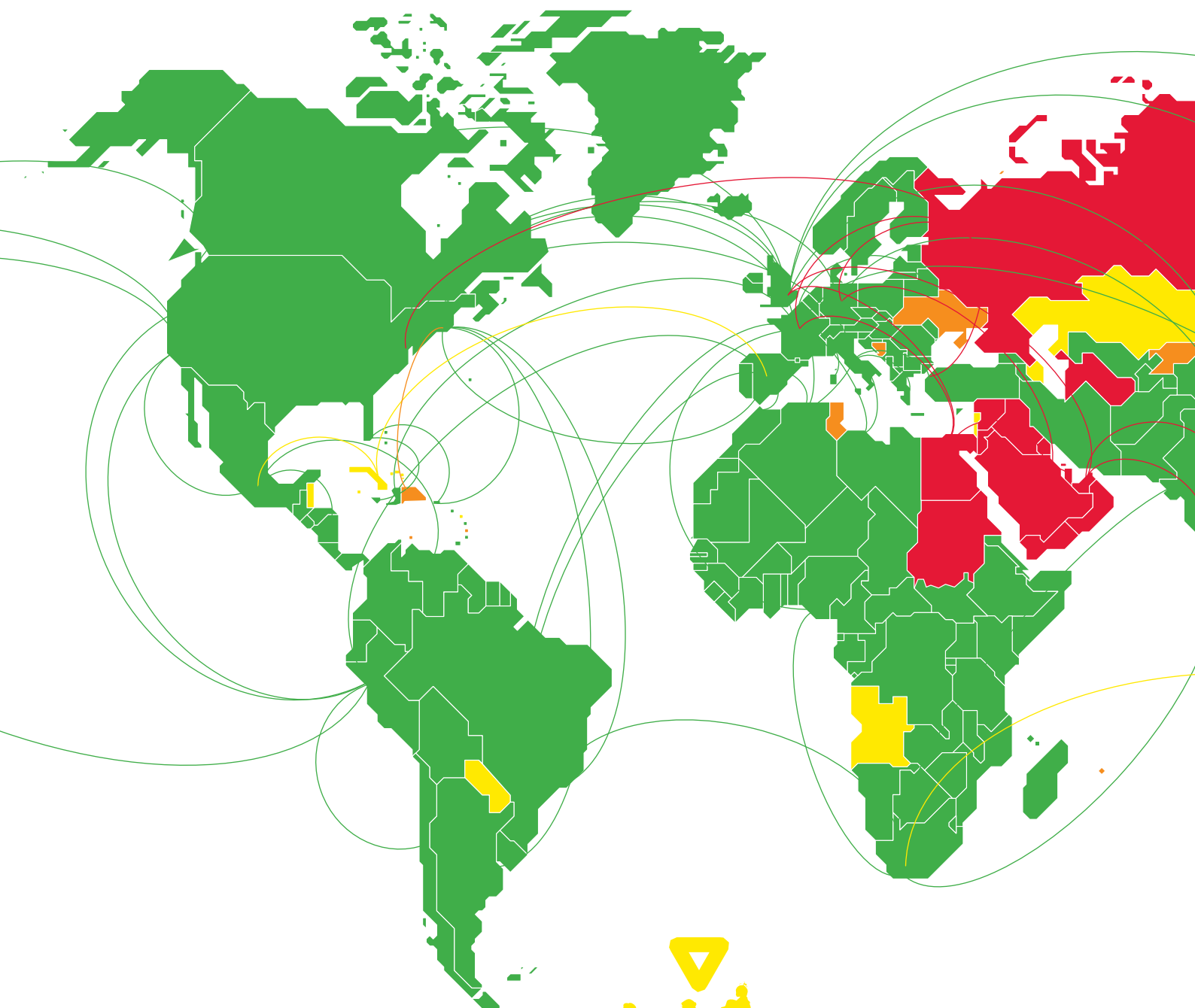


# STILL NOT WELCOME

## HIV-RELATED TRAVEL RESTRICTIONS

# STILL NOT WELCOME



## WELCOME



# 203

Countries, territories and areas that do not have any HIV-related restrictions on entry, stay and residence.

Data are as of June 2019. Countries, territories and areas are reported as per the United Nations Statistics Division's classification.

