

# Love thy neighbour?

## Coronavirus politics and their impact on EU freedoms and rule of law in the Schengen Area

Sergio Carrera and Ngo Chun Luk

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### Executive Summary

Restrictions on international and intra-EU traffic of persons have been at the heart of the political responses to the coronavirus pandemic. Border controls and suspensions of entry and exist have been presented as key policy priorities to prevent the spread of the virus in the EU. These measures pose however fundamental questions as to the *raison d'être* of the Union, and the foundations of the Single Market, the Schengen system and European citizenship. They are also profoundly intrusive regarding the fundamental rights of individuals and in many cases derogate domestic and EU rule of law checks and balances over executive decisions.

This Paper examines the legality of cross-border mobility restrictions introduced in the name of COVID-19. It provides an in-depth typology and comprehensive assessment of measures including the reintroduction of internal border controls, restrictions of specific international traffic modes and intra-EU and international 'travel bans'. Many of these have been adopted in combination with declarations of a 'state of emergency'.

The Schengen Borders Code and the EU Free Movement Directive 2004/38 foresee the possibility to derogate or apply exceptions to internal border control-free on the basis of public health grounds. However, this does not mean a *carte blanche*. The burden of proof lies with national governments and their Ministries of the Interior to justify the suitability, necessity and proportionality of any policy restrictions in relation to

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both their effectiveness in relation to the public goal sought *and* the impacts on fundamental rights and the rule of law national and EU standards, including those that are non-derogable or which accept limited exceptions in times of declared emergencies.

The assessment shows that this has not been the case. Many of these measures unlawfully interfere with and pose a number of challenges to EU freedoms and checks and balances in constitutional and EU law. In particular, they concern the following matters:

- > The wide set of unilateral and *ad hoc* border-related measures introduced by many EU member states, which results in an incoherent and over-lapping web of human mobility restrictions and conditions of entry/exist lacking any meaningful coordination among states. These include fifteen Ministries of Interior having reintroduced internal border checks and a large number of traffic mode restrictions, sixteen governments implementing intra-EU travel bans, and many others extra-EU travel bans on third country nationals (Section 2 of this Paper).
- > The lack of compliance with the procedural and substantive requirements under the Schengen Borders Code when it comes to lawfully derogating Schengen. The lack of complete notifications to EU institutions, the instrumental uses by these Ministries of the Schengen Borders Code's legal basis and the illegality of intra-EU travel bans automatically or indirectly banning entry without an individualised assessment of legitimate reasons of entry or transit (Section 4.1).
- > The overall priority given to a 'public policy and internal security' (law enforcement) approach over public health considerations of individuals. Current measures prioritise the role of border guards in checking conditions of entry (including refusals of entry), being asked to play the role of doctors subjectively diagnosing the COVID-19 symptoms of 'suspect' travelers, and that of police authorities whose job is fighting criminality. These are taking precedence over policy responses in the hands of public health and medical professionals aimed at ensuring access to health care to anyone in need, as enshrined in the EU Charter of Fundamental Rights (Section 4.1).
- > The legal uncertainty for individuals engaged in legitimate forms of cross-border mobility, with many being caught in between and not being able to return to their country of origin or residence in the EU. Many Ministries of the Interior are not fulfilling their legal obligation not to discriminate against EU citizens, legally-residing third country nationals and their families in comparison to nationals, and allow entry to third country nationals with EU permits and the right to seek asylum. Many of the current national border measures do not allow for an individualised and non-discriminatory assessment of legitimate movements. Member states should also examine the impacts of these restrictions on cross-border communities living in European border regions and local border traffic. Therefore, the image and political messaging of 'total national closure' and containment is not only unrealistic, but it is also unfeasible (Section 4.3).
- > The inconsistent application of rules on the ground. The above-mentioned web of restrictive mobility measures implies a wider set of national and local conditions and informal practices of entry leaving a disproportionate degree of discretion in the hands of national border and police authorities regarding what is considered to be 'essential' or 'non-essential' cross-border travel. It has also meant serious obstacles to the free movement of goods and persons, with long-queues and disturbances being reported (Section 4.2).
- > The lack of evidence-based justification by any of the relevant governments about the suitability, necessity and proportionality of these measures, which violates their legal commitments under the Schengen Borders Code. Similar legal concerns can be raised in relation to the EU Travel Ban, which

does not comply with EU Better Regulation guidelines (Section 3). Our research demonstrates that there is no conclusive evidence in existing scientific research covering past and current pandemics about the effectiveness of highly restrictive international traffic restrictions and ‘bans’ in preventing the spread or increase of cases after virus outbreaks. This has been confirmed by the World Health Organisation (WHO), which has underlined that these measures may divert resources away from other policy needs such as reinforcing health infrastructures, increasing testing and research capacities and the implementation of social-trust policies and a mix of public health interventions. More research is needed to show the extent to which recent intra- and extra-EU traffic restrictions on persons have worked in preventing the spread of COVID-19 cases, in light of the specificities of this pandemic in comparison to past ones, and if so to what extent and at what societal and economic costs (Section 4.2).

- > None of the Ministries have provided any scientific analysis backing up the extent to which these measures are effective to respond to the spread and increase of number of COVID-19 cases, or showing their proportionality – and availability of other less intrusive means – in light of the profound impacts and intrusiveness on fundamental rights and the rule of law. The proportionality test should be left in hands of public health professionals and officials, not Ministries of the Interior. While measures could prove to be effective in practice, the analysis shows that they must also be compatible with fundamental rights and the rule of law for them to be legitimate in a democratic society (Section 4.3).
- > The risks of misuse of individuals’ electronic data collected in the name of the pandemic are increasingly exponential. The use and adoption of measures and initiatives on the surveillance of mobile individuals and their health data, including through the use of Artificial Intelligence (e.g. profiling and movement or behavioral tracking) and direct access to electronic communication companies, are notoriously illegal in the EU and stand in contravention of WHO ethics standards and EU data protection and EU privacy law. They pose huge risks of misuse and function ‘creep’ for policing (law enforcement) purposes and of illegitimately dis-owning individuals of their own data (Section 4.3).
- > In the name of COVID-19, several EU member state governments have declared or continued with a ‘state of emergency’ or ‘state of alarm’. These include a wide range of derogations of constitutional guarantees scrutinising governments’ actions and rights of citizens and foreigners under EU law and the European Convention of Human Rights. In order to comply with Article 2 TEU principles, all governments are under a clear obligation to justify the need of these declarations and ensure effective parliamentary oversight, independent judicial control and effective domestic remedies during a state of emergency. More research is needed as regards the exact scope, practical implementation and follow up of these ‘emergency’ declarations in each relevant country, and their compatibility with Council of Europe and EU rule of law standards (Section 4.3).

The Paper concludes by recommending more intra-EU solidarity and a consistent application and enforcement of EU law. It highlights the need for member states to comply with the deadlines stipulated in the Schengen Borders Code to lift internal border restrictions, and calls for a ‘sunset clause’ to terminate intra-EU travel bans. Furthermore, the Paper recommends the adoption of an ‘EU-wide Schengen Stress Test’ providing a periodic country-by-country ‘quali-quantitative’ assessment of the state of free movement, Schengen rules and asylum in the Union (Section 5).

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## 1. Introduction

Restrictions on international traffic of people and border closures have been one of the most visible political responses by national governments and European institutions to the coronavirus pandemic across the European Union (EU). A number of ‘state of emergency’ measures have entailed severe restrictions on the EU mobility and liberties of own nationals, EU citizens and residents and third country nationals inside the Union. These measures pose fundamental questions about the identity or *raison d’être* of the Union and its core freedoms underpinning the Schengen system, the Single Market and European citizenship, which are anchored on the movement of people and the lifting of internal border controls. Moreover, they have coincided with the 25 years anniversary of the entry into force of the Convention implementing the Schengen Agreement on 25 March 1995.

Borders, and the freedom to travel have been in the spotlight among the mix of policy interventions introduced to respond to COVID-19. During the month of March 2020. An increasing number of EU member state governments have unilaterally reintroduced internal border controls, restrictions on specific modes of transport and intra-EU and extra-EU travel bans in the name of COVID-19. Many governments have at the same time declared a ‘state of emergency’ allowing for the adoption of extraordinary derogations on citizens’ rights and constitutional scrutiny over their executive decisions. In an unprecedented move, the European Commission proposed an EU-wide travel ban labelled as a ‘temporary closure’ refusing entry to Schengen territory to third country nationals, which was adopted by the European Council on 17 March 2020.

While acknowledging the challenges and pressures to demonstrate a quick response to pressing public health and people’s needs that national and EU policymakers are facing, the legitimization of any coronavirus-related policies is closely dependent on a firm commitment to the set of national and EU constitutional provisions and principles that nurture the essence of the rule of law and its democratic and fundamental rights credentials in the Union. And while the situation in some EU countries’ public health systems is indeed exceptional, and intra-EU solidarity is most needed, attention should be paid to the many impacts of COVID-19 politics on EU and national freedoms and rule of law principles, which are most relevant during critical political periods. These principles, enshrined in Article 2 of the Treaty on the European Union, bring the individual and constitutional checks and balances to the centre of attention, and call for an ongoing re-assessment and evidence-based justification of the legality, proportionality and effectiveness of intrusive and state of emergency policies.

This Paper takes stock and examines the legality of the set of measures restricting people’s cross-border mobility adopted by various EU member states and the EU in response to COVID-19. It starts by providing a typology or detailed account of the scope and nature of the various measures introduced in Section 2. Section 3 moves to a critical overview of the main policy responses by the European Commission and the European Council to the latter, in particular when it comes to their reactions to the increasing number of member state Ministries of the Interior reintroducing

internal border controls and the adoption of a so-called EU Travel Ban suspending entry to non-EU nationals in the Schengen area.

The Paper then enters into an EU legality test of each of these measures, paying particular attention to their compatibility with the SBC procedural and substantive rules. Are border controls and travel bans in compliance with EU Schengen and free movement law? The Paper offers an assessment of the societal, fundamental rights and rule of law impacts of these measures when assessing their proportionality and legitimacy in Section 4. In light of the analysis, we conclude that many of these containment-led policies are legally unsound, unfeasible and put in serious peril EU Treaty freedoms. Furthermore, the declaration of ‘state of emergency’ puts constitutional protections and citizens’ and residents’ rights under a spotlight. The Paper concludes by recommending the EU to adopt an ‘*EU Schengen Stress Test*’ delivering a periodic and country-by-country comparative monitoring and evaluation of ‘the state of free movement of persons’, and the compatibility of cross-border restrictions with EU law.

## 2. Member states cross-border mobility-restrictive measures in the name of COVID-19

In response to the COVID-19 pandemic, EU member states and Schengen countries have adopted a wide range of different measures restricting intra-EU traffic and cross-internal borders mobility in different ways and degrees. The following three are highlighted: 1) temporary reintroduction of internal border controls (Section 2.1), 2) restrictions or bans on specific modes of international passenger transportation (Section 2.2), and 3) intra-EU and intra-Schengen entry and exit bans (Section 2.3). A detailed overview of member state responses, including their national legislative and regulatory bases and possible exceptions, are documented in detail and updated to 25 March 2020 in the Annex of this Paper.

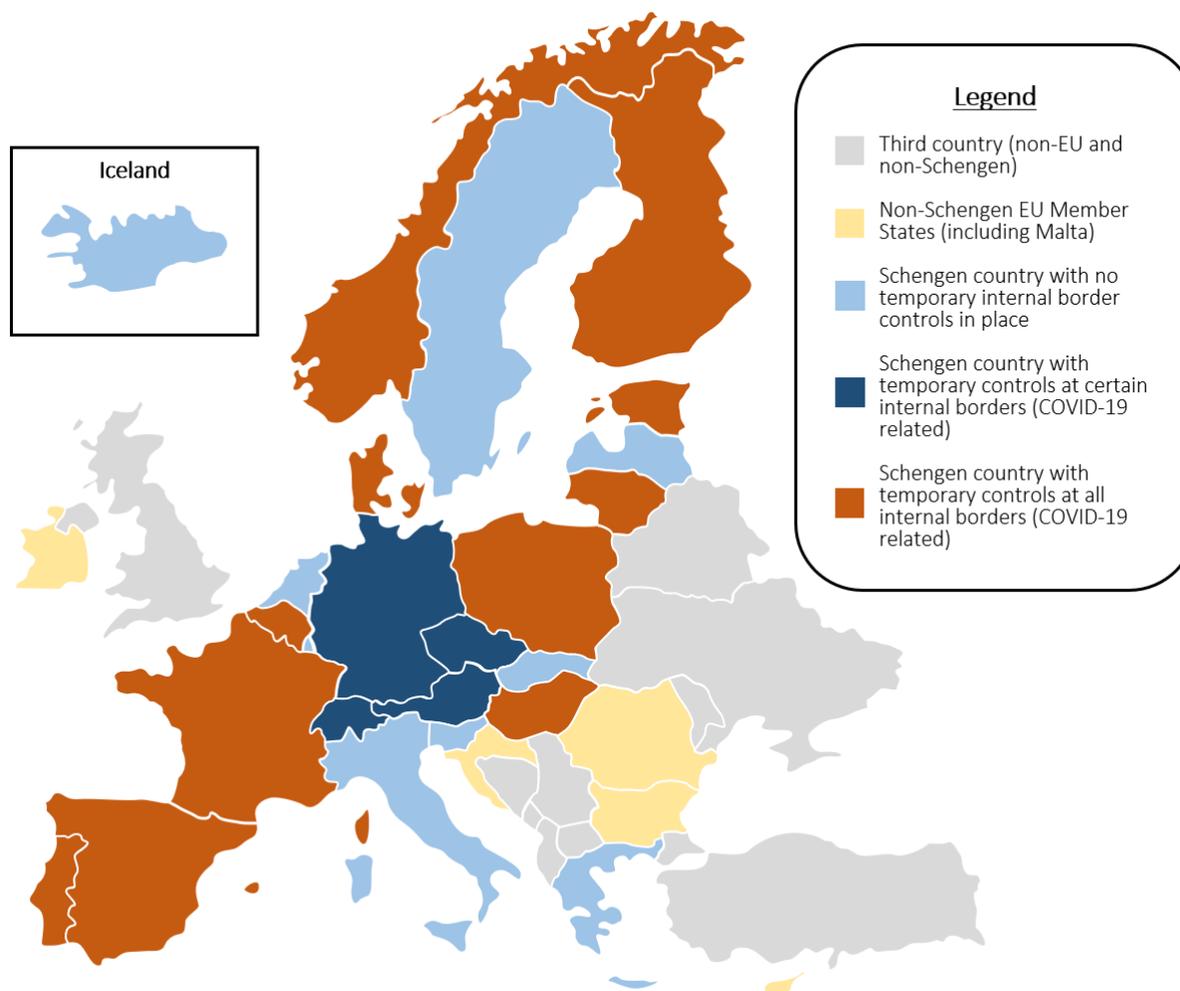
### 2.1 Away from Schengen: Temporary reintroduction of internal borders

By the end of March 2020, fifteen governments and Ministries of the Interior of EU and Schengen countries decided to derogate the Schengen internal border controls free area and reintroduce border checks on persons, i.e.: Austria, Belgium, Czech Republic, Denmark, Estonia, France, Finland, Germany, Hungary, Lithuania, Norway, Poland, Portugal, Spain and Switzerland. The notifications under the SBC on the temporary reintroduction of internal border controls, as well as the corresponding national measures reintroducing border controls, are set out in Annex 1.1 to this Paper.

Each of these decisions has varied regarding the material, personal, temporal and territorial scope of application, leading to a largely inconsistent and blurred picture of heterogeneous national border control-related measures. Some have already been prolonged beyond the originally

foreseen period. Figure 1 below sets out which member states have notified the temporary reintroduction of internal border controls under the Schengen Borders Code.

*Figure 1. COVID-19 and notifications under the Schengen Borders Code of temporary reintroduction of internal border controls*



Source: Authors' own elaboration, based on Annex 1.1.

