Reply 3

Thank you, Carly Sinclair, Jean Williams, and Dariia Donets, for your contribution to the discussion.

We all agree that that the application of s41 (3) (a) of the YJCEA 1999[14] depends on the circumstances involved. The events leading to an alleged illegal sexual act helps the court to determine if there was consent or not[[1]](#footnote-1). In this respect, the way the defendant packages his or her reasons to believe there was consent influence the decision of the court. Gorgios would succeed under s41 (3) (a) of the YJCEA 1999 if he can prove the link between previous events and the alleged incidence of rape[[2]](#footnote-2).

The leave can only be granted if it qualified one or more of the windows given. The relevance of evidence the defendant seeks to introduce is another compelling factor that must be taken care of. Dariia Donets has captured well the question of what is relevant. The question of whether Bella's previous relationship with Gorgios and hug when he was leaving the party, backed by the statement that he was special to her, provide the reasonable belief of consent to future sexual relations between them is subject to how the court will look at the circumstances surrounding the case[[3]](#footnote-3). The circumstances may also influence the defendant’s belief in relation to consent, which can be illustrated by their previous relationship.

1. Bahador, Regina v CACD 15-Feb-2005 (, [2005] EWCA Crim 396) [↑](#footnote-ref-1)
2. s41 (3) (a) of the YJCEA 1999 [↑](#footnote-ref-2)
3. Gjoni v Regina CACD (Bailii, [2014] EWCA Crim 691). [↑](#footnote-ref-3)