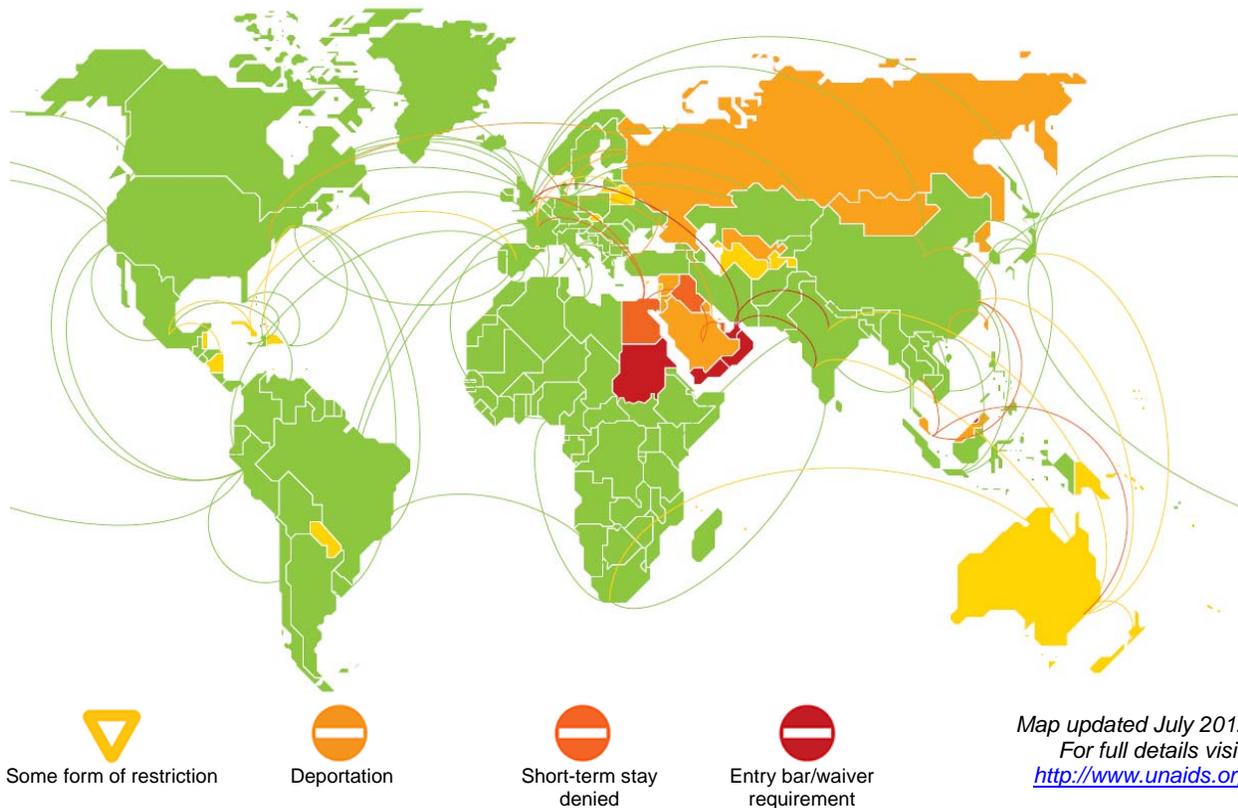


## HIV-related restrictions on entry, stay and residence

[Source: UNAIDS Human Rights and Law Team - updated July 2012]



According to the publication *Mapping of Restrictions on the entry, stay and residence of people living with HIV* (UNAIDS, May 2009), and latest developments as of July 2012:

- **45 countries**, territories, and areas impose some form of restriction on the entry, stay and residence of people living with HIV based on their HIV status:

1. Andorra	16. Jordan	31. Samoa
2. Aruba	17. Kuwait	32. Saudi Arabia
3. Australia	18. Lebanon	33. Singapore
4. Bahrain	19. Lithuania	34. Slovakia
5. Belarus	20. Malaysia	35. Solomon Islands
6. Belize	21. Marshall Islands	36. Sudan
7. Brunei Darussalam	22. Mauritius	37. Syrian Arab Republic
8. Comoros	23. Mongolia	38. Chinese Taipei
9. Cuba	24. New Zealand	39. Tajikistan
10. Cyprus	25. Nicaragua	40. Tonga
11. Democratic People's Republic of Korea	26. Oman	41. Turkmenistan
12. Dominican Republic	27. Papua New Guinea	42. Turks and Caicos Islands
13. Egypt	28. Paraguay	43. United Arab Emirates
14. Iraq	29. Qatar	44. Uzbekistan
15. Israel	30. Russian Federation	45. Yemen

- **5 countries** have a complete bar on the entry and stay of people living with HIV:

Brunei Darussalam  
Oman  
Sudan  
United Arab Emirates  
Yemen

- **5 countries** require that a person be able to show they are HIV negative to be allowed to stay for even short periods (10 to 90 days):