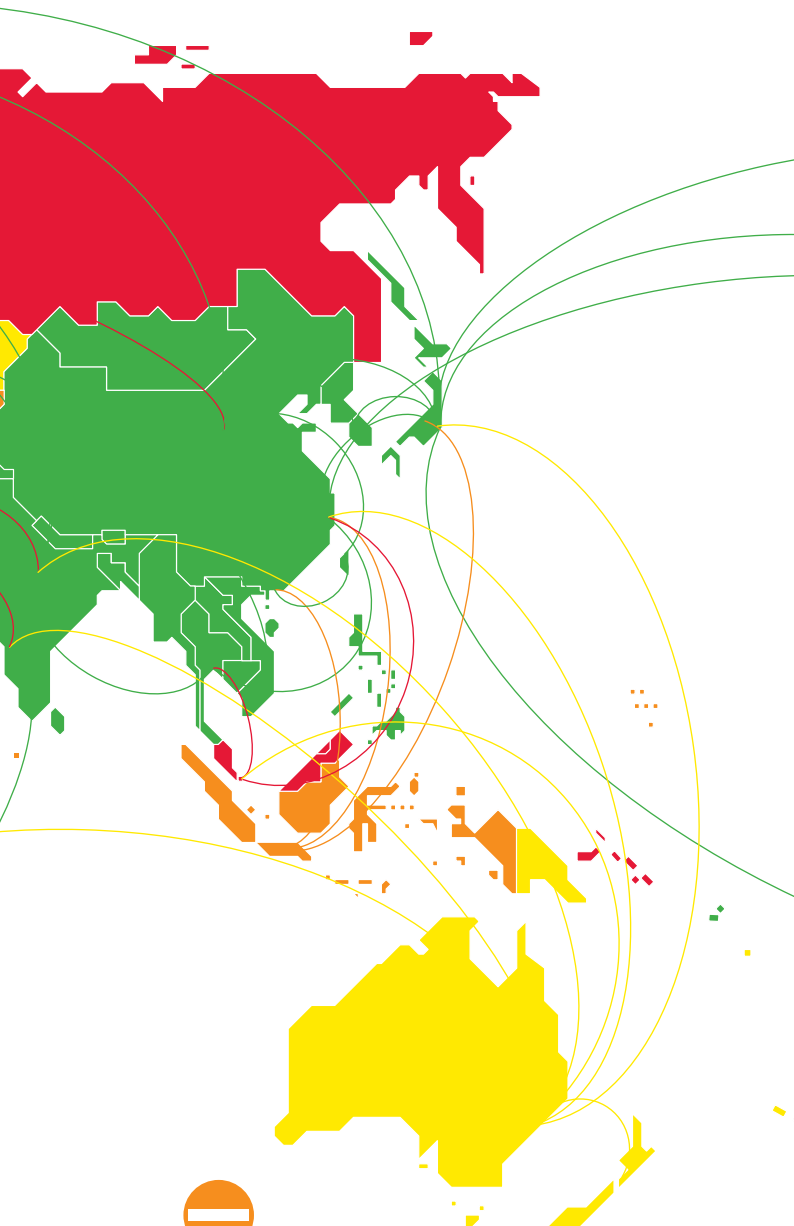


# 18

Countries, territories and areas that require HIV testing or disclosure for certain types of entry, study, work and/or residency permits.

<b>Angola</b> 1, 2, 4	<b>Cuba</b> 2, 4	<b>Palau</b> 1	<b>Saint Kitts and Nevis</b> 1, 2, 4
<b>Australia*</b> 1, 2, 4	<b>Israel</b> 1	<b>Papua New Guinea</b> 1, 2, 4	<b>Tonga</b> 1, 2, 4
<b>Azerbaijan</b> 1, 4	<b>Kazakhstan</b> 1, 2, 4	<b>Paraguay</b> 1, 2, 4	<b>Turks and Caicos</b> 1, 4
<b>Belize</b> 4	<b>Lebanon</b> 1, 4	<b>Samoa</b> 1, 2, 3, 4	<b>Tuvalu</b> 1, 2, 4
<b>Cayman Islands</b> 1, 2, 4	<b>New Zealand</b> 1, 2, 4		

Mandatory HIV testing and bans on entry, stay and residence based on HIV status not only do not protect public health but undermine HIV prevention and treatment efforts. For millions of people living with HIV around the world, these are repeated violations of their right to privacy, equality and non-discrimination and a constant reminder of HIV-related stigma. In 2016, United Nations Member States agreed to eliminate HIV-related travel restrictions. In 2019, around 48 countries and territories still maintain some form of HIV-related travel restriction.



