

HIV/AIDS and criminalization in Armenia: need for reforms

N.Sargsyan, MD, MPH **UNAIDS**
L.Nanushyan, MD, MPH *National Assembly of the RA*
S.Krmoyan, LL.M, PhD *Ministry of Health of the RA*

INTRODUCTION

The Criminal Code of the Republic of Armenia stipulates liability for infecting with the HIV pathogen. According to the Law, exposing a person to the *obvious danger* of infection with the HIV pathogen or infecting a person with the HIV pathogen, *wilfully or negligently*, by a person who knows that he/she is infected with this disease is punished with a fine or arrest.

DESCRIPTION

Application of criminal liability has a significant impact on the virus proliferation, since the transmission of the virus usually takes place, when the infected person is not aware of being infected. Such laws shift the attention from the measures taken, have influence on the efficiency of the response to the pandemic, and can have an opposite effect on the vulnerable groups, suffering from discriminatory treatment from the society.

RESULTS

UNAIDS recommends countries to review their criminal codes and to restrict liability for HIV transmission. Liability shall be introduced only for the following cases: if the infected person is aware of his/her condition, if he/she wilfully wanted to infect or has infected. In all other cases, when the infected person was not aware of his/her condition or does not know how infection takes place, or if he/she disclosed his/her condition to the given person, it is proposed to exempt from liability. In this respect, it is necessary to discuss the correspondence of the RA Criminal Code to the requirements of international recommendations.

REFERENCES

1. UNAIDS, International Guidelines on HIV/AIDS and Human Rights (2006 Consolidated Version).
2. Canadian HIV/AIDS Legal Network (2007) A Human Rights Analysis of the N'djamena model legislation on AIDS and HIV specific legislation in Benin, Guinea, Guinea Bissau, Mali, Niger, Sierra Leone and Togo, GNP+ and Terrence Higgins Trust (2005) Criminalization of HIV transmission in Europe: A rapid scan of the laws and rates of prosecution for HIV transmission within signatory States of the European Convention of Human Rights. <http://www.gnpplus.net/criminalisation/rapidscan.pdf>
3. Уголовное право, общественное здравоохранение и передача/угроза передачи ВИЧ: Документ, посвященный выбору политики, ЮНЭЙДС, 2002, с. 35
4. S et al (2007) "Do Criminal Laws Effect HIV Risk Behaviour? An Empirical Trial" http://papers.ssrn.com/sol3/papers.cfm?abstract_id=913323.
5. Criminalisation of HIV transmission in Europe, Table II: Overview of the European situation, p.10-12.
6. Marks G et al (2005) "Meta-analysis of high-risk sexual behavior in persons aware and unaware they are infected with HIV in the United States: implications for HIV prevention programs" *Journal of Acquired Immune Deficiency Syndromes* 39:446-53.
7. Brenner BG et al (2007) "High rates of forward transmission events after acute/early HIV-1 infection" *Journal of Infectious Diseases* 195: 951-59.
8. КРАТКОЕ ЗАЯВЛЕНИЕ ПО ВОПРОСАМ ПОЛИТИКИ : Криминализация передачи ВИЧ. Август 2008. Более подробная версия данного документа расположена по адресу http://data.unaids.org/pub/Manual/2008/jc1601_policybrief_criminalization_en.pdf
9. Криминализация передачи ВИЧ. ЮНЭЙДС. 2008
10. Auerbach J and Coates T (2000) "HIV Prevention Research: Accomplishments and Challenges for the Third Decade of AIDS" *American Journal of Public Health* 90:1029-1032



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