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PRESS RELEASE

PREVENTION

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CRIMINAL JUSTICE AND PREVENTION

Several legal proceedings, either finished or ongoing, raise the issue of responsibility in HIV transmission during sexual intercourse. When malicious intent or deception are substantiated, the Courts have full means to punish contamination. If such is not the case, criminal prosecution is usually dismissed. Therefore it is malicious intent or breach of trust (fraud or a relationship based on domination), that are being sentenced and not the mere fact of being HIV positive.

In France, HIV prevention policy is based on the notion of shared responsibility. This principle means that in any sexual relationship each partner is concerned about protecting himself/herself and the other person. HIV negative persons must do their utmost to remain negative, and only condoms prevent HIV transmission. Unprotected sex with consent should imply that partners share the risks and their consequences.

If criminal procedures disregard that principle, detrimental consequences to prevention policies can be expected. So as to avoid possible punishment, people who fear they have been contaminated could well avoid being tested, which would restrict circulation of information on HIV and means of prevention. In parallel, the others could feel unconcerned as to their own protection and exempt from any responsibility. Effective questioning of prevention policies could therefore have serious consequences on public health by encouraging the dissemination of HIV.

The National AIDS Council subsequently stresses that, in order not to undermine prevention policies in France, it is essential that shared responsibility be taken into account in legal proceedings dealing with HIV transmission during sexual intercourse.