**KEY**

- 1 HIV testing required for work permits.
- 2 HIV testing required for study permits.
- 3 HIV testing or disclosure required for certain permits or entry less than 90 days.
- 4 HIV testing required for residency permits (for stays longer than 90 days).
- 5 Prohibit entry and stay less than 90 days on the basis of HIV status.
- 6 Residency permits denied (for stays longer than 90 days) on the basis of HIV status.
- 7 Non-nationals living with HIV are deported on the basis of their HIV status.

\* For certain professional groups.



**11**

Countries, territories and areas that prohibit short- and/or long-term stay on the basis of HIV status and

Countries, territories and areas that require HIV testing or disclosure for certain types of entry, study, work and/or residence permits.

<b>Aruba</b> 1, 2, 3, 4, 5, 6	<b>Kyrgyzstan</b> 1, 2, 4, 6	<b>Saint Vincent and the Grenadines</b> 1, 4, 6
<b>Bosnia and Herzegovina</b> 1, 2, 4, 6	<b>Maldives</b> 1, 6	<b>Tunisia</b> 1, 2, 4, 6
<b>Dominican Republic</b> 1, 2, 3, 4, 5, 6	<b>Marshall Islands</b> 1, 2, 3, 4, 5, 6	<b>Ukraine*</b> 4, 6
<b>Indonesia*</b> 1, 6	<b>Mauritius</b> 1, 2, 4, 6	



**19**

Countries that deport non-nationals on the basis of HIV status and

Countries, territories and areas that prohibit short- and/or long-term stay on the basis of HIV status and

Countries, territories and areas that require HIV testing or disclosure for certain types of entry, study, work and/or residence permits.

<b>Bahrain</b> 1, 2, 4, 6, 7	<b>Malaysia</b> 1, 2, 4, 5, 6, 7	<b>Sudan</b> 1, 2, 4, 6, 7
<b>Brunei Darussalam</b> 1, 2, 4, 6, 7	<b>Oman</b> 1, 2, 4, 6, 7	<b>Syrian Arab Republic</b> 1, 2, 4, 6, 7
<b>Cook Islands</b> 1, 4, 5, 6, 7	<b>Qatar</b> 1, 2, 4, 5, 6, 7	<b>Turkmenistan</b> 1, 2, 3, 4, 5, 6, 7
<b>Egypt</b> 1, 2, 4, 6, 7	<b>Russian Federation</b> 1, 2, 3, 4, 5, 6, 7	<b>United Arab Emirates</b> 1, 2, 4, 6, 7
<b>Iraq</b> 1, 2, 4, 5, 6, 7	<b>Saudi Arabia</b> 1, 2, 4, 6, 7	<b>Yemen</b> 1, 2, 4, 6, 7
<b>Jordan</b> 1, 2, 4, 5, 6, 7	<b>Singapore</b> 1, 2, 4, 6, 7	
<b>Kuwait</b> 1, 2, 4, 5, 6, 7	<b>Solomon Islands</b> 1, 2, 4, 6, 7	

# KEY MESSAGES

- 1.** Restrictions on entry, stay and residence based on HIV status are discriminatory and cannot be justified on public health grounds. Everyone should have equal freedom of movement regardless of their HIV status.
- 2.** There is no evidence that HIV-related travel restrictions protect public health. In fact, they are likely to impede efforts to protect public health by creating barriers to access to services for people living with HIV and people at higher risk of HIV.
- 3.** Travel restrictions based on HIV status fuel stigma against people living with, at risk of and affected by HIV. They can create a misleading public impression that HIV is a foreign problem and therefore interfere with the efficacy of public health messages on the prevention of HIV.
- 4.** Travel restrictions related to HIV status may impair access to antiretroviral therapy, especially in countries and areas where access to treatment, care and support programmes and services is limited.
- 5.** There is no evidence that people living with HIV will engage in riskier behaviours than people who are not living with HIV.
- 6.** Most countries in the world do not have or have lifted their HIV-related restrictions on entry, stay and residence. Those that have lifted HIV-related restrictions have found no need to re-adopt such measures.
- 7.** UNAIDS opposes mandatory HIV testing and restrictions that limit or restrict movement based on an HIV-positive status. There is no scientific or public health evidence to support people living with HIV and people living with other chronic health conditions, such as chronic heart or liver diseases, diabetes or cancer, being treated differently.

