt a child, take him under guardianship or guardianship, patronage[12].

In Kyrgyzstan, a new criminal code has been in force since 2021, article 143 of which continues the archaic tradition of criminalizing not only transmission, but also the so-called "putting at risk of infection". At the same time, the article contains a disclaimer note, which will slightly reduce the risks for people living with HIV. It is noteworthy that in the course of the inventory of the laws of Kyrgyzstan, it is proposed to exclude from the profile law on HIV/AIDS the rule on the forced expulsion of foreigners who refused to undergo a medical examination for HIV. In 2021, the Constitutional Court of Kyrgyzstan declared unconstitutional the norm of legislation prohibiting adoption by people living with HIV[13].

Criminal Code of the Republic of Moldova, despite the presence of a note on exemption from responsibility, not only establishes responsibility for the so-called "putting in the risk of infection", and the actual transmission, but also contains an obvious anachronism - instead of "HIV" the law uses the term "AIDS". The wording "infection with AIDS" is also used in Georgian legislation (Article 131 of the Criminal Code of Georgia). At the same time, according to the official information resources of the judicial authorities of Moldova, the last criminal case under Article 212 of the Criminal Code of the Republic of Moldova is dated 2017, and in Georgia - 2014.

[12] Order of the Minister of Health and Social Development of Kazakhstan No. 692 On approval of the list of diseases in the presence of which a person cannot adopt a child, take him under guardianship or guardianship, patronage [13] The list of diseases in the presence of which a person cannot be an adoptive parent, guardian (guardian) and adoptive parent. Resolution of the Cabinet of Ministers of the Kyrgyz Republic dated July 12, 2022 No. 367

In 2020, Moldova lifted the ban on adoption for people living with HIV[14] and allowed access to assisted reproductive technologies[15].

It is rather difficult to get official statistics in Tajikistan. From various sources, you can see that since 2018 the situation has escalated, high-profile articles began to appear in the press regarding “putting a threat to the life of another person in danger.” It is noteworthy that in cases where women were accused of putting themselves at risk of HIV infection, there were no cases of actual transmission of HIV to a partner. Moreover, breastfeeding a child carries the risk of criminal liability for putting a minor at risk of infection, and this is an aggravating circumstance. At the same time, there are clinical protocols in Tajikistan that allow women with an undetectable viral load to breastfeed, but there is no such practice, because doctors are not sure about the literacy of mothers in this regard. During criminal proceedings in such cases, facts such as condom use, verbal consent of sexual partners, zero viral load, adherence to ARV therapy are not taken into account.

Currently, Tajikistan is considering a new legislative initiative, which involves the adoption of the criminal code of this country in a new edition. The new version of the article provides for the introduction of a standard disclaimer.

In 2019, in Ukraine, women living with HIV lifted the ban on access to assisted reproductive technologies[16], and in 2020, people living with HIV were allowed to adopt children[17]. At the beginning of 2023, the Parliament of Ukraine adopted a new law on HIV[18], which consolidates the practice of testing on the basis of non-governmental organizations on the basis of the “peer-to-peer” principle; the archaic concept of “risk group” has been abolished; universal access to HIV services is guaranteed for everyone who actually resides in Ukraine, including people without Ukrainian citizenship and refugees; pre-exposure prophylaxis of HIV and self-testing for HIV are introduced into the legislative field; HIV testing of adolescents from the age of 14 is allowed without parental consent; establishes an absolute ban on disclosure of HIV test results to other persons; humiliation of the dignity of people on the basis of belonging to different key groups is prohibited; and other. The amendments to the law come into force on 05 August 2023.

Undoubtedly, as mentioned above, such legislative novelties are, in part, the result of the constant and ongoing work of activists and civil society activists working with the human rights of people living with HIV.

Work with international organizations also remains an important element. One way to engage with UN treaty bodies in the context of the rights of women living with HIV is through

[14] HIV status is no longer an obstacle to the adoption of children in the Republic of Moldova. Positive Initiative, 2020 [15] HIV-

positive people in the Republic of Moldova can now use the service of in vitro fertilization. Positive Initiative, 2020 [16] Order of the Ministry of Health No. 933 of April 22, 2019 “On

Amendments to Appendix 1 to the Procedure for Referring Women for the First Course of Infertility Treatment with Assisted Reproductive Technologies Based on Absolute Indications for Budgetary Funds [17] Order of the Ministry of Health No. 1898 of August 17, 2020 “On

Amendments to the List of Diseases in the Presence of Which a Person Cannot Be an Adoptive Parent” [18] Law of Ukraine dated January 12, 2023 No.

2869-IX “On Amendments to the Law of Ukraine “On Combating the Spread of Diseases Caused by the Human Immunodeficiency Virus ” (HIV), and legal and social protection of people living with HIV” regarding the application of modern approaches to the prevention, testing and treatment of HIV infection in accordance with WHO guidelines”

alternative (or shadow) reporting to the Committee on the Elimination of Discrimination against Women (CEDAW). For the period 2018-2022, CEDAW recommended that three Central Asian countries – Tajikistan[19] (2018), Kyrgyzstan[20] (2021), Uzbekistan[21] (2022) – decriminalize HIV transmission.

Media monitoring showed the repeated use of intolerant, stigmatizing, negative vocabulary. Often, publications in the media contain screaming pseudo-sensational headlines in the yellow press format, aimed only at increasing the attendance of such information resources. For example, “an HIV-positive resident of Udmurtia was sentenced to three years in prison for biting a policeman” (Russia) or “in Tashkent, a dentist with AIDS endangered the lives of patients” (Uzbekistan).

As a rule, this is typical for media from countries with a high level of stigmatization of people living with HIV, as well as those where laws are actively enforced that criminalize HIV, its transmission, and in particular the so-called “exposing” of infection. Similar The approaches of media resources may indicate an insufficient level of training and awareness of HIV among journalists themselves and authors_of publications.

However, it is impossible not to note the increased interest and separation of HIV among other infectious diseases, as well as the use of the term AIDS along with HIV. For example, “A 27-year-old woman is suspected of intentionally contracting HIV/AIDS” (Tajikistan), “Kyrgyzstan authorities promise compensation to those infected with HIV and AIDS in hospitals” (Kyrgyzstan). In our opinion, this does not contribute to an objective perception of the disease without its stigmatization. On the contrary, in other countries information about HIV is presented in a balanced and objective way (Georgia, Ukraine and others).

Thus, raising the awareness of the representatives of media resources about HIV, the use of tolerant and neutral vocabulary will reduce the level of stigmatization and discrimination against people living with HIV in society.

[19] Concluding Observations on the Sixth Periodic Report of Tajikistan [20] Concluding Recommendations on the Fifth Periodic Report of Kyrgyzstan [21] United Nations Treaty Bodies Database

III. Main conclusions

III. MAIN CONCLUSIONS

Based on the results of a comprehensive assessment conducted in 2022, the study authors can draw the following conclusions:

- in the vast majority of the EEC countries studied, there are special laws on HIV that provide for criminal penalties for putting people at risk of infection and/or getting infected with HIV from public works up to imprisonment for up to 15 years; such laws do not fulfill their inherent protective function of public relations, being used
- to intimidate people living with HIV, playing an obviously discriminatory and stigmatizing role, that is, being “legalized stigma” against them; special criminal laws in one way or another criminalize the exposure to the risk of infection and / or infection with HIV, achieving an objective that is
- apparently the opposite of that on which the existence of such laws is based; in none of the countries studied, laws criminalizing HIV have had an impact on stopping the HIV epidemic in the country, because such legislative approaches are ineffective in harm reduction and
- prevention of HIV transmission; in many countries, criminal laws contain clauses (notes) exempting from liability for exposure to the risk of infection and / or infection with HIV, in case of timely warning of the partner about the presence of HIV and voluntary
- consent to commit actions that created the risk of infection; in some cases (Republic of Belarus), the introduction of such a clause has significantly reduced the number of cases of prosecution for HIV infection; it remains not uncommon for health authorities to notify the police about the HIV status of patients, violating the secrecy of the diagnosis, which
- subsequently becomes a reason for investigating sexual relations between people; judiciaries often ignore condom use, suppressed viral load (Undetectable=Nontransmissible[22]), scientific evidence set out
- in scientific consensus[23] on the risks of HIV transmission, and lack of intent in adjudicating cases; HIV criminalization makes women more vulnerable to HIV violence and structural inequalities, loss of property and economic status, deprivation
-
-
- parental rights, etc.; despite
- the existing difficulties, a large number of public non-governmental organizations and activists work actively and productively in the region, providing support to people living with HIV, including as public defenders in courts; raising awareness of representatives of media resources about HIV, the use of
- tolerant and neutral vocabulary will reduce the level of stigmatization and discrimination against people living with HIV in society; there is growing support from international donor organizations and UN agencies for advocacy to reduce/eliminate HIV criminalization
- and community capacity building.

[22] An NON-DETECTABLE viral load means that HIV is NOT TRANSMITtable. I-base [23]
Expert Consensus Statement on Scientific Evidence on HIV Infection in the Context of Criminal Law, 2018

IV. Goals and objectives

IV. GOALS AND OBJECTIVES OF THE REPORT

4.1. HISTORY OF PREPARATION OF THE REPORT

The first report “Scan for HIV Criminalization in EECA”[24], whose goals were to update the data and review the legal norms criminalizing the transmission of HIV infection in the EECA region, was presented based on the results of 2017.

For this, the situation with HIV criminalization in Belarus, Georgia, Kazakhstan, Moldova, Russia, Tajikistan, Uzbekistan, Ukraine and Estonia was analyzed in detail.

Based on the results of a comprehensive assessment conducted in 2017, we found that:

- in the vast majority of EECA countries there are special laws on HIV that provide for criminal penalties for infection or the so-called “endangerment” of HIV infection from public works to imprisonment for up to 15 years; three countries do not have specific criminal laws for people living with HIV, but existing general criminal
- laws can be used in bad faith to prosecute people living with HIV; special criminal laws in one form or another criminalize exposure to the risk of infection and / or infection with HIV; in some countries, criminal laws contain clauses (notes) that exempt from criminal liability for exposure to the risk of
- infection and / or HIV infection in the event that the partner is warned about the presence of HIV in a timely manner and the other partner voluntarily agrees to
- commit actions that created the risk of infection (hereinafter referred to as the exemption clause). from liability); in countries such as Belarus and Uzbekistan, similar clauses exempting from
- responsibility, criminal laws did not provide for, which resulted in a sharp increase in the number of real cases of HIV criminalization (even in the case of knowledge of HIV status and informed consent to sexual contact); regional experts have documented a significant number of cases of
- women living with HIV being charged with putting themselves at risk or becoming infected with HIV, most of which involve violence, threats and blackmail based on their HIV
- positive status; in general,
- EECA countries have fairly strict and inflexible laws in matters of exposure to the risk of infection and/or HIV infection; HIV-criminalizing legislative approaches are
- ineffective in harm reduction and prevention of HIV transmission, because in reality this makes women more vulnerable to violence and structural inequalities in relation to HIV, loss of property and change
- economic status, deprivation of parental rights and other negative consequences; despite the
- existing difficulties, a large number of public non-governmental organizations and activists providing support to people living with HIV are actively and productively working in the region.

The purpose of the 2022 report is not only to update previously obtained information and review the legal norms criminalizing the transmission of HIV infection in Eastern Europe and Central Asia, but also the need to assess changes in dynamics over the past five years, that is, for the period from 2017 to 2022 th.

[24] Scan of HIV criminalization in Eastern Europe and Central Asia. Analytical review. 2018

In preparing this report, EWHA worked closely with a group of country and regional advocacy experts concerned about global trends and the current state of HIV criminalization not only in their countries but also in the region. All stages of work on the report took place with the direct participation of women living with HIV.

This regional report focuses on an overview of the situation in 11 countries of the Eastern Europe and Central Asia (EECA) region: Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan, Ukraine and Estonia. It also touches upon the situation in the territories controlled by the unrecognized Nagorno-Karabakh and Pridnestrovian Moldavian Republics.

4.2. METHODOLOGY

In preparing this report, EWHA worked closely with a group of country and regional advocacy experts concerned about global trends and the current state of HIV criminalization not only in their countries but also in the region. All stages of work on the report took place with the direct participation of women living with HIV.

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The research methodology was based on the following principles:

Inclusion and Leadership. The project team determined the development of research methods and mechanisms for its implementation with the leadership of the women's community at all stages as priorities. For this purpose, a group of country informants was created under the leadership of the research coordinator, who studied local legislation, made inquiries to the courts, documented cases, conducted media monitoring and studied the advocacy experience of civil society organizations in the context of HIV criminalization.

Safety. The research team has prioritized the protection of community whistleblowers, as in some countries even exploring the topic of criminalization can result in government prosecution. Therefore, in the final report, the names of some informants and the names of their organizations are hidden.

gender optics. As a feminist organization, we are committed to investigating gender inequality in the context of HIV criminalization and its impact on women.

The methodology includes:

- Broad overview of existing information on HIV criminalization in EECA countries. 1. 2.
- Development of research and reporting tools in countries[25] and media monitoring systems. 3.
- Selection and contracting of country informants from among the EJSC participants for the the following measures in the country:

[24] Scan of HIV criminalization in Eastern Europe and Central Asia. Analytical review. 2018

- gathering information about laws that criminalize people living with HIV; requests to public
- authorities; documenting and describing cases of HIV
- criminalization, including blackmail; a description of advocacy for the decriminalization of HIV; media
- monitoring for the period 2018-2022 (taking into account country specifics). 4. Analysis
- and description of the collected data. Data sources:
 - criminal codes; codes of
 - administrative responsibility; official Internet portals of public
 - authorities; websites and pages in social networks of non-governmental organizations;
 - monitoring media publications; websites of UN treaty bodies; information, including documented cases,
 - on criminal prosecution and cases of
 - threats, blackmail, unfair criminal prosecution of
 - people living with HIV; additional information provided by staff of civil society organizations.
- 5. Drawing up a final report.
-

A regional consultation is expected in 2023 to discuss the results report.

