

USA: Access Denied

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A number of countries around the world do not allow entry for HIV-positive people. The United States is one of these. This is a report on the possibilities or impossibilities of visiting that country.

Some infectious diseases are so contagious that it is understandable when measures are put in place to protect public health. Thus, the rights of the individual are restricted in deference to the social good. It is understandable when someone with open tuberculosis is not allowed to freely pass from one country to another. Even more importantly the same person should not be travelling in an airplane nor in any bus or train to an air terminal. In so doing, others can become infected.

Infection from HIV is another story. It is common knowledge that you can't get HIV by being in an airplane, train, bus with HIV-positive people or by sitting in a restaurant next to an HIV-positive person. In order to contract or transmit HIV, you really have to do more. Thus the existence of restrictions against HIV positive travellers in a number of countries is outright discrimination. Yet still a considerable amount of countries have travel restrictions. You therefore need to be well aware of the countries which have travel restrictions. In most cases, HIV-positive people are not allowed to work or study in foreign countries. However, HIV positive people are more than welcome as tourists. After all, they still bring in the dollars. Aruba is a good example; HIV-positive people can not live and work there. This also applies for working in Suriname.

Keeping illustrious company

A handful of countries will not even allow entry to HIV-positive tourists. The most well-known example is the United States which finds itself in some illustrious company (see below). These travel restrictions have been in effect in the United States since 1987. Since 1993, Christian fundamentalist senator Jesse Helms set in motion constitutional regulations that are difficult to change. Even though Clinton announced that he would lift the restrictions, he never did, nor did he dare to. What we can expect from Bush is patently clear.

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Countries with travel restrictions for tourists

- Armenia
- Brunei
- China
- Fiji
- Iraq
- Moldova
- Russia
- United States of America
- South Korea

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Hans Paul Verhoef

The regulation is not strictly enforced. No quick HIV test is given at border customs. Still from time to time HIV-positive people are restrained. In 1989 world opinion was shaken when Hans Paul Verhoef, the incoming chairman of the "Hiv Vereniging", was en route to a gay/lesbian health conference in the United States. He was held at the air terminal due to the fact that he had, among other things, the HIV drug, AZT in his possession. As he was not willing to return directly, he was held for a number of days in a "deportation centre".

Through the efforts of some American activists, he was able to stay at the conference.

Hot issue

As a result of the Verhoef incident, travel restrictions became a "hot issue". The 1990 World AIDS Conference would have been held in San Francisco, but various groups called for a boycott due to the discriminatory American policy. Eventually the conference was held, but it was the last World AIDS Conference held in the United States. The 1992 conference, which had been planned to be in Boston, was changed at the last moment to Amsterdam. Americans can protest against these restrictions, as well as the rest of the world, but more often than not, this kind of situation only results in the American government saying "Het!" ("Nyet!").

HIV Waiver

The American government drew attention to itself with the Verhoef incident. In some circumstances, it is now possible for HIV-positive people, to request an HIV waiver. An HIV waiver allows a person to visit close family, receive paid-in-advance medical care, and work at or visit scientific conferences. In regards to the latter, there is room for interpretation. The Gay Games and Gay Pride fall into this category. In theory, a heterosexual with HIV, could get an HIV waiver to go on holiday to New York during Gay Pride (then they only need to lie about sexual preference).

Registered

After requesting an HIV waiver you can rest assured that you are now registered in American computer databases as HIV-positive. That means that you can no longer enter the United States without a new HIV waiver being issued. Requesting an HIV waiver is a timely process. Expect it to take a month or even three to four months. Be on time! It is best to enquire with the American Embassy or Consulate for the estimated time of processing. To apply, you have to go in person to the embassy or consulate. Your passport is stamped indicating that you cannot enter the United States without an HIV waiver. In incomprehensible gobbledigook, the text explicitly mentions the word HIV. This can, of course, have dire consequences if you cross another border. The stamp can also be made on a removable piece of paper. Ask about this method.

Crossing the border

Many HIV-positive people select to travel to the United States without an HIV waiver. They do not want to become registered as HIV-positive or they want to go to the United States for a reason for which you cannot get a visa waiver (such as going on holiday). What are the risks of doing this?

As a Dutch citizen, you do not need a visa to enter the United States. On board the airplane, you will receive a "visa waiver" form which you are required to complete before being allowed into the United States. This form relieves you of the duty of possessing a visa. This also releases you from any right to appeal a decision by the immigration service should you seek work (unless you are seeking political asylum). However, you retain the right to seek advice from an attorney. You will be penalised for falsifying the form. The questions on the form are ridiculous: "Are you a terrorist?" or "Have you committed genocide?"---dating from the Second World War or some other era. Oh, and by the way, "Do you have an infectious disease?" HIV infection is, according to American law, an infectious disease which can exclude you from entering the country.

If you answer "yes" to the last question, then you will have immediate problems. Answer "no" and you leave yourself open to being snagged.

At customs, the immigration officials do not ask about your HIV status when there is no reason to. The American adage, "Don't ask. Don't tell." holds sway. Having HIV documentation such as information on prevention and so forth, is no cause for them to enquire about your HIV status. However, should they discover HIV medication in your baggage, then there is reason to interrogate

you. Having recognisable symptoms of HIV infection are grounds to question you about your HIV status. It is not clearly known if having recognisable lipodystrophy or Kaposi sarcoma can be cause for refusal of entry, but in principle it is possible.