## **WHAT ARE HIV-RELATED TRAVEL RESTRICTIONS?**

HIV-related travel restrictions are defined as mandatory HIV testing for, and/or preventing people living with HIV from, legally entering, transiting through or studying, working or residing in a country solely based on their HIV status. In 2019, 48 countries, territories and areas impose some form of HIV-related restriction.

HIV-related travel restrictions usually involve a mandatory declaration of HIV status and/or testing, which is often conducted without appropriate counselling, confidentiality or referral to HIV prevention, treatment, care or support services.

A denial of, or waiver for, entry based on HIV status is usually noted in immigration and/or visa records. In addition, non-nationals who are found to be living with HIV during testing undertaken for the renewal of their study, work or residence permits may be confined in immigration detention centres—where they often do not receive HIV-related care—before being deported.

HIV-related travel restrictions undermine human rights and freedoms of people enshrined in international treaties and national constitutions, such as freedom of movement and choice of residence, access to and enjoyment of life opportunities and the ability to be united with families and to participate in social and public life.

## **HIV-RELATED TRAVEL RESTRICTIONS ARE NOT NECESSARY AND UNDERMINE PUBLIC HEALTH**

HIV is a communicable disease that raises public health concerns. However, it is a preventable and manageable chronic health condition that should be treated no differently from other conditions.

Although international health regulations require United Nations Member States to put in place an appropriate and efficient legal framework to prevent and respond to threats of international spread of diseases, “in ways that are commensurate with and restricted to public health risks,” restrictions on travel based on HIV status are not justifiable. HIV cannot be transmitted by casual contact and the mere presence of people living with HIV in a country does not constitute a threat to public health.

Evidence shows that people are more likely to seek HIV testing services when they are in a climate of trust and comfort. Mandatory HIV testing and fear of discriminatory treatment drive people away from HIV services. Bans on entry, stay and residence based on HIV status create a false sense of safety—they don’t protect public health and undermine the AIDS response.

Mandatory HIV testing and travel restrictions based on HIV status reinforce stigmatizing stereotypes against people living with HIV, leading to HIV being viewed as a foreign import that concerns only foreigners (1). In addition, fear of discrimination and deportation may prevent people living with HIV and people at higher risk of HIV from seeking and accessing the HIV prevention, treatment and care services they need, even when they are available.

The World Health Organization and UNAIDS recommend that HIV testing should always be conducted in accordance with the five Cs: informed consent, confidentiality, counselling, communication of correct results and connection with HIV prevention, treatment and care and support services (2).

International Labour Organization Recommendation No. 200 on HIV and the world of work recommends that, "HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, job seekers and job applicants" and that, "Real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities ..."

## **THE COMMITMENTS AND OBLIGATIONS OF UNITED NATIONS MEMBER STATES UNDER INTERNATIONAL LAW**

Restrictions on entry, stay and residence based on HIV status contravene international, regional and national legal protections against discrimination and impair the enjoyment of human rights guaranteed in the Universal Declaration of Human Rights and other international human rights treaties, covenants and instruments.

The Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights permit restrictions on some human rights based on public health concerns only if such restrictions are necessary and effective to address a legitimate public health goal, they are no more intrusive nor restrictive than necessary and they are not discriminatory (3).

International, regional and national human rights bodies have established that HIV-related travel restrictions, including related mandatory HIV testing, are contrary to international human rights law and violate the rights to privacy, equality before the law and non-discrimination based on health status.

The United Nations Human Rights Committee, in a landmark decision related to the legality of mandatory HIV and drugs testing as a condition for visa extension in the Republic of Korea, affirmed clearly that, "Requiring the author [of the communication] to submit a mandatory HIV/AIDS and drug test certificate amounted to a violation of her rights under article 26 (right to equality before the law and non-discrimination) and article 17 (right to privacy) of the [International Covenant on Civil and Political Rights]. Additionally, the State party is under the obligation to take steps to avoid similar violations in the future, including reviewing its legislation to ensure that it is in compliance with the Covenant, and that mandatory and other coercive forms of HIV/AIDS and drug testing is abolished and, if already abolished, not reintroduced" (4).

