

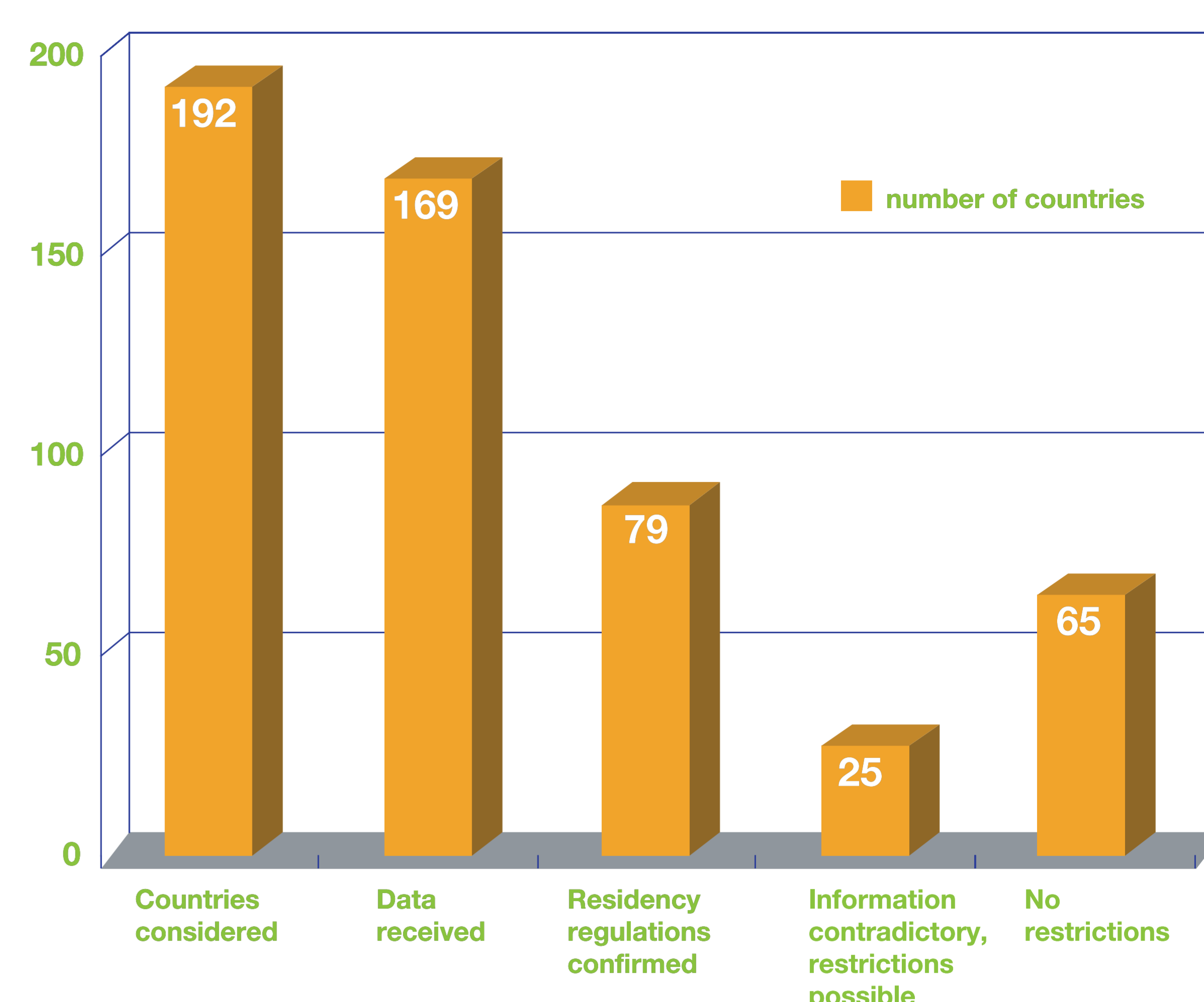
Travel and residency restrictions for people living with HIV/AIDS - legal discrimination, recent developments

