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NOTE POINT "A"

Origine:	Secrétariat général du Conseil
Destinataire:	Conseil
Objet:	Coordination COVID-19 Recommandation du Conseil relative à une approche coordonnée en vue de faciliter la libre circulation en toute sécurité pendant la pandémie de COVID-19 et remplaçant la recommandation (UE) 2020/1475 Adoption

1. Le 25 novembre 2021, la Commission a présenté une proposition de recommandation du Conseil relative à une approche coordonnée en vue de faciliter la libre circulation en toute sécurité pendant la pandémie de COVID-19 et remplaçant la recommandation (UE) 2020/1475. Le même jour, la Commission a présenté sa proposition à la table ronde de travail de l'IPCR.
2. Les 29 novembre et 2 décembre 2021, l'IPCR a procédé à un échange de vues sur le texte de la proposition. Par la suite, les délégations ont soumis des commentaires écrits.
3. Le 6 décembre 2021, l'IPCR a débattu un premier texte de compromis de la présidence, suivi ensuite par le Coreper le 10 décembre 2021. À cette occasion, certaines délégations ont demandé de retarder l'adoption du texte afin de tenir compte des effets du développement du variant omicron.

4. Le 16 décembre 2021, le Conseil européen a appelé dans ses conclusions à l'adoption rapide de la recommandation révisée du Conseil relative à la libre circulation entre les États membres.

5. Le 13 janvier 2022, l'IPCR a eu un nouvel échange de vues sur le texte initial de compromis de la présidence. À la suite de cet échange de vues, et comme cela a été annoncé lors du Coreper du 14 janvier, la présidence a soumis un nouveau texte de compromis à l'IPCR le 17 janvier 2022.

6. Suite à la réunion de l'IPCR du 17 janvier 2022, la présidence a introduit un nombre limité de changements dans le texte du projet de recommandation. Le texte a été soumis pour approbation au Comité des représentants permanents le 21 janvier 2022.

7. Le 21 janvier 2022, le Comité des représentants permanents a approuvé le texte du projet de recommandation du Conseil relative à une approche coordonnée en vue de faciliter la libre circulation en toute sécurité pendant la pandémie de COVID-19 et remplaçant la recommandation (UE) 2020/1475, figurant dans l'annexe du document 5318/1/22 REV 1. Lors de cette réunion, le Coreper est convenu de suggérer au Conseil d'adopter, lors d'une prochaine session, le texte du projet de recommandation du Conseil qui figure à l'annexe de la présente note.

Le Comité des représentants permanents a également décidé de demander la publication de la recommandation du Conseil au Journal officiel de l'Union européenne.

Le Comité des représentants permanents a pris note de l'intention des délégations autrichienne, hongroise et maltaise de s'abstenir lors de l'adoption par le Conseil du texte de la recommandation.

Le Comité des représentants permanents a également pris note de la déclaration écrite de la délégation portugaise qui sera inscrite au procès-verbal de cette réunion.

8. À la lumière de ce qui précède, le Comité des représentants permanents recommande au Conseil d'adopter le texte de la recommandation du Conseil relative à une approche coordonnée en vue de faciliter la libre circulation en toute sécurité pendant la pandémie de COVID-19 et remplaçant la recommandation (UE) 2020/1475, qui figure à l'annexe de la présente note.

9. Une fois signé par le président du Conseil, l'acte législatif sera publié au Journal officiel de l'Union européenne.

Proposal for a

COUNCIL RECOMMENDATION

on a coordinated approach to facilitate safe free movement during the COVID-19 pandemic and replacing Recommendation (EU) 2020/1475

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 21(2), Article 168(6) and Article 292, first and second sentence thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Citizenship of the Union confers on every citizen of the Union the right of free movement.
- (2) Pursuant to Article 21(1) of the Treaty, every citizen of the Union has the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give effect to them. Directive 2004/38/EC of the European Parliament and of the Council¹ gives effect to that right. Article 45 of the Charter of Fundamental Rights of the European Union (the Charter) also provides for freedom of movement and residence. Since the action of the Union proves necessary to attain the objective laid down in Article 21 of the Treaty, and the Treaties do not otherwise provide the necessary powers, the Council may adopt provisions with a view to facilitating the exercise of the rights to move and reside freely.
- (3) Pursuant to Article 168(1) of the Treaty, a high level of human health protection is to be ensured in the definition and implementation of all Union policies and activities.

