

Polski  
Mercuriusz  
Lekarski



POLISH MEDICAL JOURNAL

ISSN 1426-9686



VOLUME LII, ISSUE 6, NOVEMBER-DECEMBER 2024

# EDITORIAL BOARD

Editor in-Chief  
Prof. Waldemar Kostewicz

Statistical Editor  
Dr Inna Bielikova

Language Editor  
Dr Maksym Khorosh



## International Editorial Board – Members

GAMIL AHMED SG, Zagazig, Egypt  
CANONICA GW, Genova, Italy  
DUŁAWA J, Katowice, Poland  
FEDONIUK L, Ternopil, Ukraine  
HAMAIDA A, Setif, Algeria  
IZHYTSKA N, Lviv, Ukraine  
KADE G, Olsztyn, Poland  
KNAP J, Warsaw, Poland  
ŁABUZ-ROSZAK B, Opole, Poland  
MAJEWSKI J, Carlisle, UK  
MARCUCCI G, Roma, Italy  
MYROSHNYCHENKO M, Kharkiv, Ukraine  
NIEMCZYK S, Warsaw, Poland

NITSCH-OSUCH A, Warsaw, Poland  
PASHKOV V, Kharkiv, Ukraine  
PULYK O, Uzhhorod, Ukraine  
ROSZKOWSKI-ŚLIŻ K, Warsaw, Poland  
SAMOFALOV D, Odesa, Ukraine  
STĘPIEŃ A, Warsaw, Poland  
ŚLIWIŃSKI P, Warsaw, Poland  
TARGOWSKI T, Warsaw, Poland  
TKACHENKO I, Poltava, Ukraine  
UZAKOV O, Bishkek, Kyrgyzstan  
VUS V, Kyiv, Ukraine  
ZEMAN K, Łódź, Poland

---

### Managing Editor

Dr Lesia Rudenko  
l.rudenko@wydawnictwo-aluna.pl

### Editor

Agnieszka Rosa  
a.rosa@wydawnictwo-aluna.pl

### International Editor

Nina Radchenko  
n.radchenko@wydawnictwo-aluna.pl

---

Polski Merkuriusz Lekarski cited by PUBMED/MEDLINE, SCOPUS, INDEX COPERNICUS, EBSCO, POLISH MEDICAL BIBLIOGRAPHY, Ministry of Science and Higher Education.  
Articles published on-line and available in open access are published under Creative Common Attribution – Non Commercial-No Derivatives 4.0 International (CC BY-NC-ND 4.0) allowing to download articles and share them with others as long as they credit the authors and the publisher, but without permission to change them in any way or use them commercially.

#### © ALUNA PUBLISHING

29 Z.M. Przesmyckiego St.  
05-510 Konstancin-Jeziorna, Poland  
tel. +48 604 776 311  
a.luczynska@wydawnictwo-aluna.pl



[www.polskimerkuriuszlekarski.pl](http://www.polskimerkuriuszlekarski.pl)

#### Distribution and subscription

Bartosz Guterman  
tel. +48 22 245 10 55  
prenumerata@wydawnictwo-aluna.pl

## Unfair criminalization as a threat to epidemic safety

Nataliya Gutorova<sup>1</sup>, Oleksii Soloviov<sup>2</sup>, Yevhen Gnedik<sup>3</sup>

<sup>1</sup>YAROSLAV MUDRYI NATIONAL LAW UNIVERSITY, KHARKIV, UKRAINE

<sup>2</sup>ACADEMY OF PERSONNEL MANAGEMENT, KYIV, UKRAINE

<sup>3</sup>ACADEMICIAN STASHIS SCIENTIFIC RESEARCH INSTITUTE FOR THE STUDY OF CRIME PROBLEMS OF THE NATIONAL ACADEMY OF LAW SCIENCES OF UKRAINE, KHARKIV, UKRAINE

### ABSTRACT

**Aim:** This article aims to raise awareness and stimulate serious discussion of the negative impact of criminal law regulation on the prevention and treatment of infectious diseases, including HIV/AIDS, tuberculosis, and sexually transmitted diseases.

