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'A' ITEM NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	COVID-19 coordination Council Recommendation amending Council Recommendation (EU) 2020/1632 on a coordinated approach to facilitate safe travel in the Schengen area during the COVID-19 pandemic Adoption

1. On 25 November 2021, the Commission presented a proposal for a Council Recommendation amending Council Recommendation (EU) 2020/1632 on a coordinated approach to facilitate safe travel in the Schengen area during the COVID-19 pandemic¹. On the same day, the Commission presented its proposal at the IPCR RT meeting.

2. 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.

3. On 25 November 2021, the Commission also adopted a proposal for a Council Recommendation on a coordinated approach to facilitate safe free movement during the COVID-19

¹ 14407/21.

pandemic and replacing Recommendation (EU) 2020/1475². As a result, and to ensure consistency, Council Recommendation (EU) 2020/1632 should be amended to refer to the new Recommendation, once adopted.

4. During the exchange of views within the IPCR on the proposals for Recommendations, the delegations did not raise any objections to the text of the proposal for a Council Recommendation amending Recommendation (EU) 2020/1632 as proposed by the Commission.

5. On 21 January 2022, the Committee of Permanent Representatives approved the text of the draft Council Recommendation amending Recommendation (EU) 2020/1632 in annex to 5319/1/22 REV 1. At this meeting, Coreper agreed to suggest that the Council adopt the text of the draft Council Recommendation in annex to this note at a forthcoming meeting.

The Committee of Permanent Representatives also decided to request the publication of the Council Recommendation in the Official Journal of the European Union.

6. In view of the above, the Committee of Permanent Representatives recommends that the Council adopt the text of the Council Recommendation amending Council Recommendation (EU) 2020/1632 on a coordinated approach to facilitate safe travel in the Schengen area during the COVID-19 pandemic, in annex to this note.

7. Once signed by the President of the Council, the legislative act will be published in the Official Journal of the European Union.

² 13967/21 and 13967/21 ADD 1.

Proposal for a

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.
