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NOTE POINT "A"

Origine:	Secrétariat général du Conseil
Destinataire:	Conseil
Objet:	Coordination COVID-19 Recommandation du conseil modifiant la recommandation (UE) 2020/1632 du Conseil en ce qui concerne une approche coordonnée en vue de faciliter les déplacements en toute sécurité dans l'espace Schengen pendant la pandémie de COVID-19 Adoption

1. Le 25 novembre 2021, la Commission a présenté une proposition de recommandation du Conseil modifiant la recommandation (UE) 2020/1632 du Conseil en ce qui concerne une approche coordonnée en vue de faciliter les déplacements en toute sécurité dans l'espace Schengen pendant la pandémie de COVID-19¹. Le même jour, la Commission a présenté sa proposition à la table ronde de travail de l'IPCR.

2. La recommandation (UE) 2020/1632 du Conseil recommande que les principes généraux, les critères communs, les seuils communs et le cadre commun de mesures, y compris les recommandations en matière de coordination et de communication, établis dans la recommandation (UE) 2020/1475 soient également appliqués aux déplacements à l'intérieur de l'espace sans contrôles aux frontières intérieures.

¹ 14407/21.

3. Le 25 novembre 2021, la Commission a également adopté 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) 2020/1475². Par conséquent, et dans un souci de cohérence, il convient de modifier la recommandation (UE) 2020/1632 du Conseil de manière à faire référence à la nouvelle recommandation, une fois qu'elle aura été adoptée.

4. Lors des échanges de vues au sein de l'IPCR sur les propositions de recommandations, les délégations n'ont pas soulevé d'objections sur le texte de la proposition de recommandation du Conseil modifiant la recommandation (UE) 2020/1632 tel que proposé par la Commission.

5. Le 21 janvier 2022, le Comité des représentants permanents a approuvé le texte du projet de recommandation du Conseil modifiant la recommandation (UE) 2020/1632 figurant dans l'annexe du document 5319/1/22 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.

6. A la lumière de ce qui précède, le Comité des représentants permanents recommande au Conseil d'adopter le texte de la recommandation du Conseil modifiant la recommandation (UE) 2020/1632 du Conseil en ce qui concerne une approche coordonnée en vue de faciliter les déplacements en toute sécurité dans l'espace Schengen pendant la pandémie de COVID-19, qui figure à l'annexe de la présente note.

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.

7. La délégation autrichienne a soumis une déclaration écrite afin qu'elle soit inscrite au procès-verbal de la réunion lors de laquelle le Conseil adoptera la recommandation susvisée. Le texte de cette déclaration figure dans l'Addendum 1 à la présente note.

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

² 13967/21 et 13967/21 ADD 1.

COUNCIL RECOMMENDATION

amending Council Recommendation (EU) 2020/1632 as regards a coordinated approach to facilitate safe travel during the COVID-19 pandemic in the Schengen area

(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 77 (2)(c) and (e) and Article 292, first and second sentence thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Article 67 TFEU, the Union shall constitute an area of freedom, security and justice, in which the absence of internal border controls for persons shall be ensured. Under the Schengen *acquis*, internal borders may be crossed at any point without a border check on persons being carried out, irrespective of their nationality. This includes third country nationals lawfully residing in the EU and third country nationals who have legally entered the territory of a Member State and who may travel freely within the territories of all other Member States for up to 90 days in any 180-day period.
- (2) 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 characterised as a pandemic.
- (3) To limit the spread of the SARS-Cov-2 virus, the Member States have adopted various measures, some of which have had an impact on the right to reside and travel freely within the territory of the Member States, including for third-country nationals legally staying or residing on a Member State territory, such as restrictions on entry or requirements for cross-border travellers to undergo quarantine. These measures have had a detrimental and disproportionate impact due to checks on persons, whatever their nationality, when crossing internal borders within the Schengen area.

- (4) On 13 October 2020, on a proposal from the Commission, the Council adopted Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic³. That recommendation defines general principles and common criteria, including common thresholds when considering restrictions to free movement in response to the COVID-19 pandemic. It also establishes a common framework as regards possible measures for travellers coming from higher risk areas. It recommends to Member States to coordinate and to communicate to public when restrictive measures are adopted.
- (5) Council Recommendation (EU) 2020/1632 recommends that the general principles, common criteria, common thresholds and common framework of measures, including recommendations on coordination and communication as laid down in Recommendation (EU) 2020/1475 should also be applied with respect to travel within the area without controls at internal borders.
- (6) In order to take account of developments in the evolution of the COVID-19 pandemic since the adoption of Recommendation (EU) 2020/1475, the Council has, on the basis of a proposal by the Commission, replaced that Recommendation with [Recommendation (EU) 2021/XXXX *[number and date to be inserted by the OJ]*].
- (7) In order to ensure that the common criteria, thresholds and framework of measures applied by Member States to facilitate safe travel within the area without controls at internal borders during the COVID-19 pandemic remain up-to-date and fully aligned with the common approach intended to facilitate the freedom of movement as laid down in Recommendation (EU) 2021/XXXX], the reference in Council Recommendation (EU) 2020/1632 to Recommendation (EU) 2020/1475 should be replaced by a reference to [Recommendation (EU) 2021/XXXX].
- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark annexed to the Treaty on European Union and to the TFEU, Denmark is not taking part in the adoption of this Recommendation and is not bound by it or subject to its application. Given that this Recommendation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of the said Protocol, decide within a period of six months after the Council has decided on this Recommendation whether it will implement it.
- (9) This Recommendation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (10) As regards Bulgaria, Croatia, Cyprus and Romania, this Recommendation constitutes a development of the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession.

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).

- (11) As regards Iceland and Norway, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point C, of Council Decision 1999/437/EC⁴.
- (12) As regards Switzerland, this Recommendation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point C, of Decision 1999/437/EC⁵ read in conjunction with Article 3 of Council Decision 2008/146/EC⁶.
- (13) As regards Liechtenstein, this Recommendation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1 point C, of Decision 1999/437/EC⁷ read in conjunction with Article 3 of Decision 2011/350/EU⁸,

HAS ADOPTED THIS RECOMMENDATION:

Recommendation (EU) 2020/1632 is amended as follows:

In the sole recommendation, “Council Recommendation (EU) 2020/1475” is replaced by “Council Recommendation 2021/XXXX”.

Done at Brussels,

For the Council
The President

⁴ OJ L 176, 10.7.1999, p. 36.

⁵ OJ L 53, 27.2.2008, p. 52.

⁶ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁷ OJ L 160, 18.6.2011, p. 21.

⁸ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons, OJ L 160, 18.6.2011, p. 19.