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (4) On 30 January 2020, the Director-General of the World Health Organization (WHO) declared a public health emergency of international concern over the global outbreak of novel coronavirus, which causes Coronavirus disease 2019 (COVID-19). On 11 March 2020, the WHO made the assessment that COVID-19 can be characterized as a pandemic.
- (5) To limit the spread of the virus, the Member States have adopted various measures, some of which have had an impact on Union citizens' right to move and reside freely within the territory of the Member States, such as restrictions on entry or requirements for cross-border travellers exercising free movement rights to undergo tests for SARS-CoV-2 infection.
- (6) As the COVID-19 pandemic has caused an unprecedented health emergency, the protection of public health has become an overriding priority for both the Union and its Member States. On the basis of the protection of public health, Member States may take measures that restrict the free movement of persons within the Union. According to Article 168(7) of the Treaty, the definition of national health policies, including the organisation and delivery of health services and medical care, is the responsibility of Member States and may therefore vary from one Member State to another. While Member States are competent to decide on the most appropriate measures to safeguard public health, it is appropriate to ensure the coordination of such measures, with a view to safeguarding the exercise of the right of free movement and combatting a serious cross-border threat to health such as COVID-19.
- (7) When adopting and applying restrictions to free movement, Member States should respect principles of Union law, in particular proportionality and non-discrimination. This Recommendation is intended to facilitate the application of these principles, in a coordinated manner, to the exceptional situation caused by the COVID-19 pandemic.
- (8) Unilateral measures in this area have the potential to cause significant disruptions as businesses and citizens are confronted with a wide array of diverging and rapidly changing measures. This is particularly harmful in a situation where the economy of the Union has already been significantly affected by the virus.
- (9) A coordinated approach aims to prevent the reintroduction of internal border controls. Border closures or blanket travel bans, as well as suspension of flights, land transport and water crossings, are not justified, as more targeted and coordinated measures, such as COVID-19 certificates or testing, have a sufficient impact and cause less disruption. The system of 'Green Lanes'² should keep transport flows moving, in particular to ensure the free movement of goods and services, thus avoiding supply chain disruptions.

² Communication from the Commission on upgrading the transport Green Lanes to keep the economy going during the COVID-19 pandemic resurgence (COM(2020) 685 final).

- (10) To ensure increased coordination among Member States, the Council adopted, on 13 October 2020, Recommendation (EU) 2020/1475³. That Recommendation established a coordinated approach on the following key points: the application of common criteria and thresholds when deciding whether to introduce restrictions to free movement, a mapping of the risk of COVID-19 transmission based on an agreed colour code, and a coordinated approach as to the measures, if any, which may appropriately be applied to persons moving between areas, depending on the level of risk of transmission in those areas. On 1 February 2021, the Council adopted Recommendation (EU) 2021/119⁴ amending Recommendation (EU) 2020/1475 in view of a very high level of community transmission across the Union, possibly linked to the increased transmissibility of the new SARS-CoV-2 variants of concern.
- (11) On 14 June 2021, the European Parliament and the Council adopted Regulation (EU) 2021/953 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic⁵. The framework was established to facilitate EU Digital COVID Certificate holders' exercise of their right to free movement during the COVID-19 pandemic. That Regulation is also to contribute to facilitating the gradual lifting of restrictions to free movement put in place by the Member States, in accordance with Union law, to limit the spread of SARS-CoV-2, in a coordinated manner.
- (12) Regulation (EU) 2021/953 started applying as of 1 July 2021. Since that date, vaccinated, tested or recovered persons have had a right to obtain an EU Digital COVID certificate following vaccination, test or recovery in a Member State. To make best use of the EU Digital COVID Certificate framework, the Council adopted, on 14 June 2021, Recommendation (EU) 2021/961⁶ amending Recommendation (EU) 2020/1475.
- (13) Since June 2021, two important developments with an impact on free movement within the Union have taken place. First, vaccine uptake has increased significantly, with the cumulative uptake of full vaccination among the total Union population reaching more than 68% by 10 January 2022⁷ compared to less than 30% when the latest amendment to Recommendation (EU) 2020/1475 and Regulation (EU) 2021/953 were adopted⁸. A significantly higher percentage of the population is thus better protected from falling seriously ill and dying from COVID-19 as a result of the currently available COVID-19 vaccines. Second, the rollout of the EU Digital COVID Certificate has progressed at rapid pace.

³ Council Recommendation (EU) 2020/1475 of 13 October 2020 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic (OJ L 337, 14.10.2020, p. 3).

⁴ Council Recommendation (EU) 2021/119 of 1 February 2021 amending Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic (OJ L 36 I, 2.2.2021, p. 1).

⁵ OJ L 211, 15.6.2021, p. 1.

⁶ Council Recommendation (EU) 2021/961 of 14 June 2021 amending Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic (OJ L 213 I, 16.6.2021, p. 1).

⁷ <https://vaccinetracker.ecdc.europa.eu/public/extensions/COVID-19/vaccine-tracker.html#summary-tab>

⁸ <https://vaccinetracker.ecdc.europa.eu/public/extensions/COVID-19/vaccine-tracker.html#uptake-tab>

By January 2022, Member States have issued more than 1 billion EU Digital COVID Certificates. The EU Digital COVID Certificate is thus a widely available, reliable and accepted tool to facilitate free movement during the COVID-19 pandemic. The EU Digital COVID Certificate framework is not only used by the EU Member States, the three non-EU European Economic Area countries and Switzerland⁹, but also by 29 other third countries and territories, with more third countries expected to join in the future. At the same time, the epidemiological situation within the Union remains challenging, justifying the maintenance of measures aimed at protecting public health.