Egypt  
Iraq  
Qatar  
Singapore  
Turks and Caicos Islands

- **20 countries** deport individuals once their HIV-positive status is discovered:

1. Bahrain	8. Malaysia	15. Sudan
2. Brunei Darussalam	9. Mongolia	16. Syrian Arab Republic
3. Democratic People's Republic of Korea	10. Oman	17. Chinese Taipei
4. Egypt	11. Qatar	18. United Arab Emirates
5. Iraq	12. Russian Federation	19. Uzbekistan
6. Jordan	13. Saudi Arabia	20. Yemen
7. Kuwait	14. Singapore	

- **132 countries, territories and areas** have no HIV-specific restriction on entry, stay and residence:

1. Albania	45. Greece	89. Netherlands
2. Antigua and Barbuda	46. Grenada	90. Nigeria
3. Argentina	47. Guatemala	91. Norway
4. Armenia	48. Guinea	92. Pakistan
5. Austria	49. Guinea-Bissau	93. Panama
6. Azerbaijan	50. Guyana	94. Peru
7. Bangladesh	51. Haiti	95. Philippines
8. Barbados	52. Holy See	96. Poland
9. Belgium	53. Hong Kong Special Administrative Region	97. Portugal
10. Benin	54. Hungary	98. Republic of Korea
11. Bosnia and Herzegovina	55. Iceland	99. Republic of Moldova
12. Botswana	56. India	100. Romania
13. Brazil	57. Indonesia	101. Rwanda
14. Bulgaria	58. Iran (Islamic Republic of)	102. San Marino
15. Burkina Faso	59. Ireland	103. Senegal
16. Burundi	60. Italy	104. Serbia

17. Cambodia	61. Jamaica	105. Sierra Leone
18. Cameroon	62. Japan	106. Slovenia
19. Canada	63. Kazakhstan	107. Somalia
20. Central African Republic	64. Kenya	108. South Africa
21. Chad	65. Kosovo	109. Spain
22. Chile	66. Kyrgyzstan	110. Sri Lanka
23. China	67. Lao People's Democratic Republic	111. Saint Kitts and Nevis
24. Colombia	68. Latvia	112. Saint Lucia
25. Congo	69. Lesotho	113. Swaziland
26. Costa Rica	70. Liberia	114. Sweden
27. Democratic Republic of the Congo	71. Libyan Arab Jamahiriya	115. Switzerland
28. Côte d'Ivoire	72. Liechtenstein	116. United Republic of Tanzania
29. Croatia	73. Luxembourg	117. Thailand
30. Czech Republic	74. Madagascar	118. The former Yugoslav Republic of Macedonia
31. Denmark	75. Malawi	119. Togo
32. Djibouti	76. Maldives	120. Trinidad and Tobago
33. Dominica	77. Mali	121. Tunisia
34. Ecuador	78. Malta	122. Turkey
35. El Salvador	79. Mauritania	123. Uganda
36. Estonia	80. Mexico	124. Ukraine
37. Ethiopia	81. Federated States of Micronesia	125. United Kingdom
38. Finland	82. Monaco	126. United States of America
39. Fiji	83. Montenegro	127. Uruguay
40. France	84. Morocco	128. Vanuatu
41. Gabon	85. Mozambique	129. Venezuela (Bolivarian Republic of)
42. Gambia	86. Myanmar	130. Viet Nam
43. Georgia	87. Namibia	131. Zambia
44. Ghana	88. Nepal	132. Zimbabwe

