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NOTE

From: Presidency
To: Permanent Representatives Committee/Council
Subject: Proposal for a Council Recommendation on a coordinated approach to travel to the Union during the COVID-19 pandemic and replacing Council Recommendation (EU) 2020/912
– Adoption

1. On 14 October 2022, the Commission presented a proposal for a Council Recommendation on a coordinated approach to travel to the Union during the COVID-19 pandemic and replacing Council Recommendation (EU) 2020/912¹. On 19 October 2022, the Commission presented its proposal during an IPCR roundtable. Following this presentation, delegations submitted written comments.
2. On 22 November 2022, during an IPCR roundtable, delegations exchanged views on the first Presidency compromise text.

¹ 13612/22 + ADD 1.

3. On the basis of the discussion and further written comments submitted by delegations, a second Presidency text was presented at an IPCR roundtable on 1 December 2022. The text subject to one minor change which was subsequently included in the final text set out in the Annex to this note, received broad support.
4. In view of the above, the Permanent Representatives Committee is invited to
 - confirm its agreement on the text of a Council Recommendation on a coordinated approach to travel to the Union during the COVID-19 pandemic and replacing Council Recommendation (EU) 2020/912, as set out in the Annex;
 - suggest that the Council adopt, as an A item, the Council Recommendation on a coordinated approach to travel to the Union during the COVID-19 pandemic and replacing Council Recommendation (EU) 2020/912, as set out in the Annex;
 - decide to publish the Council Recommendation in the Official Journal, once it is adopted.

Proposal for a

COUNCIL RECOMMENDATION

on a coordinated approach to travel to the Union during the COVID-19 pandemic and replacing Council Recommendation (EU) 2020/912

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), points (b) and (e) and Article 292, first and second sentence thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 30 June 2020, the Council adopted Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction¹.
- (2) Since then, the increasing vaccination uptake worldwide, with vaccines that offer high levels of protection against severe disease cases and deaths, as well as the circulation of the Omicron BA.4 and BA.5 strains, which have been dominant worldwide since July 2022 and tend to cause less severe outcomes than the previous Delta variants, have led to a significant improvement of the epidemiological situation.
- (3) Therefore, in view of the current and expected epidemiological situation, it seems appropriate to recommend the removal of the restrictions on travels into the Union. All Member States and countries to whom the Schengen *acquis* applies have already repealed these restrictions over the summer.
- (4) Recommendation (EU) 2020/912 introduced, amongst others, in its Annex I, a list of those third countries, special administrative regions, and other entities and territorial authorities (“third countries or regions”) meeting the epidemiological criteria set out in that Recommendation and from which the restriction on non-essential travel into the Union could be lifted. With the relaxation of the restrictions, that list is no longer needed and should, therefore, be repealed.

¹ Council Recommendation (EU) 2020/912 of 30 June 2020 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction ([OJ L 208 I, 1.7.2020, p. 1](#)).

- (5) However, the SARS-CoV-2 virus is still circulating. Therefore, Member States should stand ready to act in a coordinated and proportionate manner in case the epidemiological situation deteriorates significantly, including due to the emergence of a new variant of concern or of interest.
- (6) In particular, where the epidemiological situation in a third country or region worsens significantly, Member States should, where necessary, limit non-essential travel with the exception of persons who have been vaccinated or recovered, or have been tested negatively by Nucleic Acid Amplification Test (NAAT) within 72 hours before their departure. This should not prevent Member States from taking additional measures upon arrival such as, for example, additional testing, self-isolation or quarantine.
- (7) Whenever a Member State introduces COVID-19-related restrictions in accordance with Council Recommendation 2022/107², Member States should, within the Council structures and in close cooperation with the Commission, the European Centre for Disease Prevention and Control (ECDC) and the Health Security Committee, coordinate with a view to determining whether similar restrictions should be introduced regarding travel from third countries to Member States. Information on any new measures should be published as early as possible and, as a general rule, at least 48 hours before they come into effect, taking into account that some flexibility is required for epidemiological emergencies.
- (8) In this context, the EU Digital COVID certificate established by Regulations (EU) 2021/953 of the European Parliament and of the Council³ and (EU) 2021/954 of the European Parliament and of the Council⁴ should remain the point of reference for proving vaccination, recovery and testing. This should also cover certificates issued by third countries that are covered by an implementing decision adopted pursuant to Article 3(10) or Article 8(2) of Regulation (EU) 2021/953.
- (9) Furthermore, when a variant of concern or of interest emerges in a third country or region, Member States should continue to have the possibility to take, in a coordinated manner, urgent, time-limited and flexible measures in order to delay and prepare for the introduction of such a variant of concern or of interest.

² Council Recommendation (EU) 2022/107 on a coordinated approach to facilitate safe free movement during the COVID-19 pandemic and replacing Recommendation (EU) 2020/1475 (OJ L 18, 27.1.2022, p. 110).