- (14) In view of these developments, the common approach set out in Council Recommendation (EU) 2020/1475 should be adapted further, as also requested by the European Council in its conclusions of 22 October 2021¹⁰. In particular, a person's COVID-19 vaccination, test or recovery status, as evidenced by an EU Digital COVID Certificate, should be the key determinant. As EU Digital COVID Certificates can be safely issued, verified and accepted, travellers in the possession of a valid EU Digital COVID Certificate should not be subject to additional restrictions to free movement, such as further tests for SARS-CoV-2 infection. In particular, persons travelling within the Union should in principle not be required to undergo quarantine, given that it constitutes a significant restriction to free movement.
- (15) This is supported by recommendations issued by the WHO¹¹, according to which fully vaccinated travellers, as well as travellers who have recovered from COVID-19 within the 6 months prior to travelling, should not be subject to additional restrictions. Persons who do not fall within these two categories should in principle be able to travel based on a negative test for SARS-CoV-2 infection.
- (16) To simplify free movement within the Union, it is necessary to set out a common understanding of the conditions that the three types of EU Digital COVID Certificates should meet in order to be accepted.
- (17) On 21 December 2021, the Commission adopted Delegated Regulation (EU) 2021/2288 amending the Annex to Regulation (EU) 2021/953 of the European Parliament and of the Council as regards the acceptance period of vaccination certificates issued in the EU Digital COVID Certificate format indicating the completion of the primary vaccination series¹². That Delegated Regulation established, for the purpose of travel, certificates indicating the completion of the primary vaccination series shall be accepted only if not more than 270 days have passed since the date of the latest dose in that series. As it was not yet possible to determine an acceptance period for certificates indicating the administration of booster doses, the Delegated Regulation noted that no acceptance period should, at this stage, apply to certificates indicating the administration of a booster dose.

⁹ Commission Implementing Decision (EU) 2021/1126 of 8 July 2021 establishing the equivalence of COVID-19 certificates issued by Switzerland to the certificates issued in accordance with Regulation (EU) 2021/953 of the European Parliament and of the Council (OJ L 243, 9.7.2021, p. 49).

¹⁰ EUCO 17/21.

¹¹ WHO-2019-nCoV-Policy-Brief-Risk-based-international-travel-2021.1, available at:

<https://www.who.int/publications/i/item/WHO-2019-nCoV-Policy-Brief-Risk-based-international-travel-2021.1>

¹² OJ L 458, 22.12.2021, p. 459.

- (18) Member States should immediately take all necessary steps to ensure access to vaccination for those population groups whose previously issued vaccination certificates approach the limit of the standard acceptance period, with full regard for domestic decisions on prioritisation for different population groups in the vaccination roll-out in light of national policy and the epidemiological situation.
- (19) The Commission should be invited to monitor and to regularly re-evaluate the approach regarding the acceptance period to assess whether adaptations or changes might be needed on the basis of newly emerging scientific evidence including in relation to the acceptance period for certificates issued following the administration of a booster dose.
- (20) To simplify free movement within the Union, the standard validity periods for test certificates should be maintained. The sampling required for a molecular nucleic acid amplification test (NAAT) should, in order to be eligible, be carried out not more than 72 hours prior to arrival. A shorter validity period of not more than 24 hours is justified for rapid antigen tests listed in Annex I of the EU common list of COVID-19 rapid antigen tests agreed by the Health Security Committee¹³ given the availability of those tests.
- (21) Over the last couple of months, the clinical performance of rapid antigen tests has improved. In May 2021, the Technical Working Group on COVID-19 diagnostic tests established by the Health Security Committee¹⁴, responsible for maintaining the EU common list of rapid antigen tests, put in place a more structured, coherent and swift procedure for updating the list. Moreover, on 21 September 2021, the Technical Working Group agreed on additional definitions and criteria that should be considered for independent validation studies assessing the clinical performance of rapid antigen tests for COVID-19 diagnosis. Only rapid antigen test results based on nasal, oropharyngeal and/or nasopharyngeal specimens should be valid for the issuance of test certificates in the EU Digital COVID Certificate format. The Technical Working Group agreed to exclude from the list rapid antigen tests solely based on alternative sample types such as saliva.

Furthermore, neither pooled rapid antigen tests nor rapid antigen self-tests are included in the list, further increasing the likely consistency of the performance of the tests included. The seventh and latest update of the common list was agreed by the Health Security Committee on 10 November 2021. Given these improvements, all Member States should, for the purpose of travel, accept both test certificates issued following a NAAT and test certificates issued following a rapid antigen test featured in the EU common list.

- (22) In view of evidence supporting a recommendation that people who have recovered from laboratory-confirmed COVID-19 do not need additional travel-related testing for SARS-CoV-2 infection or travel-related self-isolation or quarantine at least within the first 180 days of the first positive NAAT test, holders of such recovery certificates should also be exempted from additional travel restrictions for that period.

¹³ Available at: https://ec.europa.eu/health/sites/default/files/preparedness_response/docs/covid-19_rat_common-list_en.pdf

¹⁴ https://ec.europa.eu/health/security/crisis-management/twg_covid-19_diagnostic_tests_en