Austria was the first Ministry of the Interior to introduce these measures at its land borders on 11 March with Italy, and then those with Switzerland and Liechtenstein. On 18 March 2020, the Austrian Ministry of the Interior informed the Commission and other member states of the extension of internal border controls. This was followed by the Hungarian government, which on 12 March 2020 did not wait to declare a 'state of emergency'. It reintroduced controls with Austria and Slovenia, identifying specific border crossing points for allowed land border access and closing all remaining road crossings and international railway traffic. On 17 March 2020, the Hungarian

Ministry of the Interior informed xxx that the controls also extended to the internal borders with Slovakia and to all Schengen internal air borders, and about the prolongation of all these measures by 20 more days.

The Czech Republic government similarly declared on 12 March 2020 a ‘state of emergency’ and took a substantial step further by adopting on an entry ban from 16 March 2020 applicable to all foreign nationals, including EU citizens, with the exception of those with temporary authorisation of stay for over 90 days or holding permanent residence in the country. The Czech government also introduced an ‘exit ban’ forbidding citizens and foreign nationals with temporary authorisation of stay for over 90 days and permanent residents to leave the Czech Republic. On 16 March, the Czech Republic Ministry of the Interior reintroduced internal border controls at land and air borders with Germany and Austria, allowing mobility of cross-border workers at designated border crossing points.

The Swiss government notified the European institutions on 13 March 2020 of its intention to temporarily reintroduce border controls at the Swiss internal borders with Italy. Subsequently, it introduced similar border controls with Germany, France and Austria (on 16 March 2020) and Spain (18 March 2020).

The Danish Ministry of Justice decided on 14 March 2020 to reintroduce internal border checks at all Danish internal borders, including land, sea and air borders. A similar response was adopted by their Lithuanian (with Poland and Latvia) and Norwegian counterparts, which introduced, also on 14 March 2020, controls at all their borders. The Polish Ministry of the Interior followed on 16 March 2020, by introducing controls on people and goods at specific land border sections with the Czech Republic, Lithuania, Germany and Slovak Republic, and at sea and air border crossing points.

The German government came next. On 16 March 2020, the German Ministry of the Interior reintroduced controls on persons at land borders with Denmark, Luxembourg, France, Switzerland and Austria. The cross-border mobility of cross-border commuters has remained unimpeded, while they have been required to provide proof of employment to be allowed to cross the borders. In a notification letter dated 18 March, the German Ministry of the Interior informed the Commission about the extension of internal border controls to air borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, as well as the sea borders with Denmark, effective from 19 March 2020. It also highlighted the introduction of specific internal border crossing points

After becoming the second country in the EU with the largest number of COVID-19 cases, and in light of other constraining measures that other EU countries had introduced to people travelling from Spain, the Spanish government declared a ‘state of alarm’ on 14 March 2020 and reintroduced internal land border controls with Portugal and France on 16 March 2020. Furthermore, it adopted a nation-wide ‘travel ban’ permitting entry to Spanish territory of only the following categories of persons: Spanish nationals, legally residing third country nationals, cross-

border workers and individuals showing evidence of force majeure or emergency, diplomats and representatives of international organisations.

The next was the Finnish Ministry of Home Affairs, which reintroduced controls at both external and internal borders on 17 March and limited the number of land, sea and air border crossing points. This was accompanied with a restriction of traffic. When it comes to air borders, border crossing points at selected airports, road crossing points and ports are only open to cargo traffic, returning Finnish citizens, persons legally residing in Finland or any other EU country, cross-border worker traffic and “other necessary traffic”. The last two EU Schengen countries to introduce internal border checks were Portugal and Estonia, on 16 and 17 March respectively.

The Belgian Minister of the Interior notified the reintroduction of internal border controls on 20 March 2020, providing as a justification the national decision to strengthen social distancing measures and banning ‘non-essential movements’. It underlined that traffic of goods, cross-frontier workers and people returning home to their residence in a country of the EU will be still permitted.

France has first notified the EU of its temporary reintroduction of internal border controls as a response to the COVID-19 pandemic on 31 March 2020, for a period from 1 May 2020 until 30 October 2020. In the Notification letter, however, the French government notes that closure of its internal border, except for persons benefitting from free movement rights and third-country nationals with a legitimate reason for traveling, was effectuated based on its previous Notification of 2 October 2019 (covering the period 1 November 2019 to 30 April 2020 for reasons of national security resulting from terrorist threats).

## 2.2 Restrictions on entry and exit for modes of transportation

19 EU member states, as well as Switzerland, have introduced restrictions on the entry and exit for modes of international (including intra-EU and intra-Schengen) passenger transportation. Belgium, Bulgaria, Estonia, Germany, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Norway, and Sweden have not explicitly imposed any restrictions on or suspension of modes of international and intra-EU passenger transportation. In most cases of measures restricting international and intra-EU passenger transport by EU member states or Schengen countries, exceptions are made for cargo transportation, medical and emergency transportation, military and state transportation and modes of repatriation. The measures imposing restrictions on or suspension of modes of passenger transportation are set out in Annex 1.2. Figure 2 provides a synthetic overview of which member states have adopted measures restricting passenger transport.

As with the temporary reintroduction of internal border controls, Austria was one of the first EU member states and Schengen countries to impose restrictions on the entry into Austria of modes of passenger transportation from another EU member state or Schengen country. It first imposed a prohibition on flights originating from ‘COVID-19 risk areas’ from landing in Austria, including

specific regions of Italy from 9 March 2020 (notably, Lombardy, Veneto and Emilia-Romagna). The flight restriction was extended to all flights originating from Italy (as of 10 March), Switzerland, France and Spain (as of 16 March), and the United Kingdom and the Netherlands (as of 17 March 2020). Austria further suspended all rail passenger transport from Italy as of 10 March 2020, and extended this rail suspension to Switzerland and Liechtenstein on 15 March.

*Figure 2. Restrictions on modes of International (including intra-EU) Passenger Transportation*

#### International air passenger transport (flights)

- Restriction to certain airports: Czech Republic, Finland and Switzerland
- Landing bans/Suspension of flights (from certain countries): Greece, Netherlands, Portugal, Romania, Spain
- Landing bans/Suspension of flights (all countries): Austria, Cyprus, Hungary, Latvia, Malta, Poland, Slovakia, Slovenia

#### International rail passenger transport (trains)

- Cancellation of train service (from certain countries): Austria, Portugal
- Cancellation of train service (all countries): Czech Republic, Hungary, Latvia, Poland, Slovakia, Slovenia

#### International road passenger transport (e.g. busses)

- Restriction to certain rail border crossing points: Finland
- Ban on entry of road passenger transport (from certain countries): Portugal
- Ban on entry of road passenger transport (all countries): Czech Republic, Hungary, Latvia, Slovakia, Slovenia

#### International maritime passenger transport

- Prohibition of entry into national ports or waterways (from certain countries): Greece, Spain
- Prohibition of entry into national ports or waterways (all countries): Croatia, Czech Republic, France (cruise ships + non-regular passenger ships > 100 ppl), Greece (cruise ships), Latvia, Lithuania, Malta, Portugal (cruise ships), Slovakia, Slovenia

Source: Authors' own elaboration, based on Annex 1.2.

Romania similarly suspended all flights from Italy as of 9 March 2020. It further extended its flights suspension to those between Romania and Spain (from 18 March), France and Germany (as of 25 March). The imposition of restrictions of international and intra-EU passenger transportation modes, particularly for passenger transport originating from Italy, was quickly followed by Portugal and Spain, both suspending passenger flights from Italy from 11 March 2020. Spain then prohibited all passenger sea vessels originating from Italy, as well as all cruise ships, from entering Spanish ports from 13 March 2020. Portugal similarly prohibited entry into Portuguese ports of all cruise

ships from 14 March 2020, as well as all forms of passenger transportation between Portugal and Spain as of 16 March 2020.

Denmark suspended all flights originating from parts of Italy and Austria from 11 March 2020. The Danish flight suspension was then repealed, according to the Danish government, as it was no longer necessary after having introduced an entry ban on persons on 14 March 2020.<sup>1</sup> Slovenia originally suspended passenger transportation by rail (train) and bus between Italy and Slovenia on 11 March 2020. This appears to have been superseded, however, by the suspension of all forms of passenger public transportation, including international and intra-EU passenger transport, as of 16 March 2020.

After suspending all passenger transportation coming from Italy, Spain, France, Germany and Switzerland (as of 12 March 2020), Malta extended its suspension to all forms of international and intra-EU passenger transportation from 21 March 2020. The Netherlands introduced a prohibition for flights from *inter alia* Italy on 13 March 2020 but extended this prohibition to flights originating in Spain (from 21 March) and Austria (from 23 March). Poland introduced a prohibition for international and intra-EU passenger flights on 14 March 2020, and suspended all international and intra-EU passenger rail transportation on 15 March 2020. As of 15 March 2020, Greece suspended all air and sea passenger transportation originating from Italy, all flights coming from Spain, as well as prohibited all cruise ships from entering Greek ports. Greece further introduced a prohibition for flights originating from the United Kingdom from 23 March 2020.

France introduced a prohibition for cruise ships and non-regular passenger ships carrying more than 100 passengers from stopping at French ports on 20 March 2020. Croatia similarly prohibited the entry into Croatian ports of international and intra-EU maritime passenger transport from 19 March 2020, with the primary exception being for ships flying the Croatian flag.

Hungary became the first EU member state or Schengen country to suspend all forms of international and intra-EU passenger transportation (including by air, bus or rail) as of 12 March 2020. Similarly, Slovakia has suspended all forms of international and intra-EU passenger transportation as of 13 March 2020. The Czech Republic suspended all forms of international and intra-EU passenger transportation as of 14 March 2020, with the exception of flights landing at Vaclav Havel Airport. Latvia followed with a suspension of all forms of international passenger transportation as of 17 March 2020. As of 21 March 2020, Cyprus had prohibited all flights from landing, leading *de facto* to a (near) complete suspension of international passenger transportation into Cyprus.

Only two countries, Finland and Switzerland, have imposed restrictions on international passenger transport that does not involve a prohibition or suspension. Thus, from 19 March 2020, Finland

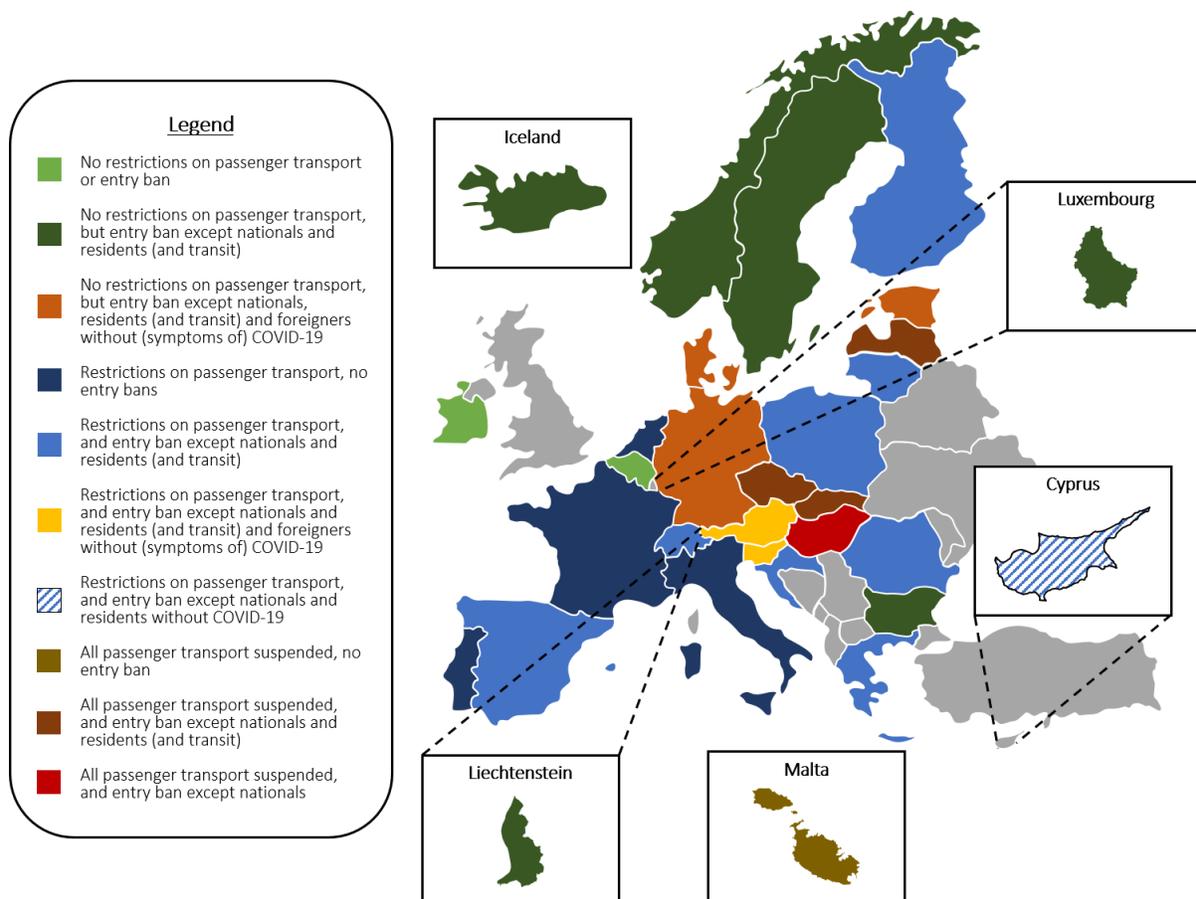
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<sup>1</sup> See “Ophævelse af flyveforbud – men fortsat indrejseforbud” [“Repeal of flight ban – but continued entry ban”], website of the Danish Ministry of Transport and Housing, 17 March, <https://www.trm.dk/nyheder/2020/ophaevelse-af-flyveforbud-men-fortsat-indrejseforbud/>.

restricted international and intra-EU passenger transportation to a handful of border crossing points. Switzerland restricts all international passenger flights from Austria, France, Germany, Italy and Spain (from 19 March 2020), all non-Schengen countries (21 March) or all flights originating from abroad (from 25 March) to the three airports in Zurich, Geneva and Basel.

Figure 3 below maps out which EU member states and Schengen countries have introduced measures restricting international and intra-EU passenger transportation as well as intra-EU entry bans (set out in Section 2.3 below).

*Figure 3. Entry bans and restrictions on international and intra-EU passenger transport of EU member states and Schengen countries*



Source: Authors' own elaboration, based on Annex 1.2 and 1.3.

### 2.3 Intra-EU travel bans

A third set of measures imposed by some EU member states and Schengen countries has been explicit restrictions in intra-EU and intra-Schengen mobility of persons. The Table in Annex 1.3 sets out the different measures imposed by EU member states and Schengen countries restricting the

entry and exit of persons from their territory, including intra-EU and intra-Schengen mobility. These measures are generally defined as entry (or exit) bans, meaning that (primarily) foreign nationals who do not meet the conditions to be exempted are automatically and categorically denied entry into the country. These measures will therefore also be referred to as entry bans, exit bans or (collectively) travel bans.

As a preliminary note, all EU member states and Schengen countries to have explicitly imposed an entry ban for persons have exempted their own nationals. Many of these entry bans also exempt transit passengers and persons engaged in essential services (including goods transportation and medical and emergency services). As Figure 4 below demonstrates, all EU member states or Schengen countries, except for Belgium,<sup>2</sup> France, Italy Ireland, Malta, the Netherlands, and Portugal, have explicitly introduced some form of entry ban for foreign nationals (with varying degrees of exceptions).

Figure 4. Entry bans introduced by EU member states and Schengen countries



Source: Authors' own elaboration, based on Annex 1.3.

Only three countries have introduced, however, an exit ban, namely Belgium (exit ban for all persons for non-essential travel from 18 March 2020), Czech Republic (exit ban for Czech nationals and residents of the Czech Republic from 16 March 2020), and Lithuania (exit ban for Lithuanian nationals, except for certain 'essential' travel).