Return trip

The implications of these travel restrictions can also affect you on your return flight. You can also become entrapped by your HIV-positive status. Some HIV-positive people choose to carry their medication in their baggage. In the case of any extreme delay in retrieving your baggage, this could put you at a disadvantage of not having your medication. Ultimately you could be at a disadvantage in the case you do not intend to be in the United States for long, but require a stopover in the United States.

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The "Hiv Vereniging Nederland" (Dutch HIV Foundation) and the government

On 12 February, 2006, the "Hiv Vereniging" and "Aids Fonds" issued a press release in which it was stated that the issuance of HIV waivers for the Gay Games and the UN AIDS conference was a flagrant farce, due to the HIV status registered by the United States. "In case of additional travel to or via the United States a person can be refused entry". The "Hiv Vereniging" and the "Aids Fonds" appealed to the Minister of Foreign Affairs, Mr. Bot, to bring the matter to the attention of the American authorities during the UN AIDS Conference.

In response to the press release, parliamentary discussion has been put forward. Mr. Bot has responded that the travel restrictions not only run against international guidelines but also against Dutch policy; "... to resist all forms of discrimination and stigmatisation against people with HIV/AIDS". Bot asserts that the Netherlands has previously brought up these issues with the American and the EU governments. But he goes on to say that according to international law each government has the right to determine who and who cannot enter their country.

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Ensared

When HIV medication is discovered in your baggage or if they believe you have symptoms of HIV infection, they can take you out of the customs queue for further secondary questioning. It is possible that during the first screening they became certain of HIV infection. It is also possible that you might not immediately be given a secondary screening; this they might schedule for a later date. In that case you must stay in the country without any legal status, but you are required to attend a hearing. In this second (scheduled) hearing you have the right to an attorney.

If the immigration service decides that you have HIV. They can insist that you take the next plane home. If you don't do that, you can be held in detention until brought before a judge. Doing this is not advised as you will have less of a good chance of a favourable decision.

No HIV medication

When you carry no HIV medication or use none, then there is little chance that you'll be held up by customs. If you have HIV medication, then the chance of being detained can be greater, even though most HIV positive travellers just pass through customs. HIV-positive people can reduce the chance of being detained in a number of ways.

In which bag?

Some travellers pack their HIV medication in their checked baggage and not in their carry-on bags. This is probably not a good idea, since checked baggage can be held up or the plane can be subject to extreme delays. This puts you in the position of having an unplanned "drug holiday" with all the negative consequences of doing so. Other travellers pack their HIV medication in their carry-on bags,

in spite of the greater probability of being caught. Some HIV-positive travellers pack their HIV medication in vitamin containers. This may attract less attention, but if it is discovered that there are no vitamins in the containers, this could cause greater trouble: fraudulent intent. Another possibility is the use of generic containers from a chemist or pharmacy. The container has a sticker which does not mention your HIV infection nor the name of the medication.

The immigration officials can also ask you to explain what the medication is to be used for. You should name a condition without hesitating. They might also ask for a letter from your doctor explaining what the medication is to be used for. Of course, such a letter should not state anything about HIV.

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Emigrants to the United States

Within the United States the travel restrictions against HIV positive tourists is a bit of a "luxury problem". In the United States there are many HIV positive people living without the required documentation. It is extremely difficult for them to get these documents and deportation hangs over their heads. However, this issue lies well outside the scope of this article.

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By mail

Another possibility is to send your medication on by post to a friend in the United States. This can go wrong in a number of ways. Your post might not be delivered or arrive too late. So much so that an unplanned "drug holiday" might be necessary. Since 11 September, 2001 every parcel sent to the United States must have the name of the sender, the name of the recipient, and an exact description of the contents. Anything suspicious can be inspected by customs. There might be a situation of illegal posting of medication. When it is stated on the parcel that it is for personal use of the sender, you risk the chance of being singled out by customs.

Nonetheless, some HIV positive people post their medication on. They post the medication to an HIV negative friend and state on the parcel that it is a medical donation. Medical donations are not unusual in the United States. If you choose this method, then you should send the HIV medication well in advance, so that before you leave, you know whether it has arrived. And if that is not the case then there is still some other option available to you.

Drug holidays

Another possibility is a planned "drug holiday". In a study of HIV positive people travelling to the United States, 10 out of 83 HIV positive people took a "drug holiday". For 5 of them, it was a real planned pause in medication. For the other 5, it was unplanned, due to problems in mailing the medication. Three of the 10 experienced problems with their pause. One person developed a resistant virus and reduced his choice of treatment possibilities. He was forced to stop with the non-nucleoside reverse transcriptase inhibitor (NNRTI or non-nuke) which he was taking concurrently with other HIV medication, and thus developed resistance not only against the "non-nuke" but also against T-20. And due to the "drug holiday", the other two people experienced fever, joint pain, headaches and diarrhea due to an increase in their viral loads.

Counterproductive

Not all the participants in the Brighton study were using combination therapies. Out of the total, 135 had gone to the United States. Two of them had used an HIV waiver, the rest passed through customs "illegally". The study also reveals the discriminatory travel restrictions do not accomplish the objective. Because so many HIV positive people are obliged to take a "drug holiday" when travelling to the United States, they experience an increase in viral load subsequently making them more contagious, so the travel restrictions are actually counterproductive.

Internet

<http://www.aidsnet.ch/linkto/immigration>

(Click "English" for extensive information about travel to the United States)

<http://www.un.org/ga/aidsmeeting2006/>

(Click "Civil Society", and then click "Advisory to all HIV positive visitors coming to the United States to attend the 2006 High Level Meeting on AIDS")