

**COMMISSION SERVICES' TECHNICAL PAPER:
Possible topics for discussion following the joint letter sent to Member States on 7
August 2020**

The Director-Generals' letter of 7 August 2020 contained principles that should inform Member States' decisions related to possible restrictions to free movement linked to the COVID-19 pandemic (included as annex). The purpose of this technical paper is to serve as the basis for discussions how to improve coordination and consultation on travel restrictions put in place by Member States in reaction to the outbreak of the pandemic.

1. Considerations on increased coordination among Member States

Freedom of movement for Union citizens is a fundamental right enshrined in the EU Treaties and the EU Charter of Fundamental Rights. It can be restricted only on specific and limited public interest grounds, namely the protection of public health, public policy and public security. Such limitations must be applied in compliance with the general principles of EU law, in particular proportionality and non-discrimination. Measures cannot therefore extend beyond what is strictly necessary to safeguard the public interest that justified their adoption. As established in the Commission Communication of 13 May 2020¹, any reintroduction of certain restrictions should be flexible, depending on the epidemiological situation.

To further streamline the measures taken by Member States, increased coordination could be discussed on three points, strictly based on public health objectives and objective data, could be taken:

1. the possible use of **common criteria** when considering whether to introduce travel restrictions. Relevant factors to be considered could include, for example, (1) the incidence rate and test positivity rate, as well as the related trends, and (2) the testing policy;
2. the possible use of a **common nomenclature** denoting the status and trend within the Member States' regions resulting from the application of the common criteria (such as colour codes);
3. a possible **common approach** as to the measures applied on persons moving from areas identified as higher-risk, according to the common criteria, such as mandatory testing, a mandatory or voluntary quarantine, etc.

2. Common criteria

2.1. Incidence rate and test positivity rate and related trends

The **14-day case notification rate** is used by many Member States when deciding whether to introduce restrictions on travel from other Member States. While this rate is influenced by a variety of factors, such as the data sources it is based on, the testing

¹ C(2020) 3250 final.

² See page 8 of the following document: <https://www.ecdc.europa.eu/sites/default/files/documents/RRA->

strategy, laboratory capacity and the effectiveness of surveillance systems², at the moment, it functions as the main point of reference.

Another important factor to take into account is the **test positivity rate** (relation between number of tests carried out and the number of positive results obtained). Other parameters that could also be considered are **hospitalisation rates**, which, if available, can further support the assessment of the situation in a Member State or region.

At the moment, ECDC maintains a public map displaying the regional epidemiological situation and transmission level of COVID-19 in the EU/EEA countries based on data submitted by Member States³.

A regional/local approach, rather than an approach that focuses on the Member State as a whole, could minimise negative effects, in particular in economic terms, when deciding on travel restrictions. Cross-border areas need particular attention.

2.2. Testing and tracking policy

In its Communication from 15 July on short-term preparedness⁴, the Commission calls for an EU level agreement for aligned testing strategies and methodologies⁵.

ECDC recommends ensuring that all people with symptoms, even very mild symptoms, are tested⁶. Further options to consider may include testing of asymptomatic persons in the context of testing populations at higher risk of infection, for example travellers returning from high transmission settings to countries with no or low ongoing transmission.

In addition, temperature screening procedures at entry proved to be ineffective in preventing the introduction of the virus⁷ and the resurgence of cases in August 2020. In the current phase of the pandemic, discouraging symptomatic individuals and their close contacts from travelling is crucial and far more efficient. Awareness raising campaigns to this effect are recommended.

Appropriate management of positive cases (including isolation) in the country of destination needs to be ensured and a positive laboratory test needs to be communicated to the country of exposure (origin) without delay to ensure follow up and contact tracing activities through the Early Warning and Response System (EWRS).

The swift availability of passenger locator data and efficient channels of communication between airlines or other carriers and public health authorities in countries of origin and destination are important for the success and effectiveness of contact tracing operations

[Resurgence-of-reported-cases-of-COVID-19-inthe-EU-EEA.pdf](#) and ECDC disclaimer:

<https://www.ecdc.europa.eu/en/interpretation-covid-19-data>

³ <https://gap.ecdc.europa.eu/public/extensions/COVID-19/COVID-19.html>

⁴ https://ec.europa.eu/info/files/communication-short-term-cu-health-preparedness-future-covid-19-outbreaks_en

⁵ To be discussed in the Health Security Committee on 26 August 2020.

⁶ <https://www.ecdc.europa.eu/en/publications-data/rapid-risk-assessment-coronavirus-disease-2019-covid-19-eueea-and-uk-eleventh>

⁷ See pages 4-5 of the following document:

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

related to exposures on-board travel conveyances and possible quarantine⁸.

2.3. Prior information and predictability

To improve coordination among Member States and increase predictability for the public, an agreed timeline in case of introduction of COVID-19 related travel restrictions could be discussed.