4.3. INFORMATION GATHERING TEAM

Project coordinator - Svetlana Moroz. Research

coordinator - Natalia Sidorenko. Country informants: Zhenya

Maylyan (Armenia, Center for Women's Potential Development), Tatyana Zhuravskaya and Anatoly Leshenok (Belarus, NGO "People Plus"), Liana Churgulia (Georgia, Gvirila Women's Association), Natalya Minaeva (Kazakhstan, NGO "Nursenim"), Baktygul Israilova (Kyrgyzstan, PF "Country Network of Women Living with HIV"), Natalia Palamar (Moldova, NP "Alliance of Public Health"), Elena Tarasova (Russia, working group on decriminalization of HIV transmission), Tahmina Khaidarova (Tajikistan, Tajikistan Network women living with HIV), Evgenia Korotkova (Uzbekistan, NGO "Ishonch va Hayet"), Natalia Novitskaya (Ukraine, NGO "Positive Women"), Elena Antonova (Estonia, Estonian Community of People Using Psychotropic Substances LUNEST).

4.4. RESTRICTIONS

This report does not cover the entire ever-changing landscape of HIV criminalization in the EECa region. Due to time and resource constraints, we accept that the report may contain gaps in the legal information provided. Due to the diversity of national languages in the region, the report may contain some inaccuracies in the translation into Russian from the language

original.

V. Overview of countries

5.1. ARMENIA

Criminal Code of Armenia [26] (hereinafter referred to as the Criminal Code of the Republic of Armenia)



Article 177. Infection of a person with the human immunodeficiency virus.

Infection of another person with the human immunodeficiency virus is punishable by 1. deprivation of liberty for up to five years. The

act provided for by paragraph 1 of this article, committed against a pregnant woman, a person who was in a helpless state[27] or a minor, - shall be punishable by imprisonment for a term of four to eight years.



Article 178. Careless infection with the human immunodeficiency virus.

Infection of another person with the human immunodeficiency virus with criminal self-confidence 1. shall be punishable by deprivation of liberty for up to three years. The

act provided for by paragraph 1 of this article, committed against a pregnant woman, a person who was in a helpless state[28], or a minor, - shall be punishable by imprisonment for a term of two to five years.

Official statistics, judicial practice and analysis of sentencing

According to the data of the Investigative Committee of the Republic of Armenia, from 2009 to 2022, under Article 123 of the Criminal Code of the Republic of Armenia (in force until July 01, 2022), a total of 13 crimes were registered, for which 7 people were convicted (4 men, 3 women).

Participation of civil society in legislative initiatives to decriminalize HIV transmission in 2018-2022

Representatives of the civil society consistently insisted on making changes to the RA Criminal Code based on international experience and approaches, as well as in accordance with international obligations assumed by the state. In particular, the NGO "Real World, Real People" as well as the NGO "Center for Women's Potential Development" actively participated in advocacy, campaigns, public awareness events and round tables.

In 2018, Armenia hosted the first national conference dedicated to the problems of people living with HIV and key populations. This event brought together more than 80 representatives of non-governmental organizations, the Ministry of Health, the AIDS Center, international organizations from the countries of the EECA region. Within the framework of the conference, a session dedicated to Article 123 of the RA Criminal Code was held, at which representatives and representatives of civil society expressed their concern about the existing legislation. At a post-conference meeting with the Deputy Minister of Health of the Republic of Armenia, it became known that the ministry was already working on a draft law on amendments to decriminalize HIV.

[26] Criminal Code of the Republic of Armenia

[27] a person in a helpless state - a person who, due to his physical or mental state, is not able to resist or control his actions or realize the nature of the actions committed against him, as well as a person in under the age of 12 (paragraph 1 of part 1 of Article 3, *ibid.*).

[28] *ibid.*

At the end of October 2018, the Ministry of Health of the Republic of Armenia proposed a bill to amend Article 123 of the RA Criminal Code by rewording it:

Article 123. Transmission of the human immunodeficiency virus.

Transmission of the human immunodeficiency virus intentionally or as a result of self-confidence 1. by a person who knows about his status - shall be punishable by imprisonment for up to 5 years. The same act committed against two or more persons, a minor, obviously 2. a pregnant woman, is punished with imprisonment from three to eight years. 3. A person who has committed an act under this article shall be released from liability if another person exposed to infection or risk of infection with the human immunodeficiency virus was warned in advance about the presence of the virus in the first person and voluntarily accepted the risk of infection, or if the person who committed the act took all preventive measures against the transmission of the virus.

The proposed wording of the article excludes liability for knowingly placing another person at risk of HIV infection, reduces the penalty and introduces a note on exemption from liability. The draft law, although it was under discussion in state authorities for a long time, was never published on the website of draft legal acts for public hearings.

At the same time, on July 1, 2022, the new Criminal Code, adopted in 2021, entered into force in Armenia. It partially took into account the initiatives of civil society, namely, the exposure to the risk of HIV infection was decriminalized. At the same time, the proposal to include a disclaimer note fell on deaf ears.

Media monitoring



The Government has submitted to Parliament a package of drafts “On the Prevention of Diseases Caused by the Human Immunodeficiency Virus” and amendments to the Criminal Code.

Infection of another person with the human immunodeficiency virus (HIV) by a person who knew about the presence of this disease is punishable by imprisonment for up to three years. The same act committed in relation to two or more persons, in relation to a minor, in relation to a woman who is known to be pregnant, is punishable by deprivation of liberty for a term of three to seven years.

A new project on HIV prevention and protecting the rights of infected people. August 27, 2020



“The deputies were concerned that the age limit of 16 was lowered to 14, which makes it possible for a child to take an HIV test on their own, and then even keep their infection a secret. “...this norm has been in force for more than ten years...” said Deputy Minister Lena Nanushyan. HIV-AIDS is not a problem because we have a cure.”

*The official also said that HIV carriers themselves report that because of the criminalization clause, they are afraid to consult a doctor, as they may be prosecuted.” **HIV-AIDS is not a problem for us either, we have treatment, today the problem is the coronavirus.** Deputy Minister of Health. February 11, 2021*



The other day, Yerevanpress published an article entitled “Vachagan Davtyan, head of the village of Atsasheni, infected his wife with HIV/AIDS”. It can be said that there was no lack of criticism. And surprisingly, the main emphasis of the majority of those who spoke about the material was made within the framework of the legal norms of privacy, the inviolability of medical confidentiality, and the inviolability of personal data. **Letter from the head of the Hatshashen village, a woman infected with HIV.** yerevanpress.am September 02, 2019

5.2. BELARUS

Criminal Code of the Republic of Belarus [29] (hereinafter referred to as the Criminal Code of the Republic of Belarus)



Article 157. Infection with the human immunodeficiency virus.

Knowingly placing another person at risk of contracting the human immunodeficiency virus (HIV) 1. is punishable by a fine, or arrest, or restraint of liberty for a term of up to two years, or imprisonment for the same term.

Infection of another person through negligence or with indirect intent with HIV by a person who 2. knew about the presence of this disease, is punishable by restraint of liberty for a term of up to five years, or imprisonment for the same term. 3. The action provided for by paragraph 2 of this article, committed in relation to two or more persons, or knowingly a minor, or with direct intent, is punishable by imprisonment for a term of five to ten

years.

4. Note. A person who has committed the deeds provided for in parts 1 or 2 of this article shall be exempted from criminal liability if another person, exposed to the risk of infection or infected with HIV, was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created danger infections.



Article 166 of the Criminal Code of the Republic

of Belarus (part 3). Rape. *Rape of a child who is known to be underage, or rape that negligently caused the death of the victim, or the infliction of grievous bodily harm, or infection with HIV, or other grave consequences, is punishable by deprivation of liberty for a term of eight to fifteen years.*



Article 167 of the Criminal Code of the Republic of Belarus (part 3). Violent acts of a sexual nature. *Actions provided for in paragraphs 1 or 2 of this article[30], committed in relation to a knowingly minor (minor), or negligently resulting in the death of the victim (victim), or infliction of serious bodily harm, or infection with HIV, or other serious consequences, - freedom for a period of eight to fifteen years.*

The Code of Administrative Offenses of the Republic of Belarus[31] entered into force on March 1, 2021 and no longer provides for liability for “hiding the source of infection with a sexually transmitted disease or avoiding examination.”

The previous version of this code[32] provided for a fine of twenty to fifty basic units, with or without deportation.

[29] The Criminal Code of the Republic of

Belarus [30] Sodomy, lesbianism or other acts of a sexual nature, committed against the will of the victim (victim) with the use of violence or with the threat of its use, or using the helpless state of the victim (victim); the same actions committed repeatedly, either by a person who had previously committed rape, or by a group of persons, or in relation to a known minor (minor) (part one of Article 167 of the Criminal Code of Belarus (ibid.)) [31] Code of Administrative Offenses of the Republic of Belarus of January 6 2021 [32] Code of Administrative

Offenses of the Republic of Belarus dated April 21, 2003

Official statistics, judicial practice and analysis of sentencing

According to the Information Center of the Ministry of Internal Affairs of the Republic of Belarus, from 2007 to June 30, 2022, 588 crimes were registered under Article 157 of the Criminal Code of the Republic of Belarus, of which 305 (52%) were for putting another person at risk of HIV infection.

Prior to the entry into force of the exemption note to Article 157 of the Criminal Code of the Republic of Belarus, most of the initiated cases concerned discordant couples in which the HIV-negative partner knew in advance that the HIV-positive partner had HIV infection. At the same time, law enforcement agencies initiated criminal cases regardless of the desire of the HIV-negative partner to prosecute and what preventive measures against HIV transmission were taken by a person living with HIV (use of condoms during sexual contacts and the presence of an undetectable viral load). Since the entry into force of the note to Article 157 of the Criminal Code of the Republic of Belarus, there has been a significant decrease in the total number of sentences handed down from 133 in 2018 to 32 in 2021.

People convicted under article 157 of the Criminal Code prior to the entry into force of the amendment have the right to have their sentence reviewed and may be released from criminal liability. At the same time, this is possible if there is evidence in the case file confirming the timely informing of the partner about the HIV status and the partner's voluntary consent to commit actions that created the risk of infection. In some cases, obtain a review of the sentence

very difficult.

Separation of data by gender in the country has been conducted since 2019. In 2019-2022, 82 women and 47 men were convicted under Article 157 of the Criminal Code of the Republic of Belarus. 84% of sentences in cases of exposure to the risk of infection were made against women.

Case examples



Case No. 1 In

2017-2019, Anna lived in a civil marriage with a man who does not have HIV infection. I got pregnant in March 2018. The child does not have HIV. The common-law husband knew that Anna had HIV, together with her he visited an infectious disease specialist. In January 2019, the relationship deteriorated, and the common-law husband began to blackmail with a statement about putting him at risk of contracting HIV (he asked to pay him monetary compensation). In a statement to the ROVD, he indicated that he did not know that the woman had HIV. NGO "People PLUS" provided legal advice during the investigation. The initiation of a criminal case under Article 157 of the Criminal Code of the Republic of Belarus against Anna was denied. / Gomel region, 2019/



Case No. 2

Until January 25, 2022, an HIV-positive woman Irina (34 years old) lived in a civil marriage with an HIV-negative man. She is on ART. When registering at the AIDS Center, she was warned about the need to comply with measures that prevent the transmission of HIV, as well as about criminal liability under article 157 of the Criminal Code of the Republic of Belarus. On January 25, 2022, the woman applied to the police department with a statement about the beating. After the inspection and investigative actions, on May 31, 2022, the criminal case was transferred to the prosecutor's office for referral to the court. The man was charged with torture and threatening to kill. To avoid punishment, the man wrote a statement about putting himself at risk of contracting HIV, despite the fact that he knew about the woman's HIV-positive status. / Mogilev, June 2022/

Participation of civil society in legislative initiatives to decriminalize HIV transmission in 2018-2022

Over the past 5 years, NGO "People PLUS" has been consistently working to decriminalize HIV transmission in the country. So, in 2018, it was initiated to include a note on exemption from liability in Article 157 of the Criminal Code of the Republic of Belarus.

On January 9, 2019, the President of the Republic of Belarus signed the law "On Amendments and Additions to Certain Codes of the Republic of Belarus"[33], which, among other things, introduced the following note into Article 157 of the Criminal Code of the Republic of Belarus: "A person who has committed acts provided for by parts 1 or 2 of this article, is exempted from criminal liability if another person, exposed to the risk of infection or infected with HIV, was warned in a timely manner about the presence of this disease in the first person and voluntarily agreed to commit actions that created a risk of infection. These changes came into effect in July 2019.

Also in 2018, the Ministry of Health of the Republic of Belarus, UNAIDS, civil society organizations agreed and proposed to exclude from Article 157 of the Criminal Code of the Republic of Belarus liability for "knowingly placing another person at risk of contracting the HIV virus. However, these proposals were not supported.

On September 28, 2020, within the framework of a round table with the participation of deputies of the Parliament (commissions on legislation and commissions on health), the Ministry of Health of the Republic of Belarus, UNAIDS, WHO, the Red Cross, employees of the NGO "People PLUS" provided information on discrimination and criminalization of people living with HIV, and made a proposal to exclude the article "Infection with HIV" from the Criminal Code of the Republic of Belarus, qualifying crimes for infection with HIV under articles on causing harm to health as a case of private and private-public prosecution.

As a result of the round table, a proposal was formed from the Ministry of Health of the Republic of Belarus to the National Security Commission. On November 18, 2020, the Deputy Chairman of the Commission on National Security informed that an interdepartmental working group had been created in the Ministry of Justice of the Republic of Belarus to prepare draft codes of criminal liability, where civil society proposals regarding Article 157 of the Criminal Code of the Republic of Belarus would be considered.

Consideration of the amendments was expected during the spring and possibly autumn session of 2021. However, the amendments were not considered. Among the reasons given by the commission official is that the work of the Parliament is focused on issues related to national security. In this case, the procedure requires the re-initiation of amendments to the Criminal Code of the Republic of Belarus.

At the same time, in 2021, Article 157 of the Criminal Code of the Republic of Belarus was amended, by which the upper bar punishment is reduced.

On April 21, 2022, a meeting of the working group on assessing the legal environment in the context of HIV was held in Minsk. Representatives of such state structures as the Ministry of Health, the Ministry of Internal Affairs, the General Prosecutor's Office, the Supreme Court, the State Committee for Forensic Examinations, the National Center for Legislation and Legal Research, from international organizations - the representative of the WHO in Belarus discussed.