<sup>2</sup> While Belgium has not formally adopted an entry ban, various sources indicate that persons are denied entry at the Belgian land borders for 'non-essential' travel; see e.g. "België sluit grenzen voor niet-essentiële verplaatsingen", *De Morgen*, 20 March 2020, <https://www.demorgen.be/nieuws/belgie-sluit-grenzen-voor-niet-essentielle-verplaatsingen~bb2d908c/>; "Belgium closes borders for 'non-essential' travel", *Politico.eu*, 20 March 2020, <https://www.politico.eu/article/belgium-closes-borders-for-non-essential-travel/>.

As with other measures taken by countries in response to COVID-19, Austria was the first EU member state to impose an intra-EU (and intra-Schengen) entry ban for foreign nationals coming from Italy (from 7 March 2020), Switzerland and Liechtenstein (from 16 March 2020), as well as Germany, Hungary and Slovenia (from 19 March 2020). An entry ban also applies to third country nationals who have been in a ‘COVID-19 risk area’ within the last 14 days (from 11 March 2020), as well as foreign nationals coming from outside of the Schengen area by air (from 19 March 2020). Austrian nationals and residents of Austria are exempted from all entry ban measures, with the other major exception being granted to persons who are able to provide a medical certificate showing they have been tested negative for COVID-19 in English, German or Italian.<sup>3</sup>

Bulgaria has banned the entry of all persons coming from *inter alia* France, Germany, Italy, the Netherlands, Spain and Switzerland, from 18 March 2020, except for, primarily, Bulgarian nationals and permanent residents of Bulgaria, as well as their family members. As of 20 March 2020, third country nationals have been banned from entering into Bulgaria. Croatia has banned entry into Croatia of all persons from 19 March 2020. Croatian nationals are exempted from this entry ban, while EU citizens and nationals of Schengen countries (as well as their family members) may enter Croatia only for the purpose of returning to their country of residence. Third country nationals may only enter Croatia if they hold an EC long-term residence permit or a residence title under EU or national law.

Only Cypriot nationals and foreign nationals legally residing in Cyprus (as well as certain other limited exceptions) are permitted to enter Cyprus as of 15 March 2020. Furthermore, as of 16 March, a *precondition* for entry into Cyprus for persons not subject to the entry ban is proving that one has been tested negative for COVID-19 by means of a medical certificate. The Czech Republic has imposed an entry ban, from 16 March 2020, to all persons not being a Czech national or a resident of the Czech Republic. Denmark has similarly banned entry to all foreign nationals as of 14 March 2020, except for (Danish nationals and) residents of Denmark. Importantly, an exception is made for foreign nationals entering or transiting through Denmark for a ‘worthy purpose’, defined as applying, among others, to persons residing or working in Denmark, persons engaged in goods transport, primary caregivers for minors residing in Denmark, or persons entering Denmark to visit seriously ill or dying family members.

Estonia has introduced a prohibition of entry for persons from 17 March 2020. Excluded from the entry ban are Estonian nationals and foreign nationals legally residing in the country. Certain categories of *asymptomatic* foreign nationals may also be allowed to enter, such as asymptomatic persons engaged in providing an ‘essential service’ (including goods transport and health services),

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<sup>3</sup> For example, the templates included in the relevant Austrian regulatory instruments (see BGB1. II No. 105/2020, Annex B, [https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2020\\_II\\_105/COO\\_2026\\_100\\_2\\_1730920.html](https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_II_105/COO_2026_100_2_1730920.html) and BGB1. II No. 87/2020, Annex B, [https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2020\\_II\\_87/COO\\_2026\\_100\\_2\\_1730050.html](https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_II_87/COO_2026_100_2_1730050.html)) require the Medical Certificates, certifying by a physician, to declare that “This is to certify that [name] born on [date] in [place] was tested for SARS-CoV-2 on [date of test]. Infection status at the time of testing for SARS-CoV-2: pos [ ] neg: [ ]”.

asymptomatic cross-border workers, or asymptomatic close family members of Estonian nationals or residents whose entry is exceptionally permitted by the Estonian Police and Border Guard. Finland has banned the entry of persons from 19 March 2020, except for, Finnish nationals, nationals of EU member states and Schengen countries residing in Finland (as well as their family members), third country nationals with a Finnish residence permit, transit passengers returning to their country of residence, as well as necessary cross-border work traffic.

Germany introduced two entry bans as of 16 March 2020, one for non-resident third country nationals, and one for, generally, all non-German nationals and non-German residents entering from Austria, Denmark, France, Luxembourg and Switzerland. In the case of the latter, an exception is made for foreign nationals whose entry is necessary for ‘urgent reasons’. It is up to the discretion of the German border authorities whether a foreign national’s reason for entry is urgent.<sup>4</sup> The German Federal Police has provided some examples of what is and is not considered an urgent reason.<sup>5</sup> Thus, for example, medical treatment which is “necessary to prevent life-threatening deterioration in health” and necessary childcare or care for other family members for medical reasons is considered as urgent. On the other hand, caring for family members already under (professional) medical care, visits to spouses, partners, children, maintenance of one’s property in Germany, notary appointments or transit through Germany to shorten one’s route are all considered as not urgent.

Greece has banned entry of all persons as of 18 March 2020, except for EU citizens – including Greek nationals – and nationals of Schengen countries (as well as their family members), third country nationals with resident status in an EU member state or Schengen country, and foreign nationals providing ‘essential services’ (such as goods transport and medical staff).

Hungary has by far introduced the most restrictive entry ban, as all foreign nationals are prohibited entry into Hungary from 17 March 2020. While the narrative presented by the Hungarian Government seems to indicate an absolute entry ban for all non-Hungarian nationals,<sup>6</sup> the relevant regulatory instruments provide for EEA nationals with permanent residence in Hungary to be treated the same as Hungarian nationals.<sup>7</sup>

Iceland introduced an entry ban for all third country nationals as of 20 March 2020, with exceptions for transit passengers, persons engaged in vital services (such as goods transportation and

<sup>4</sup> See “Coronavirus: Frequently Asked Questions”, website of the German Federal Ministry of the Interior, under question “What are urgent reasons for crossing the border?”, <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>.

<sup>5</sup> See “Corona-Virus: Antworten auf häufig gestellte Fragen (FAQ)” [Coronavirus: Answers to Frequently Asked Questions (FAQ)], website of the German Federal Police, under question “Darf ich als nichtdeutscher Staatsbürger nach Deutschland einreisen, wenn ...”, [https://www.bundespolizei.de/Web/DE/04Aktuelles/01Meldungen/2020/03/200317\\_faq.html](https://www.bundespolizei.de/Web/DE/04Aktuelles/01Meldungen/2020/03/200317_faq.html).

<sup>6</sup> See “Nem utazhatnak be külföldiek Magyarországra/Foreign citizens cannot enter Hungary”, website of the Hungarian Police, 16 March 2020, <http://www.police.hu/hu/hirek-es-informaciok/legfrissebb-hireink/hatarrendeszet/nem-utazhatnak-be-kulfoldiek-magyarorszagra>.

<sup>7</sup> See §8 of Government Decree 41/2020 (III. 11), as last amended.

healthcare), travel for urgent family reasons, and persons seeking international protection. Latvia has banned the entry of all persons from 17 March 2020, except for Latvian nationals and foreign nationals permanently residing in the country, and persons engaged in transportation of goods and persons. A similar entry ban has been introduced by Lithuania from 16 March 2020 for non-Lithuanian nationals and non-Lithuanian residents.

As from 18 March 2020, a ban has been imposed for entry into Luxembourg. The entry ban does not apply, however, to Luxembourg nationals, EU citizens, nationals of Schengen countries or British nationals (including their family members) who are returning to their place of residence. The entry ban also does not apply to third country nationals with a valid residence title under EU law, Luxembourg law or the laws of a neighbouring country. Transit passengers and persons engaged in essential services are also exempt from the entry ban. Furthermore, asylum seekers and persons seeking international protection are also permitted to enter into Luxembourg.

Norway has introduced an entry ban from 16 March 2020. Norwegian nationals, other EEA nationals and their family members and foreign nationals with a residence permit in Norway are exempted from the entry ban. Similarly, an exception is made for persons providing certain 'essential' services, EEA nationals transiting through Norway to their country of residence, and persons seeking international protection. An entry ban has also been adopted, from 15 March 2020, for Poland. Polish nationals and their spouses and minor children are exempted from the entry ban, as are members of the Polish diaspora (i.e. holders of the *Karta polaka*), legally resident foreign nationals, and foreign nationals entitled to work in Poland.

Similarly, an entry ban is in place in Romania from 22 March 2020, with only Romanian nationals (and their family members), EU citizens and nationals of Schengen countries residing in Romania (as well as their family members), foreign nationals and stateless persons with a residence permit in Romania, transit passengers, persons travelling for imperative (medical or family) reasons, and persons in need of international protection being permitted entry into Romania. Slovakia has banned the entry into Slovakia, from 13 March 2020, of non-resident foreign nationals. Exempted from this entry ban are foreign nationals who are close relatives of Slovak nationals, and cross-border workers in Slovakia.

Slovenia is, to date, the only EU member state or Schengen country to not have introduced a complete entry ban for persons coming from abroad. Slovenia's entry ban is restricted to persons coming from *Italy and Austria*. Slovenian nationals remain entitled to enter, as are residents of Slovenia. Foreign nationals who can demonstrate that they have been tested negative for COVID-19 through a medical certificate, or who are otherwise asymptomatic with a body temperature under 37.5°C are also permitted to enter into Slovenia. However, foreign nationals coming from Austria and who 'are assumed to be unable to leave Slovenia due to measures taken by neighbouring countries' will be denied entry.

Spain has also issued two entry bans, one on 17 March 2020, and another on 23 March 2020. The personal scope of the entry bans overlaps to a certain extent, as both entry bans exempt Spanish nationals, residents of Spain, frontier workers, foreign nationals whose entry is necessary for reasons of *force majeure* or situation of need, and persons engaged in transportation of goods. Sweden has also introduced an entry ban from 19 March 2020, applicable to all foreign nationals except for EEA nationals or Swiss nationals (and their family members) and foreign nationals with permanent residence or a residence title in Sweden, another EEA member state or Switzerland. Certain categories of foreign nationals are further exempted from the entry ban, including persons engaged in the provision of ‘essential services’, transit passengers, persons travelling for essential family reasons, and persons in need of international protection.

Finally, Switzerland has also introduced an entry ban, first on 13 March 2020 for persons coming from Italy, but most recently extended to all persons coming from anywhere except for Liechtenstein. The entry ban does not apply to Swiss nationals, residents of Switzerland, persons entitled to free movement in Switzerland entering for professional reasons, transit passengers, and persons engaged in the provision of certain ‘essential’ services. Liechtenstein has adopted an entry ban mirroring the Swiss entry ban as of 13 March 2020.

### 3. The European Union’s response

The first immediate response by the European Commission was to raise concerns and doubts about the necessity and proportionality of reintroducing internal border checks in the EU. On 24 February 2020, when asked in a Press Conference about the possibility of suspending Schengen,<sup>8</sup> Commissioners Janez Lenarčič and Stella Kyriakides responded that “it would be highly regrettable if this situation would be politicised”. Commissioner Lenarčič added that when discussing measures including border controls any national measure should be taken in view of three conditions: first, a credible risk assessment and scientific evidence; second, a proportionality test; and third, in coordination with other member states. The Commissioners underlined the need to “to act as Union here, not individually”.<sup>9</sup>

The developments that followed took however a different direction, with several EU Schengen governments reintroducing unilateral and ad hoc border controls and travel restrictions, and the Commission making a ‘U-turn’ on the necessity of internal border controls and automatic refusal of entry-measures. In a press conference following the G7 Leaders’ video conference on the coronavirus, President of the European Council Charles Michel highlighted “the importance to be

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<sup>8</sup> “LIVE EC press point by Commissioners Janez LENARČIČ and Stella KYRIAKIDES on the mobilisation of EU financial support to help the global fight against the COVID-19 outbreak”, EU Audiovisual Service, 24 February 2020, <https://audiovisual.ec.europa.eu/en/video/I-185283>.

<sup>9</sup> “Commission calls for coordination before any border measures for coronavirus”, *EURACTIV*, 24 February 2020, <https://www.euractiv.com/section/health-consumers/news/commission-calls-for-coordinated-proportional-border-measures-for-coronavirus/>.

united and address this crisis together...having as priority the health of citizens". On the same occasion, President of the Commission von der Leyen alluded to the existence of a "global health crisis" or a "global storm". She reconfirmed the need to "stay together and working together", giving particular importance to the free movement of goods, over the one of people inside the Union. She announced the adoption of a set of measures to respond to COVID-19, first, Commission Guidelines for border management measures (Section 3.1.), and second, an EU Travel Ban (Section 3.2 below).<sup>10</sup>

### 3.1 The Commission guidelines on border management

On 16 March 2020, the Commission published a document titled "COVID-19: Guidelines for border management measures to protect health and ensure the availability of goods and essential services" (C(2020) 1753 final).<sup>11</sup> The Commission's starting point was the central importance of maintaining the functioning of the internal market, and that the implementation of the Union's policies on checks on persons should be governed by the principle of solidarity between member states as enshrined in the Treaties. While dressed as a 'soft law' instrument, the Guidelines not only contained 'recommendations' to EU member states to ensure an 'integrated or coordinated approach'. They also include a list of reminders of legally binding standards to check the compliance of national measures with EU law.

First, any restrictions of goods and passengers on public health grounds should be transparent, justified (i.e. spelling out "the reasons and link to Covid-19. Justifications must be science-based and supported by World Health Organization (WHO) and European Centre for Disease Prevention (ECDC) recommendations"), relevant, non-discriminatory and proportionate.<sup>12</sup> According to the Guidelines, a national measure would be proportionate on "condition that it has been taken following consultation of the health authorities and that it has been considered by them as suitable and necessary to attain the public health objective".

The Commission underlines that "the conduct of health checks of all persons entering the territory of Member States does not require the formal introduction of internal border controls".<sup>13</sup> Paradoxically, it subsequently recommends EU member states to put in place and conduct "screening measures which aim at assessing the presence of symptoms and/or the exposure to

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<sup>10</sup> It was reported that on the same occasion both discussed the measures during a telephone call with French President Macron and German Chancellor Merkel, and that during the call "Mr Macron attacked national moves to close borders and called for a European response"; see "EU leaders prepare to close bloc's borders", *Financial Times*, 16 March 2020.

<sup>11</sup> European Commission (2020a), "COVID-19: Guidelines for border management measures to protect health and ensure the availability of goods and essential services", C(2020) 1753 final, Brussels, 16.3.2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316\\_covid-19-guidelines-for-border-management.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf).

<sup>12</sup> See European Commission (2020a), p. 2.

<sup>13</sup> *Ibid*, p. 4.

Covid-19 of travellers arriving from affected areas or countries”.<sup>14</sup> In the view of the Commission, these would consist of ‘primary’ and ‘secondary’ measures.

The ‘primary screening’ would be conducted by non-health professionals, most likely law enforcement, border or private security personnel and which would include “visual observation of travellers for signs of the infectious disease, measurement of travellers’ body temperature, and completion of a questionnaire by travellers asking for presence of symptoms and/or exposure to the infectious agent”.<sup>15</sup> The ‘secondary screening’ would be carried out by personnel with medical training and would consist of “an in-depth interview, a focused medical and laboratory examination and second temperature measurement”.<sup>16</sup> There is a contradiction in this because if personnel with ‘medical training’ are only involved in ‘secondary screening’ how can we then make sure that a refusal of entry is proportionate?

The Guidelines stipulate that refusal of entry may not always be the most effective measure when conducting external border controls. It could be preferable instead to apply alternative measures such as isolation or quarantine. In the same vein, national measures should be implemented with due regard to the health of the individuals concerned. The Commission underlines that persons who are clearly sick should not be refused entry, but appropriate measures should be taken. Member states cannot refuse entry because the person is clearly sick but rather access to appropriate medical or health care should be provided to them.<sup>17</sup>

Second, the Guidelines lay down a set of extra obligations on EU member states when it comes to EU citizens and the Free Movement Directive 2004/38, in particular non-discrimination relative to nationals. They state that member states “must not deny entry to EU citizens or third country nationals residing on its territory and must facilitate transit of other EU citizens and residents that are returning home”.<sup>18</sup> The Guidelines recommend member states to allow entry by cross-border workers “in particular but not only those working in the health care and food sector, and other essential services (e.g. child care, elderly care, critical staff for utilities) to ensure continued professional activity”.

