

【欧州】【Common】

Common - COVID-19 response and transport: European Commission recommends EU Member States to better coordinate restrictions of the free movement of people in the EU

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【概要 : Summary】

The right to move and reside freely within the European Union (EU) is one of the most significant achievements for the EU citizens and an important driver of the EU's economy. Any restrictions of this fundamental right should only be put in place where strictly necessary. In the first phase of the COVID-19 pandemic in Europe, Member States adopted various measures, of which some restricted the free movement of people in order to confine the spread of the SARS-CoV-2 virus. While all EU Member States achieved a coordinated and common closure of their external borders to third countries, the reintroduction of border controls at the EU's internal borders within the Schengen Area in March 2020 was an unprecedented step to stop citizens from doing non-essential travels within the EU. The most severe impact was felt in the tourism sector, which is highly dependent on the free movement of people. Besides the closure of Schengen borders, some EU Member States unilaterally introduced rules on quarantine or self-isolation measures, which brought tourist activities to a complete standstill from March 2020 to June 2020.

In July 2020, the Schengen Area reopened for non-essential travels. However, the recent new rise of COVID-19 cases in some EU Member States with important businesses in the tourism sector like

Spain, France, but also the Netherlands, and Belgium among others, endangers again the free movement of people within the EU. The problem is foremost the uncoordinated introduction of restrictions or quarantine measures in some EU Member States for travellers returning from other Member States with higher numbers of COVID-19 cases. This patchwork of new restrictions based on different definitions and rules in different EU Member States severely affects the free movement of people in the Schengen zone. Therefore, these uncoordinated restrictions need to be harmonised in order to allow the economic recovery at EU level. Accordingly, on 4 September 2020, the European Commission adopted a proposal for a Recommendation to ensure that measures taken by individual EU Member States to restrict free movement due to the COVID-19 pandemic should be coordinated and clearly communicated at the EU level. The Commission recommends to introducing common criteria and thresholds for EU Member States when deciding whether to introduce travel restrictions, among others.

【記事 : Article】

1. The impact of EU Member States' unilateral action on tourism and transport sectors during the COVID-19 pandemic

One of the most important achievements of the EU is the European citizens' right to move and reside freely within any of the Member States. This freedom of movement is also an important driver of the EU's economy. However, since the beginning of the COVID-19 pandemic, almost all EU Member States have implemented unilateral and individual measures that restrict this movement of the EU citizens. Some Member States unilaterally reintroduced border controls to their neighbouring EU Member States in order to confine the further spread of the SARS-CoV-2 virus. While the EU's external borders were closed in a coordinated manner, the restrictions at the internal borders between the 26 Schengen Area states were not harmonised. This caused problems as they impeded not only the citizens' non-essential travels with passport controls and other types of border controls at the EU's internal borders. The introduction of these restrictions was also highly un-coordinated, unpredictable and non-transparent to the other Member States and citizens. Millions of European citizens were unable to cross the borders not only for non-essential travels. It also meant obstructions at the borders for those citizens who have their work place in another Member State. Consequently, also many economic sectors were affected by the restrictions at the Schengen borders.

Due to the lack of coordination between the EU Member States, the European Commission tried to improve the coordination and cooperation between the EU Member States by giving guidelines and recommendations.

The European Commission proposed guidelines on how to coordinate a relaxation of the lockdown measures regarding the transport sector and adopted a comprehensive strategy on 13 May 2020, with the aim to make sure the Member States' governments reopened their internal Schengen Area borders in a coordinated manner. The overall strategy on the recovery of transport and tourism in 2020 and beyond is the general communication of the Commission,

entitled "Communication on tourism and transport in 2020 and beyond" COM (2020) 550 final. This communication aims at providing measures and recommendations for a recovery of the tourism and transport sector. The COM (2020) 550 final is accompanied by a package of measures, providing recommendations for a phased lifting of restrictions to free movement, including the reopening of internal borders and lifting of internal border controls. The "Communication from the Commission. COVID-19: Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls" (C (2020) 3250 final) intends to restore the free movement in a gradual and coordinated way. The framework "Communication from the Commission. COVID-19: Guidelines on the progressive restoration of transport services and connectivity" (C (2020) 3139 final) supports the gradual re-establishment of transport while guaranteeing the safety of passengers and personnel. The recommendation of the Commission entitled "Commission Recommendation of 13.5.2020 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic" (C (2020) 3125 final). It aims to make travel vouchers an attractive alternative to a cash reimbursement for consumers. Finally, the Commission proposes criteria for restoring tourism activities safely and gradually in its "Communication for the Commission: COVID-19: EU Guidance for the progressive resumption of tourism services and for health protocols in hospitality establishments" (C (2020) 3251 final).

The Commission intends to give guidance based on the advice of the European Centre for Disease Control and Prevention (ECDC) for restoring the tourism and transport in EU Member States and to ensure that measures taken in Member States are compatible, coordinated and mutually accepted across borders and between regions.