- (23) The EU Digital COVID Certificate system offers the possibility for validation rules to be applied automatically to the certificates' datasets, ensuring that travel rules are applied quickly, reliably and predictably. To facilitate the application of EU Digital COVID certificate validation rules, Member States should make use of the standardised business rules processing functionality offered by the EU Digital COVID Certificate system¹⁵.
- (24) Since the adoption of Regulation (EU) 2021/953, the Commission has adopted several implementing acts establishing that COVID-19 certificates issued by a certain third country to Union citizens and their family members are to be considered as equivalent to certificates issued by Member States in accordance with that Regulation with a view to facilitating the free movement of their holders. Where this Recommendation makes reference to EU Digital COVID Certificates issued in line with Regulation (EU) 2021/953, this should be understood as also covering certificates issued to Union citizens and their family members covered by these implementing acts. To facilitate free movement, Member States should also be encouraged to issue EU Digital COVID Certificates pursuant to Article 8(1) of Regulation (EU) 2021/953 to persons covered by that provision having been vaccinated in third countries, in particular third countries the certificates of which are not covered by such implementing acts.
- (25) As stated in Article 3(6) of Regulation (EU) 2021/953, possession of an EU Digital COVID Certificate is not to be a precondition for exercising the right to free movement. Therefore, persons not in the possession of an EU Digital COVID Certificate should not be prevented from travelling, but could, if necessary, be required to undergo a test for SARS-CoV-2 infection prior to or after arrival to reduce the risk of imported infections.
- (26) This Recommendation covers the use of the EU Digital COVID Certificate to facilitate free movement within the Union during the COVID-19 pandemic. It neither prescribes nor prohibits the use of COVID-19 certificates for domestic purposes, such as access to events, venues or the workplace. As noted in Recital 48 of Regulation (EU) 2021/953, where a Member State decides to use EU Digital COVID Certificates for other purposes, the legal basis for such domestic uses has to be provided for in national law, which has to comply, among other things, with data protection requirements. As noted in Recital 49 of Regulation (EU) 2021/953, where a Member State has established a system of COVID-19 certificates for domestic purposes, it should ensure that the EU Digital COVID Certificates can also be used and are fully accepted. This is to make sure that holders of such certificates going to another Member State in exercise of their right of free movement do not have to obtain an additional national certificate.
- (27) Given their specific situation or essential function, certain categories of travellers exercising their right of free movement should not be required to be in the possession of an EU Digital COVID Certificate. At the same time, this list could be more limited compared to Recommendation (EU) 2020/1475, given that many persons travelling for an essential function or need are already vaccinated. It should cover transport workers or transport service providers, patients travelling for imperative medical reasons, seafarers, persons who cross borders daily or frequently to go to work or school, visit close relatives, seek medical care, or to take care of loved ones, and children under the age of 12 years.

¹⁵ https://ec.europa.eu/health/sites/default/files/ehealth/docs/eu-dcc_validation-rules_en.pdf

(28) In view of the progress made in terms of vaccine uptake and the successful rollout of the EU Digital COVID Certificate, COVID-19 travel measures should be applied at the personal instead of the regional level, meaning that a traveller's COVID 19 vaccination, test or recovery status as evidenced by a valid EU Digital Covid certificate should be the key determinant. Travellers exercising their right of free movement with a valid certificate should, in principle, not be subject to additional restrictions. This approach is justified due to the fact that the virus is still present in all regions throughout the EU and the epidemiological situation in those regions changes constantly and rapidly. A person-based approach will substantially simplify the framework applicable to travel during the pandemic in the EU, and will provide additional clarity and predictability to travellers as to the applicable rules.

(29) As it is a useful and easily understandable tool for the public and Member States' authorities, the traffic light map indicating the epidemiological situation at regional level should be maintained for information purposes, with the exception of mapping areas where the virus is circulating at very high levels and where additional measures are necessary. The map's criteria and thresholds, as set out in Council Recommendation (EU) 2020/1475, should nevertheless be adapted in order to give greater emphasis to newly notified COVID-19 cases as the key criterion to approximate the risk of a traveller importing infections with SARS-CoV-2. This criterion should be weighted by the vaccine uptake in the same region, to take into account that vaccination reduces the risk to public health posed by COVID-19.

The resulting weighted rate should be assigned a colour-code using the thresholds of the risk assessment model developed by ECDC, except for regions with an insufficient testing rate. The specifics of the map should be included in an annex to the Recommendation. Using data provided by the Member States, the map should be published by the European Centre for Disease Prevention and Control on a weekly basis.

(30) Particular attention should be paid to areas where the virus is circulating at very high levels, given the increased likelihood of imported cases from these areas, as well as the strain that prolonged periods of high case numbers can put on these areas' public healthcare systems. To mitigate these public health risks, Member States should advise against all non-essential travel to and from such areas. In addition, persons not in the possession of a vaccination or recovery certificate arriving from such areas should be required to undergo a test for SARS-CoV-2 infection prior to departure as well as undergo post-arrival quarantine/self-isolation. Exceptions for essential travellers, in particular for transport workers and transport service providers, should apply in order to limit the disruption to the internal market and to preserve the functioning of the 'Green Lanes'.

(31) To ensure unity of travelling families, children under the under the age of 12 years who are in the possession of a valid EU Digital COVID Certificate, be it a vaccination certificate, a test certificate, or a certificate of recovery, or a negative test for SARS-CoV-2 infection, should not be required to undergo travel-related quarantine/self-isolation. In addition, children under the age of 6 years should be exempt from the requirement to undergo travel-related quarantine/self-isolation or tests for SARS-CoV-2 infection.

- (32) The emergence of new SARS-CoV-2 variants, as evidenced by the emergence of the 'Omicron' variant, remains a cause for concern and should be taken into account by Member States in the context of restrictions to free movement in response to the COVID-19 pandemic. The European Centre for Disease Prevention and Control regularly assesses new evidence on variants detected through epidemic intelligence, rules-based genomic variant screening, or other scientific sources¹⁶. This covers, in particular, variants of concern, for which clear evidence is available indicating a significant impact on transmissibility, severity and/or immunity that is likely to have an impact on the epidemiological situation in the EU/EEA, and variants of interest, for which evidence is available on genomic properties, epidemiological evidence or in-vitro evidence that could imply a significant impact on transmissibility, severity or immunity, realistically having an impact on the epidemiological situation in the EU/EEA.