Third, the Commission put special emphasis on preventing the reintroduction of internal border controls hampering the free movement of goods in the Single Market. The Guidelines recommend Schengen countries to focus on preventing border controls actually leading to queuing and long waiting times, leading to “large gatherings, which risk increasing the spread of the virus”. They advise member states to give special priority to the transport and mobility sectors, the facilitation of safe movement of transport workers and of emergency transport services via so-called “green

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<sup>14</sup> Ibid, p. 3.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid, pp. 3-4.

<sup>18</sup> According to the Guidelines, “Member States can, however, take appropriate measures such as requiring persons entering their territory to undergo self-isolation or similar measures upon return from an area affected by Covid-19 provided they impose the same requirements on their own nationals.” See *ibid.*, pp. 3-4.

lanes". This should make it possible to ensure the continuity of economic activities and the supply chain of goods considered to be 'essential', such as "food supplies including livestock, vital medical and protective equipment and supplies". The Guidelines further underline that any national measures restricting transport of goods should comply with similar requirements of proportionality, transparency and relevance, and be duly motivated, mode-specific and non-discriminatory.

### 3.2 The EU Travel Ban

Following the COVID-19 outbreak in Europe, an increasing number of non-EU countries started imposing travel restrictions to individuals coming from the EU. The US Administration went a step further and introduced a 'travel ban'.<sup>19</sup> US President Trump adopted the Proclamation on "Suspension of Entry as Immigrants and Non-immigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus" on 11 March 2020, which came to effect on 13 March 2020.<sup>20</sup> The Proclamation meant a prohibition of entry of people coming from the whole EU Schengen area for a preliminary period of 14 days.<sup>21</sup> The US Travel Ban exempted a few categories of people from being banned entry into the country, such as lawfully permanent resident foreigners, spouses and children of US citizens or permanent residents, and another restrictive group of persons such as health professionals or NATO employees. The Proclamation emphasised that "the free flow of people between the Schengen Area countries makes the task of managing the spread of the virus difficult."

Following an Oval Office speech by President Trump where he stated that he was shutting down "all travel from Europe", with the exception of the UK,<sup>22</sup> the US Department of Homeland Security Acting Secretary Chad F. Wolf issued a Notice of Arrival Restrictions issued on 16 March 2020 clarifying that the Presidential Proclamation does not apply to US citizens and legal residents and their families. It outlined the process for American citizens, legal permanent residents, and their immediate families who are returning home after recently visiting certain European countries, China, and Iran.<sup>23</sup>

<sup>19</sup> See "U.S. to Suspend Most Travel From Europe as World Scrambles to Fight Pandemic", *The New York Times*, 11 March 2020, <https://www.nytimes.com/2020/03/11/us/politics/anthony-fauci-coronavirus.html>.

<sup>20</sup> See Proclamation 9994 on the Suspension of Entry as Immigrants and Non-immigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus, 11 March 2020, published in the *Federal Register*, on 16 March 2020 <https://www.federalregister.gov/documents/2020/03/16/2020-05578/suspension-of-entry-as-immigrants-and-nonimmigrants-of-certain-additional-persons-who-pose-a-risk-of>.

<sup>21</sup> According to the Presidential Proclamation these include "Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland"; see *ibid*.

<sup>22</sup> See "White House forced to correct three mistakes in Trump's coronavirus travel ban address", *The Independent*, 12 March 2020, <https://www.independent.co.uk/news/world/americas/us-politics/trump-europe-travel-ban-coronavirus-oval-office-speech-a9396761.html>.

<sup>23</sup> See <https://www.federalregister.gov/documents/2020/03/16/2020-05578/suspension-of-entry-as-immigrants-and-nonimmigrants-of-certain-additional-persons-who-pose-a-risk-of>.

In light of the mounting criticism about the arbitrariness inherent to the exclusion of the UK and Ireland from the ban,<sup>24</sup> despite the fact that COVID-19 cases had been reported in both countries, the ban was later on complemented by another Proclamation of 14 March 2020 expanding the suspension of entry to both countries.<sup>25</sup> Media sources referred to officials highlighting the unfeasibility and lack of effectiveness of the US administration's entry ban,<sup>26</sup> and made an important reference to the fact that US immigration authorities would need non-Schengen European countries to share information on the previous travel records of those people flying to the US.<sup>27</sup> A similar interest in harvesting the data of air passengers had lain behind President Trump's previous travel ban.<sup>28</sup>

European leaders did not wait to respond to and express dismay at Trump's travel ban. In a Joint Statement on the US travel ban of 12 March 2020, President von der Leyen and President Michel stated the EU's disapproval "that the US decision to impose a travel ban was taken unilaterally and without consultation".<sup>29</sup> At national level, for instance, several French government representatives, such as the Minister of Health, Olivier Véran said that "closing borders was not justified on scientific grounds". Similarly, the Minister of Finance Bruno Le Maire declared that the order would not help curb the outbreak and spark "economic chaos".<sup>30</sup> Similarly, even the UK Minister of Finances, Rishi Sunak criticised the decision by saying that the efficiency of the measure had not been proven.<sup>31</sup>

And yet, despite all the concerns above, the EU was about to align itself with Trump Administration's nationalistic and border politics. In his speech of 16 March 2020 announcing a preliminary 'national lockdown', President Macron qualified the situation as a 'We are at war' and

<sup>24</sup> "Europe Braces for Trump's Travel Ban", *Financial Times*, 13 March 2020.

<sup>25</sup> Proclamation 9996 on the Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus, 14 March 2020, published in the *Federal Register* on 18 March 2020, <https://www.federalregister.gov/documents/2020/03/18/2020-05797/suspension-of-entry-as-immigrants-and-nonimmigrants-of-certain-additional-persons-who-pose-a-risk-of>. The Proclamation states that "this general ability to travel freely between the United Kingdom and the Republic of Ireland poses the same challenges that the Schengen Area posed for suspending and limiting entry to the United States by travelers who had been physically present within any of the Schengen Area countries".

<sup>26</sup> "Europeans express dismay at Trump travel ban", *Financial Times*, 12 March 2020.

<sup>27</sup> "Europe Braces for Trump's Travel Ban", *Financial Times*, 13 March 2020.

<sup>28</sup> E. Guild, D. Bigo and S. Carrera (2017), "Trump's Travel Bans: Harvesting personal data and requiem for the EU-US Privacy Shield", *CEPS Policy Insights* No. 2017/13, CEPS, Brussels, April 2017, <https://www.ceps.eu/ceps-publications/trumps-travel-bans-harvesting-personal-data-and-requiem-eu-us-privacy-shield/>.

<sup>29</sup> "Joint Statement by President von der Leyen and President Michel on the U.S. travel ban", STATEMENT/20/449, Brussels, 12 March 2020, [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_20\\_449](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_449).

<sup>30</sup> "Coronavirus crisis: France warns Trump's travel ban 'error' will trigger 'economic chaos'", *Express.co.uk*, 16 March 2020, <https://www.express.co.uk/news/world/1256035/US-coronavirus-travel-ban-europe-france-macron-eu-uk-latest-donald-trump>. See also "'Massive Shock' and Battered Airline Stocks in Europe With Trump's Travel Ban", *The New York Times*, 12 March 2020, <https://www.nytimes.com/2020/03/12/business/trump-europe-travel.html>, and "What You Need to Know About Trump's European Travel Ban", *The New York Times*, 12 March 2020, <https://www.nytimes.com/2020/03/12/world/europe/trump-travel-ban-coronavirus.html>.

<sup>31</sup> "L'UE désapprouve le caractère unilatéral de la décision de Trump: 'Le coronavirus est une crise mondiale'" [The EU disapproves of the unilateral nature of Trump's decision: 'The coronavirus is a global crisis'], *La Libre.be*, 12 March 2020, <https://www.lalibre.be/international/amerique/l-ue-desapprouve-le-caractere-unilateral-de-la-decision-de-trump-le-coronavirus-est-une-crise-mondiale-5e6a160e9978e201d8b55638/>.

declared a travel ban on entry for all third country nationals from 17 March 2020.<sup>32</sup> It was reported that it was actually Macron who had pushed for the idea.<sup>33</sup> In response to the US measures, and the increasing number of unilateral measures by several EU governments reintroducing internal borders, Macron was said to have urged the European Commission to present an EU-wide decision suspending international travel to the Union.<sup>34</sup>

On 16 March 2020, the Commission recommended the European Council adopt a “Temporary Restriction on Non-Essential Travel to the EU”<sup>35</sup> of application in the EU+ area, which is a ‘travel ban’ even though EU officials have avoided calling it that way so as to blur its evident resemblance with Trump’s measure. It came in the form of a Communication and lacked any clear legal basis in EU law. The main idea behind the ‘Temporary Restriction’ is that “The EU’s external border has to act as a security perimeter for all Schengen states”.

Similar to the position held by several EU Ministries of the Interior, therefore, it pursues the idea that the closure of international traffic and borders can contain the spread of the virus. Moreover, during the press conference presenting the measure, President von der Leyen highlighted that an EU-wide restriction would “prevent that non-essential travel would pose more strains in our health systems”. It was reported that “The border measures taken by national capitals have prompted speculation that some governments are acting not so much to stop the spread of the virus, but to block citizens of other EU countries from crossing boundaries to access doctors and hospitals”.<sup>36</sup>

Despite the fact that the fourteen EU Ministries of the Interior had placed a particular focus on reintroducing internal borders, the Communication aimed at shifting the attention from internal to EU external borders by arguing that “Uncoordinated travel restrictions by individual member states for their parts of external borders risk being ineffective.” An EU official quoted by Reuters said that “We do know the threat is already inside, the threat is not coming from the outside anymore. So, it’s more about political messaging”.<sup>37</sup> Also politically, the Commission presented the proposal with the aim that in exchange the fourteen EU governments would lift internal border checks and ensure a free movement area. The Commission declares that an EU-wide travel ban

...would also enable the lifting of internal border control measures, which several Member States have recently reintroduced in an effort to limit the spread of the virus. These measures risk having a serious

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<sup>32</sup> “Emmanuel Macron on coronavirus: ‘We’re at war’”, *Politico.eu*, 16 March 2020, <https://www.politico.eu/article/emmanuel-macron-on-coronavirus-were-at-war/>.

<sup>33</sup> “Europe mulls shutting external borders in fight against coronavirus”, *Reuters*, 16 March 2020, <https://www.reuters.com/article/us-health-coronavirus-eu-vonderleyen/eu-executive-proposes-shutting-down-blocs-external-borders-for-30-days-idUSKBN2132K7>.

<sup>34</sup> See “Coronavirus: Europe plans full border closure in virus battle”, *BBC News*, 17 March 2020, <https://www.bbc.com/news/world-europe-51918596>.

<sup>35</sup> European Commission (2020b), Communication from the Commission to the European Parliament, the European Council and the Council, “COVID-19: Temporary Restriction on Non-Essential Travel to the EU”, COM(2020) 115 final, Brussels, 16.3.2020, <https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-115-F1-EN-MAIN-PART-1.PDF>.

<sup>36</sup> “Coronavirus border controls imperil EU freedoms”, *Politico.eu*, 16 March 2020, <https://www.politico.eu/article/coronavirus-border-controls-imperil-eu-freedoms/>.

<sup>37</sup> “Europe mulls shutting external borders in fight against coronavirus”, *Reuters*, 16 March 2020, op. cit.

impact on the functioning of the Single Market as the EU and the Schengen area is characterised by a high degree of integration, with millions of people crossing internal borders every day.

‘The ban’ targets what the Commission qualifies as ‘non-essential’ travel to the EU, to which it is more open in comparison to the categories mentioned in the above Guidelines on internal border controls. The following categories of persons are considered to have an ‘essential function or need’ to be allowed to enter the EU: healthcare professionals, health researchers, and elderly care professionals; frontier workers; transport personnel engaged in haulage of goods and other transport staff to the extent necessary; diplomats, staff of international organisations, military personnel and humanitarian aid workers in the exercise of their functions; passengers in transit; passengers travelling for imperative family reasons; and persons in need of international protection or for other humanitarian reasons.

In direct contradiction to the position taken by the guidelines on border management, the Communication on the Temporary Restriction stated that EU member states are allowed to refuse entry at Schengen external borders to “non-resident third country nationals where they present relevant symptoms or have been particularly exposed to risk of infection and are considered to be a threat to public health”.

The travel restriction also exempts EU citizens and citizens of the Schengen Associated States, and their family members. For this purpose, UK nationals will be treated in the same way as EU citizens until the end of 2020. The ban does not either cover third country nationals who are long-term residents or who have a ‘right to reside’ based on EU migration directives or national law, as well as holders of national long-term visas. However, it imposes the need to carry out “Coordinated and reinforced health checks for the individuals allowed to enter the EU+ area.” In terms of its timeframe, it is by now presented as ‘temporary’ for a period of 30 days, with the possibility of extension “depending on further developments”, and is expected to be of immediate application by states.<sup>38</sup> It was formally accepted by the European Council on 17 March 2020.<sup>39</sup> As of 30 March 2020, all EU member states (with the exception of Ireland) and the Schengen Associated States have applied to different degrees national policies resembling the EU Travel Ban.

On 30 March 2020, the Commission published another Communication providing guidance on the implementation of the EU Travel Ban by EU member states.<sup>40</sup> The Communication included inputs

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<sup>38</sup> The Commission proposal for an EU Travel Ban includes a sentence stating that “EU Member States and Schengen Associated States should also strongly encourage citizens and residents not to travel outside their territories in order to prevent the further spread of the virus to other countries”, see European Commission (2020b), *op. cit.*, p. 3.

<sup>39</sup> See European Council (2020a), “Conclusions by the President of the European Council following the video conference with members of the European Council on COVID-19”, website of the General Secretariat of the European Council, 17 March 2020, <https://www.consilium.europa.eu/en/press/press-releases/2020/03/17/conclusions-by-the-president-of-the-european-council-following-the-video-conference-with-members-of-the-european-council-on-covid-19/>. See also “European leaders to hold coronavirus videoconference”, *Politico.eu*, 10 March 2020, <https://www.politico.eu/article/coronavirus-european-leaders-to-hold-videoconference/>.

<sup>40</sup> European Commission (2020c), Communication from the Commission, “COVID-19. Guidance on the implementation of the temporary restriction on non-essential travel to the EU, on the facilitation of transit arrangements for the repatriation of EU citizens,

from three EU agencies: Frontex (European Border and Coast Guard), Europol and the European Centre for Disease Prevention and Control (ECDC). It provides a set of recommendations, some of which are actually legally required by the SBC, regarding the procedures for border or border police authorities to follow when conducting border controls. These include for instance the steps to be taken in cases of refusal of entry, such as the interpretation of “relevant symptoms” of COVID-19 among travellers,<sup>41</sup> the requirement for authorities to issue and fill in a refusal of entry form with comments, the inclusion of this information in “border check” information systems or databases, or the handing over of an information leaflet on COVID-19.

The Communication puts special emphasis on measures to be adopted so as to ensure that EU citizens, third country nationals who are long-term residents or have a right to reside under EU migration law, and their families,<sup>42</sup> can return to their homes.<sup>43</sup> In light of the reduced availability of commercial flights, and the EU member states Joint Statement of 26 March 2020 on COVID-19, it provides recommendations regarding the facilitation of transit and transit after repatriation of EU citizens and legally residing third country nationals, and their family members.<sup>44</sup> Here the Commission states that nationals from Serbia, North Macedonia, Montenegro and Turkey should be treated equal to EU and Schengen Associated states nationals when returning to their countries of origin.<sup>45</sup> The Guidelines exempt from carriers liability the airlines transporting EU citizens from a third country into the Schengen area not having received prior authorisation in cases where transit through the member state of destination of the flight is not guaranteed. The member state should also facilitate proof of onward movements to the persons concerned.<sup>46</sup>

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and on the effects on visa policy”, C(2020) 2050 final, Brussels, 30.3.2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200330\\_c-2020-2050-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200330_c-2020-2050-report_en.pdf).

