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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL **On the  
third assessment of the application of the temporary restriction on  
non-essential travel to the EU**

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Delegations will find attached document COM(2020) 399 final.

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL**

**On the third assessment of the application of the temporary restriction on non-essential  
travel to the EU**

# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL

## On the third assessment of the application of the temporary restriction on non-essential travel to the EU

### I Introduction

The COVID-19 pandemic has caused an unprecedented health emergency across the European Union. The protection of public health has become the overriding priority for both the EU and its Member States.

All Member States have taken measures to limit the impact of the virus. While the measures taken where necessary to safeguard the health and wellbeing of our citizens, they had at the same time serious consequences for the freedom of movement inside the EU and the functioning and the integrity of the Schengen area. Most Member States and Schengen Associated States introduced temporary internal border controls and measures restricting free movement across the EU.

A single area based on free movement and without internal border checks, as the Schengen area, requires a common and strictly coordinated policy on the EU external borders, and the current pandemic requires even more so a consistent and common approach towards third countries, with the primary objective being to protect public health. From the beginning of the pandemic, the European Commission has done the utmost to ensure uniform action by all EU Member States and Schengen Associated States<sup>1</sup>.

On 10 March 2020, the Heads of State or Government of the European Union emphasised the need for a joint European approach with regard to COVID-19. On 16 March 2020, the Commission adopted a Communication<sup>2</sup> recommending a temporary restriction of non-essential travel from third countries into the EU+ area<sup>3</sup>. This recommendation was followed up on 17 March 2020 with the agreement on coordinated action at external borders based on the recommendation from the Commission. Since then, all EU Member States (with the exception of Ireland) and Schengen Associated States (hereafter ‘Member States’) have taken national decisions to implement the travel restriction.

On 8 April 2020<sup>4</sup> and 8 May 2020<sup>5</sup>, the Commission adopted two follow-up Communications. In its last Communication, the Commission invited the Member States to prolong the travel restriction until 15 June 2020.

The temporary travel restriction applies to all non-essential travel from third countries to the EU+ area<sup>6</sup>. However, to limit the impact of the restriction to the necessary minimum, the recommendation excluded specific categories of travellers with an essential function or need<sup>7</sup>.

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<sup>1</sup> Iceland, Liechtenstein, Norway, Switzerland.

<sup>2</sup> COM(2020) 115, 16 March 2020.

<sup>3</sup> The “EU+ area” includes all Schengen Member States (including Bulgaria, Croatia, Cyprus and Romania), as well as the four Schengen Associated States. It also includes Ireland and the United Kingdom if they decide to align.

<sup>4</sup> COM(2020) 148, 8 April 2020.

<sup>5</sup> COM(2020) 222, 8 May 2020.

<sup>6</sup> To safeguard their rights, citizens of the Participating States to Union Civil Protection Mechanism (UCPM) when returning on the UCPM-facilitated repatriation flights, as well as their family members and third country nationals legally residing in the EU, are exempted from the application of the non-essential travel restriction for the purpose of returning to their homes.

With the recommended period for maintaining a travel restriction at the external borders ending on 15 June 2020, this Communication puts forward an approach for a gradual and coordinated phasing out of these travel restrictions, based on a set of common principles and criteria allowing to identify those third countries with which it is possible to lift the travel restriction on non-essential travel into the EU+ area.

## II Developments and assessment of the current situation

On 15 April 2020, the President of the European Commission and the President of the European Council set out a ‘Joint European Roadmap towards lifting COVID-19 containment measures’<sup>8</sup>. The Roadmap sets out how internal border controls should be lifted gradually and in a coordinated manner, before, in a second stage, temporary restrictions at the external borders could be relaxed and non-EU residents could resume non-essential travel to the EU.

In line with these principles, the Commission presented on 13 May the Communication ‘Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls’<sup>9</sup>, as part of a package of support measures relating to Tourism and Transport. This Communication sets out a coordinated, balanced and phased approach for lifting travel restrictions and controls at the internal borders, as well as looking ahead to, as a second stage, the ending of restrictions on non-essential travel to the EU through the external border. Whilst the sequencing was clear, the two processes can follow a broadly similar approach and criteria related to epidemiological situation, containment measures, including physical distancing, as well as taking into account economic and social considerations.

