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## 2014 UBRAF thematic report

### Eliminating HIV-related travel restrictions

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## ACHIEVEMENTS

In recent years, there has been a global movement calling for the removal of what are known as HIV-related travel restrictions: restrictions on entry, stay and residence based on HIV status. The 2011 United Nations Political Declaration on HIV and AIDS adopted by all Member States made the elimination of HIV-related travel restriction a target in global efforts to reach zero discrimination. Since then, 11 countries, territories and areas have removed their HIV-related travel restrictions or have officially clarified that they do not apply such HIV-related travel restrictions; this leaves 38 countries, territories and areas with such restrictions. The work of the International Task Team on HIV-related Travel Restrictions, co-chaired by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the government of Norway, established evidence that travel restrictions do not protect public health, but instead further stigmatize people living with HIV.

In 2013 and 2014, the UNAIDS Secretariat provided technical and advocacy support that was critical to the removal of HIV-related travel restrictions in Tajikistan. Working closely with national stakeholders, the United Nations Development Programme (UNDP) and UNAIDS Secretariat supported the development of draft HIV legislation that included provisions that would end all HIV-related travel restrictions. This support was strengthened by the visit of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, which provided an opportunity to scale up advocacy on the draft legislation to repeal HIV-related travel restrictions. The Tajik Parliament passed the new law in March 2014.

Comoros also passed a new law explicitly protecting the free movement of people living with HIV in response to a validation letter sent by the UNAIDS Secretariat to seek clarification.

In the lead-up to the 2014 International AIDS Conference, the UNAIDS Secretariat worked with Australian authorities to clarify whether the country's HIV-related regulations qualify as HIV-related travel restrictions according to the criteria established by the International Task Team on HIV-related Travel Restrictions. Through this process, the Secretariat strengthened its collaborative partnership with civil society organizations, including people living with HIV in the country; it also engaged various government departments, including the ministries of health, justice and immigration. In July 2014, UNAIDS welcomed Australia's commitment to ensuring that people living with HIV do not face automatic exclusion or unequal treatment when applying for entry, stay or residence visas. While Australia's clarification makes it clear that its policies do not discriminate on the basis of HIV status, it appears that there may be related policies and procedures that could benefit from review—and possible streamlining and modernization—in order to reduce the burdens on people living with HIV who are applying for visas.

In addition to the support that UNAIDS provided to countries for removing restrictions, it also has focused on working with migrant-receiving countries in the Middle East. As a follow-up to the joint work started in 2013, the Office of the United Nations High Commissioner for Refugees (UNHCR), UNDP, the International Labour Organization (ILO)

and the UNAIDS Secretariat are conducting a study for the review of policies, regulatory frameworks and practices in Gulf Cooperation Council (GCC) countries, Jordan, and Lebanon. The study is planned to be country-led (through ministries of health and national AIDS programmes). A concept note and national studies methodology has been finalized and sent to respective GCC countries.

UNDP continued its efforts to support the ratification of the Arab Convention on HIV Prevention and the Protection of the Rights of People Living with HIV (the Arab Convention), which was adopted by the Arab Parliament in 2012. Article 13/4 of this convention calls for the free movement of people living with HIV and, more specifically, their right to maintain residency and work in the host countries. The national parliament and government of Djibouti made it the first country to ratify the convention.

## **MAJOR CHALLENGES AND HOW THESE WERE ADDRESSED**

At the end of 2014, 38 countries, territories, and areas still imposed some form of HIV-related restriction on entry, stay and residence. While this number is far lower than the original 59 countries, territories and areas in 2008, there still is a strong need for further action to ensure the elimination of these laws, regulations and policies.

The key to removing HIV-related travel restrictions is advocacy with parliamentarians and political leaders. Successful advocacy has been based on presenting strong evidence about the ineffectiveness of the restrictions and how they can amount to violations of the right to freedom of movement and non-discrimination. Working on the elimination of travel restrictions is most successful when it is done in close partnership with civil society and key officials within a government's civil service.

The lack of political will on the part of host governments remains a challenge to efforts to remove travel restrictions in many GCC migrant-receiving countries. In addition, there are reports indicating that discriminatory practices still persist in countries that have ostensibly removed travel restrictions (for example, the Republic of Korea's imposition of HIV testing on foreign English teachers).

## **KEY FUTURE INTERVENTIONS**

- UNDP, ILO and the UNAIDS Secretariat—in partnership with other partners and stakeholders—will continue to advocate to support legal reform for the repeal of HIV-related travel restrictions. For example, UNDP will continue efforts to support ratification of the Arab Convention.
- ILO will aim for tailored engagement and advocacy for migrant workers affected by HIV-related restrictions between two regions, Asia and Pacific (sending migrants) and the Middle East and North Africa (receiving migrants).

- The Regional Support Team for the Asia and Pacific region will develop a strategy for Pacific island countries to increase advocacy for the removal of HIV-related restrictions on entry, stay and residence.
- ILO is collaborating with the UNAIDS Secretariat and regional partners to organize an Interregional Dialogue between migrant-sending and migrant-receiving countries from the Asia and Pacific and Middle East and North Africa regions regarding advancing migrants' access to health care (including HIV services) and the impact of HIV-related restrictions. ILO also will work with UNAIDS and the International Organization for Migration (IOM) to develop guidelines and improve health service access for pre-departure and returning migrants in Cambodia and Indonesia.
- The UNAIDS Secretariat will launch a political mobilization initiative on the Zero Discrimination targets, including identifying events at the national, regional and global levels to address removing HIV-related restrictions on entry, stay and residence.

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