**Materials and Methods:** The study was conducted in 2024 and based on the empirical and analytical data of the Joint United Nations Programme on HIV/AIDS, the World Health Organization, the legal positions of the ECHR, legal practice and statistics of Ukraine, legal acts of the Ukraine, Germany, Estonia, Lithuania, and Poland. In total, 21 laws, drafts of laws, other documents, and 26 court decisions were analysed. Analytical, comparative, synthetic, systemic, sociological, induction, and deduction research methods were applied.

**Conclusions:** Criminal law should consider the latest medical research results when determining the boundaries of criminal law regulation. It is necessary to proceed from the principle of necessity in a democratic society when deciding on the criminalization of the transmission of HIV, tuberculosis, sexually transmitted diseases, COVID-19, and other infectious diseases. Based on this principle, decriminalization is necessary: a) infection with a disease that does not pose a serious danger; b) placing a person in danger of being infected with an infectious disease if such consequences did not occur and the person did not intend to become infected with such a disease.

**KEY WORDS:** public health, criminal law, HIV-criminalization, sexually transmitted diseases, human rights, stigmatization

Pol Merkur Lek, 2024;52(6):744-748. doi: 10.36740/Merkur202406119

### INTRODUCTION

Criminalization of acts, i.e., recognition of them as criminally punishable, entails severe restrictions of human rights and freedoms as consequences. Such a restriction is always associated with causing suffering to the person who committed an act harmful to society and with many so-called side effects. We are talking about significant expenditures of taxpayers' funds, which are spent on the criminal justice system, suffering that may be experienced by the families of convicted persons, the need for subsequent resocialization of persons who have been sentenced to isolation from society, deterioration of their health, the effect of so-called criminal infection, in which random offenders in the process of serving their sentence acquire connections in the criminal world and skills to commit crimes. These and other side effects of criminalization are well known; therefore, criminal law in a democratic society is considered an extreme, last resort, *ultima ratio*.

Unfortunately, politicians often use criminal law measures to show their voters their determination to combat negative social phenomena. Decisions on criminalization are often made spontaneously without conducting the necessary scientific research, making them frequently ineffective and unfair.

Analyzing the situation in the field of epidemic safety, specialists in the field of prevention and treatment of infectious diseases insist that, in many cases, criminalization not only does not contribute to the fight against epidemics but also has the opposite effect. The consequence of such measures is an increase in new infection cases. This criminalization hinders medical professionals' efforts to contain epidemics. This is, in particular, about the criminalization of placing a person in danger of being infected with the human immunodeficiency virus (hereinafter - HIV), as well as behavior that is not dangerous to society but is commonplace for groups of people with a high risk of HIV infection. [1].

The situation in which criminalization of acts negatively affects epidemic safety is unacceptable, while individual politicians and lawyers continue to defend the need for appropriate criminal law norms. Unfortunately, the findings of medical science remain unheeded. This demonstrates the need to conduct criminal law studies on this issue.

### AIM

This article aims to raise awareness and stimulate serious discussion of the negative impact of criminal law regulation on the prevention and treatment of infectious diseases, including HIV/AIDS, tuberculosis, and sexually transmitted diseases.

## MATERIALS AND METHODS

The study was conducted in 2024 and based on the empirical and analytical data of the Joint United Nations Programme on HIV/AIDS, the World Health Organization, the legal positions of the ECHR, Ukrainian legal practice and statistics, and the legal acts of Ukraine, Germany, Estonia, Lithuania, and Poland. In total, 21 laws, drafts of laws, other documents, and 26 court decisions were analyzed.

In the first stage, using analytical, synthetic, and systemic methods, Poland and Ukraine's criminal legislation on placing a person in danger of contracting an infectious disease was studied. In the future, the similarities and differences between these regulations and criminal law regulations in contracting a contagious disease in Germany, Lithuania, and Estonia were identified using a comparative method.