To provide an overview of the proportion of variants of concern and variants of interest in the EU/EEA together with sequencing volumes, the European Centre for Disease Prevention and Control is also publishing, on a weekly basis, maps and other data¹⁷. To obtain timely and accurate information on the emergence and circulation of SARS-CoV-2 variants of concern or interest, it is important that Member States maintain or attain a sufficiently high sequencing volume. Insufficient sequencing volume results in poor ability to detect circulating variants of concern before they have an impact on the overall epidemiological situation. At the same time, it is important that Member States take into account the differences in sequencing volume, so as not to discourage high levels of sequencing.

- (33) The SARS-CoV-2 variants 'Alpha', 'Delta' and 'Omicron', the latter in the process of becoming the dominant variant within the Union, have demonstrated the negative impact new SARS-CoV-2 variants can have on the epidemiological situation. While it may be very difficult to stop the spread of a variant once it has been detected within the Union, given their potential impact, it is nevertheless appropriate to establish an emergency brake procedure for a coordinated approach that aims to delay the spread of new variants within the Union. To ensure coordination among Member States, this should also apply to situations where Member States impose, in accordance with Union law, restrictions because the epidemiological situation in an area worsens quickly, in particular in areas already seriously affected.

¹⁶ <https://www.ecdc.europa.eu/en/covid-19/variants-concern>

¹⁷ [https://covid19-country-overviews.ecdc.europa.eu/#4_EUEEA: variants of concern](https://covid19-country-overviews.ecdc.europa.eu/#4_EUEEA:_variants_of_concern)

- (34) As set out in Regulation (EU) 2021/953, where a Member State requires, in accordance with Union law, holders of the EU Digital COVID Certificate to undergo, after entry into its territory, quarantine or self-isolation or to be tested for SARS-CoV-2 infection, or if it imposes other restrictions on the holders of such certificates because, for example, the epidemiological situation in a Member State or in a region within a Member State worsens quickly, in particular as a result of a SARS-CoV-2 variant of concern or interest, it is to inform the Commission and the other Member States accordingly, if possible 48 hours in advance of the introduction of such new restrictions. To that end, the Member State is to provide the reasons for and scope of such restrictions, specifying which certificate holders are subject to or exempt from such restrictions, and the date and duration of such restrictions, including to outline their compliance with the principles of proportionality and non-discrimination.
- (35) The emergency brake procedure could be triggered either by a Member State, based on the information to be submitted pursuant to Regulation (EU) 2021/953, or by the Commission, based on the regular assessment of new evidence on variants by the European Centre for Disease Prevention and Control. It may result in an agreement, based on a proposal by the Commission, to apply, for a limited period of time, additional restrictions on travel from the areas concerned, such as testing or quarantine/self-isolation requirements for travellers or both. The framework for the definition and assessment of criteria that could result in the triggering of public health interventions against variants of concern, currently being developed by the European expert group on SARS-CoV-2 variants¹⁸, should be taken into account once available.
- (36) To preserve the functioning of the ‘Green Lanes’, testing requirements imposed on transport workers and transport service providers as a result of the emergency brake being triggered should be limited to rapid antigen tests, and no quarantine/self-isolation should be required. Such testing requirements should not lead to transport disruptions. Should transport or supply chain disruptions occur, any such systematic testing requirements should be lifted or repealed immediately.

¹⁸ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=3791&fromMeetings=true&meetingId=27935>

- (37) Contact tracing remains a central pillar of the fight against the spread of the virus, especially in connection with the emergence of new variants. At the same time, effective and timely contact tracing is more challenging when it needs to be performed across borders and for high volumes of passengers travelling close to each other. To facilitate this, a common Digital Passenger Locator Form ('PLF')¹⁹ has been developed, and Member States should be encouraged to make use of this common format to facilitate travel. Member States should also be encouraged to join the PLF Exchange Platform, established on the basis of Commission Implementing Decision (EU) 2021/858²⁰, to enhance their cross-border contact tracing capabilities for all transport modes. The PLF exchange platform allows for the secure, timely and effective exchange of data between the competent authorities of the Member States, by enabling them to transmit information from their existing national digital PLF systems and relevant epidemiological information to other competent authorities in an interoperable and automatic manner.
- (38) Where PLFs are also used for purposes other than contact tracing, such as to determine whether an incoming traveller is to undergo a test for SARS-CoV-2 infection, failure to submit a PLF on time before arrival should not result in the traveller being denied entry into the country concerned, as this would amount to a serious restriction of free movement. Where appropriate, such travellers could however be required to undergo other measures, such as a post-arrival test for SARS-CoV-2 infection.
- (39) Clear, timely and comprehensive information to the general public remains crucial to limit the impacts of any restrictions to free movement put in place, ensuring predictability, legal certainty and compliance by citizens. Member States should provide such information in a timely manner, including via the 'Re-open EU' web platform²¹. Member States should also be encouraged to provide, on 'Re-open EU', information on the domestic use of EU Digital COVID Certificates, given the relevance of such information to travellers from other Member States.
- (40) In view of the evolving epidemiological situation, and as more relevant scientific evidence becomes available, the Commission, supported by the European Centre for Disease Prevention and Control, should regularly review this Recommendation, and transmit its findings to the Council for its consideration, together with a proposal to amend the Recommendation, where necessary. In particular, in line with the principles of necessity and proportionality, which provide that any restrictions should be lifted as soon as the epidemiological situation allows for it, the Commission is invited to closely monitor the evolution in the epidemiological situation and re-evaluate if the requirement to hold an EU Digital Covid certificate is still justified once the epidemiological situation in the whole EU or at regional level has improved.