For example, after determining that the common criteria are met within a region, a Member States could inform the other Member States and the Commission of its intention to apply restrictions to said region sufficiently in advance before any restrictions enter into force.

A discussion could also be held on the desirability to agree on a specific day of the week on which the new restrictions would enter into force, save for exceptional circumstances.

3. Common nomenclature for travel restrictions at regional level

In order to increase transparency and give advance notice to citizens and businesses, a consistent colour coding system could be considered, using common criteria. Such a system might consist of the levels green, orange and red applied to the regional level.

- **Green** could indicate that the epidemiological situation, based on the common criteria, would not warrant restrictions on travel;
- **Orange** could act as an early warning system that the epidemiological situation is deteriorating;
- **Red** could indicate that the epidemiological situation has reached a level that could warrant restrictions for traveling from/to that region.

Such a map could thus show the epidemiological situation based on the agreed criteria rather than whether travel restrictions are applied. However, the level 'red' could serve to alert the public to verify whether travel to and from the concerned area could be subject to restrictions.

To increase predictability, this system could, as much as possible, be updated at regular intervals (e.g. once a week).

4. Common approach on measures to be taken when imposing travel restrictions

4.1. Recommended general protective measures

In the current phase of the pandemic, with ongoing community transmission, the focus of public health actions in countries of origin and destination should be on interrupting community transmission.

⁸ <https://www.ecdc.europa.eu/en/publications-data/passenger-locator-data-entry-exit-screening-health-declaration>

General measures recommended by ECDC include minimum baseline measures that should be considered irrespective of transmission rates (hygiene measures, physical distancing and limiting gatherings, using face masks in certain settings, teleworking arrangements, extensive testing, isolation of cases and quarantine of close contacts and protection of vulnerable populations). In particular, physical distancing measures and changes in individual behaviour related to physical distancing measures as well as contact tracing is of crucial importance.

Additional measures that may need to be considered if the level of transmission increases include interventions limiting population movement e.g. limiting the numbers of contacts per person, avoiding mass gatherings, paying particular attention to high-risk areas, such as bars, nightclubs, gyms, most non-essential businesses, closure of schools and ‘stay-at-home’ recommendations and orders, which may be total or partial.

4.2. Recommended measures for travellers coming from higher-risk areas

Rather than refusing entry, Member States should allow persons who arrive from a region within the EU classified as ‘red’ based on the common nomenclature to undergo appropriate and proportional procedures to reduce risk to public health, such as quarantine and/or taking a COVID-19 test upon departure or arrival. It could be discussed which measures should typically be applied to such travellers.

In principle, any restrictions for travellers coming (back) from such a region or area of another Member State should only be applied by a particular Member State if that Member State applies similar restrictions to comparable high-risk areas on its own territory.

The decision as to whether isolation of cases and quarantine of contacts should be enforced would remain the responsibility of each Member State, taking into account that any measures imposed on EU citizens arriving from another Member State can only be imposed if it is applied to its own nationals in the same situation.

For populations or settings at high risk of exposure (including travellers), ECDC recommends that asymptomatic people should be tested if resources are available.

5. Questions to Member States

1. Do you consider that further coordination on travel restrictions imposed during the COVID-19 pandemic, based on common criteria, is necessary?
2. In your view, which criteria could be used to assess the risk level of a region within the EU, when considering whether to introduce travel restrictions (e.g. notification rate, test positivity rate, hospitalisation rate, related trends etc.)?
3. Using these criteria, which thresholds would you use to assign the levels ‘green’, ‘orange’ and ‘red’ to a region within the EU?
4. Which measures could, in your view, be applied to travellers arriving from regions at the different levels (notably ‘red’ and, possibly, ‘orange’)?

5. In situations where quarantine is required, should exceptions apply to essential travelers (e.g. persons travelling for compelling business reasons)?

Annex

Principles to inform decisions related to possible restrictions to free movement linked to the COVID-19 pandemic as outlined in the letter of 7 August 2020

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 detected⁹.
5. Testing and contact tracing capacities should be reinforced, to better detect and control the spread of the virus, including, where appropriate, for returning travellers¹⁰.
6. Member States should take into account the regional distribution of cases within other Member States¹¹. 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.

⁹ 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 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>

¹⁰ 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

¹¹ 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>

7. Member States should permit and facilitate free movement including the crossing of borders for professional reasons, such as frontier workers and seasonal workers¹², if work in the sectors concerned is allowed in the host Member State, as well as for family reasons.
8. Green lanes¹³ as well as the free movement of transport workers¹⁴ and crew changes¹⁵, 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 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.

¹² In line with Guidelines on seasonal workers in the EU in the context of the COVID-19 outbreak: C(2020/C 235 1/01), 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)

¹³ C(2020) 1897, 24 March 2020

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

¹⁴ 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>

¹⁵ C(2020) 3100, 8 April 2020

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