

RECOMMENDATIONS

COUNCIL RECOMMENDATION (EU) 2020/1632

of 30 October 2020

on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic in the Schengen area

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, who may move freely within the territories of all other Member States during the period of 90 days in 180 days.
- (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 virus, the Member States have adopted various measures, some of which have had an impact on the right to move and reside freely within the territory of the Member States, such as restrictions on entry or requirements for cross-border travellers to undergo quarantine. These measures have had, in some cases, an impact on the absence of checks on persons, whatever their nationality, when crossing internal borders within the Schengen area.
- (4) The Council Recommendation (EU) 2020/1475 ⁽¹⁾ 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 imposed.
- (5) Given that the freedom of movement of persons in the internal market, referred to in Article 26 TFEU, closely coexists with the absence of internal border controls on persons in the Schengen area, referred to in Articles 67 and 77 TFEU, and in order to respect the coherence and the integrity of the Schengen *acquis*, this Recommendation should ensure that Member States apply the same coordinated approach when applying the Schengen *acquis* on the absence of checks on persons, irrespective of their nationality, at internal borders.
- (6) Member States should therefore also apply the principles, common criteria and the common framework of measures laid down in the Recommendation (EU) 2020/1475 when ensuring within the Schengen area the absence of checks on persons, whatever their nationality, at internal borders.
- (7) 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.

⁽¹⁾ 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).

- (8) 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 ⁽²⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (9) 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.
- (10) 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 A, of Council Decision 1999/437/EC ⁽³⁾.
- (11) 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 A, of Decision 1999/437/EC ⁽⁴⁾ read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁵⁾.
- (12) 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 A, of Decision 1999/437/EC ⁽⁶⁾ read in conjunction with Article 3 of Decision 2011/350/EU ⁽⁷⁾,

HAS ADOPTED THIS RECOMMENDATION:

Member States should apply the recommendations on general principles, common criteria, common thresholds and common framework of measures, including recommendations on coordination and communication as laid down in the Recommendation (EU) 2020/1475.

Done at Brussels, 30 October 2020.

For the Council
The President
M. ROTH

⁽²⁾ 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).

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁵⁾ 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).

⁽⁶⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁷⁾ 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).