In the next stage, using sociological, analytical, and systemic methods, judicial statistics, and judicial practice of Ukraine on the application of criminal punishment for infection with the human immunodeficiency virus and other incurable infectious diseases, as well as for contracting a venereal disease, as well as WHO statistics on the number of new cases of HIV infection in Ukraine and other European countries were studied. Subsequently, the obtained results of the study of criminal legislation, statistical information, and judicial practice using analytical, synthetic, systemic methods, induction, and deduction methods were compared with analytical documents of the Joint United Nations Programme on HIV/AIDS, as well as research in the field of medicine on the impact of criminalization on the prevention and treatment of infectious diseases.

These data made it possible to analyze the validity of criminalizing the act of putting a person in danger of being infected with a contagious disease based on the international standard of the legitimacy of restricting human rights and freedoms in a democratic society formulated in the decisions of the European Court of Human Rights.

## REVIEW AND DISCUSSION

Infection of a person with an infectious disease that is dangerous to his life, or transmission of the virus of such a disease, is essentially causing serious bodily harm to the victim. Since causing serious bodily harm in criminal law is considered a criminally punishable act, it is logical that causing serious bodily harm by infecting with a particularly dangerous infectious disease or transmitting the virus of such a disease is also such an act.

At the same time, in many countries, criminal laws have criminalized not only causing serious bodily harm but also the very fact of placing a person in danger of being infected or contracting an infectious disease, regardless of the actual consequences.

Thus, Article 130 of the Criminal Code of Ukraine [2] criminalizes, in Part 1, placing of a person in danger of being infected, in Part 2 – reckless infection, in Part 3 – reckless infection of two or more persons or a minor, in Part 4 – intentional infection with HIV or another incurable infectious disease that is dangerous to human life. Article 133 of the Criminal Code of Ukraine criminalizes infection

with a venereal disease, which can be committed both intentionally and recklessly; placing a person in danger of being infected with a venereal disease, according to the legislation of Ukraine, is criminally punishable only in the event of an attempt to commit this crime, which, under Article 15 of the Criminal Code of Ukraine, is possible only if the perpetrator acted with direct intent, wanting to infect the victim with a venereal disease.

Part 1 of Article 161 of the Penal Code of Poland criminalizes directly exposing a person to the risk of infection from HIV, a sexually transmitted disease, or a serious, incurable, or life-threatening infectious disease [3]. The Act of 7 July 2022 abolished the previously existing differentiation in criminal punishment between exposing a person to the risk of infection from HIV and exposing a person to the risk of infection from a sexually transmitted disease or another incurable or life-threatening disease [4]. Such changes were justified by the need to consider medical progress in the treatment of people infected with HIV, which means that the disease caused by this virus is no more dangerous than other particularly dangerous diseases, and a more severe punishment for exposing a person to the risk of contracting HIV unreasonably increases the stigmatization of people living with HIV [5].

A comparison of the criminal legislation of Ukraine and Poland in terms of criminalization of infection with an infectious disease shows that the scope of criminalization in this area in Poland is significantly larger. Unlike Ukraine, criminally punishable offenses include placing a risk of infection with a venereal disease, as well as posing a risk of infection and infection not only with HIV but also with another life-threatening disease. In this sense, Article 161 of the Penal Code of Poland could have been applied to infection with the SARS-CoV-2 viral infection at the initial stages of the pandemic. However, the validity of such a decision was questioned [6].