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## Key messages

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- ▶ **Every individual should have equal access to freedom of movement** — regardless of HIV status. Since 30 years ago when most HIV-related travel restrictions were put in place, the world has changed. The world has become increasingly ‘smaller’ with travel and migration being much more important; HIV treatment has revolutionized the life of people living with HIV so they can be – and are – productive, equal and global citizens; and finally we know much more about how to prevent HIV transmission and know that a person on treatment is virtually non-infectious. HIV travel restrictions are neither an evidence-informed or rights-based way to prevent HIV transmission.
- ▶ **Over 130 countries do not have HIV-related restrictions on entry, stay and residence and have not found a need for them.** The move by the United States to remove its long-standing restrictions in January 2010, by China in April 2010, by Namibia in July 2010, by Ukraine in January 2011, by Armenia in July 2011, by Fiji in August 2011, by the Republic of Moldova in June 2012, and by the Republic of Korea in July 2012 is recent recognition of this reality and is an example of the kind of concrete wins we need for the dignity and human rights of people living with HIV.
- ▶ **Restrictions on entry, stay and residence based on HIV status are discriminatory.** UNAIDS opposes restrictions that *single out HIV* for special treatment and that restrict movement *based on HIV positive status only*. Such restrictions are discriminatory. All chronic health conditions (e.g. chronic heart or liver disease, diabetes, cancer) should be treated alike by governments, and it is both wrong and unnecessary to single out HIV.
- ▶ **There is no evidence that such restrictions protect public health.** It is discriminatory to assume that HIV-positive people will engage in risky behaviour and transmit HIV to others. Furthermore, governments do not restrict the coming and going of their own citizens, and most governments allow tourists to come and go without restrictions, but then apply HIV restrictions to those coming for longer term stays. HIV exists in all countries and cannot be kept out or contained by shutting borders. These facts demonstrate that these restrictions do not have a rational or realistic relation to protecting the public health.
- ▶ **In fact, the International Task Team on HIV-related Travel Restrictions found that such restrictions could *impede* efforts to protect public health.** This is because HIV-related travel restrictions fuel national stigma against people living with HIV and create a misleading public impression that HIV is a “foreign” problem that can be controlled through measures such as border controls. The more rational way to protect public health is to provide access to HIV prevention and treatment information and services to *all mobile people – both citizens and non-citizens*, coming and going into and out of a country. This is what UNAIDS advocates.
- ▶ **Global business leaders have called for an end to restrictions on entry, stay and residence, emphasizing that they are bad for business.** Today’s competitive global landscape requires companies to move their best talent where it is needed, without discriminatory restrictions. Over 20 CEOs have signed a pledge to oppose travel restrictions, among them the leaders of Levi Strauss & Co., The Coca-Cola Company, Johnson & Johnson and Virgin Unite.
- ▶ **Governments can exclude people who are not financially self-sufficient and will draw down on public monies, but should not apply a blanket exclusion to all people living with HIV for economic reasons.** Governments should not assume all people living with HIV will not be self-sufficient. Rather, they should do an individual assessment to determine if indeed that individual will not be able to support his or her health care costs, treating HIV and similar chronic health conditions the same. Where there are valid human rights or humanitarian claims, these should trump economic considerations. These include those seeking asylum, those seeking to reunite with family, and those whose health status is so compromised that their life depends on immediate access to life-saving medication.
- ▶ **Governments should not let other governments impose restrictions on their HIV positive citizens.**

## Q&A

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### 1. **What are HIV-related restrictions on entry, stay and residence (“HIV-related travel restrictions”)?**

HIV-related restrictions on entry, stay and residence are laws, regulations and/or policies put in place by States to regulate the entry, stay or residence of people living with HIV. They can apply to the full range of mobility or to only some aspects of mobility, e.g. entry and stay involving short-term travel and stay (tourism, family visits, business trips, attending conferences) and/or long-term residence (immigration, labour migration, study, refugee asylum and resettlement, family reunification, consular and international postings).

### 2. **What forms can these restrictions take?**

These restrictions can be complex—with parts of the government not being aware of the existence of these restrictions. For instance, these restrictions can be found in law (e.g. immigration and/or public health law) and require Parliamentary action to remove them; or they can be found in regulation and can be removed by action of the relevant ministry. They also can be found in guidelines regarding the implementation of medical health assessments for those getting visas, or they may take the form of questions in medical certificates or in visa application forms. Also, in some countries, such restrictions are imposed by employers and/or recruitment agencies, seeking to employ migrant labour. In some cases, the governments of the sending and receiving countries are aware of these employer/recruitment practices and support or require them; in other cases, the governments do not know about these practices.

### 3. **Why do countries have such restrictions?**

Most HIV-related restrictions were put in place in the 1980s when fear, ignorance and prejudice dominated many responses. For those governments that have such restrictions, they represent the governments’ (misguided) attempts to prevent the spread of HIV and to avoid possible costs of treatment and care related to HIV.

### 4. **Are HIV travel restrictions a violation of human rights?**

There is no human right to enter or remain in a country. However, there are human rights to non-discrimination, equality before the law, freedom of movement and privacy. To abridge these rights for anyone, including people living with HIV, governments have to show just cause and do so in the least restrictive manner possible. Governments have not met these requirements with regard to restrictions on entry, stay and residence based on HIV status. HIV specific and blanket restrictions violate the human rights of non-discrimination and equality before the law. The *International Guidelines on HIV/AIDS and Human Rights* state that any restriction on liberty of movement or choice of residence based on suspected or real HIV status alone, including HIV screening of international travelers, is discriminatory. Where they involve mandatory testing and lack of confidentiality, they also violate the rights to liberty and privacy. For instance, many migrants are not told they are being tested for HIV, are not informed of results, are not counselled if informed and are not referred to medical services – all with devastating impact on their health and well-being.

5. **What is UNAIDS' position on HIV-related restrictions on entry, stay and residence?**

UNAIDS works towards removing punitive laws, policies, practices, stigma and discrimination that block effective responses to AIDS. Restrictions on entry, stay and residence based on positive HIV status are discriminatory and there is no evidence that they protect public health. While recognizing that control of a country's borders and matters of immigration fall under the sovereign power of individual States, national laws and regulations should ensure that people living with HIV are not discriminated against in their ability to participate *equally* in international mobility, in *seeking* to enter or stay in a country that is not their own. **UNAIDS opposes the following type of restriction(s):**

- **Where HIV is singled out and addressed specifically, apart from other comparable health conditions;**
- **Where exclusion or deportation occurs because of HIV-positive status only.**