In their meeting of 5 June 2020, Home Affairs Ministers discussed the response to the COVID-19 pandemic and how to move towards ending the new restrictions. There was a common agreement that, while EU Member States and institutions have worked closely together to contain the spread of the virus, coordination continues to be essential now that the situation is improving. The Presidency also noted that most Member States will lift the controls at their internal borders and the related travel restrictions by 15 June, with others following by the end of the month. Ministers also discussed how long the EU travel restrictions with regard to the entry of third country nationals should be maintained and what criteria and measures could be applied once the restrictions start to be lifted. There was a consensus as to the need for a unified approach to the gradual lifting of the restrictions on non-essential travel to the EU, using clear criteria and calling on the Commission to propose a way forward for the lifting of restrictions at the external borders in a coordinated manner.

There is a continuous positive trend within the EU+ area with regard to the epidemiological situation. In the last 14 days the EU+ area, with the exception of a few regions, reported less

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<sup>7</sup> These should include:

- Healthcare professionals, health researchers, and elderly care professionals;
- Frontier workers;
- Seasonal workers in agriculture;
- Transport personnel;
- Diplomats, staff of international organisations, military personnel and humanitarian aid workers in the exercise of their functions;
- Passengers in transit;
- Passengers travelling for imperative family reasons;
- Persons in need of international protection or for other humanitarian reasons respecting the principle of *non-refoulement*.

<sup>8</sup> [https://ec.europa.eu/info/sites/info/files/communication - a european roadmap to lifting coronavirus containment measures 0.pdf](https://ec.europa.eu/info/sites/info/files/communication_-_a_european_roadmap_to_lifting_coronavirus_containment_measures_0.pdf)

<sup>9</sup> C(2020) 3250 final, 13 May 2020.

than 100 new infections per 100,000 inhabitants<sup>10</sup>. In line with the 13 May Communication and recommendations therein, all Member States can now be considered as having, at a minimum, entered Phase 1 as referred to in the Communication (i.e. they have started to partially lift travel restrictions and internal border controls).

Several Member States have already lifted the internal border controls and restrictions to free movement within the EU including post-travel quarantine requirements on such movement, and others are planning to do so as of 15 June 2020. **The Commission strongly encourages the remaining Member States to finalise the process of lifting the internal border controls and restrictions to free movement within the EU by 15 June 2020.**

As of then, and given the current improvement of the epidemiological situation in the EU+ area and in a number of countries across the world, the Commission considers that the travel restrictions at the external borders no longer need to apply to all third countries, but could start to be gradually lifted. This process would need to be based on clear criteria and be subject to constant monitoring. In line with the Joint Roadmap, such lifting of travel restrictions for the residents of those countries should take place only after the lifting of internal border controls and restrictions to free movement within the EU. For the remaining third countries not yet fulfilling the criteria, the restrictions for non-essential travel would continue to apply, with the exemptions as listed in the Communication of 16 March.

At the same time, experience of the past months has shown that there is a need to extend the categories of exempted travellers. For EU citizens, citizens of Schengen Associated States, and third-country nationals legally residing in the Member States as well as their family members, should be allowed to travel to the EU+ area for any purpose, not just to return home. Where they travel from third countries for which the restrictions for non-essential travel continue to apply, this may be subject to health requirements, such as self-isolation, of the Member States of destination.

The list of travellers with an essential function or need should be extended to include also people travelling for the purpose of study and highly qualified third-country workers if their employment is necessary from an economic perspective and the work cannot be postponed or performed abroad.

Hence the Commission recommends that where temporary travel restrictions for non-essential travel into the EU are not lifted, the exemptions should be amended as set out under point VII (Conclusions).

### **III Principles**

All the necessary coordinated decisions by the Member States related to the lifting of the temporary restriction on non-essential travel to the EU, should be based on the following guiding principles:

(i) Non-discrimination: residence as deciding factor

When deciding whether the temporary restriction on non-essential travel to the EU applies to a third-country national, residence in a third country for which the restrictions on non-essential travel have been lifted should be the deciding factor (and not nationality).

