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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

(Text with EEA relevance)

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General Principles

When adopting and applying measures to protect public health in response to COVID 19 pandemic, Member States should coordinate their actions based, to the extent possible, 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 allows it.
3. 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 in the same epidemiological situation.
4. Restrictions cannot be based on the nationality of the person concerned, but should be based on the location(s) of the person during the 14 days prior to arrival.
5. Member States should always admit their own nationals and Union citizens and their family members resident in their territory, and should facilitate swift transit through their territories.
6. 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.
7. Member States should regularly exchange information on all matters covered by the scope of this recommendation.

Common criteria

8. Member States should take the following key criteria into account when considering to restrict free movement in response to the COVID-19 pandemic:
 - (a) the ‘14-day cumulative COVID-19 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;

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- (b) the ‘test positivity rate’, that is, the percentage of positive tests among all tests for COVID-19 infection carried out during the last week;
- (c) the ‘testing rate’, that is, the number of tests for COVID-19 infection per 100 000 population carried out during the last week.

Data on the common criteria

9. To ensure that comprehensive and comparable data is available, Member States should, on a weekly basis, provide the European Centre for Disease Prevention and Control with data available on the criteria mentioned in point 8.

Member States should also provide this data at the regional level to ensure that any measures can be targeted to those regions where they are strictly necessary.

Member States should exchange information on any testing strategies which they pursue.

Mapping of risk areas

10. Based on the data provided by the Member States, the European Centre for Disease Prevention and Control should publish a map of EU Member States, broken down by regions, in order to support Member States’ decision-making. This map should also include data from Iceland, Liechtenstein, Norway and, as soon as conditions allow ⁽¹⁾, the Swiss Confederation. In this map, an area should be marked in the following colours:

- (a) green, if the 14-day cumulative COVID-19 case notification rate is less than 25 and the test positivity rate of tests for COVID-19 infection is less than 4%;
- (b) orange, if the 14-day cumulative COVID-19 case notification rate is less than 50 but the test positivity rate of tests for COVID-19 infection is 4% or more, or, if the 14-day cumulative COVID-19 case notification rate ranges from 25 to 150 but the test positivity rate of tests for COVID-19 infection is less than 4%;

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- (c) red, if the 14-day cumulative COVID-19 case notification rate ranges from 50 to 150 and the test positivity rate of tests for COVID-19 infection is 4 % or more, or if the 14-day cumulative COVID-19 case notification rate is more than 150 but less than 500;

⁽¹⁾ 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).

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- (ca) dark red, if the 14-day cumulative COVID-19 case notification rate is 500 or more;

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- (d) grey, if not sufficient information is available to assess the criteria in points (a) to (c) or if the testing rate is 300 or less COVID-19 tests for infection per 100 000 population.

The European Centre for Disease Prevention and Control should also publish separate maps for each key indicator contributing to the comprehensive map: the 14-day notification rate at a regional level, as well as the testing and test positivity rates at a national level during the last week. Once data is available at regional level all maps should be based on this data.

11. Each week, the European Centre for Disease Prevention and Control should publish updated versions of the maps and the underlying data.

Common thresholds if considering restrictions of free movement for public health reasons

12. Member States should not restrict the free movement of persons travelling to or from another Member State's areas classified as 'green' pursuant to point 10.
13. If considering whether to apply restrictions on an area classified other than 'green' pursuant to point 10,

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- (a) Member States should respect the differences in the epidemiological situation between areas classified as 'orange', 'red' or 'dark red' and act in a proportionate manner;

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- (b) Member States could take into account additional criteria and trends. To this end, ECDC will provide data on the population size, the hospitalisation rate, the rate of ICU admission and the mortality rate, if available, on a weekly basis;
- (c) Member States should take into account the epidemiological situation in their own territory, including testing policies, the number of tests performed and test positivity rates, and other epidemiological indicators;

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- (d) Member States should take into account testing strategies and pay particular attention to the situation of areas with high testing rates;

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- (e) Member States should take into account the prevalence of SARS-CoV-2 variants of concern, especially variants which increase transmissibility and fatality, as well as the level of genome sequencing carried out, regardless how the area concerned is classified.

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14. Member States intending to apply restrictions to persons travelling to or from an area classified other than ‘green’ pursuant to point 10, based on their own decision-making processes, should inform the affected Member State first, prior to entry into force. Particular attention should be paid to cross-border cooperation, outermost regions, exclaves and geographically isolated areas. Other Member States and the Commission should also be informed of the intention prior to entry into force. If possible the information should be given 48 hours in advance.

For informing other Member States and the Commission, Member States should use established networks of communication including the Integrated Political Crisis Response (IPCR) network. The IPCR contact points should ensure that the information is passed on to their competent authorities without delay.

15. Member States should immediately inform other Member States and the Commission of the lifting or easing of any previously introduced restrictive measures, which should enter into force as soon as possible.

Restrictions to free movement should be lifted when an area is again classified as ‘green’ pursuant to point 10, provided that at least 14 days have elapsed since their introduction.

16. At the latest 7 days after the adoption of this Recommendation, Member States should phase out restrictions applied on areas classified as ‘green’ pursuant to point 10 before the adoption of this Recommendation.

Common framework as regards possible measures for travellers coming from higher-risk areas**▼ M1**

- 16a. Member States should strongly discourage all non-essential travel to and from areas classified as ‘dark red’ and discourage all non-essential travel to and from areas classified as ‘red’ pursuant to point 10.

At the same time, Member States should seek to avoid disruptions to essential travel, to keep transport flows moving in line with the ‘Green Lanes’ system as well as avoid disruptions to supply chains and the movement of workers and self-employed persons travelling for professional or business reasons.

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17. Member States should in principle not refuse the entry of persons travelling from other Member States.