[33] Law of the Republic of Belarus "On Amendments and Additions to Certain Codes of the Republic of Belarus"

NGO "People Plus" again presented the rationale for the need to exclude from the Criminal Code of the Republic of Belarus the article with the direct name of the disease and the proposal to consider crimes related to intentional HIV infection, under the articles of the Criminal Code, providing for liability for causing harm to health.

The representative of the General Prosecutor's Office, in particular, informed that the office does not object to the implementation of proceedings on cases of HIV transmission as a private prosecution. He also drew attention to the fact that sanctions under Article 157 were reduced in 2021 and, in his opinion, at least 2 years should pass to assess and propose any new changes.

Among other barriers, a representative of the State Committee for Forensic Examination pointed to the difficulties associated with assessing the severity of harm to health. This idea was supported by the representative of the Supreme Court, and also focused on the need to balance the interests of both HIV-positive and HIV-negative people.

The deadlines that were determined to launch the process of initiating the exclusion of Article 157 from the Criminal Code of the Republic of Belarus are set for the end of 2023 - the beginning of 2024. There were no other fundamental objections.

Media monitoring



Two criminal cases opened for intentional HIV infection in Pinsk

In 2021, two crimes were registered under Article 157 "Infection with the human immunodeficiency virus" of the Criminal Code of the Republic of Belarus. This was announced by Ivan Lelya, senior inspector of the information and public relations group of the Pinsk GOVD.

Two criminal cases have been opened in Pinsk for deliberately contracting HIV infection . December 02, 2021



5.3. GEORGIA

Criminal Code of Georgia [34] (hereinafter referred to as the Criminal Code of Georgia)



Article 131. Infection with AIDS

1. *Deliberately placing another person at risk of contracting AIDS, shall be punished by imprisonment for a term of three to five years.*
2. *Deliberately infecting another person with AIDS, is punishable by imprisonment for a term of four to seven years.*
3. *Infection of another person with AIDS through negligence in the performance of professional duties -*
4. *The deeds provided for by paragraphs 1, 2 or 3 of this article committed: a) against two or more persons; b) in relation to a woman who is known to the perpetrator to be in a state of pregnancy, or a minor, - shall be punishable by imprisonment for a term of five to nine years with deprivation of the right to hold office or engage in activities for a term of up to three years.*



Article 132. Infection with especially dangerous infectious diseases

1. *Putting another person in danger of contracting a particularly dangerous infectious disease, is punishable by a fine, or correctional labor for a term of up to six months, or house arrest for a term of six months to one year, or imprisonment for a term of up to one year.*
2. *Infection of another person with a particularly dangerous infectious disease, is punishable by a fine, or correctional labor for up to one year, or house arrest for a term of one to two years, or imprisonment for up to two years. The acts provided for by paragraphs 1 or 2 of this article, 3. committed: a) against two or more persons; b) in relation to a woman who is known to the perpetrator to be in a state of pregnancy, or a minor, - shall be punishable by a fine or imprisonment for a term of two to five years.*

Law of Georgia “On HIV/AIDS” [35]



Article 11 - Responsibility and obligations of HIV/AIDS patients *An HIV/AIDS patient shall be*

1. *contracting AIDS or infecting another person with AIDS in accordance with the procedure established by the legislation of Georgia.*
2. *An HIV-infected / AIDS patient who has become aware of his own positive HIV status is obliged to notify his spouse / sexual partner about this in the prescribed manner.*

[34] Criminal Code of Georgia

[35] Law of Georgia on HIV/AIDS

Under current law, people living with HIV are responsible for transmitting HIV or for putting another person at risk of infecting them. An HIV-infected person who is aware of their HIV-positive status must inform their spouse/sexual partner of their HIV infection.

An institution providing medical services in the field of prevention, diagnosis and treatment of HIV infection, in turn, is obliged to request information from HIV-positive patients about people with whom they had epidemiologically dangerous contact. If HIV-infected patients, who are aware of their HIV-positive status, do not inform their partners about HIV, then the medical institution is obliged to inform said partners about exposure to HIV, if contact information about partners is known^[36]. It is impossible not to note the use in the legislation of Georgia, along with the term “HIV infection” and/or HIV accepted in international practice, also the term “AIDS”.

Official statistics, judicial practice and analysis of sentencing

Despite the fact that liability for HIV infection established by Article 131 of the Criminal Code of Georgia was established back in 1999 from the moment this law was adopted and entered into force, at present there is practically no data on the number of cases initiated for the period up to 2018. A study by the HIV Justice Network provided information on two cases involving heterosexual couples.^[37] During the data collection process, the regional data collection team provided information on a case of a man who transmitted HIV to his wife in 2014. He is sentenced to 4 years in prison. It is unknown if this case is one of two

presented earlier.

According to the information received from the Supreme Court, for the period from 2018 to 4 months of 2022, not a single case was initiated under Article 131 of the Criminal Code of Georgia.

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

In 2020, the Equality Movement applied to the Georgian Parliament with a legislative proposal to amend Article 131 of the Criminal Code.

The following appeal was sent to the Parliament:

“According to the legislative proposal, the current version of Article 131 of the Criminal Code “Infection with AIDS” should be replaced with “Blood infection and sexually transmitted diseases”. The bill provides for the introduction of criminal liability for creating a threat of the spread of blood diseases and sexually transmitted diseases; aggravating circumstances of the crime. A separate article in the Criminal Code of Georgia, which establishes responsibility for HIV infection, contributes to the spread and strengthening of the existing stigma regarding HIV, reinforces the stereotypical attitude towards HIV-positive people. In addition, the criminalization of HIV infection hinders the development of HIV prevention and treatment, including the prevention of testing people and disclosing their status. We believe that the proposed changes will help overcome stigma and discrimination against HIV. The changes will improve the legal status of HIV-positive people.”

[36] Law of Georgia on HIV/AIDS (Article 8)

[37] HIV Justice Network. database

The legal committee rejected this proposal with the following explanation:

“Regarding the decriminalization of the careless transmission of AIDS to other persons in the performance of official duties, it should be noted that the commission of this act by a person who is professionally obliged to comply with the relevant rules, depending on the nature and nature, is a crime that carries increased danger. Accordingly, the decriminalization of this crime is unjustified. Thus, based on the foregoing, the Legal Affairs Committee does not consider it appropriate to be notified of the receipt of a legislative proposal[38].”

Media monitoring



Tsertsvadze: Georgia is one of the first and will completely defeat HIV infection and AIDS

Georgia will be one of the first countries where HIV infection and AIDS will be completely eradicated. Tengiz Tsertsvadze, head of the Scientific and Practical Center for Infectious Pathology, AIDS and Clinical Immunology, stated this in an interview with the Imedi TV channel. According to his forecasts, it will take no more than 10 years for the world to overcome this challenge.

Tsertsvadze pointed out that modern medicines are already making impossible to spread the virus.

“Today, there is no virus in the blood of AIDS patients. It is stored only in the cell. Patients are given drugs that cannot completely expel the virus from the body, but it is reduced to zero in the blood. If the virus is not in the blood, it is neutralized as a source of transmission,” he said.

Tsertsvadze: Georgia will be one of the first to completely defeat HIV infection and AIDS. January 24, 2021

[38] Legislative proposal submitted by the Movement for Equality (Davit Kakhaber) on the Draft Law of Georgia on Amendments to the Criminal Code of Georgia.

5.4. KAZAKHSTAN

Criminal Code of the Republic of Kazakhstan [39] (hereinafter referred to as the Criminal Code of the Republic of Kazakhstan)



Article 118. Infection with the human immunodeficiency virus (HIV)

1. *Knowingly placing another person at risk of contracting HIV, is punishable by a fine in the amount of up to 200 monthly calculation indices, or by corrective labor in the same amount, or by community service for up to 180 hours, or by arrest for up to 50 days. Infection of another person with HIV by a person who knew that he had this disease, - 2. Shall be punishable by deprivation of liberty for a term of up to five years. The act provided for by paragraph 2 of this article, committed against 3. two or more persons, or against a known minor, is punishable by imprisonment for a term of five to ten years.*

Note. A person who has committed the deeds provided for by paragraphs one or two of this article shall be exempted from criminal liability if another person, placed at risk of infection or infected with HIV, was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created a risk of infection. .

Code of the Republic of Kazakhstan on Administrative Offenses [40]



Article 429 without a doctor's prescription. 1. *Evasion of medical examination and treatment by persons in contact with HIV-infected, venereal diseases, tuberculosis, continuing after a written warning made by a healthcare institution - entails a fine in the amount of five monthly calculation indices. Avoidance of medical examination and treatment of persons with mental, 2. behavioral disorders (diseases) associated with the use of psychoactive substances, or in respect of which there is sufficient evidence that they use narcotic drugs or psychotropic substances without a doctor's prescription - entails a fine in the amount of ten monthly calculation indices.*

[39] - Criminal Code of the Republic of

Kazakhstan [40] - Code of the Republic of Kazakhstan on Administrative Offenses

Official statistics, judicial practice and analysis of sentencing

According to the Committee on Legal Statistics and Special Records of the General Prosecutor's Office of the Republic of Kazakhstan, from 1998 to 2022, 13 convictions were issued under Article 118 of the Criminal Code of the Republic of Kazakhstan.

The breakdown of data by sex is presented until 2019: 3 women and 9 men were convicted.

In 2020-2022, there were 2 convictions, but there is no gender disaggregation in statistical reporting.

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

In 2022, a draft law "On amendments to the Criminal Code of the Republic of Kazakhstan on liability for infection with the human immunodeficiency virus (HIV)" was developed. This project provides for the complete abolition of Article 118 of the Criminal Code of the Republic of Kazakhstan due to the need to implement the Concept of the legal policy of the Republic of Kazakhstan until 2030 and compliance national criminal law international standards and recommendations in the field of criminalization of HIV transmission.

Also in 2022, Oksana Ibragimova, EWSU member and Acting President of the Kazakhstan Union of People Living with HIV, initiated the creation of a national advocacy plan aimed at building the capacity of the community of women living with HIV and promoting gender equality at the country level. One of the objectives of the plan is to create a working group on the decriminalization of HIV in Kazakhstan.

Media monitoring



In Balkhash, the man did not suspect that he was infected with HIV. About my the status of the man found out during preparation for a planned operation.

*"In this case, it was found that the man contracted HIV through sexual contact. This is the result for this year. In addition to this man, HIV was detected in another patient. He also admitted that he contracted it from unprotected sex. Both patients are already receiving treatment," the doctors said. **A resident of Balkhash, who was preparing for the operation, found out that he was infected with HIV.** February 06, 2019*

5.5. KYRGYZSTAN

Criminal Code of the Republic of Kyrgyzstan [41] (hereinafter referred to as the Criminal Code of the Republic of Kazakhstan)



Article 143. Infection with a venereal or incurable infectious disease

Deliberate infection of another person with a venereal disease by a person who knew about

1. *the presence of this disease is punishable by a fine of 200 to 300 minimum monthly wages.*
2. *Putting*

another person at risk of contracting the human immunodeficiency virus or other incurable, life-threatening infectious disease

person, if infection has not occurred, is punishable by corrective labor for a term of two months to one year, or a fine of 300 to 500 minimum monthly wages, or imprisonment for up to two years. Infection of another person with the human immunodeficiency virus or another 3. incurable infectious disease by a person who knew about the presence of this disease, committed through negligence, is punishable by a fine of 500 to 1000 minimum monthly wages or imprisonment for a term of two to five years. Infection of another person with the human immunodeficiency virus or another 4. incurable infectious disease dangerous to human life, is punishable by imprisonment for a term of five to eight years.

Note. A person shall be exempted from criminal liability for the acts provided for by paragraphs 1, 2 or 3 of this article, if another person who was put at risk of contracting HIV infection was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created danger infections.

Official statistics, judicial practice and analysis of sentencing

In Kyrgyzstan, there is practically no practice of conviction under the article on the transmission of HIV. According to the data of the Supreme Court of the Kyrgyz Republic since 2018, not a single sentence has been handed down in cases of intentional transmission of HIV. However, there are reports of several criminal cases not brought to trial due to the reconciliation of the parties.

In 2021-2022, the Partner Network Association helped three families receive compensation for HIV infection of their children. Thus, in 2006, 180 children were infected in the Nookat district of the Osh region as a result of medical negligence.

Case examples



Case No. 1

In 2021, Vitaliy's wife filed a lawsuit claiming that her husband, knowing about his HIV-positive status, married her and transmitted HIV infection to her. In 2017, when registering for pregnancy, a woman passed an HIV test.

[41] - Criminal Code of the Republic of Kyrgyzstan

The result was positive. When Vitaliy was called in for an HIV test, his diagnosis was also confirmed. During the epidemiological investigation, it was found that Vitaly had previously cohabited with an HIV-positive woman. /Kyrgyzstan, Zhaiyl district, Kara-Balta, 2021/



Case #2 (blackmail)

As a migrant, a man returned to his homeland and got married. When registering for pregnancy, the wife was diagnosed with HIV infection. The man was told that he had been registered for a long time and that he had infected his wife. The man did not know about this and was outraged. The doctors of the regional AIDS center began to threaten and blackmail him that if he did not calm down and start taking drugs, they would inform his wife that he had been registered for a long time and that it was he who had infected her, that they would inform law enforcement agencies and border guards that the man has HIV. Fear of disclosing his HIV-positive status did not force him to start taking ARVs. The woman also refuses to take drugs. The family changed their place of residence and was on the verge of divorce. A pregnant woman in a critical emotional state. There was a suicide attempt and a threatened miscarriage. /Jalalabad Regional AIDS Center/

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

In September 2021, the Eurasian Women's AIDS Network and the Women's Network of Key Communities, Kyrgyzstan, submitted an alternative report on the implementation by the Kyrgyz Republic of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) against women living with HIV with a focus on the decriminalization of HIV for consideration at the 80th session of the UN CEDAW Committee, which was held on October 18 - November 12, 2021[42]. The report focuses on: the harm of legal prosecution for women living with HIV (criminalization of HIV exposure, non-reporting of HIV diagnosis and transmission), access to healthcare services and issues of violence, and the impact of restrictive measures due to COVID-19.