(ii) Flexibility

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<sup>10</sup> See available data at the ECDC website <https://gap.ecdc.europa.eu/public/extensions/COVID-19/COVID-19.html>

It should be clear that decisions to lift the restrictions in line with the coordination mechanism set out below would always retain full flexibility. This means that it will always be possible, if necessary, to reintroduce the travel restrictions for a specific third country in case conditions in the checklist are no longer met, and in particular if the epidemiological situation worsens or in case the situation with regard to reciprocity changes.

### (iii) Common and coordinated approach

Now that lifting travel restrictions and internal border controls within the EU are in the process of being lifted, the second stage of the process set out in the Joint Roadmap can be put in place. In line with their competencies in the area of borders, Member States should enter into discussions on a list of those countries for which they will lift travel restrictions. The effectiveness of decisions depends on their implementation by all Member States for all external borders at the same time and in a uniform manner.

Announcements by some Member States to lift the restrictions at the external border for their country, without consultation with other Member States seriously risk to undermine the integrity of the Schengen area. The free movement of third country nationals having entered the Schengen area means that these decisions by one Member State may have an impact on other Member States. It is therefore important that decisions on lifting travel restrictions are taken within the framework of the coordination mechanism set out below.

## IV Criteria and checklist

In view of the fact that the epidemiological situation in a number of third countries remains critical and depending on the measures taken and the capacities of those countries to contain the spread of the virus, **at this stage it is not possible to have a general lifting of the travel restriction on non-essential travel to the EU+ area**. The Commission is therefore putting forward an approach for a gradual and coordinated phasing out of the travel restrictions.

In order to ensure a clear, transparent and coherent approach in the process, national decisions must be coordinated and should be based on common and objective criteria. These criteria have been discussed in several meetings of the 'COVID-19 Information Group – Home Affairs'. Member States expressed their views on this matter in a questionnaire, with the understanding that the criteria need to be flexible enough to be applied to a very large group of third countries (+/- 170). The availability and reliability of data from third countries is of utmost importance and should be considered a key criterion; decisions can only be taken if grounded in clear and accurate data.

While economic and social considerations might also need to be taken into account, the reflection on lifting of travel restrictions at external borders should be based on the following criteria, which are broadly in line with those set out in the 13 May Communication:

- (i) The assessment of approximation of **epidemiological situation** and response to COVID-19 in the third country:

Restrictions on travel should be lifted first with third countries that have a comparable or better epidemiological situation as the average in the EU+ area, and where sufficient capabilities are in place. This would require that the available data for a third country is sufficiently robust to allow decisions to be made. Travel restrictions should not be lifted as regards third countries where the situation is worse as the average in the EU+ area.

Key criteria to be assessed in relation to a third country, based on available data from the country concerned, the European Centre for Disease Prevention and Control (ECDC) and other sources, include:

- the number of new infections per 100,000 population;
- trend in new infection rate; and
- the country's overall response to COVID-19, taking into account available information on aspects such as testing, surveillance, contact tracing, containment, treatment and reporting.

(ii) The application of **containment measures during travel**, including physical distancing while building and maintaining trust:

A precondition to lifting travel restrictions is the ability to ensure that containment measures, such as physical distancing, will be respected throughout a journey, from origin to destination, including during any possible transit via high-risk areas. Where physical distancing is more difficult to ensure, additional non-discriminatory and proportionate safeguards and measures leading to equivalent levels of protection should be put in place, in line with the Commission recommendations issued for the transport and the hospitality sector<sup>11</sup>.

Another aspect to consider is to which degree the third country concerned can be expected to be used as a transit point for travellers from third countries that do not yet fulfil the criteria.

(iii) Reciprocity and travel advice:

Many third countries have also introduced travel restrictions to citizens coming from the EU. In order to have an equal treatment for EU citizens, the third country should also lift travel restrictions towards the EU in order to have the same or comparable travel arrangements with the EU. This should apply to **all** EU and Schengen States; it cannot be applied selectively.

Travel advice issued by Member States regarding the third country concerned should be taken into account, given that the reciprocal lifting of travel restrictions will likely lead to an increase of travel from the EU to the third country concerned. The epidemiological situation in the third country should be stable enough to exclude, with sufficient certainty, a large-scale repatriation of stranded citizens over the coming months.