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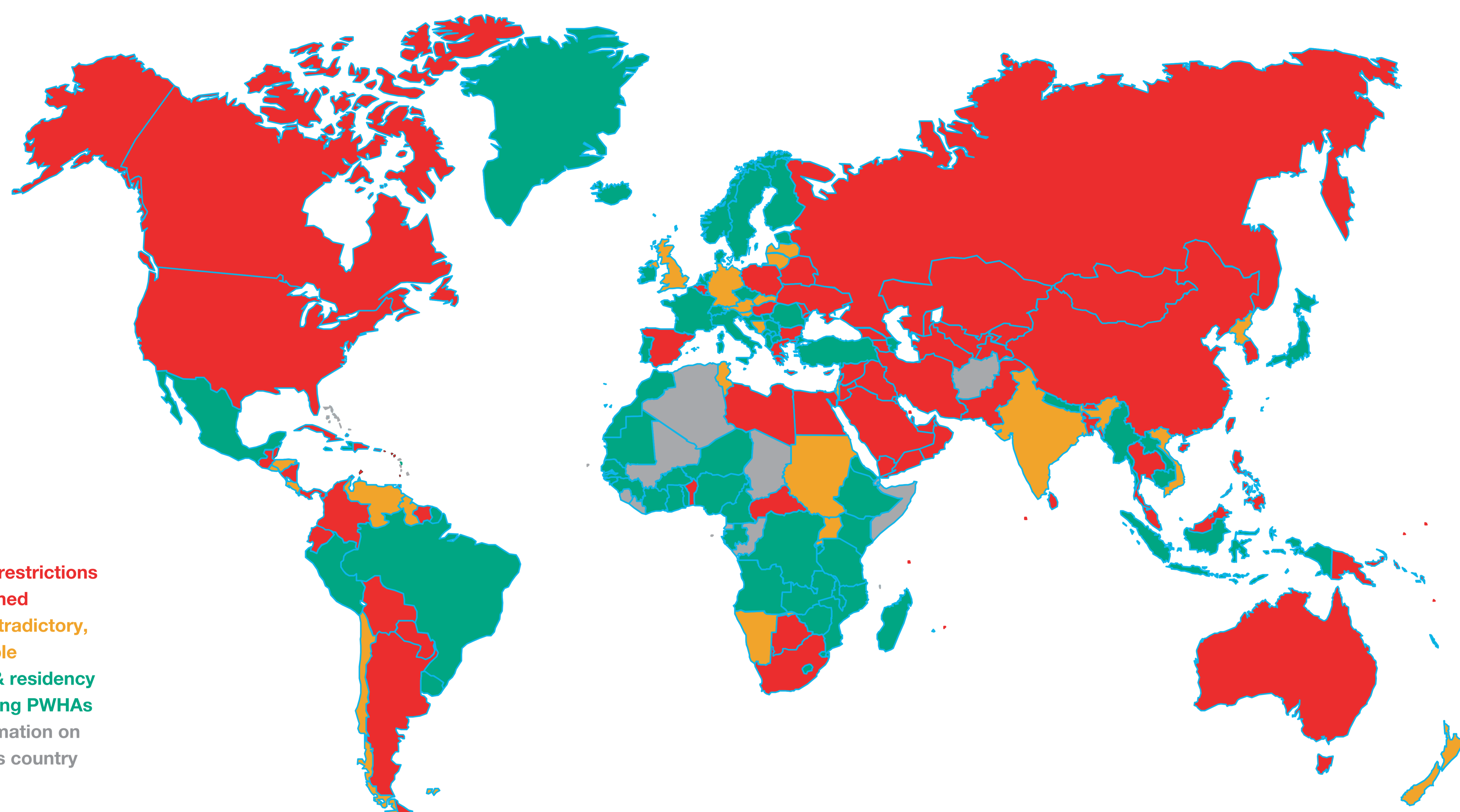
Issue

- > Compulsory HIV testing raises important ethical and moral questions.
- > This ongoing study deals with compulsory HIV testing in the context of migration: travel and residency restrictions for PWHAs.
- > Regulations mainly target people applying for permanent residency, work permits and long-term visa.
- > In some countries, blank restrictions also apply to tourists and short-term stays.
- > Visa are denied to PWHAs, people diagnosed with HIV/AIDS are deported from many countries.
- > The efficiency of such measures has been debated among public health experts.
- > The discussions have led to an international consensus and accepted guidelines on HIV/AIDS.

Results Coverage



Closed doors in many countries



Present situation and latest developments

- > Very few countries repealed existing restrictive measures and legislation as a result of international guidelines and recommendations.
- > Politicians in many (industrialised) countries fear that the lure of antiretroviral therapies could attract HIV-infected immigrants and lead to a burden for public health programmes and budgets.
- > Based on such apprehensions, several countries have already introduced new movement restrictions directed at migrant populations living with HIV (Canada, 2002), existing measures have been made more stringent (Australia, 2002).
- > Currently, we observe new restrictions being introduced or discussed by public and even private stakeholders such as employers and recruitment agencies (UK 2002, New Zealand and Switzerland 2004).