Notably, the terminology used by Ukrainian and Polish legislators when formulating the legal norms under consideration in criminal law is incorrect. The WHO International Statistical Classification of Diseases and Related Health Problems (ICD) [7] does not use the term "venereal disease". This term is outdated, and diseases that were previously called venereal are included in a relatively broad list of diseases that are predominantly sexually transmitted (A50-A64). Therefore, the health legislation of both Poland and Ukraine does not provide for a list of venereal diseases. As a result, in Ukraine, over the past 10 years, Article 133 of the Criminal Code, "infection with a venereal disease," has not been applied; during this period, not a single criminal case was sent to the court with an indictment under this article [8]. In the criminal legislation of Poland, Part 1 of Article 161 of the Penal Code (before amendments were made in 2022 – Part 2 of this Code) provides for the alternative of infection with either a venereal or infectious disease. Therefore, after the term "venereal disease" ceased to be used in medical legislation, this did not affect the scope of criminalization since "infectious disease" is broader and covers diseases previously defined as venereal. At the

same time, researchers note that this part of Article 161 of the Criminal Code of Poland requires improvement [9]. The term “incurable disease” used in the criminal laws of Ukraine and Poland is also problematic since neither WHO documents nor the healthcare legislation of these countries use such a term [10, p. 159, 160].

A different approach to the criminalization of infection with a life-threatening infectious disease is taken by countries whose criminal laws do not provide for separate articles describing such an act. Infection with a contagious disease, if necessary, can be considered as causing serious bodily harm or violating epidemic safety rules [11]. Examples of such countries include Germany [12], Estonia [13], and Lithuania [14].

An analysis of statistical information from Ukraine on the application of Article 130 of the Criminal Code of Ukraine, “infection with HIV or any other incurable contagious diseases,” over the past 10 years from 2014 to 2023, shows that 71 such offenses were registered during this period, while only 21 cases were sent to the court with a guilty verdict [8]. According to WHO, 139,393 new cases of HIV infection were identified in Ukraine from 2012 to 2021, while before the start of the full-scale war in 2021, Ukraine ranked second after the Russian Federation in the European region in terms of the number of new cases of HIV infection (37.1 per 100,000 population) [15].

As part of the study, an analysis of all sentences of Ukrainian courts posted in the Unified State Register of Court Decisions showed that under Article 130 of the Criminal Code of Ukraine from 2006 to September 2024. Of the 23 court sentences under this article, three sentences involved the transmission of HIV through negligence to 4 victims, and 17 sentences involved placing a person in danger of being infected with HIV infection. As for placing a person in danger of being infected with HIV, in most cases, the methods of committing the acts not only did not lead to, but either could not lead to, HIV transmission at all, or the probability of such transmission was close to zero [11].

A comparison of the number of people in Ukraine brought to trial under Article 130 of the Criminal Code of Ukraine for transmitting HIV to another person with the number of new cases of HIV during this period shows that criminal justice is purely selective. (4 victims since 2006). It does not and cannot have a restraining effect on the spread of the epidemic.

An analysis of scientific literature devoted to the issues of criminalization of exposing a person to the risk of infection with an infectious disease, including those transmitted sexually, as well as HIV transmission, shows significant differences in the approaches of representatives of legal and medical sciences.

In states where criminal law provides for the infection of another person with an infectious disease in special norms, legal researchers mainly analyze the legal features of the corresponding criminal offenses. At the same time, the issue of the validity of criminalization of placing at risk of infection with an infectious disease and the impact of such criminalization on epidemic safety is mainly not considered. In

this aspect, it is worth noting the scientific research of Polish scientists Rafał Kubiak [6,] and Adam Wróbel [9], as well as Ukrainian scientists Kateryna Yanishevskaya [16], and Oksana Starko [17]. It can be assumed that posing a risk of bodily harm is a priori considered a basis for criminalization. Medical research in this area, which allows assessing the likelihood of infection transmission and its danger to human health, taking into account modern achievements of medical science and the impact of such criminalization on the fight against epidemics, is not analyzed in the works of these authors.