(iv) Checklist:

The criteria indicated above form the basis of the checklist in the Annex to be used for the necessary coordinated decision by the Member States. The purpose of this checklist is to find common ground between Member States, and therefore a common approach within the EU+ area, with regard to the assessment whether the situation in a third country and measures taken to fight the virus are sufficient to lift the travel restriction on non-essential travel into the EU+ area. Further details with regard to the coordination of this process are specified below in Chapter V 'Coordination mechanism'.

Member States should also inform travellers of the obligation to follow national rules on containment measures or physical distancing rules. This could be achieved, e.g. by means of a single, accessible website for prior consultation by travellers. In addition, in order to ensure that upon entry on their territory, citizens will receive appropriate information as well as where practicable an automatic SMS containing information about the national or regional information point regarding special measures and restrictions applied during the COVID-19 pandemic, as well as information about whom to contact if an individual starts displaying

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<sup>11</sup> C(2020) 3139 and C(2020) 3251.

COVID-19 related symptoms. The Commission will support Member States in ensuring that citizens and travellers get all the necessary information<sup>12</sup>.

## **V Coordination mechanism**

Since the beginning of the outbreak, the Commission and the Member States have engaged in regular exchange of information and good practice in a variety of fora, including at the technical level through the ‘COVID-19 Information Group – Home Affairs’ and the Health Security Committee. The Commission will therefore continue to support these fora for such exchanges with the objective of facilitating and preparing the necessary coordinated decision by the Member States regarding the identification of third countries for a phased lifting of the travel restrictions at the external border, based on data from all relevant sources, including e.g. the ECDC and the WHO.

It is also essential that there is a clear central point to which all measures and steps taken by Member States are communicated and made known to the Commission and the other Member States. In addition, robust and coordinated communication and information efforts should be undertaken with third countries. The EU Delegations will be involved and can provide support in this exercise.

To take this process forward, the Commission proposes that, following a first assessment at the national level based on the available data of the ECDC, the WHO and other relevant sources, the checklist in the Annex and information provided by EU Delegations, a first discussion should take place in the ‘COVID-19 Information Group – Home Affairs’ in order to prepare a draft list of countries where travel restrictions could be lifted. The preparation of a concrete coordinated approach and the further updating of the list of countries should take place within the existing and well-functioning framework of the EU’s integrated political crisis response mechanism (IPCR), considering the dynamic nature of such a process and the need for regular updates.

Based on the outcome of the discussions within the IPCR, the Commission invites the Council to act with a view to the adoption, by the Schengen Member States together with the Schengen Associated States, of a concrete coordinated approach on the list of countries for which travel restrictions can be lifted as of 1 July. This list should be updated on a regular basis and regular communication should take place with third countries to explain the overall EU process.

For all third countries that are not on that list, the Commission recommends that Member States prolong the travel restriction on non-essential travel until they are put on the list of countries where travel restrictions could be lifted. That list should be regularly updated in line with the criteria set out in this Communication and the travel restriction would need to be assessed according to further developments.

The management of the external borders is a responsibility that the Member States carry out in their interest and in the interest of all Member States. Unilateral decisions taken by Member States to lift restrictions on arrivals from residents of additional third countries, which are not identified following a coordinated approach, imply an extra responsibility for the Member States concerned, given the principle of free movement inside the Schengen area, and the overriding priority of the protection of public health in the EU, and should therefore only be adopted in consultation with the other Member States and remain exceptional.

## **VI Countries neighbouring the EU**

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<sup>12</sup> The ‘Re-open’ website and app for citizens and tourists will provide citizens with data on transport, public health, tourism with data from Member States.



The Commission expressed a readiness to associate the region of the Western Balkans closely with the implementation of its Joint European Roadmap towards lifting COVID-19 containment measures. Beyond the financing commitment taken by the EU to support Western Balkans “post COVID-19” recovery, the reinforcement of the connectivity and a better access to the EU market should be among key deliverables that would pave the way to a stronger economic integration between the region and the EU.

The epidemiological situation in this region is equal or better than in the EU. The overall number of cases in the whole region is in total significantly lower than in the EU.