In its concluding observations on the 5th periodic report of Kyrgyzstan[43], the Committee CEDAW has highlighted separate subsections on the situation of women living with HIV, as well as women who use drugs and lesbian, bisexual and trans* women:

Women living with HIV 43.

... The Committee is concerned about the criminalization of HIV transmission through consensual sex between adults, barriers to accessing health care, discriminatory language, reports of women living with HIV/AIDS being isolated from their children, and barriers to their access to children's institutions. 44. The Committee recommends that the State party:

(a) Decriminalize the transmission of HIV/AIDS (Article 149 of the Criminal Code) through consensual sexual relations between adults.

[42] Alternative Report on the Kyrgyz Republic's Implementation of the CEDAW Convention for Women Living with HIV. Eurasian Women's Network on AIDS, Key Communities Women's Network, 2021 [43] Concluding remarks on the 5th periodic report of Kyrgyzstan. UN CEDAW Committee. November 29, 2021

On the basis of the Decree of the President of the Kyrgyz Republic "On inventory", an analysis of laws affecting the interests of HIV-positive people in the country was carried out. The working group, with the participation of a member of the EWSS, developed draft laws "On the protection of the health of citizens in the Kyrgyz Republic" and "On public health". The main norms of the Law "On HIV/AIDS in the Kyrgyz Republic" were included in the Law "On Public Health". The legal norm on the mandatory administrative expulsion of foreign citizens in case of deliberate evasion from undergoing a medical examination for HIV has been excluded from the legislation in order to reduce the criminalization of HIV.

An important step was the decision of the Constitutional Court to declare unconstitutional the provisions depriving persons living with HIV/AIDS of the right to adoption, guardianship and foster parenthood. The head of the Country Network of Women Living with HIV, EWJC member Baktygul Israilova took an active part in the trial, preparing a position paper to the Constitutional Court of the Kyrgyz Republic. The process lasted two years, activists from different countries, in particular representatives of the Eurasian Women's Network on AIDS, helped to collect the evidence base. In her appeals to the Constitutional Court, the activist referred to examples of legislative changes in three Eastern European countries: Ukraine, the Republic of Moldova and the Russian Federation.

Regulatory changes took place in January 2021, when the Constitutional Court of Kyrgyzstan decided to exclude HIV infection from the list of diseases that prevent people from adopting children. Such a rule was in force in the country for many years and deprived HIV-positive people, including the right to arrange guardianship or guardianship of orphaned children of their relatives. This is a significant victory for civic participation on the path to overcoming stigma and discrimination against people living with HIV in Kyrgyzstan.

Media monitoring



Jamilya (not her real name), 36, is the first woman in Kyrgyzstan to sue her husband for deliberately infecting her with HIV. After infection, she was lucky to give birth to two healthy daughters.

"She filed a lawsuit against her husband for having infected with HIV...". December 01, 2021



This spring, a 42-year-old Kyrgyz woman, whose child 14 years ago contracted HIV in a hospital, managed to win a lawsuit against government agencies and prove that it was the fault of doctors - the infection most likely occurred through blood transfusion or injections. [...]

"Your child has HIV." How mothers in Kyrgyzstan are struggling with the verdict of doctors and society.

June 05, 2021



*President of Kyrgyzstan **Sooronbai Jeenbekov** signed a law providing for the payment of compensation to citizens who contracted HIV or AIDS in state medical institutions.*

The law will come into force on March 1, 2022.

The authorities of Kyrgyzstan promise to compensate those infected with HIV and AIDS in hospitals. August 24, 2020



Recall that from 2005 to 2019 there were cases when, through the fault of doctors, children became infected with HIV / AIDS. A total of 381 children have suffered so far. Of these, more than 70 people have died. In August 2020, amendments were made to the Law "On HIV / AIDS in the Kyrgyz Republic", according to which citizens of the country who contracted HIV / AIDS in hospitals will be paid compensation - at least 100 thousand soms. They come into force on March 1, 2022.

Three children infected with HIV in the hospital will receive moral compensation.

December 21, 2021

5.6. MOLDOVA

Criminal Code of the Republic of Moldova [44] (hereinafter referred to as the Criminal Code of the Republic of Moldova)



Article 212. Infection with AIDS. Knowingly

placing another person in danger of contracting AIDS, 1. – shall be punishable by deprivation of liberty for a term of up to 1 year. Infection of another person with the AIDS disease by a person who knew about the presence of this disease 2. is punishable by imprisonment for a term of 1 to 5 years. The action provided for in paragraph (2) committed: a) in respect of two or 3. more persons; b) in relation to a known minor, shall be punished by imprisonment for a term of 3 to 8 years. 4. Infection of another person with AIDS as a result of non-fulfillment or improper fulfillment by a medical worker of his professional duties is punishable by imprisonment for up to 5 years with deprivation of the right to hold certain positions or engage in certain activities for up to 3 years. A person who has committed the actions provided for in paragraphs (1) or (2) is not subject to criminal liability 5. if he informed the person at risk of infection in advance that he had AIDS or if the person at risk of infection knew about the presence this disease, but voluntarily committed actions that created a risk of infection.

The criminalization of HIV-positive people in Moldova is expressed, first of all, in the establishment of criminal liability for HIV infection and for putting them at risk of infection. The Criminal Code of the Republic of Moldova was adopted in 2002 and is still in force in this part without changes.

Official statistics, judicial practice and analysis of sentencing

In Moldova, the articles of the Criminal Code of the Republic of Moldova on endangering HIV infection or transmission are rarely applied. In recent years, the practice of cases under the relevant articles has significantly decreased. Thus, if during the period 2013-2017 in Moldova at least 5 people were charged under Article 212 of the Criminal Code of the Republic of Moldova[45], then since 2018 there has not been a single such case. This is also evidenced by the lack of any information in the media. According to the program of sessions of the courts of the Republic of Moldova, the last criminal case under Article 212 of the Criminal Code is dated 2017[46].

Examples of blackmail cases



A young woman, Ksenia, lives with HIV, is registered with the AIDS Center, takes treatment and is committed to it. Having started a relationship with a new man, the woman, feeling responsible for his health, turned to

[44] The Criminal Code of the Republic of

Moldova [45] According to the human rights organization Institute for Human Rights of

Moldova [46] According to the program of sessions of the courts of the Republic of Moldova

to his peer consultant with a request to test his new partner. The guy was HIV-negative, and Ksenia decided to tell him about her diagnosis. The guy reacted calmly to the diagnosis of his girlfriend. Periodically, the couple turned to their consultant for retesting.

After a while, the relationship of young people went wrong, and Ksenia decided to break up with her partner. However, upon learning of her intentions, he began to threaten her with a lawsuit for putting her at risk of contracting HIV if she left him. Under the influence of intimidation and threats, Xenia decided to return to the blackmailer, as she is very afraid of litigation. /Moldova, Slobodzeya district, June 2021/

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

Currently, the judicial practice of the Republic of Moldova proceeds from the identity of the concepts of "HIV" and "AIDS" in the context of the application of this article, regardless of the stage of illness of a person accused of committing a crime under article 212 of the Criminal Code.

Questions about changing the legislation became the subject of discussions and advocacy activities initiated by non-governmental organizations. Thus, the human rights organization "Institute for Human Rights of Moldova" conducted a study on the criminalization of HIV transmission, which indicated the shortcomings and gaps associated with the application of Article 212 of the Criminal Code of the Republic of Moldova. In addition, a number of recommendations have been developed to reduce the harm from HIV criminalization. Thus, in particular, it was proposed to change the title of the article, removing the mention of AIDS infection, to exclude references to the so-called exposure to the risk of HIV infection, to establish that in order to be held criminally liable for the transmission of HIV, there must be direct intent.

Positive Initiative, with the support of a wide range of partners at the national level, is developing a draft law aimed at eliminating the outdated and discriminatory law that criminalizes HIV in Moldova. In 2022, the organization held meetings and consultations at which key problems and scenarios for their solution were identified. Amendments to the law and an explanatory note were developed. In 2023, an advocacy process will be launched to abolish the discriminatory article 212 of the Criminal Code of the Republic of Moldova.

Media monitoring

The analysis of publications was carried out in two languages - Romanian and Russian - and covered the period 2018-2022. Some of the publications are informational and analytical in nature and were prepared with the support of specialized non-governmental organizations. But neither the Russian-language nor the Romanian-language information resources contain a single description of cases of prosecution of a person in connection with the exposure to the risk of HIV infection in Moldova.

5.7. RUSSIA

Criminal Code of the Russian Federation [47] (hereinafter - the Criminal Code of the Russian Federation)



Article 122. Infection with HIV infection

Knowingly placing another person in danger of contracting HIV infection - 1. Shall be punishable by restraint of liberty for a term of up to three years, or by forced labor for a term of up to one year, or by arrest for a term of up to six months, or by deprivation of liberty for a term of up to one year. 2. Infection of another person with HIV infection by a person who knew about the presence of this disease 2. is punishable by imprisonment for up to five years. The act provided for by paragraph 2 of this Article, if committed against two or more persons or against a minor, - shall be punishable by deprivation of liberty for a term of up to eight years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term of up to ten years. 4. Infection of another person with HIV infection as a result of the person's improper performance of his professional duties - shall be punishable by forced labor for a term of up to five years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term of up to three years, or by deprivation of liberty for a term of up to five years. with the deprivation of the right to hold certain positions or engage in certain activities for up to three years. Note. A person who has committed the deeds provided for in paragraphs one or two of this article shall be exempted from criminal liability if another person, placed at risk of infection or infected with HIV infection, was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created danger of infection.

Code of the Russian Federation on Administrative Offenses [48]



Article 6.1. Concealment of the source of infection with HIV infection, venereal disease and contacts that create a risk of infection. *Concealment by a person suffering from HIV infection, a venereal disease, of the source of infection, as well as of persons who had contacts with the said person that create the risk of contracting these diseases - shall entail the imposition of an administrative fine in the amount of five hundred to one thousand roubles.*

HIV-positive people, under certain conditions, may be subject to administrative liability. This offense is committed through inaction - a person does not provide medical workers with the information necessary for conducting an epidemiological investigation. The subject of the crime is a person who has reached the age of 16, who, as a result of a medical examination, became aware of the presence of HIV infection.

[47] Criminal Code of the Russian Federation

[48] Code of the Russian Federation on Administrative Offenses

There are cases of prosecution under this article, and although the fine is small, the judicial procedure is psychologically traumatic. The real punishment in the form of a fine is received mainly by those citizens who did not appear at the court session. Those who appear in court and say that they really do not know the contacts of those whom the state considers the "source of infection" are not brought to administrative responsibility.

Official statistics, judicial practice and analysis of sentencing

According to the Judicial Department of the Supreme Court of Russia, from 1997 to June 30, 2022, 1,191 people were convicted under Article 122 of the Criminal Code of the Russian Federation. Of these, 665 people (56%) were convicted under part 1 of this article - deliberately placing another person at risk of contracting HIV infection.

For the period from 2018 to the first half of 2022, the number of convictions amounted to 367, of which 184 people (50%) were convicted for the so-called knowingly putting another person at risk of contracting HIV infection.

Case examples



Case #1 An

HIV-positive woman breastfed her newborn child in a maternity hospital. The administration of the maternity hospital reported this fact to the guardianship authorities and the police. The woman was charged under article 122 of the Criminal Code of the Russian Federation for endangering infection, and she was separated from her child. The guardianship authorities in relation to the mother of the child initiated the process of deprivation of parental rights. In November 2019, the court decided not to deprive the woman of parental rights, but it was not until June 2020 that all charges were dropped from her. The defense proved that there was no direct intent in her actions and she did not want to infect her child with HIV. The criminal case was dismissed due to the lack of corpus delicti. /St. Petersburg, 2019/



Case No. 2

A client filed an application for a former partner under article 122 of the Criminal Code of the Russian Federation. According to her, the partner deliberately infected her with HIV infection, deliberately hiding his diagnosis from her. Until a certain time, on her initiative, the couple was protected during sexual intercourse, but the partner brought her a certificate, obtained by fraudulent means, that he did not have HIV and STIs. He has been registered with the SC since 2012, he does not accept ART. June 14, 2022. the first hearing of the case took place. / Biysk, January 2022/



Case No. 3

HIV-positive Alexei used drugs, which made his cohabitant very nervous, but nevertheless she remained to live with him. Many people knew about the presence of HIV in a man. According to him, including his cohabitant, but there is no confirmation of this, since the woman was not registered as a contact, there are no receipts, or there is no correspondence.

In April Alexei stole 20,000 rubles from his cohabitant in order to buy drugs. The cohabitant wrote a statement to the police, and later, in May, she announced that she had been infected with HIV under part 2 of article 122 of the Criminal Code of the Russian Federation, which in total led to the detention of Alexei for 4 years, instead of a suspended sentence for theft. No examination of HIV transmission has been carried out. /Irkutsk region, April 2022/



Case No. 4 (blackmail)

A woman who is raising a young daughter herself met a man, they began to develop a relationship. She warned that she was HIV-positive. However, immediately after the first protected sex, he began to blackmail her and demand to rewrite the house on him, and in case of refusal he threatened to prosecute. The woman did not agree, but the man continued to put pressure on her and sent her photo and information that she was HIV-positive to all local online publications. This story has been going on for over 1.5 years. /Chelyabinsk, 2021/



Case No. 5 (blackmail)

Zarina is 32 years old, she is raising 3 children by herself. Due to constant psychological and physical abuse, she decided to divorce her husband, and also file a complaint with the police for beatings that caused harm to her health. The ex-husband initially knew about the woman's HIV-positive status and, in response to her statement, began to threaten to deprive her of parental rights and report HIV transmission to the police if Zarina did not give up the joint child, the rights to the jointly purchased apartment and did not withdraw the statement of beatings. /Barnaul, 2022/

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

Since 2017, with the support of the Eurasian Women's AIDS Network, the country has been working to decriminalize HIV transmission. As of today, the working group unites 10 people from 10 cities of the country. These are activists and activists of the community of people living with HIV, working in the field of prevention and treatment of socially significant diseases. Monthly coordination calls are held, events are planned and the work strategy is discussed. Mass media materials are constantly monitored. Active work with the community is carried out. Members of the group post thematic publications and posts on various platforms in social networks and conduct live broadcasts on the topic. Since 2021, face-to-face meetings with community representatives have been held in the regions, the topic of decriminalization is included in the topics of self-help groups for HIV-positive people.

