

UDK(083.1)(4-672EEZ):347.921.5:341.176(4):341.231.5:616-036.21

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EUROPEAN UNION REGULATIONS

RECOMMENDATION OF THE COUNCIL OF THE EUROPEAN UNION ON A COORDINATED APPROACH TO THE RESTRICTION OF FREE MOVEMENT IN RESPONSE TO THE COVID-19 PANDEMIC

The European Union's internal market and the privileges of European citizens derive from the so-called "four freedoms" referring to free movement of workers, goods, capital and services within the territory of that supranational community. As the Covid-19 pandemic has significantly disrupted and even prevented the full enjoyment of such privileges, especially those related to movements of citizens, the EU institutions have been working for months to develop procedures in order to strengthen a common framework for freedom of movement having in mind the epidemiological situation. As a result of such efforts, in October 2020, the recommendations of the Council of Europe on a coordinated approach to the restriction of free movement in response to Covid-19 pandemic were adopted, which will be analysed below. Although it is a non-legislative act, by harmonizing it the EU has shown a common position on that challenge. Member States in charge of adopting epidemiological measures should regulate it independently in accordance with their internal assessment. In addition, the establishment of a procedure for regular collecting and updating of data in the European Centre for Disease Prevention and Control has made it easier to monitor the situation in the EU and contributed to the feeling of a European community that has not been always visible in the previous period.

As early as March 10, 2020, the governments of the Member States advocated the establishment of a joint mechanism regarding the Covid-19 pandemic, and since then a series of guidelines have been adopted to support a coordinated approach to

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preserving freedom of movement (points 7-8). Protection of public health is a legitimate basis for taking measures to restrict movement within the EU, the regulation of which is the responsibility of the Member States (e.g. introduction of a quarantine when crossing borders, in accordance with point 10). However, in order to protect movement, but also to prevent cross-border threats, it was necessary to establish a coordinated approach, taking into account principles such as non-discrimination and proportionality when adopting restrictive measures (points 9-10). Timely and clear information at European level is essential to preserve this freedom and limit the negative consequences of epidemiological and other measures, thus adequately contributing to a more predictable and safer environment (point 19).

Recommendation is based on 26 principles. General principles include the need to balance the priority of preserving public health, on one hand, and observance of European principles, on the other, with restrictive measures being temporary in line with the development of epidemiological circumstances (1-2). In addition, there must be no discrimination among the Member States in terms that the epidemiological situation and its related measures should be equally reflected in all countries, whereby restrictions must not be based on citizenship, but on locations of the person during the 14 days prior to arrival (3-4). Member States should always admit their own nationals and Union citizens and should facilitate swift transit through their territories, and should pay particular attention to the specificities of cross-border regions and geographically isolated regions (5-6).

Recommendation establishes common thresholds when considering restrictions of free movement during Covid-19 pandemic: the total number of newly notified Covid-19 cases per 100,000 population in the last 14 days at the regional level; the percentage of positive tests among all tests for COVID-19 infection carried out during the last week; the number of tests for COVID-19 infection per 100 000 population carried out during the last week (8). 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 above. 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 (9). Based on these data, risk regions are mapped in order to make decisions at all levels more simply and with greater predictability. On the published map of the Member State, certain countries in the European Free Trade Area, as well as their regions, will be coloured in green (as the safest), orange, red (worrying) and grey (insufficient data is available or the testing rate is not met), in accordance with the point 10. Member States should not restrict the free movement within green zones (12), while in case of other zones there are recommendations set out in point 13.

Within the provisions closely regulating coordination between Member States, countries are recommended to exchange information between each other,

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as well as between European bodies, and to inform Brussels in case of tightening or easing of measures (14-16). A common framework on potential restrictions for high-risk travellers (17-24) is further regulated, including possible exemptions or mitigation measures for healthcare workers, carriers, patients traveling for medical reasons and other groups under certain circumstances. Member States are also encouraged to provide all relevant actors with timely and comprehensive information on any restrictive measures and the consequences for free movement.

Source

- Recommendation of the Council of the EU on a coordinated approach to the restrictions of free movement in response to the COVID-19 pandemic, 11689/1/20 REV 1, 2020/0256(NLE), Brussels, 12.10.2020.

Translated by: Jelena Rajković