³ Regulation (EU) 2021/953 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic ([OJ L 211, 15.6.2021, p. 1](#)).

⁴ Regulation (EU) 2021/954 of the European Parliament and of the Council of 14 June 2021 on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) with regard to third-country nationals legally staying or residing in the territories of Member States during the COVID-19 pandemic ([OJ L 211, 15.6.2021, p. 24](#)).

- (10) This Recommendation should also provide for the necessary exemptions from restrictions on travel from third countries to the Member States. Persons travelling for an essential need or function should be allowed to travel to the Member States and other countries to whom the Schengen *acquis* applies also where the emergency brake applies. For this purpose, the list of essential travellers should be adapted to limit it to those persons who must be able to travel even in such situations.
- (11) Similarly, Union citizens and third-country nationals legally residing in the Union should always be able to return to their Member State of nationality or residence, but may be subject to measures upon arrival. Children under 12 years of age should not be required to be in the possession of a proof of vaccination, recovery or a test.
- (12) 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 Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Recommendation. Given that this Recommendation builds upon the Schengen *acquis*, Denmark should, 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.
- (13) 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/EC⁵. Ireland is therefore not taking part in its adoption and is not subject to its application.
- (14) 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*⁶ which fall within the area referred to in Article 1, point A, of Council Decision 1999/437/EC⁷.

⁵ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁶ OJ L 176, 10.7.1999, p. 36.

⁷ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

- (15) 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*⁸ which fall within the area referred to in Article 1, point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC⁹.
- (16) 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*¹⁰ which fall within the area referred to in Article 1 point A, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹¹.
- (17) All Member States should, in the interest of the proper functioning of the Schengen area, decide on any reintroduction of restrictions on non-essential travel into the Union in a coordinated manner,

HAS ADOPTED THIS RECOMMENDATION:

⁸ OJ L 53, 27.2.2008, p. 52.

⁹ 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).

¹⁰ OJ L 160, 18.6.2011, p. 21.

¹¹ 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).

Lifting of the restrictions on travels

- (1) As of [date of publication], all COVID-19 related restrictions for travellers to the Union should be lifted.

Requirements for travels in case of severe worsening of the epidemiological situation

- (2) Where necessary to address a severe worsening of the epidemiological situation, either in the Member States or in third countries, Member States, where necessary, should decide, in a coordinated manner in the Council and in close cooperation with the Commission, to reintroduce appropriate requirements for travellers prior to their departure. Such requirements could be one, or a combination of, the following:
 - (a) having received at the latest 14 days before entering the Union, the last recommended dose of a primary vaccination series of one of the COVID-19 vaccines authorised in the Union pursuant to Regulation (EC) No 726/2004 of the European Parliament and of the Council¹² or of one of the COVID-19 vaccines having completed the WHO Emergency Use Listing process; where the traveller is aged 18 years or above, not more than 270 days are to have passed since the administration of the dose indicated in the vaccination certificate for the completion of the primary vaccination series or, after that period of 270 days, an additional dose must have been received following the completion of the primary vaccination series;
 - (b) having recovered from COVID-19 not more than 180 days after the date of the first positive NAAT test result prior to travelling to the Member States;
 - (c) having tested negative to a Nucleic Acid Amplification Test (NAAT) taken not more than 72 hours before departure to the Member States;
- (3) To determine whether a situation should, for the purposes of the point 2, be qualified as severely worsening, Member States should take into account, in particular, the strain on their healthcare systems due to COVID-19, notably in terms of admissions to and number of hospital and intensive-care unit inpatients, the severity of circulating SARS-CoV-2 variants, as well as the information regularly provided by the European Centre for Disease Prevention and Control as to the development of the epidemiological situation.

¹² Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

- (4) Furthermore, if one or more Member States reintroduce restrictions based on Council Recommendation (EU) 2022/107¹³, regarding travel within the Union, Member States should discuss, in close cooperation with the Commission and the European Centre for Disease Prevention and Control established by Regulation (EC) No 851/2004 of the European Parliament and of the Council¹⁴, whether similar restrictions should be introduced under this Recommendation regarding travel from third countries to Member States.
- (5) When restrictions have been reintroduced in accordance with points 2 or 4, travellers should be in possession of one or more of the following:
- (a) a valid proof of vaccination issued on the basis of a COVID-19 vaccine authorised in the Union pursuant to Regulation (EC) No 726/2004;
 - (b) a valid proof of vaccination issued on the basis of COVID-19 vaccines that has completed the WHO Emergency Use Listing process but does not appear on the list of vaccines authorised in the Union pursuant to Regulation (EC) No 726/2004;
 - (c) a valid proof of recovery;
 - (d) a valid proof of a negative Nucleic Acid Amplification Test (NAAT) not more than 72 hours before departure.
- (6) Children under the age of 12 should not be subject to any requirement prior to departure.
- (7) The Member States could also apply additional measures on arrival in accordance with Union and national law, such as, for example, additional testing, self-isolation and quarantine.