The activists offer assistance in accompanying persons involved under Article 122 of the Criminal Code of the Russian Federation, search and document cases, analyze the number of sentences and conduct research by the community.

In 2021, a study was conducted on the attitude of adult citizens of Russia towards Article 122 and the idea of its abolition. The sample consisted of 914 people. At the time of the survey, 758 respondents (82.9%) already knew about criminal liability for deliberately placing another person at risk of HIV infection or intentional infection. According to the data obtained during the study, there is a fairly high percentage of those who want to "punish" a sexual partner for transmitting HIV infection. Almost a quarter of the respondents would turn to law enforcement if they were infected with HIV. At the same time, it is worth noting that the level of trust in law enforcement agencies is not too high - in the group of respondents who did not contact the police, the uselessness of these actions was indicated as the second most important reason for not doing so. There is a high level of awareness among respondents who would not go to the police if HIV infection happened to them. Almost half of the respondents cited the fact that HIV infection is the responsibility of both adult partners as the reason for this decision. NPO staff and volunteers mostly support the decriminalization of the HIV law. The question about the specific life situation that resulted in HIV infection showed that HIV-negative people are more likely to be criminally responsible than HIV-positive people, heterosexuals more often than homosexuals, and women more often than men. When directly raising the issue of decriminalizing the HIV law, heterosexuals were more likely than homosexuals and bisexuals to be in favor of leaving the law in its current wording. Also, HIV-positive respondents are more likely to support decriminalization.

In 2022, a study was conducted^[49] aimed at studying the attitude of medical workers to Article 122 of the Criminal Code of the Russian Federation. The study was conducted as part of an online survey distributed to doctors through social networks, as well as targeted.

According to the results of the study, the following conclusions were made:

- there is a high degree of knowledge of the law 122 of the Criminal Code of the Russian Federation, almost three quarters are familiar with it respondents;
- infectious disease doctors and epidemiologists are better acquainted with the content of article 122 of the Criminal Code of the Russian Federation than doctors of other specialties, the same can be said about the employees of AIDS centers relative to employees of other medical institutions; infectious
- disease doctors and epidemiologists more often than doctors of other specialties spoke in favor of tightening Article 122 of the Criminal Code of the Russian Federation - both in the case of punishment for putting another person at risk of contracting HIV infection, and for contracting HIV infection. The employees of AIDS centers spoke in the same way, but the employees of private paid clinics more often advocated reclassifying the law as an administrative offense or completely abolishing the punishment; respondents who are in favor of decriminalization more often noted that they are ready for relationships
- and building a family with an HIV-positive person and argued that signing a notice on Article 122 is an obstacle to dispensary observation;
- survey participants who oppose decriminalization were more likely to say that they believe the "U=U" principle is wrong and that they would go to the police if HIV infection happened to them/their relatives; also, respondents who understand the difference between
- an article on causing harm to health and a separate article providing for liability for HIV infection, more often than others answered that they would apply to law enforcement agencies if HIV infection happened to them / their relatives.

[49] Attitude of infectious disease doctors and epidemiologists of AIDS Centers to HIV criminalization in the Russian Federation, 2022

Media monitoring

In 2021, a detailed analysis of 236 publications found in the media from November 2018 to September 2021 in Russia was carried out.

200 references related to publications on cases related to articles of the Criminal Code. The remaining references were excluded from consideration because they covered the topic of HIV infection in the country from other aspects. The references describe 71 cases initiated under Article 122 of the Criminal Code of the Russian Federation. Of the 71 case descriptions found: 50 were filed against men, 17 against women, 4 against medical workers or institutions. Of the 71 cases initiated, 29 of them managed to find information about the sentences passed. Sentences were passed in 23 cases against men, in 5 against women. 1 sentence was passed against a medical worker under article 293 of the Criminal Code of the Russian Federation (negligence).

In 2022, 23 references were found to publications on cases related to Article 122 of the Criminal Code of the Russian Federation, while 14 of them relate to a previously sentenced resident of Bashkiria (sentence - 3 years suspended, with a probationary period of 3 years, a fine in favor of the victim 1 million rubles).



A court in the city of Votkinsk in the Udmurt Republic sentenced an HIV-positive local resident to three years in a penal colony on charges of biting a policeman. This was reported on the website of the regional department of the Investigative Committee.

The man was convicted under Part 1 of Article 318 of the Criminal Code (use of violence against a government official) and Part 1 of Article 122 of the Criminal Code (knowingly placing another at risk of contracting HIV).

According to investigators, in January 2019, a drunken man "committed petty hooliganism in a public place." The police officer demanded that he stop, to which a local resident, "knowing about his illness", bit

victim in the right hand.

*As the court found, **because of** the bite, the policeman could become infected with HIV.*

An HIV-positive resident of Udmurtia was sentenced to three years in prison for biting a police officer. October 21, 2019



The guardianship authorities applied to the court. Officials accused the 45-year-old St. Petersburg woman of trying to infect her child with HIV. The woman learned about her illness from the doctor of the antenatal clinic in 2018. According to investigators, in 2019 she gave birth to a child. While still in the hospital, she refused treatment for HIV infection and began to breastfeed her baby. Meanwhile, one of the main ways children are infected with HIV is through mother's milk.

Literally the next day, the guardianship authorities seized the baby. After that the Petersburg realized the risk she put her child at.

"Now she has registered, started therapy, asked for psychological help. She understands and realizes that therapy is necessary for life, that the child must be registered with the AIDS center," the defendant's lawyer, Olga Krivonos, was quoted by the publication Paper.

According to the defense, the accused did not understand that by feeding the baby, she risks infecting him. According to guardianship, everything was explained to the woman at the antenatal clinic, about which she signed the document. Fortunately, the baby did not get infected. But he may lose his mother: she faces up to a year in prison for "knowingly putting another person at risk of contracting HIV." **An HIV-**

positive mother is on trial for breastfeeding her baby in St. Petersburg. August 28, 2019



It was established that the man, knowing that he had HIV infection, hid it from his wife and lived with her in an ordinary marriage from 2001 to 2018. The criminal secret of the man was revealed after the woman was registered with a dispensary in a medical facility. She was infected with HIV.

A criminal case was opened against the man on the fact of contracting HIV infection. The materials of the case have been sent to the court for consideration. The perpetrator faces up to five years in prison.

A resident of the Chelyabinsk region deliberately infected his wife with

HIV. February 02, 2020

5.8. TAJIKISTAN

Criminal Code of the Republic of Tajikistan [50] (hereinafter - the Criminal Code of the Republic of Tajikistan)



Article 125. Infection with the human immunodeficiency virus

Knowingly placing another person in danger of being infected with the 1. human immunodeficiency virus, is punishable by restraint of liberty for a term of up to three years, or imprisonment for a term of up to two years. 2.

Infection of another person with the human immunodeficiency virus by a person who knew that he had this disease, - shall be punishable by imprisonment for a term of two to five years.

The act provided for by paragraph two of this article, if committed: a) against two or more persons; b) in respect of a known minor, - shall be punished by imprisonment for a term of five to ten years.

Code of the Republic of Tajikistan on Administrative Offenses [51]



Article 119. Evasion of compulsory medical examination and preventive treatment of persons suffering from infectious diseases, HIV infection from twenty to thirty indicators for calculations.

Family Code of the Republic of Tajikistan [52]



Article 14. Circumstances impeding the conclusion of marriage *It is not allowed to conclude a marriage between persons who have not undergone a mandatory medical examination.*

Employees of civil registry offices (ZAGS) have the right to refuse to register a marriage without presenting a certificate of mandatory medical examination, including for HIV infection.

In case of HIV detection, a person is obliged to notify his sexual partner and, with the consent of the other party, has the right to create a family.

Legislation and regulations do not clearly define what “knowingly placing” another person at risk of contracting HIV is. However, civil registry officials believe that the mere marriage of an HIV-positive person can be considered deliberately putting another person at risk of infection.

[50] Criminal Code of the Republic of Tajikistan

[51] Code of the Republic of Tajikistan on Administrative Offenses [52] Family Code of the Republic of Tajikistan

According to the observations of the country informant, after the introduction of mandatory medical examination before marriage, the number of discordant couples has decreased. This is partly due to the fact that HIV-positive people, not wanting to disclose their diagnosis, enter into a religious marriage (without official registration). Such marriages most often involve HIV-positive men who, for various reasons, are not registered with the AIDS center and are not receiving therapy. Women in such marriages are at direct risk of infection.

It is important to note that the National Program to Combat the HIV and AIDS Epidemic in the Republic of Tajikistan for 2021-2025[53], approved by the government in 2021, recognizes that cases of criminal punishment for HIV transmission have become more frequent in the country and this article has been applied most often. regarding women. The Action Plan of the Program includes:

- Collection of data on the frequency of application of article 125 of the Criminal Code of the Republic of Tajikistan and other articles of this code related to HIV (number of cases brought to court, number of sentences, etc.) for at least the last two years; Improving the legislation of the Republic of
 - Tajikistan on the decriminalization of HIV, possession of drugs for personal use, the use of alternative sentences, the compulsory treatment of drug users and people living with the human immunodeficiency virus, as well as in the areas of healthcare, education, employment and
- others in accordance with international standards;
- Consideration and introduction of amendments and additions to the Decrees of the Government of the Republic of Tajikistan (dated September 25, 2018, No. 475 "On the List of diseases that do not give the right to persons suffering from them to study in educational medical institutions", dated October 1, 2004, No. 406 " On approval of the List of diseases in the presence of which a person cannot adopt a child, take him under guardianship (guardianship) "and of August 23, 2016, No. 374" On the Rules for conducting a mandatory medical examination of persons entering into marriage ") in order to respect the rights of people living with HIV; Contribute to the
 - development and adoption of a resolution of the Plenum of the Supreme Court of the Republic of Tajikistan on the application of Article 125 of the Criminal Code of the Republic of Tajikistan by the courts of the Republic of
 - Tajikistan; Create and maintain a database of lawyers to provide legal assistance to people living with HIV, and support paralegals from among representatives of communities and public organizations to provide legal support to people living with HIV; Conducting a series of
 - trainings for employees of law enforcement, judicial and correctional systems, the Commissioner for Human Rights on the topic of HIV, including human rights issues, non-discrimination, especially women and girls with HIV; Increasing the legal literacy of people living with HIV and key populations to protect their
 - rights and interests.

Official statistics, judicial practice and analysis of sentencing

While collecting data for this report, the informant said that there are no official statistics in the country. According to the data of the Supreme Court of the Republic of Tajikistan, presented at the Forum of Judges of the EECA countries, the judicial practice for 2018-2021 is as follows:

[53] National Program to Combat the HIV and AIDS Epidemic in the Republic of Tajikistan for 2021-2025. Decree of the Government of the Republic of Tajikistan dated February 27, 2021

Year	Cases considered under three parts of Article 125 of the Criminal Code	Rendered accusatory sentences under Article 125 of the Criminal Code	Termination of criminal cases under Article 125 of the Criminal Code and exemption from criminal liability
2018	18	13	
2019	83	66	9
2020	68	62	4
First half of 2021	38	34	

Case examples



Case No. 1

Unemployed HIV-positive R.M., (widow, 33 years old), has three minor children, has been registered with the AIDS Center since 2012, and is taking ART. Earlier in 2020, she was convicted under Part 1 of Art. 125 of the Criminal Code of the Republic of Tajikistan and with the application of the Amnesty Law of October 25, 2019 No. 1648 was released. The basis for initiating a second criminal case under Part 1 of Art. 125 of the Criminal Code was the statement of the victim D.Sh, the report of the detective police captain dated September 05, 2021. At the preliminary investigation, R.M. said that at the end of December 2020 she met the victim. They later started a relationship. The woman told the victim about her HIV status, but he did not believe and refused to use condoms. During the trial, the public prosecutor demonstrated a negative, discriminatory attitude towards the accused. At the judicial debate, the public prosecutor asked to recognize the girl guilty under Part 1 of Art. 125 of the Criminal Code and to impose a sentence of imprisonment for a period of 1 year and 6 months.

The woman's lawyer asked the court to terminate the criminal case in accordance with Article 73 of the Criminal Code, i.e.: "A person who has committed a crime of small or medium gravity may be released from criminal liability if he has reconciled with the victim and compensated the harm caused to the victim." The woman's partner had no complaints, and they still live together.

On November 15, 2021, on the basis of a court verdict, the girl was found guilty under Part 1 of Art. 125 of the Criminal Code of the Republic of Tajikistan and was sentenced to imprisonment for a period of 1 year and 6 months. By applying Art. 78 of the Criminal Code, the judge delayed the serving of the sentence until the child reached the age of eight. /Dushanbe, 2021/



Case #2 D.Z.

(widow, 33 years old), has been registered with the AIDS Center since 2012, adheres to ART, has two minor children. In 2021, a woman had sexual relations with 4 men, whom she did not inform

about her HIV status and did not use condoms.

The forensic medical examination found that the viral load of D.Z. is only 40 kop/ml and there is a possibility of HIV transmission. On the basis of a court verdict dated March 01, 2022 in respect of D.Z. sentenced to 1 year in prison. According to the lawyer

women, the court did not take into account the severity of the crime, the presence of two minor children and an elderly mother who depend on D.Z. financially. The lawyer offered to appeal the court's verdict to a higher authority, but the relatives and the defendant refused. / Dushanbe, 2022/

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

In Tajikistan, the public organization "Center for Human Rights" works to protect the rights and interests of people living with HIV. In 2020, an online meeting of the Second Eastern European and Central Asian Regional Forum of Judges on HIV, Human Rights and Legislation was held in Dushanbe. The Supreme Court of the Republic of Tajikistan became the co-organizer of this event. The meeting was attended by high-level judges from Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Uzbekistan and Ukraine. At the opening of the Forum, Tahmina Khaidarova, EWSC Country Representative in Tajikistan, spoke on behalf of civil society. In her speech, she presented a report on how criminalization worsens the situation of HIV-positive women in the country.