Guidelines published by Office of the United Nations High Commissioner for Human Rights and UNAIDS state that there is no public health rationale for restricting liberty of movement or choice of residence on the grounds of HIV status. They also note that although there is no right of non-nationals to enter a foreign country or to be granted asylum in any particular country, discrimination on the grounds of HIV status in the context of travel regulations, entry requirements, immigration and asylum procedures would violate the right to equality before the law (5).

In the 2016 United Nations Political Declaration on Ending AIDS, Member States committed to review and reform legislation that may create barriers to access to services, or that reinforce stigma and discrimination, such as laws related to travel restrictions on the grounds of one's HIV-positive status and mandatory HIV testing (6).

The New York Declaration for Refugees and Migrants states that, "We encourage States ... to review policies related to restrictions on entry based on HIV status, with a view to eliminating such restrictions and the return of people on the basis of their HIV status, and to support their access to HIV prevention, treatment, care and support" (7).

In its most recent resolution on human rights in the context of HIV, the Human Rights Council echoes the calls on countries to address discrimination and the specific health-care needs of migrant and mobile populations. It urges countries, "to review policies related to restrictions on entry on the basis of HIV status with a view to eliminating such restrictions and the return of people on the basis of their HIV status, and to support their access to HIV prevention, diagnosis, treatment, care and support" (8).

Without the elimination of mandatory HIV testing and HIV-related restrictions on entry, stay and residence, progress in global efforts to end AIDS and to ensure universal access to adequate health care for all will continue to fall behind.

## IF YOUR COUNTRY HAS HIV-RELATED TRAVEL RESTRICTIONS

### Actions for civil society organizations:

- ▶ Start a campaign to change the legal environment—highlight discriminatory laws, policies and practices so that we can collectively advocate for change in HIV-related travel restrictions.
- ▶ Provide support and information for people who experience HIV-related travel restrictions.
- ▶ Conduct awareness-raising sessions on HIV and human rights with the authorities that enforce travel restrictions
- ▶ Convey a request to remove discriminatory laws, policies and practices to your representative in parliament or the local government, United Nations office, judiciary or national institution responsible for monitoring human rights in the country.

### Actions for members of parliament and government officials:

- ▶ Inform yourself about travel restrictions on the basis of HIV status and their impact on people living with and affected by HIV.
- ▶ Raise awareness among other public servants and law enforcement agents and facilitate platforms of parliamentarians, nationally and internationally, to commit to promote good laws that advance the well-being and fundamental dignity of everyone, based on evidence and guided by human rights standards.
- ▶ Be an ally and act on civil society requests to remove discriminatory laws, policies and practices and give people living with and affected by HIV, as well as civil society, a platform for their voices to be heard.
- ▶ Table amendments to laws or call for a review of discriminatory legislation.

## REFERENCES

1. HIV and the law: risks, rights and health. New York: Global Commission on HIV and the Law: 2018 (<https://hivlawcommission.org/wp-content/uploads/2018/09/HIV-and-the-Law-supplement-FINAL.pdf>).
2. WHO, UNAIDS statement on HIV testing services: new opportunities and ongoing challenge. Geneva: UNAIDS; 2017 ([https://www.unaids.org/sites/default/files/media\\_asset/2017\\_WHO-UNAIDS\\_statement\\_HIV-testing-services\\_en.pdf](https://www.unaids.org/sites/default/files/media_asset/2017_WHO-UNAIDS_statement_HIV-testing-services_en.pdf)).
3. United Nations Commission on Human Rights; 1984. The Siracusa principles on the limitation and derogation provisions in the International Covenant on Civil and Political Rights. E/CN.4/1985/4
4. Human Rights Committee. Vandom versus the Republic of Korea; CCPR/C/123/D/2273/2013.
5. Office of the United Nations High Commissioner for Human Rights and UNAIDS. International guidelines on HIV/AIDS and human rights: consolidated version. Geneva: UNAIDS; 2006 (<https://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf>).
6. UN General Assembly resolution A/RES/70/266.
7. United Nations General Assembly resolution A/RES/71/1.
8. Human Rights Council resolution A/HRC/RES/38/8.