<sup>41</sup> The Communication makes reference to the ECDC Technical Report; see ECDC (2020), “Public health management of persons, including healthcare workers, having had contact with COVID-19 cases in the European Union”, *ECDC Technical Report*, Stockholm, European Centre for Disease Prevention and Control, 25 February 2020, <https://www.ecdc.europa.eu/sites/default/files/documents/covid-19-public-health-management-contact-novel-coronavirus-cases-EU.pdf>.

<sup>42</sup> The Communication emphasises that “Member States can, however, take appropriate measures such as requiring non-nationals entering their territory to undergo self-isolation or similar measures upon return from an area affected by COVID-19, provided they impose the same requirements on their own nationals”, see European Commission (2020c), *op. cit.*, p. 5.

<sup>43</sup> The Commission clarifies that “nationals of San Marino, Andorra, Monaco and Vatican/Holy See should be assimilated to nationals of Member States”, see European Commission (2020c), *op. cit.*, p. 4.

<sup>44</sup> Refer on this matter to European Council (2020b), “Joint statement of the members of the European Council, 26 March 2020”, website of the General Secretariat of the European Council, <https://www.consilium.europa.eu/media/43076/26-vc-euco-statement-en.pdf>. Paragraph 3 states that: “We will urgently address, with the assistance of the Commission, the remaining problems concerning EU citizens blocked at internal EU borders and prevented from returning to their home countries and cross-border and seasonal workers who have to be able to continue essential activities while avoiding further spread of the virus”.

<sup>45</sup> The Communication limits this equal treatment to repatriation operations under the Union Civil Protection Mechanism, “given that they are Participating States to the Mechanism”, see European Commission (2020c), *op. cit.*, p. 4.

<sup>46</sup> European Commission (2020c), *op. cit.*, p. 10, states: “If a Member State requires EU citizens to provide proof of onward transit, for example a booked railway ticket, this information should be made available on the Member States’ websites to ensure that citizens are adequately informed. Such a requirement should also be communicated to the other Members States, including to their embassies and consulates in third countries in the context of local consular cooperation. To facilitate onward transit through a Member State, EU citizens should be allowed to obtain such proof at the border, for example by allowing them to purchase railway or plane tickets directly at airports”.

The Commission designates categories of third country nationals not falling under any of the former categories and that should be allowed entry because of an “essential function or need”. These include, in addition to the group included in the original Communication proposing the adoption of the ban explained above, seasonal workers in agriculture. Interestingly, and problematically, the Guidance limits entry of persons in need of international protection or for other humanitarian reasons to cases where the principle of *non-refoulement* is respected, and therefore foresees the possibility for member states to send asylum seekers to countries of transit or origin under so-called ‘safe country’ notions.

The Commission adds a call to member state authorities to ensure that all categories of persons allowed to enter the Schengen area are subject to “reinforced health checks”,<sup>47</sup> which according to the Guidelines can include “the use of thermal scanning and/or symptom screening”. It emphasises that restricting the number of border crossing points may facilitate a ‘focused’ implementation of public health measures.

The Communication includes a section titled “Security Issues”, which foresees the possibility for the Europol agency to deploy guest officers from member states to carry out “secondary security checks” against relevant EU databases such as Europol and Interpol information systems or the Schengen Information System (SIS II). Here the Guidelines mention the use of ‘risk indicators’ to identify “high risk profiles” of persons on the move. They recommend member state authorities grant access and use all EU Justice and Home Affairs databases at their disposal. The Guidelines also foresee the possibility to coordinate joint cross-border police cooperation on regional and local bases, as well as “enhanced assistance for the member states on terrorism, organised and other serious crime posing a risk to public order and security.”<sup>48</sup>

As regards exit, the Commission advises national authorities to carry out “exit health screening checks” aimed at detecting symptoms or exposure to COVID-19. It states that “Travellers identified as exposed to or infected with COVID-19 should not be allowed to travel”,<sup>49</sup> and the issuing of a formal warning on the measures that will apply in case of re-entry. The Communication expressly includes the possibility of over-saturation of specific border crossing points and allows for temporarily relaxing border checks “as a result of exceptional and unforeseen circumstances, leading to a traffic of such intensity that the waiting time at the border crossing point becomes excessive and where all resources have been exhausted as regards staff, facilities and organisation,”<sup>50</sup> with particular focus on the relaxation of exit checks.

Finally, the Guidelines deal with minimum services provided by Consulates processing visa applications in non-EU countries. Here the Communication states that “despite temporary partial closure of visa sections”, member states are obliged to accept and examine visa applications from

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<sup>47</sup> European Commission (2020c), op. cit., p. 5.

<sup>48</sup> Ibid., p. 6.

<sup>49</sup> Ibid., p. 7.

<sup>50</sup> Ibid., p. 8.

all the categories of persons exempted by the EU Travel ban, with the exception of seasonal workers and asylum seekers, subject to the rules envisaged in the EU Visa Code.<sup>51</sup> It recommends member states waive penalties for visa holders unable to leave the Schengen territory due to travel restrictions, and not to take into account the period of ‘overstay’ for future visa applications.<sup>52</sup>

## 4. Examining the legality of cross-border mobility restrictions

### 4.1 Away from Schengen: compliance with EU procedural requirements

The reintroduction of internal border checks is permitted under Arts. 25 to 35 of the Schengen Borders Code (Regulation 2016/399). The Code foresees a Union-level procedure consisting of a number of guarantees – criteria, procedure and checks and balances – which must apply when governments unilaterally decide to take such an action. It has not been uncommon for EU member states to reintroduce internal borders in the past.<sup>53</sup> Art. 25 SBC foresees the general framework where immediate or urgent action is not required. It allows member states to reintroduce internal controls for foreseeable events during a period of time of up to 30 days.

Art. 25 SBC requires that the scope and duration of the controls “shall not exceed what is strictly necessary to respond to the serious threat”, and should be only adopted as “a last resort”. If the situation persists beyond 30 days, the SBC grants member states the possibility to prolong the checks on the same grounds for an extra period of 30 days, which can be renewed for period of up to 30 days, and for a total period not exceeding 6 months. Art. 26 SBC stipulates that member states making use of Art. 25 SBC must first assess the extent to which the measure can be expected to remedy the situation and its proportionality, including the impact of the “threat” to public policy, as well as the likely impact of the measure on the free movement of persons.<sup>54</sup>

The SBC also envisages the possibility for member states to derogate Schengen in cases “requiring immediate action” for a limited period of 10 days under Art. 28 SBC. As explored in Section 2 of

<sup>51</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

<sup>52</sup> European Commission (2020c), *op. cit.*, p. 12.

<sup>53</sup> See for instance S. Carrera, E. Guild, M. Merlino and J. Parkin (2011), “A Race against Solidarity: The Schengen Regime and the Franco-Italian Affair”, *CEPS Papers in Liberty and Security in Europe*, CEPS, Brussels, April 2011, <https://www.ceps.eu/ceps-publications/race-against-solidarity-schengen-regime-and-franco-italian-affair/>; and E. Guild, E. Brouwer, K. Groenendijk and S. Carrera (2015), “What is happening to the Schengen borders?”, *CEPS Paper in Liberty and Security in Europe* No. 86, CEPS, Brussels, December 2015, <https://www.ceps.eu/ceps-publications/what-happening-schengen-borders/>.

<sup>54</sup> The procedural requirements laid down in Art. 27 SBC, which apply to Art. 28 SBC measures, focus on the obligation to notify the European Commission and other EU member states about the decision under a specific time-frame and providing information about the reasons of the proposed measure (and all relevant data detailing the ‘threat’), the scope of the proposed reintroduction (including part or parts of internal borders where control is introduced), the names of authorised crossing points, and the date and duration of the planned reintroduction. That information is also submitted to the European Parliament, which has the right to be informed, and the Council at the same time of notification to the European Commission. The same SBC provision foresees that after such a notification the European Commission shall issue an Opinion if it is not convinced about the necessity or proportionality of the planned reintroduction of border control at internal borders.

this Paper, this has been the main legal ground invoked by a majority of EU member states' Ministries of the Interior to derogate free movement and reintroduce border checks. The main grounds foreseen in this provision are "where there is a serious threat to public policy or internal security" in a member state. Public health is not expressly mentioned among these permitted grounds. The 10-day timeframe can be extended for renewable periods of up to 20 days, if the 'threat' persists, and which shall not exceed a total of two months. Therefore, all the national Ministries concerned will be obliged to lift the internal controls by mid-May 2020 at the latest, with no possibility of renewal expressly permitted under EU law. Close EU scrutiny and monitoring will be required, however, based on the recent malpractice of few EU member states in illegally continuing internal border checks in the name of the 'European refugee humanitarian crisis' of 2015 and change the SBC legal basis discretionally in clear contradiction to the SBC.<sup>55</sup>

The Danish Ministry of Home Affairs and the Finnish Ministry of Justice have been the only two making use of Art. 25 SBC. This is surprising as this provision refers to general deficiencies in the Schengen area which are foreseeable and not to any urgent or immediate situation such as the one alleged under the COVID-19 pandemic. The main reason may have been that Art. 25 SBC allows for a significantly longer period for reintroducing borders in comparison to that conferred by Art. 28 SBC. The Danish Ministry of the Interior unilaterally decided to use Art. 25 SBC and communicated a period of 6 months to the Commission, which is by far the lengthiest among the fourteen EU Schengen members. France is another peculiar case.

The French authorities are using a past decision to reintroduce temporary internal border controls which was introduced in the name of protecting internal security and tackling terrorism to now mitigate the risks related to COVID-19. The legality of instrumentally cherry-picking SBC legal basis or unlawfully prolonging previous decisions by these Ministers, even when the public policy purposes have completely changed, is highly questionable and unlawful.

Also in contravention with the SBC, the Danish Ministry of Home Affairs has provided no information in its notifications to the Commission as to how it has assessed the extent to which border controls can be expected to remedy or impact the spread of coronavirus in the country. More generally, none of the member states concerned have provided any justification or evidence about how the set of national measures take into account EU citizenship and free movement rights. For example, the Belgian Ministry of the Interior notification did not specify the rationale behind *the linkage between in-country social distancing measures and internal travel restrictions*, nor did it provide information on the specific border crossing points and nature of the checks.

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<sup>55</sup> S. Carrera, M. Stefan, N.C. Luk and L. Vosyliute (2018), "The Future of the Schengen Area: Latest Developments and Challenges in the Schengen Governance Framework since 2016", Study for the EP LIBE Committee PE 604.943, Brussels, European Parliament, March 2018, <https://www.ceps.eu/ceps-publications/future-schengen-area-latest-developments-and-challenges-schengen-governance-framework/>; and S. Carrera (2019), "The State of the Schengen Area in the light of the 2019 European Parliament election", *RSCAS Policy Paper* 2019/12, Florence, European University Institute, February 2019, <http://hdl.handle.net/1814/61595>.

A number of member states and Schengen countries have not fulfilled their obligation to notify – in advance or at all – the Commission of their temporary reintroduction of internal border controls. For example, since 10 March 2020, Italy introduced a complete entry and exit restriction over its entire territory, except for “proven work or family needs”. Furthermore, as of 23 March 2020, all persons are prohibited from leaving the municipality in which they happen to be situated. Both of these measures would require (in particular) border authorities to control who enters and exits the Italian borders. Yet, to date, it does not seem like the Italian government has notified its temporary reintroduction of internal border controls under the SBC. Similarly, the measures adopted by Slovenia at its borders with Italy, Croatia and Austria (including reduction of border crossing points and imposition of an entry ban) are not feasible without a corresponding reintroduction of internal border controls. As with Italy, however, Slovenia has not notified its intention to do so under Art. 27 SBC.

Travel bans of entry and exit sit most uneasily with the SBC provisions, particularly those characterised by a blanket and non-time restricted (quasi-indefinite) nature and covering EU citizens and their family members. The possibility to apply travel bans are not expressly foreseen by the Code. They constitute an automatic refusal of entry into the country, sometimes targeting entire populations of specific member states or all countries based on generalised criteria. This runs contrary to the obligation by EU Schengen countries to carry out an individualised assessment of the person involved before a refusal of entry is issued. The requirement to carry out an individual assessment and considering cases separately is foreseen in Art. 8.2 SBC and has been confirmed by the case-law of the Court of Justice of the European Union.<sup>56</sup>

Each of the fourteen Schengen countries have introduced extraordinarily different and multi-layered border control and entry/exit measures, meaning that, when looked at in their totality, these categories of people are facing high obstacles to move and return to their countries of nationality or residence. The notifications do not either offer any serious consideration regarding the effectiveness of the exceptions facilitating mobility of their own nationals and legal residents when read in parallel to mobility restrictions imposed by other countries, and the impact that overlapping travel restrictions may have for the legitimate mobility of their own nationals, residents and EU citizens and their families..

The notifications also show important disparities and different understanding regarding what is and what is not “essential travel or movements” or mobility for “cogent” reasons. There is a clear and legally uncertain disconnect between what is deemed ‘essential’ or not, with a majority of countries adopting overly restrictive interpretations. The notion of ‘essential travel’ is alien to EU law and is subject to a wide margin of manoeuvre by each national authority. The current priority

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<sup>56</sup> Court of Justice of the EU (CJEU) 29 April 2004, Joined Cases C-482/01 and C-493/01 *Orfanopoulos and Others v Land Baden-Württemberg and Oliveri v Land Baden-Württemberg*, ECLI:EU:C:2004:262, paras. 95-97. On the application of the notion of ‘public policy’ under Art. 6 SBC to third country nationals refer to CJEU 12 December 2019, Case C-380/18 *Staatssecretaris van Justitie en Veiligheid v E.P.*, ECLI:EU:C:2019:1071, para. 34.

for cross-border workers, and the restrictions on certain professions disregard the fact that EU free movement rights are not necessarily linked to any specific employment-related activities and include other equally legitimate mobility grounds such as family unity.

For instance, as highlighted in Section 3 above, the European Commission's proposal for the EU Travel Ban also includes a broader list of "essential movements" than many of those currently applied by the fourteen Ministries of the Interior. Some examples include passengers in transit or passengers moving for imperative family reasons. Furthermore, a similarly heterogeneous picture of national practices emerges when it comes to means or documents that each national and regional border/police authority accepts as proof of residence or legitimate travel in the scope of border checks, which further increases the lack of clarity for individuals subject to the web of national measures. It is also striking that no serious consideration has been given to the negative implications of these measures for legitimate local border crossings and communities, as well as traffic in these so-called European border regions.<sup>57</sup>

The uncertainty emerging from these notions and nuances leaves a high degree of discretion in the hands of member state border or/and police authorities to ultimately decide who is or is not permitted to enter, and what is essential or urgent and what is not. That will result in ever more heterogeneous exclusionary or inclusionary practices of cross-border movements on the ground. This is the case, for example, where the notification by the German Ministry of the Interior states that the German border authorities have the sole discretion to determine what is an "urgent or cogent reason" for entry; or with the Czech Republic and Poland, where border authorities have the discretion to grant an exemption from the entry ban but where the notifications have not laid down any detailed indication of what exact criteria they would need to follow other than "in the interest of the state".

Similarly, as demonstrated in Annex 2 of this Paper, not all Ministries of the Interior have included asylum seekers and refugees among the categories of people allowed to enter their countries. Only Luxembourg, Norway, Romania and Sweden have explicitly exempted seekers of international protection from their entry bans. The policies currently practiced by the remaining Ministries of the Interior are therefore in direct contravention of the fundamental right to seek asylum enshrined in Article 18 of the EU Charter of Fundamental Rights. In this respect, the UNHCR published on 18 March 2020 a document "Legal Considerations with regard to the EU Commission's Guidelines for border management measures",<sup>58</sup> where it underlined that EU member states are under the obligation to comply with the right to seek asylum enshrined in the EU Charter of Fundamental Rights and the principle of *non-refoulement* during the COVID-19 outbreak. The Legal Considerations highlight that "health screenings" at border points must not be

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<sup>57</sup> Refer to Association of European Border Regions (AEBR): <https://www.aebr.eu/en/index.php>

<sup>58</sup> UNHCR (2020), "UNHCR Legal Considerations with regard to the EU Commission's Guidelines for border management measures to protect health and ensure the availability of goods and essential services", Geneva, UNCHR, 18 March 2020, <https://www.refworld.org/docid/5e7882484.html>.

discriminatory, reminding governments that refusals of entry to third country nationals and asylum seekers must be proportionate and calling for alternative measures to border controls.