In 2022, the country developed a draft Criminal Code. It contains an article on HIV transmission in the following wording:

Article 128. Infection with the human immunodeficiency virus

- 1. Knowingly placing another person at risk of contracting the human immunodeficiency virus (HIV), is punishable by compulsory labor for a term of up to 180 hours, or by corrective labor for a term of up to six months, or by a fine in the amount of up to 180 minimum monthly wages, or arrest. for up to fifty days.*
- 2. Infection of another person with the human immunodeficiency virus by a person who knew that he had this disease,*
- is punishable by restraint of liberty for a term of up to four years, or imprisonment for the same term.*
- 3. The act provided for by paragraph 2 of this article, if committed against two or more persons, or against a known minor, shall be punishable by imprisonment for a term of four to eight years.*

Note: a person who has committed the acts provided for in parts one or two of this article shall be exempted from criminal liability if another person, placed at risk of infection or infected with the human immunodeficiency virus, was warned in a timely manner that the first person had this disease and voluntarily agreed to take actions , posing a risk of infection.

Currently, Tajikistan is considering a new legislative initiative, which involves the adoption of the criminal code of this country in a new edition.

Unfortunately, at the moment, the wording of the article criminalizing the transmission of HIV remains virtually the same. It, like the current version, provides for criminal liability for knowingly placing another person at risk of HIV infection (Part One), infecting another person with HIV who knew that he had this disease (Part Two), and the act provided for by Part Two of this article committed against two or more persons or against a known minor (Part Three).

Among the positive changes, it can be noted that article 128 of the draft, in contrast to the current article 125 of the Criminal Code of Tajikistan, reduces the penalty: in part one from alternative restriction of liberty for up to 3 years or imprisonment for up to 2 years to alternative compulsory labor for up to 180 hours or corrective labor for up to 6 months, or a fine of up to 180 indicators for settlements, or arrest for up to 50 days. Part two provides for a reduction in punishment from uncontested imprisonment for a term of 2 to 5 years to an alternative in the form of restriction of liberty for a term of up to 4 years, or imprisonment for the same term. In part three, the term of imprisonment is reduced from 5 to 10 years to a term of 4 to 8 years. The new version of the article provides for the introduction of a standard disclaimer note.

In 2018, the Tajikistan Network of Women Living with HIV provided an Alternative Thematic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) for women living with HIV and women from affected groups (ex-prisoners, women who inject drugs, sex workers)[54]. A separate chapter of the report is devoted to the criminalization of HIV and access to justice for HIV-positive women and women from HIV-affected groups.

In its concluding observations on the 6th periodic report of Tajikistan, the Committee included the following recommendation[55]: 40. The

Committee recommends that the State: [...]

September 2018 and October 1, 2004, prohibiting HIV-positive women from obtaining a medical degree, adopting a child, or being a legal guardian.

Media monitoring

Until 2018, not a single case of punishment for HIV infection was found in the media. Since 2019, more than 20 such news stories have been published. In total, 30 publications on cases related to HIV transmission were found from 2019 to 2022.



Two residents of Khujand (the administrative center of the Sughd region of Tajikistan) were each sentenced to a year in prison for knowingly infecting people with HIV. It is reported by "Asia-Plus" with reference to a source in the Khujand city court.

According to the source, the 41-year-old and 45-year-old women were previously confirmed to be HIV-positive at the AIDS Center in Sughd Oblast. The women were warned to take precautions and not endanger the men, but they disregarded the rules. The court found the women guilty under Part 1 of Article 125 ("Deliberately infecting the HIV/AIDS virus") of the Criminal Code of Tajikistan and sentenced them to one year

deprivation of liberty. The convicts will serve their sentence in a general regime colony. In 2018,

for the first time, it became known in Tajikistan that criminal cases were opened on charges of intentionally infecting with HIV infection. Why Article 125 of the Criminal Code has been actively imputed since last year is unknown, but the trend itself has caused concern among human rights activists. Among the accused - mostly women involved in prostitution. Criminal cases against HIV-infected people can lead to the opposite effect, public activists believe. Fearing persecution, prostitutes and drug addicts will avoid testing, and HIV-infected people will go into the shadows, hide their status from others even more and, accordingly, receive less information and help.

Two Tajik women were sent to jail for contracting HIV. September 04, 2019



The incident happened in the administrative district of the Khatlon region in Tajikistan. According to the father of the child, his son was infected with HIV during treatment in one of the local hospitals, Radio Ozodi reports.

Representatives of the Regional Health Department consider these accusations unfounded and rely on the results of the prosecutor's investigation. Meanwhile, the district prosecutor's office said that an investigation would be carried out at the man's request, but it would be extremely difficult to prove when and under what circumstances the boy was infected with HIV.

Tajik doctor Bilol Rakhimov, who has worked with HIV-positive adolescents, noted that it is difficult to determine the routes of HIV transmission due to late diagnosis. In his opinion, the rite of circumcision, which is performed by folk craftsmen, and the tradition of piercing the ears of girls at an early age, represent a risk.

Last year, the Tajik Ministry of Health issued a decree obliging parents to test their sons before circumcision. The department commented on this decision, citing an increase in the number of new cases, including among children. **The father of a 13-year-old teenager believes that his son was infected with HIV in the hospital.** November 09, 2020



The Ministry of Internal Affairs of Tajikistan announced the detention of a 27-year-old resident of the city of Khujand on suspicion of deliberately infecting her partner with the HIV virus. According to the Ministry of Internal Affairs, the woman was officially warned that she was infected with HIV / AIDS, but despite this, she continued to have sexual intercourse with a 20-year-old resident of Khujand from May to September 2018 and eventually infected him with a deadly virus. [...]

Recently, a campaign to combat the spread of the HIV/AIDS virus has been gaining momentum in Tajikistan. In September-October 2018 alone, at least four were detained on such charges, including one man and three women, who, despite their positive test for HIV/AIDS, continued to engage in prostitution.[...] A 27-year-old woman is suspected **of intentional exposure to HIV/AIDS.** May 01, 2019



5.9. UZBEKISTAN

Criminal Code of the Republic of Uzbekistan [56] (hereinafter referred to as the Criminal Code of the Republic of Uzbekistan)



Article 113. Article 113. Spread of a venereal disease or HIV infection/AIDS 4. *Knowingly endangering or contracting HIV infection/ AIDS, - shall be punishable by imprisonment from five to eight years. 5. Infection of another person with HIV infection/ AIDS due to non-fulfillment or improper fulfillment by a person of his professional duties - from two to five years or imprisonment up to five years.*

Code of the Republic of Uzbekistan on administrative responsibility [57]



Article 57 *a fine of two to three times the minimum wage.*



Article 58. Evasion of patients with venereal diseases or HIV infection/AIDS from examination *Avoidance of examination of persons in respect of whom there is sufficient evidence that they are ill with venereal diseases or HIV infection/ AIDS, continuing after a warning from the health authorities - imposition of a fine of two to three times the minimum wage*

fees.

Family Code of the Republic of Uzbekistan [58]

All couples who want to legalize marriage must undergo mandatory HIV testing in accordance with the Family Code. In accordance with Article 49 of the Family Code of the Republic of Uzbekistan, the concealment by one of the persons entering into marriage from another person of the presence of a venereal disease or the human immunodeficiency virus (HIV infection), if the latter has applied to the court with such a demand, is the basis for declaring the marriage invalid.

In addition to laws, interdepartmental documents are applied that contribute to the criminalization of HIV and the disclosure of the secret of the diagnosis of HIV-positive people in Uzbekistan (transfer of personal data):

[56] Criminal Code of the Republic of Uzbekistan

[57] Code of the Republic of Uzbekistan on Administrative Responsibility [58]

Family Code of the Republic of Uzbekistan

- order No. 54-p dated April 5, 2019, adopted by the Republican AIDS Center in order to strengthen preventive measures against the sexual spread of HIV infection, in cases of detection of criminal acts under Article 113 of the Criminal Code.
- Decree of the Ministry of Internal Affairs and the Ministry of Health of the Republic of Uzbekistan No. 66 of August 20, 2019 "On approval of instructions on the procedure for cooperation between internal affairs bodies and medical institutions to counter the spread of the disease caused by the human immunodeficiency virus among the population".

The above decision contradicts Article 45 of the Law on Health of Citizens "Medical Secrets"[59] and Article 46 of the Code of Administrative Offenses "Violation of Privacy"[60], which enable people living with HIV to protect their right to confidentiality of their diagnosis. Unfortunately, such cases are almost unknown. At the same time, egregious cases of discrimination against HIV-positive people by law enforcement agencies are reported.

Official statistics, judicial practice and analysis of sentencing

Until 2021, there was no information in official sources on the number of sentences handed down under Article 113 of the Criminal Code.

Information on crimes registered under part 4 of article 113 of the Criminal Code of the Republic of Uzbekistan during 2021 and 5 months of 2022:

Year	Part 4 of the article 113 UK			Closed based rehabilitation			Submitted to litigation			Of them			
										Limits reading freedom s	Deprived ie freedom s	Conventional oh punishment nie	Correct iteln s work
	Total	Male	Female	Total	Male	Female	Total	Male	Female				
2021	141	97	44	6	4	2	97	57	40	32	19	3	
5 months 2022	76	45	31	2	2	0	56	32	24	7	4	2	1

Part three of Article 113 of the Criminal Code provides for liability for two criminal offenses, effectively equalizing them - HIV infection and exposure to the risk of infection.

However, from the point of view of public danger, as well as from the point of view of causing harm, they are completely different. At the same time, due to the vagueness of this wording, persons who did not infect anyone and did not have the intention to transmit the virus are held liable.

According to article 15 of the Criminal Code of the Republic of Uzbekistan, these crimes are classified as grave (punishment in the form of imprisonment for a term of more than five, but not more than ten years), which is comparable to intentional serious bodily harm under aggravating circumstances (part 2 of article 104 of the Criminal Code).

[59] Law on the health of citizens of the Republic of Uzbekistan Article 45. Medical

confidentiality [60] Code of Administrative Offenses of the Republic of Uzbekistan Article 46 Violation of privacy

Responsibility for this act seems completely disproportionate to the severity of the act, because the criminal legislation of Uzbekistan actually continues to consider HIV infection as a serious and deadly disease, ignoring the fact that the World Health Organization recognizes HIV infection as a treatable chronic disease.

According to the Center for Legal Statistics and Operational Accounting Information of the Ministry of Internal Affairs of Uzbekistan, the total number of cases under Part 4 of Article 113 of the Criminal Code of the Republic of Uzbekistan for the period 2020 - 5 months of 2022 amounted to 348.

Thus, in 2021, out of 141 cases, 97 cases were sent for judicial review (57 for men and 40 for women). Sentences were handed down in 54 cases: restriction of freedom for 32 people, imprisonment for 19 people, 3 people received a suspended sentence. Breakdown by sex in relation to sentencing is missing.

Case examples



Case No. 1 On

April 9, 2022, in the evening, law enforcement officers came to a rented apartment to a homosexual couple Marat (man, 41 years old) and Muslim (27 years old). Without presenting explanations and charges, the men were taken to the Yunusabad district police department. Two days later, people were transferred to a temporary detention center, and on the third day a court session was held (to appoint a further preventive measure). At the trial, charges were brought under paragraph 4 of Article 113 and Article 120 of the Criminal Code. Both partners were aware of each other's HIV-positive status. At the time of preparation of this information, the people were in a pre-trial detention center, and no investigative measures were taken on their case. / Tashkent, 2021/



Case #2

Shahnoza (female, 29 years old) learned of her HIV-positive status in March 2022. During the epidemiological investigation, it turned out that she was not officially divorced from her husband (and they do not live together). Based on the internal provisions of epidemiological surveillance, Shakhnoza's husband had to be involved in testing without fail. He was invited to the polyclinic at his place of residence and informed about his wife's HIV-positive status. He himself did not have HIV. Between people, after the man found out about the HIV status of the woman, the conflict intensified. During another quarrel, the husband began to blackmail and threaten that he would reveal Shakhnoza's status to all relatives and friends, at the workplace and during a divorce, deprive her of parental rights based on the diagnosis. / Tashkent, 2022/



Case #3 An

HIV-positive man was in a civil marriage with an HIV-negative woman. Subsequently, the man was prosecuted for theft, but the charge was supplemented with an episode of putting him at risk of infection. At the same time, the wife spoke out in defense of her common-law husband and confirmed in court that she knew about his HIV status and agreed to this relationship. The court did not take into account the position of the woman and the man was sentenced in total to 5 years in prison. The prosecution took place in the mode of objective imputation, without establishing guilt in the form of direct intent. / Tashkent/



Case 4 (summoned for questioning due to HIV-positive status) *An HIV-positive woman works as a nurse in a hospital. They called from an unfamiliar number and asked to quickly come to the police department. The girl was in a state of shock. The reason for the call was not explained. She arrived. The officer did not introduce himself, he simply said: "I am the person in charge of the Criminal Investigation Department. I recently arrested and imprisoned a walking woman for spreading HIV. That's why I called you. Warn. Tell the truth, who are you dating? Whom did you date before HIV? The woman had to tell the story of her sexual relationship. After that, a police officer took her phone and checked her contacts. Finally he said: "Look, I warn you!". After the stress of this undocumented conversation, the woman's health deteriorated, she fell into depression and even went to treatment.*



Case No. 5

An HIV-positive 17-year-old teenager, a pupil of an orphanage, was registered at the AIDS center, while he did not sign an informed notice that he was criminally liable under Art. 113 of the Criminal Code of the Republic of Uzbekistan, since this receipt is signed from the age of 18. He had sexual intercourse with his 16-year-old girlfriend. After a while, the girl went to the doctor and found out that she was 5 months pregnant. Mindful of the diagnosis of her young man, she spoke about the problem to a medical worker and loved ones. The health worker informed the police. As a result, a criminal case was initiated under Article 113 of the Criminal Code of the Republic of Uzbekistan. Despite the fact that the infection did not occur, the child was born healthy, the guy was sentenced to 2 years probation.

Participation of civil society in legislative initiatives to decriminalize HIV transmission in 2018-2022

Although HIV criminalization is a big problem for people living with HIV, due to fear of publicity, people cannot always turn to NGOs for help. It is worth noting that lawyers often oppose the involvement of public defenders. In this regard, NGOs cannot help people who have suffered from the law enforcement system.

