



EUROPEAN COMMISSION

DIRECTORATE-GENERAL JUSTICE AND CONSUMERS
The Director General

DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS
The Director General

Dear Ambassador,

The COVID-19 pandemic has brought unprecedented harm to our societies and economies. To limit the spread of the virus, the Member States¹ have adopted various measures, some of which have had an impact on citizens' right to move freely across the European Union (EU). Often, those measures included restrictions to entry or requirements for cross-border travellers to undergo quarantine, including for citizens returning to their country of residence. In the past months, the Commission has been following the situation closely, working with the Member States and providing guidance. For instance, in March 2020 the Commission issued guidelines for border management measures to protect health and ensure the availability of goods and essential services² and guidelines concerning the exercise of the free movement of workers during the COVID-19 outbreak³. Essential travel, including to ensure free movement of goods, mobility of workers exercising critical occupations and essential transport of workers (for example, seafarers) is crucial and should be safeguarded at all times⁴.

As the number of cases has declined across the EU during the last months, the Commission has been working closely with the Member States to ensure coordination, exchange of information and a gradual lifting of the introduced measures. In this context, let us thank you for your contributions to this common effort to restore free movement, a vital part of the internal market and European societies.

¹ The reference to Member States includes all Member States bound by the free movement acquis, as well as third countries bound by free movement rules (i.e. Iceland, Liechtenstein and Norway on the basis of the EEA Agreement, Switzerland on the basis of the Free Movement of Persons Agreement and the United Kingdom during the transition period established until 31 December 2020 on the basis of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community).

² C(2020)1753, 16 March 2020.
https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf

³ C(2020)2051, 30 March 2020.
<https://ec.europa.eu/transparency/regdoc/rep/3/2020/EN/C-2020-2051-F1-EN-MAIN-PART-1.PDF>

⁴ Point 4 of Communication COM(2020)318, 15 July 2020.
https://ec.europa.eu/info/sites/info/files/communication_-_short-term_eu_health_preparedness.pdf

The situation is now volatile, with some Member States experiencing falling numbers and some, unfortunately, experiencing a rising number of cases. We noted that in view of these developments, some Member States decided to maintain or re-introduce certain restrictions to cross-border movement, sometimes in a rather uncoordinated manner. Given the experiences we had at the beginning of the pandemic, we would like to stress that coordination remains crucial to ensure clarity and predictability for the citizens and for businesses, notably in the travel industry. Border closures and travel restrictions cause societal and economic disruption in the EU, which we have a responsibility to avoid to the greatest extent possible.

While we must ensure that the EU is ready for possible resurgences of COVID-19 cases, as set out in a Commission Communication of 15 July 2020, we should at the same time avoid a second wave of uncoordinated actions at the internal borders of the EU. The reestablishment of ineffective restrictions and internal border controls must be avoided. Rather, the response should be to have targeted, proportionate and coordinated measures, informed by scientific evidence.

Free movement of citizens is a fundamental right enshrined in the EU Treaties and the EU Charter of Fundamental Rights. It can be restricted in very exceptional situations only, in view of other legitimate interests, such as the protection of public health. Such limitations must be applied in compliance with the general principles of EU law, in particular proportionality and non-discrimination.

Following exchanges that took place in the Commission “COVID-19/Corona Information Group” during the last weeks as regards the restrictions that Member States apply on movement to and from other Member States (if any), the following principles should inform decisions related to possible restrictions to free movement linked to the COVID-19 pandemic.

1. Restrictions to free movement should be based on public health considerations and should be developed and applied in a non-discriminatory manner, with respect for the principle of proportionality.
2. Restrictions on free movement should only be imposed in exceptional circumstances, when it is clear, on the basis of the available information, that such measures are necessary in view of the risk identified with regards to public health.
3. Restrictions on free movement should not be unilaterally imposed in case they have a significant impact on other Member States: prior consultation is essential.
4. Decisions that restrict free movement of persons should not be based solely on differences in the number of new COVID-19 cases over the last 14 days and per 100 000 inhabitants (the “notification rate”) of an area from which that person is moving from, but should also take into account other relevant information, including testing policies, the number of tests performed and test positivity rates, considering in particular that more extensive testing will lead to more cases being detected⁵.