It is therefore surprising that the European Commission has taken such an ambivalent position about the compliance of both the reintroduction of internal border controls and intra-EU travel ban measures with the SBC in its Guidelines published on 16 March 2020. As explained in Section 3 above, differently from the original critical reaction questioning the necessity and effectiveness of traffic restrictions on persons to respond to COVID-19, the Commission changed course in its guidelines on border management, where it gave the green light to the general legitimacy of these measures. However, we have argued, in the same Guidelines the Commission then goes on to say that the conduct of health checks upon entry to a territory does not necessarily need border controls to take place, which reveals a contradiction in terms. The reader is left to wonder what the overall justification of internal border controls actually are.

The negative consequences of travel restriction measures in the name of “public policy and internal security” can be seen in the notion of ‘screening’ individuals. What is the purpose of the screening? The answer depends on the intended public goal of the measures adopted. Are they border or health screenings? The objective of border control policies and those of public health differ fundamentally in scope, nature and expected outputs. The SBC stipulates that the goal of border controls is to check if persons have the necessary administrative documents to be authorised to legally enter the country and the entire Schengen area. Therefore, as highlighted by the Commission COVID-19 Guidelines for border management, even in cases where national authorities identify a person infected with the virus, the decision by national authorities in the context of intra-EU mobility performed by “essential mobility” travellers should not be a rejection or *refusal of entry*, but rather *access to health care*.

The rationale inherent to border checks is henceforth disconnected with the purpose of conducting health screening. Member states’ intra-EU travel restrictions and the European Commission EU Travel Ban Guidelines put border guards and border police authorities at the forefront and inappropriately puts them in the position of ‘doctors’ needing to subjectively diagnose the extent to which a person seeking to enter the Union’s territory presents symptoms relevant or not to COVID-19, or whether certain individuals are more risky than others based on unlawful ‘high risk’ profiles running contrary to non-discrimination.

The role envisaged for the Europol Agency by the Commission’s Guidelines for the implementation of the EU Travel Ban clearly illustrates this issue. One wonders about the actual necessity to deploy police officers coordinated by Europol to conduct “secondary security checks”. What would be the exact crimes that they would be dealing with? Presenting COVID-19 symptoms or being infected by the virus does not make anyone a criminal. Involving the police in secondary security checks would also undermine the work of health professionals in secondary screening and the trust of potential travellers. More generally, such a policing approach stands contrary to giving priority to

health professionals in ascertaining the proportionality of border controls and refusals of entry, and the need to ensure access to medical treatment and health care for any affected individual.

The distinction between internal security and public health considerations becomes even more blurred when member states decide to impose health requirements as a precondition for entry. Yet, this is precisely the approach taken by Ministries of the Interior such as those of Austria, Cyprus, Estonia, and Slovenia, which have imposed entry bans for persons suspected of or confirmed to be infected with COVID-19. In the case of Cyprus, even Cypriot nationals being denied entry if they cannot prove that they are not infected with COVID-19.<sup>59</sup>

In fact, Art. 28 SBC does not expressly foresee public health<sup>60</sup> as one of the legitimate grounds to reintroduce internal border controls. It is doubtful the extent to which public health grounds can be legitimately and flexibly qualified or fall under the concept of ‘public policy and internal security’ as understood by relevant Ministries of the Interior. These two concepts have been strictly interpreted by the Luxembourg Court when member states measures fall within the scope of EU law, and still are subject to proportionality and necessity tests.<sup>61</sup> And while Article 29 of the EU Free Movement Directive<sup>62</sup> foresees the possibility to apply exceptions to free movement rights in cases of “diseases with epidemic potential”, member state-specific notions of the notion of public health and its consideration as a ‘security’ issue should be resisted. Indeed, the EU concepts of public policy and internal security are specific in nature as they are predominantly founded on or originating from a law enforcement approach, rather than one giving priority to public health considerations, which are the most pressing in light of the current pandemic.

Indeed, health checks seem not to be the primary goal inherent to the reintroduction of internal border controls and travel ban measures by a majority of the member states concerned. And yet, it is precisely in the name of a public health emergency that all the mobility-restrictive measures have been introduced. Instead, the Commission’s proposal for an EU Travel Ban, and its implementing Guidelines, have nurtured the unfounded premise for Ministries of the Interior that

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<sup>59</sup> The Austrian measure required a physician (most likely from the country of departure) to certify that the person had been tested for SARS-CoV-2. The medical certificate needs to indicate whether the test at the time was positive or negative for SARS-CoV-2. Similar medical certificates are required for entry into Cyprus. For Slovenia, while a medical certificate is required, it is not necessary, if at the border, the person subjects him/herself to a health check, and this check shows that a) he/she has no symptoms, and b) his/her body temperature is less than 37.5 C.

<sup>60</sup> Art. 2.21 SBC defines a threat to public health as meaning “any disease with epidemic potential as defined by the International Health Regulations of the World Health Organization and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the Member States”.

<sup>61</sup> This is recognised in Recital 27 of the SBC which states that “In accordance with the case-law of the Court of Justice of the European Union, a derogation from the fundamental principle of free movement of persons must be interpreted strictly and the concept of public policy presupposes the existence of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society”.

<sup>62</sup> 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 (Text with EEA relevance), *OJ L* 158, 30.4.2004, p. 77–123, consolidated text available at <http://data.europa.eu/eli/dir/2004/38/2011-06-16>.

the COVID-19 pandemic is something ‘foreign’, or coming from ‘the outside’, that can be effectively stopped by reintroducing borders or banning entry and exit of people from neighbouring or all EU or Schengen countries.<sup>63</sup>

Moreover, it is noticeable that the EU Travel Ban proposal was not legally anchored in any relevant piece of EU law, and is therefore not legally binding, with the European Commission clearly overstretching and even going beyond its conferred competences in the Treaties when it comes to the discretion or ‘sovereignty’ recognised for EU member states in external borders and visa policies. This does not only mean the Commission proposal stands on shaky grounds, contrary to EU Better Regulation Guidelines, which apply not only to legislative proposals but to any Commission acts or initiatives.<sup>64</sup> It also weakens its effective enforcement vis-à-vis EU member states, which are interpreting and implementing the Travel Ban in largely varied, incoherent and differentiated fashions.<sup>65</sup>

## 4.2 Suitability and Necessity

A central tenet for determining the legality of restrictions on the mobility of persons in the name of COVID-19 is their proportionality. The EU proportionality test implies an assessment of the extent to which a policy measure – i.e. the reintroduction of internal border controls and travel bans is suitable and strictly necessary to mitigate a particular phenomenon, and whether there are other less restrictive means or intrusive measures to achieve the same goal in light of its impacts on fundamental rights and the rule of law. Most of the Ministries of the Interior have failed to provide evidence-based of the necessity and proportionality of border controls and travel bans, and their expected and documented impacts. As explained above, the Schengen Borders Code shifts the burden of proof on Member States’ Ministries to demonstrate that border management measures are a necessary and effective for public health purposes.

There has not been any robust independent evidence provided by the relevant national authorities to rationalise either the extra- or intra-EU travel restriction measures, which are prerequisites for conducting any proportionality test in EU borders and free movement law. And yet, any coercive public policies should be founded on compelling scientific evidence and presented with transparent, clear and robust respect for fundamental rights and ethical principles (See Section 4.3

<sup>63</sup> As Thym has argued, in this context, “border controls are prime examples of symbolic gesture projecting a sense of security that buttresses feelings of national belonging. It is regrettable that some Member States behave like medieval fortresses in the current crisis [...]”, see D. Thym (2020), “Travel Bans in Europe: A Legal Appraisal (Part I)”, *EU Immigration and Asylum Law and Policy* blog, 19 March 2020, <https://eumigrationlawblog.eu/travel-bans-in-europe-a-legal-appraisal-part-i/>.

<sup>64</sup> Refer to European Commission Better Regulation Guidelines, [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en)

<sup>65</sup> “When asked what would happen if they decided not to follow suit, Commission spokesperson Adalbert Jahnz said that the border restrictions would be a coordinated set of “national decisions” and therefore enforceable only by member countries under national law”, see “The EU travel ban explained”, *Politico.eu*, 17 March 2020, <https://www.politico.eu/article/the-eu-european-union-coronavirus-covid19-travel-ban-explained/>.

below).<sup>66</sup> This knowledge and evidence gap is even more visible in the follow-up notification letters prolonging, and in some cases even extending geographically, internal border controls and travel restrictions, such as those issued by the Hungarian or the Austrian Ministries.

In light of the above, Member States governments should provide an answer to the question as to whether there is a rational public health argument based on evidence for reintroducing internal border controls, or for the EU Travel Ban. The United Nations World Health Organisation (WHO) Strategic Preparedness and Response Plan on the Coronavirus has advised against introducing travel restrictions to countries experiencing COVID-19 outbreaks. It has added that in light of existing evidence, restricting mobility is ineffective in preventing the importation of cases, and that in certain circumstances such as “uncertainty about the severity of a disease and its transmissibility, measures that restrict the movement of people may prove temporarily useful at the beginning of an outbreak to allow time to implement preparedness activities, and to limit the international spread of potentially highly infectious cases.”<sup>67</sup>

In its Recommendations issued on 29 February 2020, WHO emphasizes that restricting the movement of people may divert resources from other more crucial policy needs, such as increasing testing, response and research capacities.<sup>68</sup> The WHO added that measures significantly interfering international travel may only be justified at the beginning of the outbreak, and based on “a careful risk assessment, be proportionate to the public health risk, be short in duration, and be reconsidered regularly as the situation evolves”.<sup>69</sup> The WHO-ICAO Joint Statement issued on 11 March 2020 reminded all the stakeholders about the importance of existing Guidelines and the coordination between aviation and health authorities. WHO added in the Joint Statement that countries should introduce public health measures which are proportionate public health risks and International Health Regulations (2005).<sup>70</sup>

The Commission’s COVID-19 guidelines on border management recommendation on ‘primary screening’ of entry by border personnel without medical training or who are not health professionals runs contrary to WHO recommendations which highlight that “Temperature screening alone, at exit or entry, is not an effective way to stop international spread, since infected

<sup>66</sup> As recommended by research done on the 2014-2015 Ebola epidemic. See P. Calain and M. Poncin (2015), “Reaching out to Ebola victims: Coercion, persuasion or an appeal for self-sacrifice?”, *Social Science & Medicine*, Vol. 147, December 2015, pp. 126-133. <https://www.sciencedirect.com/science/article/pii/S0277953615302021>; M.A. Rothstein (2015), “Ebola, Quarantine, and the Law”, *The Hastings Center Report*, Vol. 45, No. 1, pp. 5-6; and M.A. Rothstein (2015), “From SARS to Ebola: Legal and Ethical Considerations for Modern Quarantine”, *Indiana Health Law Review*, Vol. 12, No. 1, pp. 227-280.

<sup>67</sup> WHO (2020), WHO Strategic Preparedness and Response Plan: 2019 Novel Coronavirus (2019-nCoV), 3 February 2020, page 10.

<sup>68</sup> On the importance and positive effects of rapid expansion of hospital capacity and testing capabilities, and location-specific social distancing policies, in responding to COVID-19 in China, refer to K. Prem et al. (2020), “The effect of control strategies to reduce social mixing on outcomes of the COVID-19 epidemic in Wuhan, China: a modelling study”, *The Lancet Public Health*, published online on 25 March 2020, [https://doi.org/10.1016/S2468-2667\(20\)30073-6](https://doi.org/10.1016/S2468-2667(20)30073-6).

<sup>69</sup> WHO (2020), Updated WHO recommendations for international traffic in relation to COVID-19 outbreak, 29 February 2020, <https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak>

<sup>70</sup> WHO and ICAO (2020), Joint Statement on COVID-19, 11 March 2020, <https://www.icao.int/Security/COVID-19/Pages/Statements.aspx>

individuals may be in incubation period, may not express apparent symptoms early on in the course of the disease, or may dissimulate fever through the use of antipyretics; in addition, such measures require substantial investments for what may bear little benefits”.<sup>71</sup>

A key advice from the WHO to governments affected by COVID-19 has been to invest in prevention recommendation messages to travellers and to collect health declarations on arrival. In this context, *trust-building measures* generally seem to work best in these situations. Therefore any ‘screening’ should primarily focus on granting access to medical assistance and health care. It should be conducted by qualified medical professionals, rather than by border authorities, whose job is to check administrative conditions of entry and otherwise reject entry, or police authorities whose responsibility is to fight criminality.

While travel restrictions have substantial appeal to policymakers as a way to demonstrate that they are doing ‘something’, there is no consensus in academic research that travel restrictions after an outbreak takes place are not likely to significantly delay the rate of infection and the eventual number of people who will fall ill. In state of the art knowledge seems to suggest the opposite.<sup>72</sup> Research has concluded that “international travel restrictions might delay the spread and peak of pandemics... but we found no evidence that they would contain influenza within a defined geographical area”. Moreover, more recent research on the travel restrictions imposed by Chinese authorities during the outbreak of COVID-19 has equally reached the conclusion that these measures only “modestly affect the epidemic trajectory unless combined with a 50% or higher reduction of transmission in the community.”<sup>73</sup>

An even more recent examination investigating the impact of travel restrictions in China reaches a similar finding, i.e. after the outbreak, and once COVID-19 cases began spreading locally the effectiveness of travel restrictions was much smaller and increased testing capacity becomes crucial.<sup>74</sup> Existing research findings are therefore not conclusive about the effectiveness of the

<sup>71</sup> WHO (2020), “Management of ill travellers at Points of Entry (international airports, seaports, and ground crossings) in the context of COVID-19”, Interim Guidance, Geneva, World Health Organization, 19 March 2020, <https://apps.who.int/iris/bitstream/handle/10665/331512/WHO-2019-nCoV-POEmgmt-2020.2-eng.pdf>.

<sup>72</sup> T.C. Germann, K. Kadau, I.M. Longini, Jr. and C.A. Macken (2006), “Mitigation strategies for pandemic influenza in the United States”, *Proceedings of the National Academy of Sciences of the USA*, Vol. 103, No. 15, pp. 5935-5940, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1458676/> and A.L.P. Mateus, H.E. Otete, C.R. Beck, G.P. Dolan and J.S. Nguyen-Van-Tam (2014), Effectiveness of Travel Restrictions in Rapid Containment of Human Influenza: A Systematic Review, *Bull World Health Organ*, 92(12), pp. 868-880.

<sup>73</sup> M. Chinazzi et al. (2020), “The effect of travel restrictions on the spread of the 2019 novel coronavirus (COVID-19) outbreak”, *Science*, 6 March 2020, <https://science.sciencemag.org/content/early/2020/03/05/science.aba9757>. This same research concludes that “even in the case of 90% travel reduction, if transmissibility is not reduced, the epidemic in Mainland China is delayed for no more than 2 weeks”. They also conclude that “The travel quarantine around Wuhan has only modestly delayed the epidemic spread to other areas of Mainland China.” Moreover, they added that “even in the presence of the strong travel restrictions in place to and from Mainland China since 23 January 2020, a large number of individuals exposed to the SARS-CoV-2 have been traveling internationally without being detected.”

<sup>74</sup> M.U.G. Kraemer et al. (2020), “The effect of human mobility and control measures on the COVID-19 epidemic in China”, *Science*, 25 March 2020, <https://science.sciencemag.org/content/early/2020/03/25/science.abb4218>. It has been recently reported that increasing testing capacities and so-called ‘immunity certificates’ is precisely the approach that German authorities are currently investing on, see “Coronavirus breakthrough: Germany’s surprising project to end ALL lockdowns revealed”, *Express.co.uk*, 30

political priority given to international travel restrictions as an isolated or primary intervention for the rapid containment of viruses. This is even more the case in EU countries where governments have introduced highly restrictive or coercive in-home quarantine policies forbidding anyone to leave their home unless for imperative reasons. Consequently, policy responses focused on closing internal and external borders may raise unrealistic expectations, as they might only slightly delay the spread of cases.<sup>75</sup> “A combination of interventions” has been recommended,<sup>76</sup> and investing more efforts on “transmission-reduction interventions [that] will provide the greatest benefit to mitigate the [COVID-19] epidemic”.<sup>77</sup>

All EU cross-border measures studied in this Paper came into force much later than the actual outbreak of the virus in many Schengen countries. The epidemic had already started and spread. As explained above, none of the fourteen Ministries of the Interior or the European institutions provided any justification as to why do they think that the virus is also coming from ‘abroad’ at the time when the measures were introduced.