In 2021, the Community of People Living with HIV NGO "Ishonch va Hayot" conducted an Analysis of legislation and practice regarding the criminalization of HIV infection in the Republic of Uzbekistan[61].

The main goal of this analytical review was to study the situation in the field of human rights legislation of the Republic of Uzbekistan in the context of HIV / AIDS, in order to further improve the criminal law system, effectively counteract the spread of HIV infection by reducing stigma and discrimination and increasing the accessibility of justice in the context of HIV infection. The review was also presented to all interested parties, the Ministry of Health, the Ministry of Internal Affairs, the Prosecutor's Office and the Ombudsman.

The community of people living with HIV was an active speaker at the Third EECA Judges' Forum on HIV, Human Rights and the Law in 2021. The event touched upon the topic of HIV criminalization and violation of the rights to marriage, family, motherhood, fatherhood and childhood due to discrimination.

[61] PLWH - Faith and Life. Documentation.

Since 2020, the NGO "Ishonch va Hayot" has been consulting and supporting cases initiated under Article 113 of the Criminal Code. So, in 2021, the organization recorded and followed up three cases.

In January 2022, the Eurasian Women's AIDS Network, in coalition with the Public Health Alliance, submitted an alternative report[62] on the implementation of the CEDAW Convention by the Republic of Uzbekistan in relation to women living with HIV for the 81st session of the UN Committee on the Elimination of Discrimination against Women, which was held in Switzerland 07 – 25 February 2022. On February 14, 2022, EWHA representatives spoke at a private lunch briefing and an informal meeting with NGOs to inform members and members of the committee about the most urgent needs of HIV-positive women in Uzbekistan, including harmful policies that criminalize people with HIV. On February 16, 2022, after a dialogue with the government delegation of Uzbekistan, the UN Geneva website and the UN Human Rights Office of the High Commissioner published a news item entitled "Experts of the Committee on the Elimination of Discrimination against Women highly appreciate the adoption of the Law on Citizens by Uzbekistan and ask about public organizations and women, living with HIV/AIDS"[63].

In the final recommendations to the 6th periodic report of Uzbekistan, the Committee recommended: [...] - **decriminalize the endangerment and transmission of HIV/AIDS through sexual contact between consenting adults and repeal articles 113 of the Criminal Code, as well as articles 57 and 58 of the Code on administrative offenses; [...]** - Repeal discriminatory legislation that prohibits women living with HIV/AIDS from the right to adoption, guardianship and foster care.

Media monitoring

Over the period of 2019-2022, more than 20 publications were found in the media dedicated to the decriminalization of HIV transmission in Uzbekistan, 3 of them cover the situation in general. One case was associated with the transmission of a sexually transmitted disease, but was presented by journalists as relating to the transmission of HIV. In this case, 6 publications were found under the headings "A woman was detained in Bukhara, who deliberately infected more than 10 men with HIV." After the NGOs contacted the journalists, the text of the publication was corrected.



A woman who, knowing about her AIDS diagnosis, was engaged in prostitution, was imprisoned for a period of 6 years and 6 months. The Internal Affairs Directorate of the Bukhara region reported that about 40 people were infected with the infection from her.

A woman who infected about 40 people with HIV was sentenced to 6.5 years.

December 29, 2021



A criminal case was initiated against the man under article 113 (spread of a sexually transmitted disease or HIV/AIDS) of the Criminal Code. Now he faces up to five years in prison.

In Tashkent, a dentist with AIDS endangered the lives of patients. April 23, 2022

[62] Alternative report on the implementation of the Republic of Uzbekistan of the CEDAW Convention in relation to women living with HIV. 81st session of CEDAW, 07-25 February 2022 [63] The CEDAW Committee recommended that Uzbekistan decriminalize HIV

5.10. UKRAINE

Criminal Code of Ukraine [64] (hereinafter referred to as the Criminal Code of Ukraine)



Article 130. Infection with the human immunodeficiency virus or other incurable infectious disease. 1.

Deliberately placing another person at risk of

contracting the human immunodeficiency virus or any other incurable infectious disease dangerous to human life, is punishable by arrest for a term of up to three months, or restraint of liberty for a term of up to five years, or imprisonment for a term of up to three

years.

2. Infection of another person with the human immunodeficiency virus or another incurable infectious disease by a person who knew that he was a carrier of this virus, is punishable by imprisonment for a term of two to five years. 3. Actions provided for by paragraph two of this article, committed in relation to two or more persons or a minor, are punishable by deprivation of liberty for a term of three to eight years. 4. Intentionally infecting another person with the human immunodeficiency virus or another incurable infectious disease dangerous to human life, is punishable by imprisonment for a term of five to ten years.

Law of Ukraine "On counteracting the spread of diseases caused by the human immunodeficiency virus (HIV), legal and social protection of people living with HIV"[65]



Article 12 Responsibilities of people living with HIV. 1. People

living with HIV are obliged to: 1) take measures to prevent the spread of HIV infection proposed by health authorities; 2) notify persons who were their partners before the discovery of the fact of infection, about the possibility of their infection; 3) refuse to donate blood, its components, other biological fluids, cells, organs and tissues for their use in medical practice. 2. In case of failure

to fulfill the obligations specified in part one of this article, people living with HIV from among foreigners, as well as stateless persons who, by their behavior, pose a threat to health, protection of the rights and legitimate interests of citizens of Ukraine, may be expelled from Ukraine is fine

established by law.

Official statistics, judicial practice and analysis of sentencing

An analysis of the reports of the General Prosecutor's Office of Ukraine (reporting tables in the public domain) shows that in 2020, 7 criminal offenses were recorded under Article 130 of the Criminal Code of Ukraine, 2 people were given a notice of suspicion and the case was sent to court with an indictment, 5 cases were closed without being transferred to court. In 2021, 5 criminal offenses under Article 130 of the Criminal Code of Ukraine were closed without being brought to court.

[64] Criminal Code of Ukraine

[65] Law of Ukraine "On counteracting the spread of diseases caused by the human immunodeficiency virus (HIV), legal and social protection of people living with HIV"

An analysis of the reports of the courts of first instance on the consideration of materials of criminal proceedings under Article 130 of the Criminal Code of Ukraine indicates the following: in 2020, the courts of first instance considered 1 criminal proceeding (opened in 2019), which was not considered in the reporting period. The review took place in 2021, as a result of which the proceedings were closed due to the death of the person in respect of whom it was opened. Disaggregation by sex after 2018 is not available.

Composition of a crime according to the criminal code	Number of convictions	
	Ukraine (2008-2018)	
	women	men
Putting in danger infections	9	5
infection	3	7
Aggravated infection	2	2

Participation of civil society in legislative initiatives to decriminalize HIV in 2018-2022

During 2019-2022, at meetings of the National Committee for Validating the Elimination of Mother-to-Child Transmission of HIV and Syphilis, the topic of criminalization was regularly raised by representatives of the community of women living with HIV. The national report on the validation elimination process by Ukraine has not yet been submitted, due to martial law it has been postponed for an indefinite period.

In 2016, the civil society initiated and began to promote the draft law "On Amendments to Certain Legislative Acts of Ukraine regarding criminal liability for the transmission of the human immunodeficiency virus (HIV) and other pathogens of infectious diseases." This draft law proposes to exclude articles 130 ("Infection with the human immunodeficiency virus or other incurable disease") and 133 ("Infection with a venereal disease") from the Criminal Code of Ukraine.

Representatives of the community of women living with HIV are actively involved in advocacy and lobbying for the draft Law of Ukraine "On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine on Combating Discrimination" No. 5488 dated May 13, 2021[66].

In Ukraine, community representatives carried out active advocacy activities until 2022 aimed at decriminalizing HIV and improving the human rights situation for people living with HIV. In 2019, the PO "Positive Women" during

[66] Draft Law of Ukraine "On Amendments to the Code of Ukraine on Administrative Offenses and the Criminal Code of Ukraine on Combating Manifestations of Discrimination" No. 5488 dated May 13, 2021

meetings of the National Council to Combat HIV Infection and Tuberculosis and the National Committee for Validation of the Elimination of Mother-to-Child Transmission of HIV and Syphilis identified the need to urgently amend Article 130 of the Criminal Code of Ukraine with protocol decisions made. In the same year, a working meeting was held with People's Deputy of Ukraine Lada Bulakh in order to submit a package of documents to the Committee on Health Protection of the Supreme Council of Ukraine for consideration, including a list of laws that require changes and amendments for synchronization in order to prevent HIV transmission in Ukraine, including decriminalization, as well as a press conference on the topic "Why Ukraine should decriminalize HIV status". In 2020, a meeting of People's Deputies of Ukraine from the Subcommittee on Ensuring Epidemiological Safety, Combating HIV/AIDS and Socially Dangerous Diseases of the Committee of the Armed Forces of Ukraine on National Health, Medical Assistance and Medical Insurance was held under the leadership of People's Deputy of Ukraine Lada Bulakh, during which he presented a package of Ukrainian laws requiring changes and amendments to prevent HIV transmission in Ukraine, including the Criminal Code of Ukraine regarding the decriminalization of HIV transmission. The meeting was organized by a representative of the community of women living with HIV in Ukraine, with an invitation to participate and preparation of a package of documents by specialists and specialists from the Public Health Center of the Ministry of Health of Ukraine. The meeting resulted in a decision to change the approach in issuing a separate request for amendments to the Criminal Code of Ukraine by excluding Article 130. Further, a package of documents was prepared on the removal of Article 130 from the CCU (explanatory note, draft law, appeal to the head of the committee, letter on behalf of the Ministry of Health of Ukraine). During negotiations with the deputies of the Committee of the Armed Forces of Ukraine on the issues of national health, medical care and medical insurance, it was decided to submit a package of documents to the Committee for Work with Law Enforcement Agencies, since the Draft Law concerns amendments to the Criminal Code of Ukraine; the working group on the development of criminal law, which completed the discussion of the general part and several sections, submitted an application to amend the removal of article 130 from the new CCU[67]. In 2021, the "Positive Women" NGO joined the work of the Interfactional Deputy Association of the Verkhovna Rada of Ukraine "Health of the Nation and Human Rights" to promote the issue of decriminalization of HIV.

In December 2021, two bills were submitted for consideration by the Verkhovna Rada of Ukraine by people's deputies: the draft Law of

- Ukraine No. 6364 "On Amendments to the Law of Ukraine "On Combating the Spread of Diseases Caused by the Human Immunodeficiency Virus (HIV), and the Legal and Social Protection of People Living in with HIV" regarding the application of modern approaches to the prevention, testing and treatment of HIV infection in accordance with WHO guidelines"[68]; Draft Law of Ukraine No. 6365 "On Amendments to Article
- 130 of the Criminal Code of Ukraine on Reducing Stigma and Discrimination against People Living with HIV"[69].

The first bill is aimed at improving the mechanisms for diagnosing and early detection of the disease. In particular, it will legally expand the possibility of testing. After all, it legitimizes self-testing for HIV. So the bill will help accelerate the pace of early diagnosis.

[67] Text of the draft new Criminal Code of Ukraine [68]

Draft Law of Ukraine No. 6364 "On Amendments to the Law of Ukraine "On Combating the Spread of Diseases Caused by the Human Immunodeficiency Virus (HIV) and Legal and Social Protection of People Living with HIV" regarding application of modern approaches to the prevention, testing and treatment of HIV infection in accordance with WHO guidelines" [69] Draft Law of Ukraine No. 6365 "On Amendments to Article 130 of the Criminal Code of Ukraine to reduce stigma and discrimination against people living with HIV "

The second bill stops the stigmatization of people with HIV-positive status at the political and legislative level, namely in the Criminal Code of Ukraine. The draft law proposes to establish equality in the legislation on criminal liability in determining the negative impact of any infectious diseases and to criminalize any intentional infection, so that only HIV infection does not sound in the article.

On January 12, 2023, draft law No. 6364, which defines the prevention and treatment of HIV in accordance with the guidelines of the World Health Organization, was adopted by the Supreme Council of Ukraine and signed by the President of Ukraine. The law enters into force on the day following the day of its publication (05 February 2023, and enters into force 6 months after the date of entry into force (05 August 2023).

Case examples



Case No. 1

During a rally of activists near the regional council there was a clash, during the fight one of the participants (HIV-positive man) got into a fight with another and bit him on the nose. The victim went to the police on the fact of the attack and the threat of contracting HIV. A charge of threatening or violence against a journalist was brought under Part 1 of Art. 130 of the Criminal Code of Ukraine. The accused applied for legal assistance to defend himself during the criminal process. The case went on for over a year. During the final court session, the accused slashed his throat with a blade in protest against his arrest and stated that his criminal case was connected with the political motives of the local authorities, in connection with his oppositional civil position. Criminal proceedings are closed due to the absence of a criminal offense. /Odessa, 2019/



Case No. 2

In February 2020 in the city of Bila Tserkva, Kiev region. two teenagers aged 18 and 19, being in a state of alcoholic intoxication, attacked a woman in the evening to rob, stabbed and raped her, one of the attackers was an HIV-infected man who knew about his status. The woman turned to the police, the attackers were detained and three criminal proceedings were opened, for a man with HIV: under part 1 of article 130, under part 2 of article 187, under part 1 of art. 152 (Rape) of the Criminal Code of Ukraine. The man was sentenced to 9 years, with confiscation of half of the property. /Kyiv region, Bila Tserkva, 2022/



Case No. 3

In October 2018, in the Sumy region, an HIV-positive woman was sentenced to five years in prison under part 4 of Article 130 of the Criminal Code of Ukraine for biting another person (a police officer). Considering the case, the judge applied part 4 of article 130, which consists in intentional infection with HIV, which, in fact, did not occur. /Sumy region, 2018/

Media monitoring



One of the young men approached the victim, grabbed him by the throat and [...] began to demand to give him things. After that, the attacker knocked the woman to the ground, began to choke her, and then raped her. At the same time, the attacker knew that he was HIV-infected.

At this time, his accomplice took away the woman's mobile phone and watch. After he also raped the victim.