¹⁹ <https://www.euplf.eu/en/home/index.html>

²⁰ Commission Implementing Decision (EU) 2021/858 of 27 May 2021 amending Implementing Decision (EU) 2017/253 as regards alerts triggered by serious cross-border threats to health and for the contact tracing of passengers identified through Passenger Locator Forms (OJ L 188, 28.5.2021, p. 106).

²¹ <https://reopen.europa.eu/en>

- (41) Given that this Recommendation adapts and further develops the common approach to facilitate safe free movement during the COVID-19 pandemic, Council Recommendation (EU) 2020/1475 should be replaced.
- (42) To allow for sufficient time for the coordinated approach set out in this Recommendation to be implemented, the Recommendation should apply as of 1 February 2022.
- (43) In line with the principle of proportionality, the mechanisms put in place by this Recommendation should be strictly limited in scope and time to restrictions adopted in response to this pandemic. At the latest when Regulation (EU) 2021/953 ceases to apply, this Recommendation should also cease to apply,

HAS ADOPTED THIS RECOMMENDATION:

General Principles

When adopting and applying measures to protect public health in response to the COVID-19 pandemic, Member States should coordinate their actions based on the following principles:

1. Any restrictions to the free movement of persons within the Union put in place to limit the spread of COVID-19 should be based on specific and limited public interest grounds, namely the protection of public health. It is necessary for such limitations to be applied in compliance with the general principles of Union law, in particular proportionality and non-discrimination. Any measures taken should thus not extend beyond what is strictly necessary to safeguard public health.
2. Any such restrictions should be lifted as soon as the epidemiological situation, including in hospitals, allows it.
3. Member States should ensure that any requirements imposed on citizens and businesses provide a concrete benefit to the public health efforts to combat the pandemic and do not create an undue and unnecessary administrative burden.
4. There may be no discrimination between Member States, for example by applying more generous rules to travel to and from a neighbouring Member State as compared to travel to and from other Member States.
5. Restrictions may not be discriminatory, that is, they should apply equally to returning nationals of the Member State concerned. Restrictions cannot be based on the nationality of the person concerned.
6. Member States should always admit their own nationals and Union citizens and their family members resident in their territory. Member States should in principle not refuse the entry of other persons travelling from other Member States, and should facilitate swift transit through their territories.

7. Member States should pay particular attention to the specificities of cross-border regions, outermost regions, exclaves and geographically isolated areas and the need to cooperate at local and regional level.
8. Member States should avoid disruptions to supply chains and essential travel and should keep transport flows moving in line with the system of 'Green Lanes' system.
9. Member States should regularly exchange information on all matters covered by the scope of this recommendation and inform citizens accordingly.
10. Restrictions should not take the form of prohibitions on the operation of certain transport services.

Coordinated framework to facilitate safe free movement during the COVID-19 pandemic

11. Travellers in the possession of a valid EU Digital COVID Certificate issued pursuant to Regulation (EU) 2021/953 meeting the conditions of point 12 should not be subject to additional restrictions to free movement. In particular, persons travelling within the Union should not be required to undergo quarantine.

In this context, the following derogations should apply to the first subparagraph:

- (a) the exemptions set out in point 16;
- (b) additional measures set out in point 19 for arrivals from areas where the virus is circulating at very high levels and thus likely to result in a significant level of imported cases;
- (c) additional measures agreed pursuant to point 25 to delay the spread of new SARS-CoV-2 variants of concern or interest.

12. An EU Digital COVID Certificate should be accepted if its authenticity, validity and integrity can be verified and if it meets the following conditions:

- (a) Vaccination certificates issued in line with Regulation (EU) 2021/953 for a COVID-19 vaccine covered by the first subparagraph of Article 5(5) of that Regulation and indicating that the holder has received:
- the second dose in a two-dose series;
 - a single-dose vaccine;
 - in line with the vaccination strategy of the Member State of vaccination, a single dose of a two-dose vaccine after having previously been infected with SARS-CoV-2;
 - a booster dose following the completion of the primary vaccination series;

provided that the acceptance period set out in Regulation (EU) 2021/953 has not yet elapsed and, for certificates falling under points (i) to (iii), at least 14 days have passed since the last dose.

Member States could also accept vaccination certificates issued in line with Regulation (EU) 2021/953 for COVID-19 vaccines covered by the second subparagraph of Article 5(5) of EU Digital COVID Certificate Regulation.

Member States should ensure access to vaccination with booster doses for those population groups whose vaccination certificates indicating the completion of the primary vaccination series approach the limit of the standard acceptance period and for which the national authorities have issued a recommendation to receive a booster dose.

On the basis of further scientific evidence, the Commission should regularly re-evaluate the approach set out in point (a).

- (b) Test certificates issued in line with Regulation (EU) 2021/953 indicating a negative test result obtained:
- not more than 72 hours before arrival, in case of molecular nucleic acid amplification test (NAAT); or

- not more than 24 hours before arrival, in case of a rapid antigen test (RAT) listed in the common and updated list of COVID-19 rapid antigen tests²² established on the basis of the Council Recommendation of 21 January 2021²³.

For the purpose of travel in exercise of free movement rights, Member States should accept both types of tests.

Member States should seek to ensure that test certificates are issued as soon as possible after the collection of the test sample.

