

Health, Hope and Home - The possibilities and constraints of voluntary return for African rejected asylum seekers and irregular migrants living with HIV in the Netherlands

(summary)

This report, which was published by IOM in the Netherlands in January 2009, deals with the issue of voluntary return of HIV-positive Africans in the Netherlands, who have been rejected for asylum or are staying in the country as irregular migrants. Dutch immigration policy stipulates that any migrant without a legal status is under the obligation to leave the Netherlands, with voluntary return being the preferred way of meeting this obligation. In this report, we will examine under which conditions these HIV positive migrants may be able to return voluntarily in a manner that allows for a sustainable situation in the country of origin. We will explore the possibilities of providing assistance to help create conditions for voluntary return, but also critically discuss constraints that are likely to be encountered in this return. The results of this exploration, which is primarily based on interviews with twelve migrants living with HIV in the Netherlands, and consultations with stakeholders in five African countries, can be summarised as follows:

- For most migrants living with HIV, *sustainable* return and reintegration requires that, at a minimum, the following conditions are met:
 - 1) necessary medical treatment (antiretroviral drugs, testing, treatment of opportunistic infections) is *available* and the returnee has *durable access* to such treatment;
 - 2) the returnee can acquire a sufficient income to cover regular expenses (food, accommodation, education, etc.) for him/herself and the family *and* to cover all costs related to medical treatment (also including transport to hospital, health insurance fees, etc.);
 - 3) the returnee finds a place within a supportive social network (family, peers, etc.) and has the ability to cope with possible stigma from society as a whole.

These conditions are seen as very closely interlinked: if one of these does not materialise, it is likely that other conditions cannot be met either.

- Attitudes towards return are generally very negative, as most migrants living with HIV do not believe that these conditions can be adequately met, particularly with regard to access to medical treatment. The certainty that they can access treatment in the Netherlands is an important motivator not to return. Not all migrants living with HIV have up-to-date information about the possibilities and constraints in their countries of origin, nor do they want to have this. Peers in the Netherlands often play an important role in the mental and physical survival of migrants living with HIV, but they can, in some cases, also reinforce a taboo on thinking about return.

- Whether the right conditions for voluntary return are in place (or can be created) can only be assessed by taking into consideration an individual's specific situation and the specific context in which he/she would return.

- From the level of the individual returnee, there are only limited means to influence these conditions. Many conditions are beyond the direct influence of the potential returnee or others assisting him/her. Acknowledging structural conditions, particularly in the country of return (including unavailability of certain types of treatment, poverty and unemployment, widespread stigma and discrimination), is crucial in coming to a well-informed decision about return.

- When conditions *can* be influenced at the individual level, the most important ‘instrument’ for doing so is the returnee him/herself. A positive outlook on a future in the country of origin, motivation and a proactive attitude are essential for achieving sustainable return and reintegration.

- Assistance by third parties (IOM, civil society actors) in the return process is most likely to be useful with regard to:

- 1) information gathering on medical, economic and social conditions in the countries of origin and provision of referrals;

- 2) providing resources to assist the development of income generating activities for the returnee and/or his/her family. A stable economic situation is a precondition for durable access to medical treatment and can have a very positive impact on the social support network available to the returnee.

- Providing return assistance may also lead to ethical questions, including:

- Are HIV-positive returnees an added burden on their (often already vulnerable) communities in their countries of origin?

- Should return assistance be focused specifically on migrants living with HIV or does this discriminate against other groups (e.g. migrants with other illnesses)

- Which limits do assistance providers put on their responsibility towards returnees?

- Does voluntary return by an HIV-positive migrant have a negative impact on the chances of others who wish to remain in the Netherlands?

- Can returning migrants living with HIV form a public health risk to their countries of origin?

- Dutch immigration policies are not always conducive to making voluntary return a viable option for migrants living with HIV:

- 1) There is an enormous gap between the legal focus on *availability* of medical treatment in countries of origin, and the basis for decisions of migrants to return, which is related to de facto *accessibility* of this treatment.

- 2) Returning without any option to come back to the Netherlands deprives returnees of a medical (and sometimes socio-economic) ‘safety net’. This is a major deterrent for migrants living with HIV to think about return.

- 3) The consequences of not having a legal status (e.g. no access to social benefits, housing, etc.) can force migrants living with HIV in a very basic ‘survival mode’, which does not allow for reflection on future options, including voluntary return.