Canada



- > Since January 2002, HIV testing is mandatory for stays exceeding 6 months.
- > The majority of foreigners testing positive for HIV won't be granted a residence permit.
- > Only a few exceptions still apply: HIV-positive refugees; HIV-positive sponsored spouses or common law partners of Canadian citizens or permanent residents; HIV-positive children of Canadian citizens or permanent residents.

Source
Canadian HIV/AIDS Legal Network, April 2002

Australia



- People with HIV may immigrate to Australia if one of the following criteria is met:
- > if he/she has a spouse (including a de facto spouse) who is an Australian citizen or permanent resident
 - > if he/she has a fiancé who is an Australian citizen or permanent resident
 - > if he/she has a long-term same-sex relationship with an Australian citizen or permanent resident
 - > if he/she is the dependent child of an Australian citizen or permanent resident
 - > being a former Australian citizen
 - > being a refugee

People applying on one of the above grounds still have to satisfy the Australian authorities that they will not

- > prejudice the access of Australian citizens to healthcare facilities
- > be a risk to public health or safety
- > constitute an undue cost to the Australian community

Satisfying the first two criteria is not a problem. Sometimes they are refused immigration because of suspected cost of health care. Costs are assessed individually, based on life expectancy and on estimated total cost of medication and medical care services. This criterion is being enforced more harshly, and more people with HIV are now being refused permission to immigrate.

Source
Australian Federation of AIDS Organisations, July 2002

New Zealand



- > New Zealand authorities have announced they will bar people from migrating to the country if they have illnesses that could be contagious or costly to treat, including HIV or AIDS.
- > Migrants putting public health at risk or who could need expensive treatment by the health system will be "declined entry", she said.
- > Immigration minister Lianne Dalziel said the new screening policy will apply from March to overseas students wanting to stay in New Zealand for more than six months.
- > From mid 2004 it will apply to visitors or workers intending to stay for longer than a year.

Source
The Advocate, New Zealand Jan 30, 2004

Switzerland



- > In 2003, members of the parliament requested mandatory HIV testing of immigrants. This was rejected by the government.
- > In January 2004, alerted by the high proportion of Africans among people testing HIV-positive (27%, proportion of Africans in Swiss population 0,4%), the Federal Office of Public Health suggested mandatory testing of asylum applicants.
- > The attempt was widely criticised by the press and public health specialists.
- > June 2004: Health authorities decide to improve counselling of asylum seekers. HIV testing will remain voluntary.

Source
The authors

UK



- > Private agencies recruiting staff for the British health system very often require applicants from developing countries to get tested for HIV.
- > Testing is performed in the country of origin and is a precondition to be given a contract.

Source: Ruth Webb, by e-mail, Dec 22, 2002

- > There has been publicity concerning the issue, with claims that the NHS is being overstretched, and calls for mandatory testing for HIV with the implication, sometimes but not always explicitly stated, that those who test positive should be refused entry to the country or denied access to medical treatment.

Sources
Migration and HIV - Improving Lives in Britain. An Inquiry into the impact of the UK Nationality and Immigration System on People Living with HIV, July 2003.

<http://ww2.aegis.org/news/bbc/2003/BB030206.html>

India



- India is the only country (we know of) that has repealed existing restrictions (2002)**

"Foreigners, including students, do not have to undergo mandatory HIV testing in India. The former regulations were repealed on September 29, 2002, by the Health and Family Welfare Minister Shatrughan Sinha. The minister is quoted as having said: "Experts were of the opinion that mandatory HIV testing of foreigners/foreign students is contrary to recommendations of the World Health Organisation".

Source
Newindpress, Dec 5, 2002

Conclusion

Continuous monitoring is important in order to prevent further exclusion of PWHAs from society and personal development. The German AIDS Federation and the authors will continue their effort to keep this important database updated.

Online edition

Online in English, French & German since 2002 (collaboration with Swiss AIDS Documentation Centre): www.aidsnet.ch/linkto/immigration
Information on: legal situation, access to treatment/hospital facilities for foreigners, availability of antiretroviral treatment and diagnostic tools, addresses of local NGOs.

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