

March 31, 2017

Michel Sidibé  
Executive Director  
UNAIDS  
20, Avenue Appia  
CH-1211 Geneva 27  
Switzerland

Dear Executive Director Dr. Michel Sidibé:

On behalf of the International Health Section of the American Public Health Association (APHA), we write to notify you of a new APHA policy statement, “Opposition to Immigration Policies Requiring HIV Tests as a Condition of Employment for Foreign Nationals,” which was adopted at the Association's 2016 Annual Meeting.<sup>1</sup> As you may know, APHA was founded in 1872 and is the oldest organization of public health professionals in the world. It has a long-standing commitment to promoting global health and protecting human rights, recognizing that these two go hand-in-hand.

HIV-related travel restrictions are recognized as a violation of human rights and have been well-established as ineffective at reducing the spread of HIV. Such policies further marginalize people living with HIV/AIDS (PLWHA), discourage people from accessing HIV testing and treatment, and reinforce stereotypes and discriminatory attitudes against PLWHA in the general population. According to APHA's policy statement, “[immigration] policies that mandate HIV testing of [foreign nationals] as a condition of obtaining a visa for employment...have no basis in science and violate migrant workers’ human rights to confidentiality and informed consent to testing, exposing them to exploitation by their employers.”

Increasing awareness of the harms of mandatory testing and accompanying pressure from multilateral institutions and human rights advocates has begun to prompt countries to lift travel bans and change their immigration policies. We recognize that UNAIDS has been instrumental in this effort and laud the organization both in its leadership on this initiative and the progress that it has made. APHA's policy statement specifically cites the work of the UNAIDS International Task Team on HIV-related Travel Restrictions and notes that “[a]dvocacy efforts using [the Task Team's findings] have resulted in several countries loosening these restrictions or, in some cases, dropping them entirely: the number was reduced from 59 to 45 countries in 2011 and, as of September 2015, to 35.” APHA's policy statement calls on UNAIDS and others to “continue to call on all countries that still maintain and/or enforce HIV-related restrictions on entry, stay, or residence to eliminate such restrictions, ensuring that all HIV testing is confidential and voluntary and that counseling and medical care be available to all PLWHA within its borders.” We urge UNAIDS to continue this work to make further progress in the remaining countries that enforce HIV travel restrictions.

The policy statement also recommends that “UNAIDS take steps to ensure that its protocols to research and investigate countries’ HIV-related travel restrictions are sufficiently thorough by monitoring and documenting any reported instances of HIV-related discrimination targeting immigrants, particularly when presented with evidence demonstrating that recognition of a country’s removal of HIV-related travel restrictions is unwarranted, in order to ensure that governments are not able to misrepresent their policies in order to gain undeserved recognition for supporting human rights with regard to HIV/AIDS.”

One such example of misrepresentation of HIV-related immigration policy can be found with the Republic of Korea (ROK), which subjects foreign nationals applying for visas to work or study under several visa categories to mandatory HIV testing.<sup>2,3</sup> Recent decisions by the UN Committee on the Elimination of Racial Discrimination<sup>4</sup> and the National Human Rights Commission of Korea<sup>5</sup> both

confirm the ongoing existence and enforcement of mandatory testing for E-2 visa applicants and recommend that they be struck down. Unfortunately, despite this discriminatory requirement, ROK representatives declared at the 2012 International AIDS Conference that their government had removed all HIV-related travel restrictions and, as a result, the country was granted “green” (restriction-free) status by UNAIDS<sup>6</sup>, while other states with HIV-related restrictions similar to those enforced by ROK<sup>7</sup> are still classified as “yellow” on this map. This inconsistency in the application of UNAIDS' assessment criteria could threaten the progress made on reducing HIV-related travel restrictions. We strongly urge UNAIDS to revoke ROK's status as a country with no HIV-related travel restrictions until it eliminates all mandatory HIV testing policies.

Finally, we express our continued commitment to the UNAIDS goals of reducing HIV transmission, fortifying the rights of all who live with HIV/AIDS, and eliminating stigma and discrimination.

Sincerely,

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<sup>1</sup> American Public Health Association. 2016 November 1. Opposition to Immigration Policies Requiring HIV Tests as a Condition of Employment for Foreign Nationals. Available from: <http://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2017/01/23/opposition-to-immigration-policies-requiring-hiv-tests>.

<sup>2</sup> Republic of Korea Ministry of Foreign Affairs and Trade. 2015 KGSP Guideline for International Students Enrolled in Graduate Programs. Available from: [http://usa.mofa.go.kr/webmodule/htsboard/template/read/legengreadboard.jsp?typeID=16&boardid=13954&seqno=718143&pagenum=1&tableName=TYPE\\_ENGLEGATIO](http://usa.mofa.go.kr/webmodule/htsboard/template/read/legengreadboard.jsp?typeID=16&boardid=13954&seqno=718143&pagenum=1&tableName=TYPE_ENGLEGATIO).

<sup>3</sup> English Program in Korea. 2015. Contract for fall 2015 English Program in Korea. Available from: <https://www.epik.go.kr/contents.do?contentsNo=54&menuNo=283>.

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<sup>4</sup> UN Committee on the Elimination of Racial Discrimination. 2015 May 1. *L.G. v. Republic of Korea*, CERD/C/86/D/51/2012. Available from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/123/49/PDF/G1512349.pdf>.

<sup>5</sup> National Human Rights Commission of Korea. 2016 September 8. Recommendation for revising the medical examination requirement for foreign E-2 visa holders and preparing domestic procedures for individual communications under U.N. human rights treaties.

<sup>6</sup> UNAIDS. Welcome (not): How travel restrictions have changed since 2008. Available from: [http://www.unaids.org/sites/default/files/20150526\\_evolution\\_travel\\_restrictions\\_en.pdf](http://www.unaids.org/sites/default/files/20150526_evolution_travel_restrictions_en.pdf).

<sup>7</sup> Council of Europe: European Court of Human Rights. 2011 March 10. *Kiyutin v. Russia*, application no. 2700/10. Available from: <http://www.refworld.org/docid/4d9c38742.html>.