The practical implementation of these national measures has also proved to be extremely challenging, with long queues and waiting lines being reported, negatively affecting the free movement of goods. The decision taken by some Ministries of the Interior to limit the number of border crossing points and the reintroduction of border controls has meant substantial delays resulting from long queues. In its written notification, the German Ministry of the Interior stated that “In exceptional cases of severe disruption to traffic, and in order to maintain the movement of goods across borders, the Federal Police may respond to the situation by allowing borders to be crossed at other cross-border transport connections”. According to the EU Agency Frontex, “An EU border guard has on average just 12 seconds to decide whether the traveller in front of them is legitimate or not, or to assess if their documents are genuine”.<sup>78</sup> The measures and the Guidelines proposed by the Commission, including the obligation to use and have access to EU databases, make that task unfeasible in practice.

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March 2020, <https://www.express.co.uk/news/world/1262083/Coronavirus-updates-Germany-latest-immunity-certificates-lockdown-covid19>.

<sup>75</sup> A recent review on international travel restrictions responses to influenza pandemic virus concluded that “it was estimated that introduction of pandemic influenza into the United Kingdom could be delayed by up to 2 months if there was an almost complete – e.g. 99.9% – ban on air travel. However, the size of the effect was considerably reduced, to just 1–2 weeks, if the level of restriction was lowered to 90%. Similar observations were made in an assessment of the impact of restrictions of air, land and sea travel on the introduction of H1N1 pdm09 into Hong Kong Special Administrative Region (SAR), China. In this study, it was estimated that restrictions of 90% and 99% on all modes of transportation would delay the epidemic peak by up to 6 and 12 weeks, respectively, when R<sub>0</sub> was set to 1.4”, see A.L.P. Mateus et al. (2014), “Effectiveness of travel restrictions in the rapid containment of human influenza: a systematic review”, *Bulletin of the World Health Organization*, Vol. 92, No. 12, pp. 868-880D, <https://www.who.int/bulletin/volumes/92/12/14-135590/en/>. See also K.C. Chong and B.C.Y. Zee, “Modeling the impact of air, sea, and land travel restrictions supplemented by other interventions on the emergence of a new influenza pandemic virus”, *BMC Infectious Diseases*, Vol. 12, No. 1, Article No. 309, <https://bmcinfectdis.biomedcentral.com/articles/10.1186/1471-2334-12-309>.

<sup>76</sup> Mateus et al. (2014), op. cit.

<sup>77</sup> Chinazzi et al. (2020), op. cit.

<sup>78</sup> Frontex (2014), “Twelve Second to Decide”, Warsaw, Frontex, [https://frontex.europa.eu/assets/Publications/General/12\\_seconds\\_to\\_decide.pdf](https://frontex.europa.eu/assets/Publications/General/12_seconds_to_decide.pdf).

The EU Travel Ban's is affected by very similar issues. In particular, the Commission's official goal was not only to limit the spreading of the virus, but also to put an end to internal border controls by EU Ministries of the Interior. The hope that, in view of the external closure, member state Ministries of the Interior would lift internal border controls has proved to be misplaced. The number of EU member states reintroducing internal border controls has only increased since the European Council's endorsement of the EU Travel Ban on 17 March 2020. Moreover, the EU Travel Ban nurtures the controversial idea that 'closure' and protectionism is feasible, effective and, more worryingly, in compliance with the constitutive principles that the EU stands for in the Treaties.

### 4.3 Fundamental rights and rule of law impacts

In addition to suitability and necessity, any proportionality test examination must entail an analysis of the effects of policy measures on individuals' rights and the rule of law impacts, which comprise their legal feasibility or compliance. Otherwise, this could lead to situations where a law or policy could be considered acceptable even if the repercussions would be completely disproportionate to the desired objective and unreasonably interfere fundamental rights and basic constitutional guarantees, and fail to be legitimate in a democratic society.<sup>79</sup> This is required by the EU Better Regulation Toolbox.<sup>80</sup> The repercussions of COVID-19 coercive measures on people's human rights and liberties is enormous.

The above-mentioned WHO International Health Regulations (2005)<sup>81</sup> state in Article 3 that health policies adopted in times of emergency shall be in "full respect for the dignity, human rights and fundamental freedoms of persons." As stated above, none of the fourteen member states' Ministries of the Interior, nor the European Commission, have conducted any meaningful assessment of the societal impacts that restrictive international traffic measures, and the surveillance of traffic, have on the rights of EU citizens, residents and other people with legitimate claims to enter or transit the EU.

The SBC and EU law require member countries reintroducing internal border controls to examine not only the alleged 'effectiveness' of these measures in relation to the intended public goal, but in light of their impacts on the free movement of persons and goods in the Union. Such an assessment must involve an analysis as to whether there are other less restrictive or intrusive means. EU member states are under the legal obligation to comply with the EU Charter of Fundamental Rights (EUCFR), even in times of public emergencies.

Any interferences with EUCFR, and in particular the EU constitutional right to move, must be interpreted restrictively, and are acceptable as long as "they are necessary and genuinely meet

<sup>79</sup> On the EU general principle of proportionality refer to P. Craig (2018), *EU Administrative Law*, Oxford University Press: Oxford.

<sup>80</sup> European Commission, EU Better Regulation Toolbox, TOOLBOX #28, and in particular the Fundamental Rights Check-List, [https://ec.europa.eu/info/sites/info/files/file\\_import/better-regulation-toolbox-28\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-28_en_0.pdf)

<sup>81</sup> WHO (2016), *International Health Regulations (2005)*, third edition, Geneva: World Health Organization 2016, <https://www.who.int/ihr/publications/9789241580496/en/>.

objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others”. The EU Charter, which is an emblematic part of the Treaties and one member states must respect in all their actions falling under the scope of EU law, proclaims that the Union is anchored on the “indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law”. The Charter also places the individual at the heart of the Union’s policies, placing human dignity at the centre of attention.

The starting point are the profound repercussions of the mobility restriction measures studied in this Paper on the right of free movement by EU citizens and residents (Art. 45 EUCFR). This right unlocks a whole series of other equally central and related fundamental rights when individuals exercise their right to mobility or in cross-border situations. These include for instance the right of access to preventive health care and the right to benefit from medical treatment (Art. 35 EUCFR), or the right to family life (Arts. 7 and 33 EUCFR), according to which families cannot be separated unjustifiably or indefinitely.

But also others such as the one of non-discrimination, which not only forbids discriminatory treatment on “any ground such as sex, race, colour, ethnic or social origin”, but also, for EU citizens and their family members, on the basis of nationality (Art. 21 EUCFR). In addition, any health surveillance health measures linked to border controls pose profound questions regarding the fundamental rights to privacy and data protection (enshrined in Art. 8 EUCFR), which place the individual as the ultimate owner of her/his data in the EU legal system, and the right to seek asylum (Art. 18 EUCFR).

None of the fourteen notifications on reintroducing internal border checks issued by the relevant EU Ministries of the Interior provide any considerations regarding the obligation to allow transit and mobility of EU citizens residing in their countries, or returning to their country of origin. While some of these intra-EU travel bans exempt own nationals and legal residents from the categories of targeted individuals, and as shown in the Table included in Annex 2 of this Paper, several EU governments have not guaranteed or facilitated in practice their entry or return, including of EU citizens, as well as the rights of transit of mobile EU citizens coming back to their country of origin or legal residence. This often results from restrictions applicable to internal modes of transport.

Ministries of the Interior such as the ones in Belgium, Bulgaria, Cyprus, Hungary, Latvia, the Netherlands, Poland, Slovakia and Slovenia apply entry restrictions covering EU citizens legally residing in their territory. Others also provide substantial restrictions for EU citizens and legal residents to lawfully and freely transit to their country, such as Austria, Belgium, Germany, Latvia, the Netherlands, Poland, Portugal, Slovakia and Slovenia. As studied in Section 2 above, the Czech Republic, Cyprus, Hungary, Lithuania and Malta apply entry bans to EU citizens too. Similar restrictions apply to legally residing third country nationals, with Malta not allowing entry altogether, and other countries like Bulgaria and Latvia giving priority to long-term residents.

Those countries having reintroduced internal border checks and not formally foreseen the rights of EU citizens and their families are in direct violation of their EU Charter obligations and engage in prohibited discrimination on the basis of nationality. Refusal of intra-EU and – contrary to the view put forward by the Commission Guidelines on the Implementation of the EU Travel Ban – extra-EU entry based on health reasons would run against EU law and the EUCFR. Instead, all EU member states have the obligation to ensure access to health care, and not refusal of entry. Any other discriminations in the context of border checks are equally prohibited by the Charter.

The point developed above concerning the negative consequences of merging of migration management or border control (and policing) measures with public health raises a number of specific challenges to these individuals' protections and adds extra layers of ethical considerations, which can be expected to increase mistrust of Europe among individuals. Previous research has shown how mandatory health screening in the context of migration policies and visa policies has been ineffectively implemented in practice because of the mistrust that it creates towards authorities or private sector actors.<sup>82</sup> Some individuals may not report being sick or ask for health care to the border authorities if they fear refusal of entry or penalisation. People may also seek irregular routes or means of entry or exit in these restrictive contexts.

Furthermore, putting responsibility for gathering sensitive and confidential medical data of people at border checks in the hands of border and police professionals can equally lead to mistrust and fundamental rights violations. Contrary to current EU data protection standards, it will be not clear for what purpose an individual's health data (personalised or depersonalised) is used, nor who will have access to it. Profiling individuals suspected of being infected by proxy, or based on 'indicative symptoms' also turns the objectivity of the screening exercise into a search for quasi-criminality under the guise of 'security', particularly in light of law enforcement or police access to that data, leading to exclusion and risk of refusal of entry.

Indeed, fears may continue to rise about the potential stigmatisation of infected or previously infected persons, frequent travellers, medical staff, or groups being more prone to discrimination and exclusion, and nationals who are wrongly automatically framed as 'risky' and associated with the disease based on their nationality or country of origin, irrespective of whether not everyone from that country or region is infected, or their social class.<sup>83</sup> There are also high risks of stigmatisation of people who have been subject to quarantine or self-isolation, even in cases where they are not themselves infected.

The continuation of past policies focused on compulsory health examination has also been resisted by Ministries of Health in the context of border management and visa policies, as they have shown little effectiveness in detecting early cases. They have also proved to be too laborious, resource-

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<sup>82</sup> J. Welshman and A. Bashford (2006), "Tuberculosis, migration and medical examination: lessons from history", *Journal of Epidemiology & Community Health*, Vol. 60, No. 4, pp. 282-284, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2566162/>.

<sup>83</sup> CDC (2020), "Reducing Stigma", website of the US Center for Disease Control, March 2020, <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/reducing-stigma.html>.

consuming and resource-limiting for other more central and clearly effective public health policy priorities. The use of surveillance measures of populations and their ‘health’ in response to COVID-19 is particularly worrying. The possibilities of group-based profiling and highly intrusive tracking methods using health data offered by so-called Artificial Intelligence (AI),<sup>84</sup> raise profound ethical issues, violate the principle of purpose limitation and are notoriously illegal in a Union and national constitutional systems bound by the EU Charter of Fundamental Rights and the right to privacy.<sup>85</sup> The surveillance under discussion also runs contrary to the World Health Organisation (WHO) recommendation to governments to ensure the least intrusive means available to safeguard privacy and the principle of confidentiality.<sup>86</sup>

Following some member state calls to have access to data held by telecommunications operators with the objective of using it to track the spread of COVID-19, the European Data Protection Supervisor (EDPS) issued an Opinion,<sup>87</sup> according to which it would be central for any data to be effectively anonymised (not just simply removing obvious identifiers such as phone numbers and IMEI numbers) and that the potential modalities of data processing should be closely monitored.

The EDPS recommended “to limit access to the data to authorised experts in spatial epidemiology, data protection and data science”, and not to law enforcement authorities. It further emphasised that “Should the Commission rely on third parties to process the information, these third parties have to apply equivalent security measures and be bound by strict confidentiality obligations and prohibitions on further use as well”. The EDPS also pointed out the importance of “full transparency to the public on the purpose and procedure of the measures to be enacted”.

The risks of misuse of individuals’ electronic data collected in the name of the pandemic are increasingly exponential. The proportionality of measures calling for authorities’ access to telecommunications data remains unproven. It would also challenge the premise of EU privacy law according to which it is individuals, not the states or companies, who own their data and need to consent to their use.<sup>88</sup> These considerations put in question the overall legality of such an idea. If

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<sup>84</sup> M. Kritikos (2020), “What if we could fight coronavirus with artificial intelligence?”, *EPRS At a Glance. Scientific Foresight: What if?* PE 641.538, Brussels, European Parliamentary Research Service, March 2020, [https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/641538/EPRS\\_ATA\(2020\)641538\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/641538/EPRS_ATA(2020)641538_EN.pdf). See also A. Renda (2020), Will Privacy be on the Victims of COVID-19?, CEPS Commentary, Brussels, [https://www.ceps.eu/will-privacy-be-one-of-the-victims-of-covid-19/?mc\\_cid=d9dce71bc5&mc\\_eid=e636ff6371](https://www.ceps.eu/will-privacy-be-one-of-the-victims-of-covid-19/?mc_cid=d9dce71bc5&mc_eid=e636ff6371)

<sup>85</sup> Processing of data concerning health is prohibited by Art. 9 of the General Data Protection Regulation unless “is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred”. See <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>

<sup>86</sup> WHO (2016), *Guidance for managing ethical issues in infectious disease outbreaks*, Geneva: World Health Organization 2016, <https://apps.who.int/iris/handle/10665/250580>.

<sup>87</sup> W.R. Wiewiorowski (2020), EDPS response to DG CONNECT of the European Commission on monitoring of COVID-19 spread, Brussels, European Data Protection Supervisor, 25 March 2020, [https://edps.europa.eu/sites/edp/files/publication/20-03-25\\_edps\\_comments\\_concerning\\_covid-19\\_monitoring\\_of\\_spread\\_en.pdf](https://edps.europa.eu/sites/edp/files/publication/20-03-25_edps_comments_concerning_covid-19_monitoring_of_spread_en.pdf).

<sup>88</sup> See D. Bigo, E. Isin and E. Ruppert (eds.) (2019), *Data Politics. Worlds, Subjects, Rights*, London: Routledge, open access available at <https://doi.org/10.4324/9781315167305>.

access to this data were allowed, there would be huge temptations for function or purpose ‘creep’ and for law enforcement authorities to have access to that data in a largely unjustified fashion and going well beyond the group of legitimate end users recommended by the EDPS.

Moreover, fundamental rights and rule of law impacts are even more pressing in those EU member states having declared a state of exception or emergency along with the set of traffic and mobility restrictions related to in-country and external borders. As illustrated in Annex 1 Section 4 of this Paper, the governments of the Czech Republic, Estonia, France, Hungary, Latvia, Luxembourg, Portugal, Romania, Slovakia and Spain have declared or continued with various degrees of ‘state of exception’, differing in the scope and nature of extraordinary executive powers granted to the government. In this context, the Hungarian government has been said to move to “the edge of dictatorship”.<sup>89</sup>

The Council of Europe Venice Commission has defined “Public emergency situations” as entailing “both derogations from normal human rights standards and alterations in the distribution of functions and powers among the different organs of the State”.<sup>90</sup> It has also highlighted that experience has shown how the gravest human rights violations tend to happen during states of emergency. And while in many constitutions there is an express provision envisaging emergencies and specific rules and procedures when they are proclaimed by a ruling government, this is not always the case in all countries.

