

Eurasian Women's Network on AIDS

HIV Criminalization Case Studies Eastern European and Central Asian Region

Internal Supporting Documentation
December 2017

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

Belarus

Name: Y

Gender: Male

Age: 45

Location: Zhlobin, Belarus

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

Name: V

Gender: Male

Age: 35

Location: Gomel region, Belarus

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

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

Name: Unknown

Gender: Male

Age: 40

Location: Svetlogorsk, Belarus

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

Name: J

Gender: Female

Age: 34

Location: Zhlobin, Belarus

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

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

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

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

Georgia

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

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

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

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

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

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

Moldova

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

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

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

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

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

Name: A

Gender: Male

Age: 37

Location: Tiraspol, Transnistria, Moldova

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

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

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

Name: A

Gender: Male

Age: 40

Location: Slobodzeysky district, Transnistria, Moldova

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

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

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

Name: O

Gender: Female

Age: 35

Location: Rybnitsa, Transnistria, Moldova

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

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

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

Name: A

Gender: Female

Age: 31

Location: Rybnitsa, Transnistria, Moldova

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Russian Federation

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

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

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

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

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

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

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

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

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

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

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

Tajikistan

Name: Unknown
Gender: Female
Age: “young woman”
Location: Unknown, Tajikistan

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

Name: Unknown
Gender: Male
Age: Unknown
Location: Dushanbe, Tajikistan

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

Ukraine

Name: Unknown
Gender: Female
Age: Unknown
Location: Mykolayiv Region, Ukraine

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

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

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

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

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

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

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

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

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

Uzbekistan

Name: M

Gender: Male

Age: 40

Location: Bekabad, Uzbekistan

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

Name: U

Gender: Male

Age: 38

Location: Tashkent, Uzbekistan

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

Name: L

Gender: Female

Age: 39

Location: Tashkent, Uzbekistan

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

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

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

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

Estonia

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

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

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

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

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