Member States that consider necessary to introduce restrictions to free movement, based on their own decision-making processes, could require persons travelling from an area classified other than 'green' pursuant to point 10 to

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- (a) undergo quarantine/self-isolation as recommended by the Health Security Committee ⁽²⁾; and/or
- (b) undergo a test for COVID-19 infection prior to and/or after arrival. This could be either an RT-PCR test or a rapid antigen test listed in the common and updated list of COVID-19 rapid antigen tests established on the basis of 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 ⁽³⁾ as determined by the national health authorities.

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Member States should strengthen coordination efforts on the length of quarantine/self-isolation and substitution possibilities. Wherever possible and in accordance with strategies decided by Member States, the development of testing should be encouraged.

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Member States should offer sufficient testing capacity and accept digital test certificates, while ensuring that doing so does not detract from the provision of essential public health services, in particular in terms of laboratory capacity.

- 17a. Member States should require persons travelling from an area classified as 'dark red' pursuant to point 10(ca) to undergo both a test for COVID-19 infection prior to arrival and to undergo quarantine/self-isolation as recommended by the Health Security Committee. Similar measures could apply to areas with a high prevalence of variants of concern.

⁽²⁾ Recommendations for a common EU approach regarding isolation for COVID-19 patients and quarantine for contacts and travellers, agreed by the Health Security Committee on 11 January 2021, https://ec.europa.eu/health/sites/health/files/preparedness_response/docs/hsc_quarantine-isolation_recomm_en.pdf

⁽³⁾ <https://data.consilium.europa.eu/doc/document/ST-5451-2021-INIT/en/pdf>

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Member States should adopt, maintain or reinforce non-pharmaceutical interventions, in particular in areas classified as ‘dark red’, strengthen testing and contact tracing efforts and increase the level of surveillance and sequencing of a representative sample of community COVID-19 cases, in order to control the spread and impact of the SARS-CoV-2 emerging variants with increased transmissibility.

- 17b. Member States should offer persons residing in their territory the option to substitute a test prior to arrival mentioned in points 17(b) and 17a by a test for COVID-19 infection carried out after arrival, in addition to any applicable quarantine/self-isolation requirements.

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18. Member States should mutually recognise the results of tests for COVID-19 infection carried out in other Member States by certified health bodies. Member States should enhance cooperation on different aspects related to testing, including verification of test certificates, taking into account research and advice of epidemiological experts as well as best-practices.

19. Travellers with an essential function or need should not be required to undergo quarantine while exercising this essential function, in particular:

- (a) Workers or self-employed persons exercising critical occupations including health care workers, frontier and posted workers as well as seasonal workers as referred to in the Guidelines concerning the exercise of the free movement of workers during the COVID-19 outbreak ⁽⁴⁾;
- (b) transport workers or transport service providers, including drivers of freight vehicles carrying goods for use in the territory as well as those merely transiting;
- (c) patients travelling for imperative medical reasons;
- (d) pupils, students and trainees who travel abroad on a daily basis;
- (e) persons travelling for imperative family or business reasons;
- (f) diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and police officers, and humanitarian aid workers and civil protection personnel in the exercise of their functions;

⁽⁴⁾ OJ C 102I, 30.3.2020, p. 12.

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- (g) passengers in transit;

- (h) seafarers;

- (i) journalists, when performing their duties.

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- 19a. Pursuant to point 17a, travellers with an essential function or need travelling from a 'dark red' area should fulfil testing requirements and undergo quarantine/self-isolation, provided that this does not have a disproportionate impact on the exercise of their function or need.

By way of derogation, transport workers and transport service providers pursuant to point 19(b) should in principle not be required to undergo a test for COVID-19 infection in line with points 17(b) and 17a. Where a Member State requires transport workers and transport service providers to undergo a test for COVID-19 infection, rapid antigen tests should be used, and this 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'. Transport workers and transport service providers should not be required to undergo quarantine in line with points 17(a) and 17a while exercising this essential function.

- 19b. In addition to the exemptions in point 19a, Member States should not require 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 to undergo a test or quarantine/self-isolation, in particular persons exercising critical functions or essential for critical infrastructure. If a testing requirement on cross-border travel is introduced in these regions, the frequency of tests on such persons should be proportionate. If the epidemiological situation on both sides of the border is comparable, no travel-related testing requirement should be imposed. Persons who claim that their situation falls within the scope of this point could be required to provide documentary evidence or submit a declaration to this effect.

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20. Member States could require persons entering their territory to submit passenger locator forms in accordance with data protection requirements. A common European Passenger Locator Form should be developed for possible use by Member States. Wherever possible, a digital option for passenger locator information should be used in order to simplify processing, while ensuring equal access to all citizens.

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21. Any measures applied to persons arriving from an area classified as 'dark red', 'red', 'orange' or 'grey' pursuant to point 10 may not be discriminatory, that is, should apply equally to returning nationals of the Member State concerned.

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22. Member States should ensure that any formal 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.
23. 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 the Early Warning and Response System.
24. Restrictions should not take the form of prohibitions on the operation of certain transport services.

Communication and information to the public

25. Member States should provide relevant stakeholders and the general public with clear, comprehensive and timely information about any restrictions to free movement, any accompanying requirements (for example negative tests for COVID-19 infection or passenger locator forms), as well as the measures applied to travellers travelling from risk areas as early as possible before new measures come into effect. As a general rule, this information should be published 24 hours before the measures come into effect, taking into account that some flexibility is required for epidemiological emergencies.

This information should also be made available on the 'Re-open EU' web platform, which should contain a cross-reference to the map published regularly by the European Centre for Disease Prevention and Control pursuant to points 10 and 11.

The substance of the measures, their geographical scope and the categories of persons to whom they apply should be clearly described.

Review

26. 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.