- (c) Certificates of recovery issued in line with Regulation (EU) 2021/953 indicating that not more than 180 days have passed since the date of the first positive NAAT result.
13. Member States should make use of the standardised business rules processing functionality offered by the EU Digital COVID Certificate system.
 14. Where this Recommendation makes reference to EU Digital COVID Certificates issued in line with Regulation (EU) 2021/953, this should be understood as also covering certificates covered by an implementing act adopted pursuant to Article 3(10) or Article 8(2) of that Regulation issued by third countries to Union citizens and their family members. Member States are also encouraged to issue vaccination certificates pursuant to Article 8(1) of Regulation (EU) 2021/953.
 15. Persons not in the possession of an EU Digital COVID Certificate issued in line with Regulation (EU) 2021/953 could be required to undergo an NAAT or RAT listed in the common and updated list prior to or no later than 24 hours after arrival. This does not apply to persons exempted from holding an EU Digital COVID Certificate in accordance with point 16.

Exemptions

16. The following categories of travellers should not be required to be in the possession of a valid EU Digital COVID Certificate issued pursuant to Regulation (EU) 2021/953:
 - (a) the following types of travellers with an essential function or need, when exercising this essential function or need:
 - transport workers or transport service providers, including drivers and crew of freight vehicles carrying goods for use in the territory as well as those merely transiting;
 - patients travelling for imperative medical reasons;
 - seafarers.

²² Available at: https://ec.europa.eu/health/sites/default/files/preparedness_response/docs/covid-19_rat_common-list_en.pdf

²³ Council Recommendation of 21 January 2021 on a common framework for the use and validation of rapid antigen tests and the mutual recognition of COVID-19 test results in the EU (OJ C 24, 22.1.2021, p. 1).

- (b) persons living in border regions and travelling across the border on a daily or frequent basis for the purposes of work, business, education, family, medical care or caregiving;
- (c) children under the age of 12 years.

EU traffic light map and exceptions and additional measures based thereon

17. Based on the data provided by the Member States, the European Centre for Disease Prevention and Control should publish a map of Member States, broken down by regions, indicating the potential risk of a person travelling from the region being infected with SARS-CoV-2 according to a traffic light system. This map should also include data from Iceland, Liechtenstein, Norway and, as soon as conditions allow²⁴, the Swiss Confederation.

The traffic light map should be based on the criteria, thresholds and colour code set out in the Annex.

18. Each week, the European Centre for Disease Prevention and Control should publish updated versions of the maps and the underlying data.
19. The traffic light map should serve to provide the public and Member States' authorities with information as to the evolution of the epidemiological situation across the Union. In addition, Member States should, based on the traffic light map, apply the following measures to and from areas where the virus is circulating at very high levels and which are classified as "dark red" in accordance with point 3 (g) of the Annex:
- (a) Member States should discourage all non-essential travel to and from those areas;
 - (b) persons not in the possession of a vaccination or recovery certificate arriving from those areas should be required to undergo an NAAT or RAT listed in the common and updated list prior to departure and to quarantine/self-isolate for ten days after arrival. Quarantine/self-isolation should end early if the person concerned undergoes, at the earliest on the fifth day after arrival, a test for SARS-CoV-2 infection that results in a negative test result.

²⁴ Subject to an agreement concluded between the EU and the Swiss Confederation on the cooperation on public health, including on the participation of the Swiss Confederation to the European Centre for Disease Prevention and Control according to Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control (OJ L 142, 30.4.2004, p. 1).

Where such persons are covered by point 16(a) or (b), they should not be required to undergo quarantine/self-isolation but may be required to be in the possession of a negative test certificate. By way of derogation, transport workers and transport service providers should not be required to undergo self-isolation/quarantine or be in the possession of a negative test certificate while exercising this essential function.

Children under the age of 12 years in the possession of a valid EU Digital COVID Certificate or a negative test for SARS-CoV-2 infection arriving from areas classified as 'dark red' should not be required to undergo quarantine/self-isolation. In addition, children under the age of 6 years should not be required to undergo travel-related quarantine/self-isolation or travel-related tests for SARS-CoV-2 infection.

Addressing variants of concern or interest and emergency brake

20. Member States should pay particular attention to the spread of new SARS-CoV-2 variants of concern or interest, especially variants that increase transmissibility or disease severity or affect vaccine efficacy. For this purpose, Member States should make use of the data and risk assessments published by the European Centre for Disease Prevention and Control on variants of concern or interest in the EU/EEA.

To support Member States, the European Centre for Disease Prevention and Control should continue to publish information and maps on SARS-CoV-2 variants of concern or interest, notably on sequencing volumes and variant distribution.

21. To obtain timely and accurate information on the emergence and circulation of SARS-CoV-2 variants of concern or interest, Member States should attain or maintain high sequencing volumes, ideally at a level that allows detection of variants accounting for 1% or less of circulating viruses.

Member States should, on a weekly basis, provide data on the results of the sequencing of SARS-CoV-2-positive cases and sequencing volume, including at regional level, to ensure that any measures can be targeted to those regions where they are strictly necessary.

22. Where a Member State requires travellers, including holders of EU Digital COVID Certificates, to undergo, after entry into its territory, quarantine/self-isolation or to be tested for SARS-CoV-2 infection, or if it imposes other restrictions on the holders of such certificates, in response to the emergence of a new SARS-CoV-2 variant of concern or interest, it should inform the Commission and the other Member States accordingly, including by providing the information referred to in Article 11(2) of Regulation (EU) 2021/953. If possible, such information should be provided 48 hours in advance of the introduction of such new restrictions. Wherever possible, such measures should be limited to the regional level.