¹³ Council Recommendation (EU) 2022/107 on a coordinated approach to facilitate safe free movement during the COVID-19 pandemic and replacing Recommendation (EU) 2020/1475.

¹⁴ 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).

- (8) However:
- (a) travellers with an essential function or need referred to in the Annex¹⁵ should not be subject to any measures on arrival that would impede the very purpose of the travel;
 - (b) for transport personnel, seafarers and frontier workers, Member States should not require more than a negative Rapid Antigen Test (RAT) on arrival to enter into any of the Member States;
 - (c) air crews should be exempted from any testing if their stay in a third country was less than 12 hours.
- (9) Where Member States impose additional measures on arrival, as set out in point 7, they should make available appropriate information to the travellers in an easily accessible manner.

Proofs of vaccination, recovery and testing

- (10) In addition to certificates issued pursuant to Regulations (EU) 2021/953, Member States should accept proofs of COVID-19 vaccination, recovery or testing covered by an implementing act adopted pursuant to Article 3(10) or Article 8(2) of that Regulation.
- (11) Where no such implementing act has been adopted, for the purposes of point 5, Member States could decide to accept, for the purposes of this Recommendation, in accordance with national law, a proof of vaccination, recovery or testing issued by a third country, taking into account the need to be able to verify the authenticity, validity and integrity of the document and whether it contains all relevant data as provided for in Regulation (EU) 2021/953.

Addressing variants of concern or interest and emergency brake mechanism

- (12) Where a variant of concern or of interest has been detected in a third country or region, Member States should take urgent measures (“emergency brake”) to contain the spread of the variant to the Union. In response to the emergence of such new variant of concern or of interest in a third country or a region, a meeting within the Council structures should be convened within the next 48 hours to discuss the necessity of coordinated measures for travel to the Union to delay the spread of the new variant, in close cooperation with the Commission and supported by the European Centre for Disease Prevention and Control. Where necessary, Member States should decide, in a coordinated manner in the Council on any appropriate requirements. Member States might exceptionally establish within the Council structures an urgent, common and temporary restriction on all travels to their territories for third country nationals who have stayed in that third country or region at any time during the 14 days before departure towards the Member States. This should also apply to situations where the epidemiological situation deteriorates rapidly and severely in a way that suggests the emergence of a new SARS-CoV-2 variant of concern or interest.

¹⁵ See also Commission Guidance of 28 October 2020 (COM(2020)686 final, 28.10.2020).

- (13) The Member States, within the Council structures and in close cooperation with the Commission, should regularly review the situation in a coordinated manner.
- (14) Such restrictions should expire after 21 calendar days, unless Member States decide, within the procedure set out in points 12 and 13, to shorten them or extend them for an additional period.
- (15) The European Centre for Disease Prevention and Control should publish and regularly update a map presenting the situation with regard to variants of concern and variants of interest in third countries.

Exemptions from temporary travel restrictions

- (16) Travellers with an essential function or need referred to in the Annex should not be subject to the travel restrictions referred to in points 2 and 12.
- (17) The following categories of persons could be subject to the travel restrictions mentioned in points 2 and 12, but should maintain the possibility to return to the Union:
- (a) Union citizens and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, as well as their respective family members¹⁶;
 - (b) third-country nationals who are long-term residents under Council Directive 2003/109/EC¹⁷ and persons deriving their right to reside from other instruments of Union law or national law or who hold national long-term visas, as well as their respective family members.

Where such persons are not in possession of a valid EU Digital COVID Certificate, they could be subject upon arrival to the additional measures mentioned under point 7.

- (18) The additional measures that could be applied on arrival as set out in point 7 should continue to apply to travellers exempted from restrictions in accordance with points 16 and 17.

¹⁶ As defined in Articles 2 and 3 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

¹⁷ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).

Communication and information to the public

- (19) Information on any new measures under point 5 should be published as early as possible and, as a general rule, at least 48 hours before they come into effect.

Final provisions

- (20) For the purpose of this Recommendation, residents of Andorra, Monaco, San Marino and the Vatican/Holy See should be considered as third-country nationals falling within the scope of point 17(b).
- (21) This Recommendation replaces Recommendation (EU) 2020/912. It should apply from [date of publication].

Done at Brussels,

For the Council

The President

ANNEX

Categories of persons travelling in the exercise of an essential function or a need:

- i. Healthcare professionals, health researchers, and elderly care professionals;
- ii. Frontier workers;
- iii. Transport personnel;
- iv. Diplomats, staff of international organisations and people invited by international organisations, military personnel and humanitarian aid workers and civil protection personnel;
- v. Passengers in transit;
- vi. Passengers travelling for imperative family or medical reasons;
- vii. Seafarers;
- viii. Persons working on critical or otherwise essential infrastructures;
- ix. Persons in need of international protection or for other humanitarian reasons;