With the support of the Belotserkovsky district prosecutor's office, the court sentenced the men to seven and nine years in prison with confiscation of property. In addition, according to the verdict, the convicts are required to pay the woman 450,000 hryvnias in moral damages.

An HIV-infected man raped a woman near Kiev: the court issued a verdict.

January 24, 2022



The Kyiv District Court of Odessa sentenced an HIV-positive man to 10 years in prison for raping two women.

In Odessa, an HIV-infected man raped two women: he was sentenced. June

24, 2020

5.11. ESTONIA

Penitentiary Code of the Republic of Estonia [70]



Article 118. Infliction of grievous bodily harm (1)

Infliction of bodily harm resulting in: 1) danger

to life; 2) a health disorder

lasting at least four months or associated with partial or incapacity for work; 3) severe mental disorder; 4) termination of pregnancy; 5) an incurable injury that significantly disfigures the face;

6) loss of an organ or loss of its functions

by an organ; 7) death, is

punishable by imprisonment for a term of four to twelve years. (2) An act

provided for in this article committed by a legal entity is

punishable by a pecuniary penalty. (3) The court, in accordance with the provisions of Article 832 of this

Code, may apply for the crime provided for in this Article, extended confiscation of property obtained as a result of the crime.



Article 119. Infliction of grievous bodily harm through negligence (1) *Infliction of grievous bodily harm through negligence is punishable by a pecuniary punishment or imprisonment for up to one year. (2) The same act that has caused serious harm to the health of two or more persons is punishable by up to three years' imprisonment. (3) An act provided for in paragraph 1 or 2 of this section, if committed by a legal person, is punishable by a pecuniary penalty.*

Official statistics, judicial practice and analysis of sentencing

In Estonia, at least 4 cases were initiated against HIV-positive people, three of which resulted in convictions (until 2007).

In 2017, one case was documented[71] where an HIV-positive man was sentenced to 3.5 years in prison in accordance with Article 118 "Grievous bodily harm". The prosecutor's office made this case open to the public, including publicly publishing the name of the accused and his photograph.

Participation of civil society in legislative initiatives to decriminalize HIV transmission in 2018-2022

Although Estonia does not have a separate article punishing the transmission of HIV, such cases are investigated under the articles on harm to health. With the support of HIV Justice Worldwide, the Estonian Network of People Living with HIV in November 2018 tried to refer the case

[70] Penitentiary Code of the Republic of Estonia [71]
"The Case of Anton K."

Anton (convicted in 2017 under article 118, part 1) to the European Court of Human Rights (ECtHR) on the grounds that HIV is a chronic, manageable disease and cannot be classified as life-threatening. The submission also alleged that the applicant could not have foreseen that unprotected sex would lead to criminal liability. However, the ECtHR refused to consider this case.

Media monitoring

In 2017-2018, more than 15 news stories appeared in the media regarding the case of a 34-year-old man who was found guilty by the Harju County Court of causing grievous bodily harm to women with whom he had sex, knowing that he himself was infected with HIV. Other news related to the criminalization of HIV in the country in the period 2018-2022. has not been published.

This man repeatedly applied to journalistic publications, asking to remove articles from the archives, remove photos and replace his name with initials, but his appeals were ignored. The man is still experiencing the negative effects of these materials on his life.



*The Harju County Court found 34-year-old Anton guilty of causing grievous bodily harm to women with whom he had sex, knowing that he himself was infected with HIV. The court decision refers to the infection of one woman. **In Estonia, a man was jailed for intentionally infecting women with HIV.** October 13, 2017*



5.12. REGIONS UNDER THE CONTROL OF STATES UNRECOGNIZED BY THE INTERNATIONAL COMMUNITY

1. NAGORNO-KARABAKH (unrecognized Nagorno-Karabakh Republic)

Criminal Code of the Nagorno-Karabakh Republic [72] (hereinafter referred to as the Criminal Code of the NKR).



Article 122. Infection with the Human Immunodeficiency Virus 1.

Exposure of another person to an obvious risk of infection with the human immunodeficiency virus, - 2. Intentional or self-confident infection of another person with the human immunodeficiency virus by a person who knew about the presence of this disease, - shall be punished by imprisonment for a term of up to five years. The act provided for by paragraph 2 of this article, committed against 3. two or more persons, a minor, a woman who is known to be pregnant, - shall be punishable by imprisonment for a term of three to eight years.

Official statistics, judicial practice and analysis of sentencing

There are no data on sentencing in Nagorno-Karabakh.



Case No. 1

A resident of the city of Martuni (male, 38 years old), knowing about his HIV-positive status, had unprotected sexual contact with a 22-year-old resident of the Spitakashen community. The Nagorno-Karabakh Investigative Committee initiated a criminal case.

The case is documented from media materials. There is no information about the sentencing. / Nagorno-Karabakh, Stepanakert, June 2021/



Case No. 2

The HIV-positive status of the spouses (residents of Nagorno-Karabakh) became known to the head of the regional police, who began to blackmail and psychologically influence the woman in order to force her to have an abortion. He motivated his actions by the fact that the family does not have the right to have a child, since this is a crime. In order to protect their rights, the family turned to a non-governmental organization, whose employees involved a lawyer in the case, and the woman was sent to a medical facility to organize childbirth. / Nagorno-Karabakh/

[72] The Criminal Code of the Nagorno-Karabakh Republic

2. TRANSNISTRIA (unrecognized Transnistrian Moldavian Republic)

Criminal Code of the Dnieper Moldavian Republic[73] (hereinafter - the Criminal Code of the PMR).



Article 119. Infection with HIV infection

Knowingly placing another person at risk of contracting HIV infection, - 1. Shall be punishable by deprivation of liberty for a term of up to 1 (one) year. Infection of another person with HIV infection by a person who knew about the presence of this disease 2. is punishable by deprivation of liberty for a term of up to 5 (five) years. The act provided for by paragraph 2 of this article, committed against 3. two or more persons, or against a known minor, is punishable by imprisonment for a term of 3 (three) to 8 (eight) years. 4. Infection of another person with HIV as a result of the person's improper performance of his professional duties, is punishable by imprisonment for up to 5 (five) years with deprivation of the right to hold certain positions or engage in certain activities for up to 3 (three) years.

Note. A person who has committed the deeds provided for in paragraphs one or two of this article shall be exempted from criminal liability if another person, placed at risk of contracting or infected with HIV, was warned in a timely manner that the first person had this disease and voluntarily agreed to commit actions that created danger infections.

Code of the Pridnestrovian Moldavian Republic on administrative offenses[74].



Article 6.3. Concealment of the source of infection with HIV infection, venereal disease and contacts that create the risk of infection

Concealment by a person with HIV infection, venereal disease, the source of infection, as well as information about persons who had contacts with the said person that create the risk of infection with these diseases - an administrative fine in the amount of 50 (fifty) to 150 (one hundred and fifty) RU of the minimum wage[75].

At the same time, liability for a crime under Article 119 of the Criminal Code of the PMR was significantly reduced in Pridnestrovie in 2012, when:

- the article was supplemented with a note exempting a person from criminal liability subject to a number of conditions (if another person was warned in a timely manner that the first person had HIV and voluntarily agreed to commit actions that created a risk of infection); the lower limit of liability under part two of Article was reduced: if earlier the sanction of the article
- provided for imprisonment for a term of two to five years, then after the amendments, the sanction of part two of the article does not contain a lower limit, which makes it possible for the court, taking into account the circumstances of the case, to apply a minimum possible term of imprisonment, i.e. six

months;

[73] The Criminal Code of the Pridnestrovian Moldavian Republic

[74] The Code of the Pridnestrovian Moldavian Republic on Administrative Offenses [75] The

estimated level of the minimum wage established by the current legislation of the Pridnestrovian Moldavian Republic at the time of the end of an administrative offense or the detection of a continuing administrative offense (paragraph "a" of part 1 article 3.5, *ibid.*)

- from the sanction of the first part of the article (putting in danger of infection), alternative types of punishment were excluded - restriction of liberty for a term of up to 3 (three) years and arrest for a term of 3 (three) to 6 (six) months.

In fact, the only punishment at the present time is imprisonment for up to one year, while, based on the minimum allowable term of imprisonment, it cannot be less than 6 months. At the same time, conditional deprivation of liberty is not ruled out in cases where there are circumstances that deserve attention from the point of view of the criminal law.

In Transnistria, statistics on criminal cases are not published in official sources.

At the same time, according to civil society organizations, the number of relevant cases under article 119 of the Criminal Code has decreased. If in the previous period it was possible to talk about at least ten cases of ruling on the risk of HIV transmission, then since 2018 only two cases have been known, one of which became resonant. The case in the Kamensky district in Transnistria in 2021 was covered in the media, as well as on social networks. It was widely publicized in the region and was the subject of a response from local civil society organizations.

The second case took place in Tiraspol in 2022, and the trial is ongoing.

Case examples



Case No. 1

Natalia (female, 46 years old) was released from prison and returned to her village. The woman had been living with a diagnosis of HIV infection for a long time, she was warned about the responsibility for infecting others, but she disdained the recommendations of doctors and did not take therapy.

Between October 2020 and July 2021, she entered into relationships with several men from her locality, without warning them of the diagnosis and without taking measures to protect sexual contacts. As a result of her actions, five men were put at risk of infection. In addition, the woman suffered from alcohol addiction and stole 12 liters of alcoholic beverages from one of the men, which was the reason that he filed a complaint with law enforcement agencies. Given the repeated conviction of Natalia, as well as the combination of this crime with theft, she was initially assigned a preventive measure in the form of detention by the court. Thus, legal aid for her defense was provided only by an appointed public lawyer. The Kamenka city court issued a guilty verdict, finding Natalia guilty of committing crimes under Part 1 of Article 119 of the PMR Criminal Code (deliberately placing another person at risk of contracting HIV infection) and paragraph "b" of

Part 2 of Article 154 of the PMR Criminal Code (theft), having determined her punishment in the form of imprisonment for a term of up to three and a half years with serving in a penal colony. / Transnistria, Kamensky district, October 2021/



Case #2

Mikhail (male, 38 years old) knew about his positive HIV status for about eight years, he was registered at the dispensary. At the same time, he either refused treatment all the time, or started and quit. Formation of adherence to ARV treatment was hindered by negligence and alcohol dependence. Despite all these circumstances, Mikhail got married, while he did not say anything to his wife Maria and, as often happens in marriage, did not use personal protective equipment.

For several years, Maria periodically went to work to support the house and her husband, who did not want to work. At the action dedicated to the Day of Remembrance of people who died of AIDS, a woman underwent rapid HIV testing. The result was positive. After some time, Mikhail confessed to her that he had been registered for HIV for a long time. Maria regarded the fact that her husband did not warn about the diagnosis as a betrayal and a crime and filed an application with law enforcement agencies. /Transnistria, Tiraspol, April 2022/

Media monitoring



An HIV-infected woman, a resident of the village of Kuzmin, Kamensky district, having been warned of responsibility, had multiple relationships with men in the period from 2020 to July 2021. She did not disclose her illness to her sexual partners.

The woman did not take any measures to protect her lovers. As a result, at least five men were likely to be infected. [...] Now, a 46-year-old resident of Transnistria, previously

convicted, is charged under the articles "Knowingly placing another person at risk of contracting HIV infection" and "Theft". She was taken into custody and the case was taken to court.

In Transnistria, a woman, knowing that she has HIV infection, intentionally entered into a sexual relationship with men, in order to infect.

October 12, 2021

VI. APPS

VI. APPS

Annex 1. Information Collection Form for Country Whistleblowers

IF informants, country	
Email address and phone	

1. Criminalization of HIV in your country at the level of laws or regulations	<p>Are HIV positive people criminalized in your country by laws or regulations? Link to official sources: Criminal Code, Administrative Code, other legal acts. Detailed description of the article, year of entry into force, changes and</p> <p>amendments made by the legislator.</p>
2. Cases of criminal prosecution in connection with HIV status	<p>Are you aware of cases of criminal prosecution in connection with HIV status? Documentation of cases in accordance with the established form.</p> <p>Annex 1</p>
3. Cases of threats and blackmail of HIV-positive people in the context of HIV criminalization	<p>Are you aware of cases of threats and blackmailing of HIV-positive people in the context of HIV criminalization? Documentation of cases in accordance with the established form. Annex 2</p>
4. Official statistics and analysis of sentences	<p>Collection of information on the number of convictions, disaggregated by sex. It can be data from open sources with links. In the absence of open data, it is necessary to prepare and send a request to state authorities (if this does not threaten your safety). Request form if necessary</p> <p>provided.</p>
5. Media monitoring	<p>Collection of information on publications in the media covering cases of criminalization of HIV-positive people in the country. Data collection period 2018-2022</p>
6. Include information on HIV criminalization in shadow reports to UN treaty bodies, national reports	<p>Describe whether the topic of criminalization of HIV positive people in your country has been covered in reports from civil society to UN treaty bodies. If yes, then provide links to reports, as well as final comments of committees concerning the topic of criminalization. Whether the topic of criminalization was mentioned in national HIV reports or other related topics (assessment of legal barriers, HIV elimination validation report, GAM).</p>
7. Legislative initiatives for the last 5 years. Participation of civil society	<p>Have there been attempts to change the legislation during the last five years (2018–2022)? How did they end? Did community and civil society representatives participate in working groups/public hearings?</p>

ANNEX 1

Case Documentation

Case No.

Name:

Floor:

Age: Place

of residence: country, city Date

Description: who, when, under what circumstances. What happened: virus transmission, exposure to transmission risk. Who made the accusation and how. Whether the defendant applied for legal assistance for defense during the criminal/administrative process.

Court sentence:

APPENDIX 2

Documenting cases of threats and blackmail

Case No.

1. General information

Name of the event: *(who*

and whom threatened or blackmailed with the use of a criminal article) **Confidentiality:** *(for*

example, ready to communicate

with lawyers, ready to communicate only with a social worker, ready to communicate with journalists, ready to communicate with

other project employees, ...) City/other locality/region/federal district: Data collection date: Interviewer:

2. Information about the victim/injured Name:

Floor:

Relationship status:

Age at the time of the event:

Presence and age of children:

3. Information about the offense

Date of incident:

Place of incident:

Description of incident:

Consequences for life and health: *(describe*

how the above event affected the life and health of the woman in the future)



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