This should also apply to situations where a Member State imposes additional quarantine/self-isolation or test requirements, in accordance with Union law, because the epidemiological situation in a Member State or in an area within a Member State worsens quickly, in particular in areas already classified as 'dark red'. In this case, the information provided should clearly indicate why the additional measures are necessary and proportionate.

23. Where a Member State triggers the emergency brake and, as a result, requires transport workers and transport service providers to undergo a test for COVID-19 infection, rapid antigen tests should be used and no quarantine be required, which should not lead to transport disruptions. Should transport or supply chain disruptions occur, Member States should lift or repeal any such systematic testing requirements immediately in order to preserve the functioning of the 'Green Lanes'. No tests should be required where the emergency brake is triggered pursuant to the second subparagraph of point 22.
24. Based on the information provided in accordance with point 22, the Council, in close cooperation with the Commission and supported by the European Centre for Disease Prevention and Control, should review the situation in a coordinated manner. During such a coordination meeting, the Member State concerned should outline the reasoning for its measures.

The Commission, based on the regular assessment of new evidence on variants by the European Centre for Disease Prevention and Control, and, once available, the framework developed by the European expert group on SARS-CoV-2 variants, may also suggest a discussion within the Council on a new SARS-CoV-2 variant of concern or interest or on a rapidly deteriorating epidemiological situation in a Member State or in a region within a Member State.

25. During a discussion pursuant to point 24, the Commission, could, where necessary and as appropriate, propose that the Council agree on a coordinated approach regarding travel from the areas concerned that aims, in particular, to delay the spread of the variant within the Union, such as testing and/or quarantine/self-isolation requirements for travellers.
26. Any situation resulting in the adoption of measures pursuant to this point should be reviewed regularly. The Commission or Member States may suggest lifting the measures put in place in accordance with the coordinated approach on new SARS- CoV-2 variants of concern or interest.

Passenger Locator Form and contact tracing

27. Member States could consider requiring persons travelling to their territory by means of collective transport modes with pre-assigned seat or cabin to submit Passenger Locator Forms ('PLF') in accordance with data protection requirements. For this purpose, Member States could make use of the common Digital Passenger Locator Form developed by the EU Healthy Gateways²⁵ and join the PLF Exchange Platform to enhance their cross-border contact tracing capabilities for all transport modes.

²⁵ <https://www.euplf.eu/en/home/index.html>

28. If a person develops symptoms upon arrival at the destination, testing, diagnosis, isolation and contact tracing should take place in accordance with the local practice, and entry should not be refused. Information on cases detected on arrival should be immediately shared with the public health authorities of the countries the person concerned has resided in during the previous 14 days for contact tracing purposes, using, where applicable, the PLF Exchange Platform, or otherwise the Early Warning and Response System.

Communication and information to the public

29. In line with Article 11 of Regulation (EU) 2021/953, Member States should provide relevant stakeholders and the general public with clear, comprehensive and timely information about any measures affecting the right of free movement and any accompanying requirements, such as the need to submit a PLF, as early as possible before new measures come into effect. As a general rule, this information should be published at least 24 hours before the measures come into effect, taking into account that some flexibility is required for epidemiological emergencies. The information should also be published in a machine-readable format.
30. This information should be regularly updated by Member States and also be made available on the 'Re-open EU' web platform, which should contain the map published regularly by the European Centre for Disease Prevention and Control pursuant to point 17. Where applicable, Member States should also provide, on 'Re-open EU', information on the domestic use of EU Digital COVID Certificates.
31. The substance of the measures, their geographical scope and the categories of persons to whom they apply should be clearly described.

Final provisions

32. This Recommendation should be regularly reviewed by the Commission, with the support of the European Centre for Disease Prevention and Control. The Commission should report thereon regularly to the Council.
33. Recommendation (EU) 2020/1475 is replaced by this Recommendation.
34. This Recommendation should apply from 1 February 2022.
35. This Recommendation will cease to apply at the latest at the same time as Regulation (EU) 2021/953.

Done at Brussels,

For the Council
The President

ANNEX
EU traffic light map

1. The traffic light map should be based on the following criteria:
 - (a) the '14-day case notification rate', that is, the total number of newly notified COVID-19 cases per 100 000 population in the last 14 days at regional level;
 - (b) the 'vaccine uptake', that is, the cumulative uptake of full vaccination with a primary course in the total population at regional level;
 - (c) the 'testing rate', that is, the number of tests for COVID-19 infection per 100 000 population carried out during the last week.
2. To arrive at an overall score, the 14-day case notification rate (C) should be weighted by the vaccine uptake (V) in a specific region. If the value for any of the two criteria is not available at regional level, the value at national level should be used.

For this purpose, the following formula should be used:

$$(C+C*(100-V)/100)/2 = \textit{weighted rate}$$

3. In the traffic light map, an area should be marked in the following colours:
 - (d) green, if the weighted rate is less than 40;
 - (e) orange, if the weighted rate is less than 100 but 40 or more;
 - (f) red, if the weighted rate is less than 300 but 100 or more;
 - (g) dark red, if the weighted rate is 300 or more;
 - (h) dark grey, if the testing rate is 600 or less;
 - (i) grey, if insufficient data is available to assess points (a) to (e).