Representatives of medical science, considering the specified problem, focus on the groundlessness and inappropriateness of using criminal law in the fight against the spread of infectious diseases. They argue that criminal legislation on placing a risk of infection with a contagious disease, including HIV, COVID-19, and others, is a serious obstacle to the prevention and treatment of infectious diseases and containing the epidemic [1; 18]. Due to the fear of criminal liability, people living with HIV, as well as suffering from infectious diseases, in many cases refuse to be tested for infections, do not consult a doctor, but self-medicate, which contributes to the spread of epidemics. In addition, researchers are sure that such criminalization leads to the violation of human rights [19; 20; 21]. Scientists also note the lack of understanding of legal science and legislation of the current state of medicine in preventing and treating infectious diseases [18; 22].

Criminalization, i.e., defining an act as criminally punishable in criminal law, always entails restricting human rights and freedoms. In a democratic state governed by the rule of law, such restrictions cannot be established without justification and arbitrariness. When establishing and applying restrictions on exercising human rights and freedoms, international human rights standards oblige the state to be guided by their compliance with the criterion of “necessity in a democratic society,” the so-called three-pronged test of legitimacy. The content of this test was formulated in the decisions of the European Court of Human Rights, which determined that the test of “necessity in a democratic society” requires determining: 1) whether the “interference” complained of corresponded to a “pressing social need,” 2) whether it was proportionate to the legitimate aim pursued and 3) whether the reasons given by the national authorities to justify it are relevant and sufficient [23; 24].

Based on this test, the need to criminalize placing a person in danger of being infected with an infectious disease or transmitting an infectious disease virus is possible only if such criminalization corresponds to the “pressing social need.” Such a social need could prevent the spread of especially dangerous infectious diseases and the effective fight against epidemics, which will make it possible to preserve the life and health of people as the highest social values in a democratic society. Guided by this principle, it is necessary to highlight the problems that exist in the criminalization of placing a person in danger of being infected with an infectious disease.

First, it should be emphasized that criminal punishability of actions assessed by the courts as placing a person in

danger of being infected with an infectious disease, but that did not lead to and could not lead to the transmission of the infection violates human rights.

In addition, the criminal punishability of infection with an infectious disease is legitimate only if the disease poses a serious threat to the life or health of the victim. Criminalizing the method of transmission of the infection, namely sexual transmission, provided that the infection cannot cause serious harm to health, excludes the legitimacy of such a decision.

When deciding whether to criminalize infection with a particularly dangerous infectious disease, one should rely on modern achievements of medical science. Authoritative medical professionals from around the world involved in the prevention and treatment of infectious diseases, including HIV/AIDS and COVID-19, insist on the need to decriminalize exposing someone to the risk of infection with an infectious disease in the absence of intent to transmit the infection. As stated above, in their opinion, the criminalization of exposing someone to the risk of infection with an infectious disease has a negative impact on the epidemiological situation. It leads to an increase in the number of new cases of infection. Medical professionals argue that criminalization of exposing someone to the risk of infection with an infectious disease results in a significant number of potential carriers refusing to undergo testing, which leads to an increase in new cases of infection. All this seriously calls into question the validity of the opinion of lawyers who, without any compelling arguments, defend the need to preserve such norms. In addition, when formulating criminal law norms, only those terms provided for by legislation in the healthcare field should be used. The use of the terms "venereal disease" and "incurable disease" in the criminal laws of Ukraine and Poland is a serious shortcoming of these laws.

## CONCLUSIONS

Criminal law must consider the latest medical research results when determining the boundaries of its regulation. Medical science's understanding of the nature of infectious diseases, their transmission routes, prevention, and treatment methods is constantly improving. Therefore, regulation in this area, in terms of establishing and applying criminal law norms, must be carried out in constant contact with medical professionals and correspond to the current state of medical science. In this regard, criminal punishment for human behavior that not only did not lead to the infection of another person with an infectious disease or the transmission of its virus but also objectively could not lead to such consequences is absolutely unacceptable.