The guidelines provide a common framework to

support authorities, stakeholders, social partners and businesses operating in the transport sector in order to gradually re-establish connectivity.

2. The call for better coordination among EU Member States in a phase of resurging COVID-19 cases

Since the Schengen Area was reopened by the end of June 2020 despite the continuation of the COVID-19 pandemic, there exists a common understanding that similar strict lockdown measures like in the early stage of the pandemic in Europe were no option anymore, due to the severe impact on the EU's economy. Countermeasures against the further spread of the SARS-CoV-2 virus will have to be proportionate and the restrictions of the free movement of people need to be kept as low as possible, while providing the maximum possible protection to the public's health.

However, since the COVID-19 cases are again on the rise since August 2020, this is in particular a challenge. The recent substantial increase in the number of COVID-19 cases at regional and local level in several EU Member States including Spain, Croatia, France, the Netherlands, Belgium, Luxemburg and Romania, among others could lead to new restrictions of the free movement of people. Since the current pandemic situation in Europe is increasingly dynamic, the European Commission wants the EU Member States to better coordinate their individual quarantine measures and restrictions for travels that discourage the movement of people within the EU in order to confine the further spread of the SARS-CoV-2 virus.

On 2 September 2020, the Transport and Tourism Committee MEPs discussed with Director General of Eurocontrol Eamonn Brennan the impact of COVID-19 pandemic on the European air traffic network, the European air traffic management, Eurocontrol and the reform of the Single European Sky.

The MEPs described unilateral, national solo efforts to manage the crisis as “utter chaos”, “a mess” and “unpredictable”. They demanded common

standards and serious coordination on EU level, which would help to make the unprecedented situation of the pandemic more predictable for the transport sector.

3. The European Commission's proposal for coordinating the Member States' restrictions

3.1. General aspects of the recommendation

Based on the experiences of the past months during the COVID-19 pandemic, the European Commission intends to unify the EU Member States and the Schengen Area associated countries in the fight against the pandemic. The idea is to avoid further unilateral measures in this area, as they have the potential to cause significant economic and social disruptions.

On 4 September 2020, the European Commission adopted the “Proposal for a COUNCIL RECOMMENDATION on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic” (COM(2020) 499 final). With this proposal the Commission intends to ensure that the EU Member States' individual measures that restrict free movement during the COVID-19 pandemic are coordinated and clearly communicated at EU level. The European Commission wants the EU Member States to coordinate their strategies regarding the travel restrictions. It sets out four key areas where Member States should work closer together. These areas include, firstly, the set up of common criteria and thresholds for Member States when deciding whether to introduce travel restrictions; secondly, the mapping of common criteria using an agreed colour code; thirdly, a common framework for measures applied to travellers from high-risk areas; and fourthly, to issue clear and timely information to the public about any restrictions. Measures should be based on public health considerations and cannot extend beyond what is strictly necessary to safeguard the public interest. Any limitations to the freedom of movement within the EU justified on grounds of public policy, public

security or public health must be necessary, proportionate and based on objective and non-discriminatory criteria, among others. This Recommendation should not be understood as facilitating or encouraging the adoption of restrictions to free movement put in place during the pandemic. It rather seeks to provide a coordinated approach in the event that a Member State has to introduce such restrictions due to public health reasons.

However, the decision as to whether to introduce restrictions to free movement remains the responsibility of the Member States. Equally, Member States retain the flexibility not to introduce restrictions even if the criteria and thresholds outlined in this Recommendation are met. A coordinated approach among Member States is required to reduce the impact of restrictions on the EU citizens and the economy, enhancing transparency and predictability, while ensuring a high level of human health protection

The criteria and thresholds outlined in this Recommendation are based on the data made available by Member States. In view of the evolving COVID-19 pandemic, the Commission, supported by the ECDC, should regularly assess the criteria, data needs and thresholds outlined in this Recommendation. They should also consider other criteria, such as hospitalisation rates or intensive care unit occupancy rates. The EU Member States should apply a coordinated set of indicators and methodology to assess the risk areas and countermeasures.

3.2. Common mapping and criteria for defining areas of different risk levels

Given the lessons learned from the earlier stages of the COVID-19 pandemic, the European Commission intends to recommend to the EU Member States a well-coordinated, predictable and transparent approach to the adoption of restrictions on freedom of movement. Safeguarding the health of citizens while maintaining free movement within the EU, under safe conditions, is crucial for the efforts

to start safely re-building the EU economy and to ensure a smooth functioning of the internal market. Therefore, the European Commission proposes straightforward criteria, applicable without discrimination, which are easy to follow by EU Member States and allow to informing Europeans properly. The Commission intends to create a common mapping of the infection levels in the EU Member States according to the colours on which they will agree. Each Member State should take into account the following criteria when putting in place any restrictive measures:

The total number of newly notified COVID-19 cases per 100,000 people in a given area in a 14-day period; The percentage of positive tests from all COVID-19 tests carried out in given area during a seven-day period; The number of COVID-19 tests carried out per 100,000 people in a given area during a seven-day period. EU Member States should provide this data on a weekly basis to the European Centre for Disease Prevention and Control (ECDC). EU Member States should also provide this data at the regional level to ensure that any measures can be targeted to those regions where they are strictly necessary. On the basis that the Member State of departure has a weekly testing rate of more than 250 per 100,000 people, the Commission is proposing that Member States should not restrict free movement of people travelling from another Member State where:

The total number of newly notified COVID-19 cases in a given area is equal to less than 50 per 100,000 people during a 14-day period, OR, the percentage of positive tests from all COVID-19 tests in a given area is less than 3%.

Furthermore, the Commission proposes to introduce a common colour code. Based on the data provided by EU Member States, the ECDC publishes a map of EU and EEA countries, updated weekly, with a common colour code to support Member States and travellers. The Commission proposes “Green” for an area where the total number of newly notified COVID-19 cases is less than 25 during a 14-day period AND the

percentage of positive tests from all COVID-19 tests is less than 3%. “Orange” should be used for an area where the total number of newly notified COVID-19 cases is less than 50 during a 14-day period BUT the percentage of positive tests from all COVID-19 tests is 3% or more, OR the total number of newly notified COVID-19 cases is between 25 and 150, BUT the percentage of positive tests from all COVID-19 tests is less than 3%. “Red” should be used for an area where the total number of newly notified COVID-19 cases is more than 50 during a 14-day period AND the percentage of positive tests from all COVID-19 tests is 3% or more, OR the total number of newly notified COVID-19 cases is more than 150 per 100,000 people during a 14-day period. “Grey” should be used if there is insufficient information available to assess the criteria proposed by the Commission OR the number of COVID-19 tests carried out per 100,000 people is less than 250.

A common approach for travellers from high-risk areas should be considered. The Commission proposes a common approach amongst Member States when dealing with travellers coming from “high-risk” zones. Firstly, Member States should not refuse the entry of persons travelling from other Member States. Member States that introduce restrictions to free movement based on their own decision-making processes, could require: persons travelling from an area classified as “red” or “grey” to either undergo quarantine OR undergo a COVID-19 test after arrival, with COVID-19 testing being the preferred option. Where justified, Member States could consider recommending that persons travelling from an area classified as “orange” undergo at least a COVID-19 test prior to departure or upon arrival. Member States could require persons arriving from an area classified as “red”, “orange” or “grey” to submit passenger locator forms, notably those arriving by airplane, in accordance with data protection requirements.

Wherever possible, the possibility to undergo tests for COVID-19 infection instead of quarantine should

be the preferred option. Member States should mutually recognise the results of tests for COVID-19 infection carried out in other Member States by certified health bodies.

Travellers with an essential function or need – such as workers exercising critical occupations, frontier and posted workers, students or journalists performing their duties – should not be required to undergo quarantine.

Moreover, the Commission proposes clear and timely information to the public regarding the details of upcoming restrictions to free movement or the lifting of travel restrictions to Member States and the Commission on a weekly basis. Changes should be notified a week before entering into force. Information should also be made available on the “Re-open EU” web platform, with a link to the weekly-published map by the ECDC.

4. Conclusion and outlook

It is important to realise that the European Commission has limited authority in the EU Member States’ health sector. Basically, every Member State is responsible for organising and financing its own health system. Therefore, the European Commission’s main task in the current COVID-19 pandemic is limited to helping the EU Member States weather the crisis and to make recommendations for joint action.

Taking into account the evolution of the COVID-19 pandemic, some EU Member States have maintained or reintroduced restrictions to free movement of citizens within the EU. While entry bans have to a large extent been lifted, businesses and citizens are still confronted with a wide array of diverging, unilateral measures that are still resulting in significant disruptions of travel. The EU Member States often adopt restrictions at very short notice and base their measures on very different criteria, with no or only insufficient coordination with other Member States. This has resulted in a high level of uncertainty for both citizens and businesses.

Therefore, the European Commission intends to give recommendations to the Member States to take a better-coordinated approach of restrictions of free movement during the on-going COVID-19 pandemic. The aim is to coordinate actions of the EU Member States as effectively as possible. The criteria are aimed at eliminating the wide discrepancy between national criteria for introducing measures that restrict free movement in the EU. The proposed colour code will group countries in four categories: green, orange, red and grey under clearly defined common criteria. While proposing to concentrate on testing, the Commission's Recommendation intends to avoid any further disruption of travel needs to be avoided. The Commission's Proposal for a Council Recommendation will be discussed by the Council with the aim of achieving an adoption in the coming weeks, in order to agree on a more coordinated approach regarding the restrictions of free movement in response to the COVID-19 pandemic.

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