In addition, given the region’s importance with regard to transport, restauration and resumption of tourism activities, including cross-border/boundary traffic, the Commission recommends to already start lifting the restrictions at the EU external border for the countries of this region at the expiry of the current prolongation, i.e. 1 July 2020.

In line with the ‘Guidance on the implementation of the temporary restriction on non-essential travel to the EU, on the facilitation of transit arrangements for the repatriation of EU citizens, and on the effects on visa policy’<sup>13</sup>, nationals of San Marino, Andorra, Monaco and Vatican/Holy See should be assimilated to nationals of Member States for the application of the restriction of non-essential travels. Thus, EU Member States should allow the entry of nationals of those States and of third country nationals residing there, to let them return home. Further action is therefore not necessary in relation to these European microstates.

## VII Conclusions

At present the process with regard to the lifting of travel restrictions and internal border controls within the EU is firmly underway. The restrictions at the EU external border should be lifted in a second step in line with the approach set out above.

Parallel and coordinated action is essential at the external borders of the EU+ area. To ensure that such actions are effective, they should be implemented by all Member States at all external borders and in a strictly coordinated and uniform manner. In this respect, the Commission will support the IPCR to establish a list of the countries for which Member States will lift the travel restrictions in a coordinated and gradual manner based on regular updates of that list. Based on the outcome of the discussions within the IPCR, the Commission invites the Council to act with a view to the adoption, by the Schengen Member States together with the Schengen Associated States, of a concrete coordinated approach on the list of countries for which travel restrictions can be lifted as from 1 July 2020. This list should be updated on a regular basis.

The Commission recalls that for those countries for which it was decided to lift restrictions at the external border, the possibility to deny entry to third country nationals on the basis of a threat to public health remains in line with the entry conditions set out in the Schengen Borders Code<sup>14</sup>. In addition, Member States should take into account the COVID-19 Aviation Health Safety Protocol<sup>15</sup> issued by European Union Aviation Safety Agency (EASA) and

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<sup>13</sup> C(2020) 2050 of 30 March 2020.

<sup>14</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).

<sup>15</sup> <https://www.easa.europa.eu/document-library/general-publications/covid-19-aviation-health-safety-protocol>

ECDC as well as the considerations for travel-related measures to reduce spread of COVID-19 in the EU/EEA as published in a report by ECDC<sup>16</sup>.

The Commission recommends:

- **to prolong the application of the current travel restriction on non-essential travel to the EU until 30 June 2020.** Applying the coordination mechanism set out under Chapter V, the intervening period should be used by the Commission and the Member States **to prepare a list of those third countries for which travel restrictions can be lifted as from 1 July 2020.** That list should be regularly updated in line with the criteria set out in this Communication. For all third countries that are not on that list by 30 June, the Commission recommends that Member States prolong the travel restriction on non-essential travel until they are put on the list of countries where travel restrictions could be lifted.
- **to lift the application of the travel restriction on non-essential travel from the following countries/partners as of 1 July 2020:**
  - Albania;
  - Bosnia and Herzegovina;
  - Kosovo<sup>17</sup>;
  - Montenegro;
  - North Macedonia;
  - Serbia.

For those countries where no decision has been taken to end the temporary travel restriction for non-essential travel into the EU, the exemptions<sup>18</sup> should be amended as follows:

- a) EU citizens and citizens of Schengen Associated States and third country nationals legally residing in the European Union, as well as their family members, **should be exempted from the travel restriction, regardless whether or not they are returning home.** Member States can, however, take appropriate measures such as requiring such persons to undergo self-isolation or similar measures upon return from a third country for which the temporary restriction on non-essential travel is maintained, provided they impose the same requirements on their own nationals;
- b) The specific categories of travellers with an essential function or need<sup>19</sup> should be extended to include also:
  - third-country nationals travelling for the purpose of study;
  - highly qualified third-country workers if their employment is necessary from an economic perspective and the work cannot be postponed or performed abroad.

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<sup>16</sup> Available at <https://www.ecdc.europa.eu/en/publications-data/considerations-travel-related-measures-reduce-spread-covid-19-eueea>.

<sup>17</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

<sup>18</sup> As listed in Communication COM(2020) 115.

<sup>19</sup> See footnote 7.