It is necessary to proceed from the principle of necessity in a democratic society when deciding on the criminalization of the transmission of HIV, tuberculosis, sexually transmitted diseases, COVID-19, and other infectious diseases. Such criminalization can only be justified if the infectious disease poses a serious threat to human life or health. In this regard, it is not consistent with the principle of necessity in a democratic society to criminalize the transmission of infectious diseases, including those transmitted primarily through sexual contact, if such diseases do not pose a serious threat to the life or health of the victim. Based on the findings of scientists specializing in the prevention and treatment of infectious diseases, including HIV/AIDS, it is necessary to decriminalize in the criminal law the placing of a person in danger of being infected with an infectious disease or transmitting the virus of such a disease if such actions are committed in the absence of intent for such consequences to occur. Such a decision will improve the effectiveness of the prevention and treatment of infectious diseases, help reduce the stigmatization of people living with HIV and suffering from infectious diseases, and help protect their rights and legitimate interests.

## REFERENCES

- UNAIDS Reference Group on HIV and Human Rights. Decriminalisation and the end of AIDS: keep the promise, follow the science, and fulfill human rights. *Sexual and reproductive health matters*. 2023;31(1):2194188. doi:10.1080/26410397.2023.2194188.
- Criminal Code of Ukraine. Verkhovna Rada of Ukraine, April 5, 200. <https://zakon.rada.gov.ua/laws/show/en/2341-14#Text> (Ukrainian)
- Ustawa z dnia 6 czerwca 1997 r. - Kodeks karny. <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19970880553/U/D19970553Lj.pdf> (Polish)
- USTAWA z dnia 7 lipca 2022 r. o zmianie ustawy – Kodeks karny oraz niektórych innych ustaw. [https://orka.sejm.gov.pl/proc9.nsf/ustawy/2024\\_u.htm](https://orka.sejm.gov.pl/proc9.nsf/ustawy/2024_u.htm) (Polish)
- Pravo.pl. W Kodeksie karnym łagodniej za narażenie na wirus HIV, chyba że chodzi o kilka osób. <https://www.prawo.pl/prawnicy-sady/kary-za-umyslne-narazenia-na-zakazenie-wirusem-hiv-lub,516409.html> (Polish)
- Rafał Kubiak. Odpowiedzialność karna za narażenie na zakażenie wirusem SARS-CoV-2. *Palestra* 6/2020. <https://palestra.pl/pl/czasopismo/wydanie/6-2020/artykul/odpowiedzialnosc-karna-za-narazenie-na-zakazenie-wirusem-sars-cov-2> (Polish)
- WHO. International Statistical Classification of Diseases and Related Health Problems (ICD). <https://www.who.int/standards/classifications/classification-of-diseases>
- Ofis Generalnoho prokurora Ukrainy. Pro zarejestrovani kryminalni pravoporushennia ta rezultaty yikh dosudovoho rozsliduvannia [Office of the Prosecutor General of Ukraine.] On registered criminal offenses and the results of their pre-trial investigation. <https://gp.gov.ua/ua/posts/pro-zareyestrovani-kryminalni-pravoporushennia-ta-rezultati-yih-dosudovogo-rozsliduvannia-2>. (Ukrainian)
- Wróbel A. Przestępstwo narażenia na zarażenie chorobą weneryczną lub zakaźną, ciężką chorobą nieuleczalną lub realnie zagrażającą życiu (art. 161 § 2 I 3 K.K. *Przebieg Prawa i Administracji* 127, 2021. doi:10.19195/0137-1134.127.23. (Polish)
- Pravove zabezpechennia protydyi biozahrozam v umovakh protyepidemichnykh zakhodiv yak skladova natsionalnoi bezpeky [Legal support for counteracting biothreats in the context of anti-epidemic measures as a component of national security] za zah. red. N. O. Hutorovoi. *Kharkiv: Pravo*, 2024, p.270. doi:10.31359/9786178411510. (Ukrainian)