⁵ According to the European Centre for Disease Prevention and Control (ECDC) : “*The 14-day incidence of reported cases and trends are based on data collected from various sources and are affected by the testing strategy, laboratory capacity, effectiveness of surveillance systems and publicly available reports. As all of these*

5. Testing and contact tracing capacities should be reinforced, to better detect and control the spread of the virus, including, where appropriate, for returning travellers⁶.
6. Member States should take into account the regional distribution of cases within other Member States⁷. Wherever possible, restrictions to free movement placed on EU citizens and their family members should be circumscribed in the light of the situation of the affected areas or regions of the Member State concerned, not limiting free movement to and from other parts of that Member State to another Member State.
7. Member States should permit and facilitate free movement including the crossing of borders for professional reasons, such as frontier workers and seasonal workers⁸, if work in the sectors concerned is allowed in the host Member State, as well as for family reasons.
8. Green lanes⁹ as well as the free movement of transport workers¹⁰ and crew changes¹¹, should continuously be implemented to facilitate an unhindered flow of goods towards and within the Union.
9. There should be no discrimination between Member States, for example by applying more generous rules to travel from a neighboring Member State as compared to travel from other Member States in the same epidemiological situation (relevant exceptions to border communities may apply).
10. Instead of refusing entry, Member States should allow persons who arrive from another Member State subject to travel restrictions to undergo appropriate and proportional procedures to reduce risk to public health, such as quarantine and/or

factors can differ greatly between countries, ECDC does not recommend using notification rates to directly compare countries”.

<https://www.ecdc.europa.eu/sites/default/files/documents/RRA-Resurgence-of-reported-cases-of-COVID-19-in-the-EU-EEA.pdf>

⁶ In line with guidance from the ECDC:

<https://www.ecdc.europa.eu/sites/default/files/documents/Considerations-related-to-measures-for-travellers-reduce-spread-COVID-19-in-EUEEA.pdf>

<https://www.ecdc.europa.eu/en/publications-data/rapid-risk-assessment-coronavirus-disease-2019-covid-19-pandemic-tenth-update>

See also Communication COM(2020)318, 15 July 2020:

https://ec.europa.eu/info/sites/info/files/communication_-_short-term_eu_health_preparedness.pdf

⁷ The ECDC maintains a map of the level of COVID-19 transmission per Member State, including at sub-national level: <https://qap.ecdc.europa.eu/public/extensions/COVID-19/COVID-19.html>

⁸ In line with Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak: C(2020/C 235 I/01), 17 July 2020

[https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0717\(04\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0717(04)&from=EN)

⁹ C(2020) 1897, 24 March 2020

https://ec.europa.eu/transport/sites/transport/files/legislation/2020-03-23-communication-green-lanes_en.pdf

¹⁰ C(2020)2051, 30 March 2020

<https://ec.europa.eu/transparency/regdoc/rep/3/2020/EN/C-2020-2051-F1-EN-MAIN-PART-1.PDF>

¹¹ C(2020) 3100, 8 April 2020

https://ec.europa.eu/info/sites/info/files/guidelines-protection-health-repatriation-seafarers-passengers_0.pdf

taking a COVID-19 test upon departure or arrival. A Member State may only impose measures like quarantine of EU citizens arriving from another Member State if this requirement is also imposed on its own nationals in the same situation.

11. Restrictions to mobility should not be based on the nationality of the person concerned, but rather on the location of the person prior to arrival.
12. Member States must always admit their own citizens and EU citizens and their family Members residing in their territory. Member States must also facilitate transit of other EU citizens and residents and their family members that are returning home.
13. Clear and comprehensive information about restrictions and applicable requirements should be made available to the public.

In line with the request expressed by some Member States to ensure further coordination at EU level on the introduction of coronavirus-related restrictions to free movement, discussions in the Commission “COVID-19/Corona Information Group” will continue in the coming weeks on this topic. The next meeting of the “COVID-19/Corona Information Group” will take place on 13 August 2020.

Finally, we would also like to encourage you to keep updating the information provided to the public via the <https://reopen.europa.eu/> website, which has proven to be a useful and highly visible tool to obtain information about the various measures taken by the Member States to combat COVID-19.

We would like to thank you again for your cooperation as we face this crucial point in the history of the EU. We wish you and your family the best of health during these unprecedented times.

Yours faithfully,

e-signed

Salla Saastamoinen
Acting Director-General
DG JUST

e-signed

Monique Pariat
Director-General
DG HOME