11. Gutorova N, Rachynska V, Gnedik Y. HIV criminalization's origins, enforcement, and social impacts. *Pol Merkur Lek* 2023;51(6):624-631. doi:10.36740/Merkur202306108.
12. German Criminal Code (Strafgesetzbuch – StGB). [https://www.gesetze-im-internet.de/englisch\\_stgb/englisch\\_stgb.html#p1876](https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#p1876)
13. Penal Code of Estonia. Passed 06.06.2001. <https://www.riigiteataja.ee/en/eli/522012015002/consolide>
14. Republic of Lithuania. Law on the approval and entry into force of the criminal code. 26 September 2000. <https://e-seimas.lrs.lt/portal/legalActPrint/lt?jfwid=rivwzvpvg&documentId=a84fa232877611e5bca4ce385a9b7048&category=TAD>
15. WHO. HIV/AIDS surveillance in Europe 2022 – 2021 data. Surveillance Report. doi:10.2900/818446.
16. Yanishevskaya K.D. Osoblyvosti kryminalno-pravovoi ta kryminolohichnoi kharakterystyky zarzhennia virusom imunodefitsytu liudyny abo inshoiu nevylikovnoiu infektsiinoiu khvoroboiu [Features of the Criminal and Criminological Characteristics of Infection with the Human Immunodeficiency Virus or Other Incurable Infectious Disease] *Yurydychnyi elektronnyi naukovi zhurnal*. 2020;2. doi:10.32782/2524-0374/2020-2/91. (Ukrainian)
17. Starko O.L. Subiektivni oznaky zarzhennia venerychnoiu khvoroboiu [Subjective signs of infection with a venereal disease]. *Analitichno-porivnialne pravoznavstvo*. 2022. № 4. C. 317-320. doi:10.24144/2788-6018.2022.04.57. (Ukrainian)
18. Barré-Sinoussi F, Abdool Karim SS, Albert J, et al. Expert consensus statement on the science of HIV in the context of criminal law. *J Int AIDS Soc*. 2018;21(7):e25161. doi:10.1002/jia2.25161.
19. Hoppe T, McClelland A, Pass K. Beyond criminalization: reconsidering HIV criminalization in an era of reform. *Curr Opin HIV AIDS*. 2022;17(2):100-105. doi:10.1097/COH.0000000000000715.
20. Mykhalovskiy E. It's time to end HIV criminalization. Il est temps de mettre fin à la criminalisation du VIH. *Can J Public Health*. 2024;115(1):4-7. doi:10.17269/s41997-023-00850-w.
21. Nina Sun, Emily Christie, Luisa Cabal, Joseph J Amon - Human rights in pandemics: criminal and punitive approaches to COVID-19: *BMJ Global Health* 2022;7:e008232. doi:10.1136/bmjgh-2021-008232.
22. Symington A, Chingore-Munazvo N, Moroz S. When law and science part ways: the criminalization of breastfeeding by women living with HIV. *Ther Adv Infect Dis*. 2022;9:20499361221122481. doi:10.1177/20499361221122481.
23. European Court of Human Rights. Case of the Sunday Times v. the United Kingdom. (Application no. 6538/74). <https://hudoc.echr.coe.int/rus#%22itemid%22:%22001-57584%22>}.
24. European Court of Human Rights. Case of Salov v. Ukraine (Application no. 65518/01). <https://hudoc.echr.coe.int/rus#%22itemid%22:%22001-70096%22>}.

## CONFLICT OF INTEREST

The Authors declare no conflict of interest

## CORRESPONDING AUTHOR

**Nataliya Gutorova**

Yaroslav Mudryi National Law University, Kharkiv, Ukraine

e-mail: natalygutorova@gmail.com

## ORCID AND CONTRIBUTIONSHIP

Nataliya Gutorova: 0000-0003-2485-0651 **A B D E F**

Oleksii Soloviov: 0000-0002-6615-4868 **A B D E**

Yevhen Gnedik: 0000-0003-3005-3624 **B C D E**

**A** – Work concept and design, **B** – Data collection and analysis, **C** – Responsibility for statistical analysis, **D** – Writing the article, **E** – Critical review, **F** – Final approval of the article

**RECEIVED:** 02.09.2024

**ACCEPTED:** 04.11.2024