In this respect the United Nations Siracusa Principles<sup>91</sup> are of central importance. They proclaim a number of requirements to be complied with by countries. Governments should justify the factual circumstances justifying the declaration of a state of emergency and a description of the anticipated effect of the measures on the rights enshrined in the International Covenant of Civil and Political Rights (ICCPR). They should also terminate that derogation in the shortest time possible. It also states that “A review of the continuing consequences of derogation measures shall be made as soon as possible. Steps shall be taken to correct injustices and to compensate those who have suffered injustice during or in consequence of the derogation measures”.

In a similar logic, the Parliamentary Assembly of the Council of Europe (PACE) has highlighted in a Resolution titled “State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights” of April 2018 that “Without appropriate guarantees, such measures create serious risks for democracy, human rights and the rule of law”.<sup>92</sup>

<sup>89</sup> K.L. Scheppele (2020), Orban’s Emergency, *Verfassungsblog on Constitutional Matters*, 29 March 2020, at <https://verfassungsblog.de/orbans-emergency/>.

<sup>90</sup> E. Özbudun and M. Turhan (1995), “Emergency powers”, *Science and Technique of Democracy* No. 12, CDL-STD(1995) 012, Strasbourg, Venice Commission (Council of Europe), 30 May 1995, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-STD\(1995\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-STD(1995)012-e).

<sup>91</sup> Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, <https://www.ici.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>.

<sup>92</sup> Resolution 2209 (2018) of the Parliamentary Assembly of the Council of Europe of 24 April 2018, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24680&lang=en>.

PACE sent a strong reminder to CoE member states that “legality, effective parliamentary oversight, independent judicial control and effective domestic remedies, must be maintained even during a state of emergency”. They are also subject to scrutiny by the European Court of Human Rights in Strasbourg.<sup>93</sup> The CoE also put especial emphasis on the need to ensure the continued functioning of democratic institutions and processes, as well as judicial safeguards and remedies.<sup>94</sup> It is by and large unclear and utterly uncertain whether all the above-mentioned governments have complied with these requirements in their state of emergency measures,<sup>95</sup> which calls for a close scrutiny and follow-up monitoring regarding the specific implementation dynamics and uses that each of these governments leaders have made and will make of these powers.

## 5. Conclusions

This Paper has examined and taken stock of the set of national and EU measures introduced in the name of the COVID-19 pandemic in Europe. It has provided a detailed overview and assessment of the scope and features characterising the set of measures reintroducing internal border controls and intra-EU travel bans (entry and exit) in the Schengen area, as well as those focused on restrictions of specific modes of international and EU traffic. The coronavirus outbreak across Europe has put in peril the foundations of the Schengen system, the Single Market and EU free movement and Union citizens’ rights.

The analysis shows that the immediate policy responses by several member states’ Ministries of the Interior has been driven by unilateral, nationalistic and ad hoc border control-related policies derogating free movement of people and impacting in profound ways the EU rights and freedoms of individuals and the rule of law. The resulting picture is one of a complex web of parallel and incoherent national regimes restricting to significantly different degrees the entry/exit of people, and wide divergences regarding the conditions for people to be allowed to move across the Schengen area.

The repercussions of the introduction of internal border controls and travel bans among Schengen countries have translated into serious disruptions in international and intra-EU traffic of goods and people moving for legitimate purposes. Many individuals have been caught up in a collection of incoherent and over-lapping national restrictions, with many not being able to return to their country of origin or residence.

<sup>93</sup> Refer to ECtHR (2019), “Guide on Article 15 of the European Convention on Human Rights: Derogations in time of emergency”, Strasbourg, European Court of Human Rights, [https://www.echr.coe.int/Documents/Guide\\_Art\\_15\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_15_ENG.pdf).

<sup>94</sup> As confirmed by Council of Europe Committee of Ministers in their Reply to the above-mentioned PACE Recommendation, issued on 5 December 2018, Committee of Ministers (2018), Reply to Recommendation 2125 (2018) on the “State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention of Human Rights, Doc. 14770, Strasbourg, Council of Europe, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=25219&lang=en>.

<sup>95</sup> “Orban granted indefinite ‘authoritarian’ power”, *EUobserver*, 31 March 2020, <https://euobserver.com/coronavirus/147933>.

While the SBC envisages the possibility to reintroduce internal border checks, EU Ministries of the Interior do not have *carte blanche* concerning the procedures and substantive conditions to be met for the former to be lawful, which fall under the scrutiny of European institutions. This Paper shows that a majority of these member states have failed to provide robust reasons and evidence justifying the actual suitability, necessity and proportionality to use border controls as the main policy response to the public health challenges inherent to the coronavirus. This applies both to the reintroduction of internal border controls and the use of national and EU travel bans.

Many of the cross-border traffic restriction measures present and are based on an implicit idea that restricting movement through border controls and entry or exit bans is one of the most adequate responses to COVID-19 pandemic. They portray the COVID-19 as something ‘foreign’ which can be effectively prevented from entry. Our analysis shows that a total closure of internal EU borders in the EU is not only unrealistic, but it is also unfeasible.

Many of the internal border control measures, and especially those applying in intra-EU travel bans, do not pass the EU legality test satisfactorily regarding their suitability and necessity. Moreover, in addition to suitability and necessity, any proportionality test examination must entail an analysis of the effects of policy measures on individuals’ rights and the rule of law impacts, which comprise their legal feasibility or compliance. Otherwise, this could lead to situations where a policy could be considered ‘acceptable’ even if the repercussions would be completely disproportionate to the desired objective and unreasonably interfere core fundamental rights and constitutional guarantees, and therefore failing to be legitimate in a democratic society. Our research shows that many of these measures prove to have profoundly negative and intrusive consequences on EU citizens and residents’ freedoms, as recognised both by national and EU law, and in some cases undermine the rule of law.

Travel bans, in particular, sit very uneasily in the EU legal system. They constitute an automatic refusal or bar on entry to the country, running contrary to the obligation of EU Schengen countries to carry out an *individualised and non-discriminatory assessment of legitimate movements* by EU citizens, residents and their families, and their specific differences and vulnerabilities, before a refusal of entry is issued by border authorities. This is even more the case in respect of the EU Travel Ban proposed by the Commission, which is contrary to EU Better Regulation Guidelines, and promotes a similar nationalistic and protectionist approach to the one advanced by the US Trump Administration, even though this approach runs contrary to and puts in peril the very freedoms and principles upon which the Union is founded and operates.

Our examination has found that there is no conclusive evidence in existing scientific research covering past and current pandemics about the effectiveness of international traffic restrictions and ‘bans’ in preventing the spread or increase of cases after virus outbreaks. This has been confirmed by the World Health Organisation (WHO) which has until now advised against international travel restrictions to countries experiencing COVID-19, and instead focused on

providing guidance on the detection and management of ill travellers suspected to have COVID-19 at points of entry and on conveyances of all types.

WHO has confirmed that high level restrictions of cross-border mobility may prove ineffective in preventing the importation of cases, and it may also divert much needed resources away from other key policy needs such as reinforcing health infrastructures, increasing testing and research capacities. More academic research is therefore needed to show the extent to which recent intra and extra-EU traffic restrictions on persons and travel bans have worked or not in preventing the spread of COVID-19 cases, in light of the specific characteristics (still under investigation) of this pandemic in comparison to those in the past; and if so to what extent, and at what costs.

Existing research has also showed that *societal trust-building measures* and a mix of public health policy interventions can be expected to have meaningful repercussions in practice. The WHO has recommended that any international travel restrictions should be based on a rigorous scientific assessment, be limited in duration and reconsidered regularly. In addition, researchers and the WHO have advised governments to invest on trust-building options that are ethics-compliant, including only restrictive use of health data in full respect of EU privacy standards and confidentiality principles, and forbidding access by law enforcement authorities.

According to EU Schengen rules, EU Member States have the burden of proof to justify the necessity, proportionality and fundamental rights-compliance of reintroducing internal border controls. Importantly, the proportionality test does not only entail proving that policy measures are 'effective', but also that they do not disproportionality interfere fundamental rights (societal impacts) and the rule of law.

Furthermore, both national and EU initiatives, such as the EU Travel Ban, blur a public health policy approach with one focused on public policy and internal security driven by a policing and law enforcement logic. Such an approach gives priority to border control actors focused on refusals of entry, over health professionals dedicated to secure access to medical care to anyone in need which should be ultimately the ones involved in the proportionality test. This has been recognised by the European Commission which has said that refusal of entry may not always be the most effective measure, and that the proportionality assessment of the policy measures should be carried out by health authorities, and not Ministries of the Interior.

This Paper also argues that over-restrictive travel bans forbidding very high percentages of non-entry are also illegal in the EU. EU member states must still permit the entry of own nationals and legal residents, as well as other categories of people such as cross-border workers. Also, as the European Commission has rightly reminded EU governments, EU citizens and third country nationals holding EU residence permits must be also allowed to enter and transit when moving towards their home country. All these are non-derogable obligations in national constitutions and EU law even in times of a declared 'state of emergency'. The consequences for cross-border communities living in European border regions and local-border traffic, and other legitimate forms

of travel for economic or family reasons, should be also considered. Therefore, the image and political messaging of total closure and containment is debunked.

This Paper confirms that a majority of the EU member states having introduced measures managing the cross-border mobility of persons apply diverse and overly restrictive notions of what is deemed to be ‘essential’ (or cogent reasons) or ‘non-essential’ cross-border movements, leaving a very large degree of discretion to national border and border police officials, as well as the kind of documentation that is required at border crossing points. This has led to legal uncertainty for people on the move, and runs contrary to their obligations under the SBC, the EU Free Movement Directive and the Guidelines for border management issued by the Commission. The Commission should therefore require all relevant Ministries of Interior to agree on common and consistent coordinated actions.

Moreover, the practical implementation of these national measures has proved to be challenging, particularly those limiting the number of border crossing points. Media sources have reported long queues and waiting lines, negatively affecting the free movement of goods and making the job of border guard/police authorities to conduct fast border checks challenging on the ground. More qualitative research is needed to document the testimonies and stories of EU citizens and residents who have been negatively exposed to these disproportionate restrictions.

On this basis, the Commission should require relevant member state governments to comply with EU rules, and justify and re-assess their decisions with scientific research and public health authorities’ expertise. Ministries of Interior should also genuinely commit to a ‘*sunset clause*’ for terminating travel bans and unlawful practices in the context of internal border checks, and not discretionally extends these measures indefinitely. The Member States should be also reminded that they cannot use or change the SBC legal basis instrumentally to unlawfully extend internal border checks beyond the foreseen deadline.

The Commission should focus on effectively enforcing member states’ Schengen and free movements commitments and agree an evidence-based “Back to Schengen Agenda”. In light of the obstacles experienced by EU citizens in third countries to come back to their countries of residence or origin, an increased role of EU delegations in third countries on consular protection should be carefully explored and reconsidered from the perspective of both its legal and political feasibility, and the benefits that it could effectively deliver to individuals.

The legality and proportionality tests do not only entail an examination of the effectiveness of travel restriction measures in containing COVID-19, but also the proportionality and legitimacy of their impacts on people’s human rights and liberties and the rule of law. These not only relate to the free movement of persons, but also a bundle of inter-related or closely intertwined rights to the latter envisaged in the EU Charter of Fundamental Rights, such as non-discrimination, family life, access to preventive health care and the right to benefit from medical treatment, privacy and international protection.

There is evidence showing how several Ministries of the Interior have enacted measures discriminating EU citizens and residents on the basis of nationality or profiling, which is prohibited by the Treaties and the EU Charter, and not delivering EU rights to third country nationals holding an EU permit or to those seeking asylum. Increasing surveillance measures of mobile individuals, including profiling and movement tracking, are also in contravention to data protection, posing huge risks of misuses and function ‘creep’ for policing purposes.

These are very delicate times calling for critical wisdom. Our analysis shows several of these EU member states declaring a state of emergency or state of alarm in the name of COVID-19 border control and mobility restrictions. These include a wide range of derogations of constitutional guarantees scrutinising governments’ actions and EU rights of citizens and foreigners. History has showed that once a government enters into ‘state of emergency’ mode, it is extraordinarily difficult to activate an ‘emergency brake’ and bring back the legal system and the functioning of checks and balances to ‘normality’.

More research is needed as regards the exact scope, practical implementation and follow up of these ‘emergency’ declarations in each relevant country. Particular attention should be paid to the extent to which these national measures comply with the benchmarks and standards developed by the Council of Europe and the Strasbourg Court in relation to exceptions to human rights protections, as well as their compatibility with the obligation on all member states to comply with Art. 2 Treaty of the European Union values even at times of declared emergencies.

The European Commission and the European Parliament should remind all relevant governments that effective parliamentary oversight, independent judicial control and effective domestic remedies, must be maintained even during a state of emergency. They should conduct a country-by-country qualitative assessment of what these ‘states of emergency’ mean and their compliance with EU rule of law standards.

In light of the above findings, and based on the experience and lessons learned from the Banking Union response to the 2008 financial crisis,<sup>96</sup> the EU should adopt an “EU-wide Schengen Stress Test”. This would provide a periodic country-by-country ‘quali-quantitative’ assessment of the state of free movement, Schengen rules and asylum legislation across the Union. It would be based on Article 70 of the Treaty on the Functioning of the European Union (TFEU), which foresees the possibility to develop a mechanism for conducting objective and independent evaluation of the implementation of EU Area of Freedom, Security and Justice (AFSJ) policies.

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<sup>96</sup> See European Banking Authority (EBA) EU-wide stress testing for 2018 at <https://eba.europa.eu/risk-analysis-and-data/eu-wide-stress-testing/2018> On the European Stress Test in the Banking Union see R. Haselmann and M. Wahrenburg (2018), How Demanding and Consistent if the 2018 Stress Test Design in Comparison to Previous Exercises? European Parliament Study, DG IPOL, Brussels. See also W.P. De Groen and K. Lannoo (2014), The ECB AQR and the EBA Stress Test: What will the numbers tell?, CEPS Commentary, Brussels, at <https://www.ceps.eu/ceps-publications/ecb-aqr-and-eba-stress-test-what-will-numbers-tell/>; and K. Lannoo (2011), The Second Banking Stress Test: Further Work in Progress, CEPS Commentary, Brussels at <https://www.ceps.eu/ceps-publications/second-eu-bank-stress-test-further-work-progress/>

In order to overcome some of the methodological caveats characterising the European stress test applicable to the Banking Union,<sup>97</sup> the EU Schengen Stress Test would count on the participation of a group of EU Agencies: Frontex (European Border and Coast Guard), the EU Fundamental Rights Agency (FRA), the European Ombudsman and the European Asylum Support Office (EASO), which would provide a centralised written overview for each EU country based on the information and evidence provided by their national networks. This should be complemented by an academically and scientifically sound overview ensuring full independence from the Commission and EU agencies.

These are times calling for more EU solidarity, and not for more closure and blame-shifting politics. Those governments focused on self-centredness, protectionism and penny-pinching agendas are not only disloyally running contrary to the historical roots and foundations of European integration;<sup>98</sup> they are also failing to understand what the EU is all about.<sup>99</sup>

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<sup>97</sup> Camara, B., Pessarossi, P. and T. Philippon (2017): Backtesting bank stress tests, National Bureau of Economic Research (NBER) Working Paper No. 23083, January 2017, which conclude that centralised supervision is likely to be more unbiased and accurate.

<sup>98</sup> According to the recent Advocate General Sharpston Opinion, October 2019, “Respecting the ‘rules of the club’ and playing one’s proper part in solidarity with fellow Europeans cannot be based on a penny-pinching cost-benefit analysis along the lines (familiar, alas, from Brexiteer rhetoric) of ‘what precisely does the EU cost me per week and what exactly do I personally get out of it?’ Such self-centredness is a betrayal of the founding fathers’ vision for a peaceful and prosperous continent. It is the antithesis of being a loyal Member State and being worthy, as an individual, of shared European citizenship. If the European project is to prosper and go forward, we must all do better than that.” Opinion of Advocate General Sharpston in Cases C-715/17 Commission v. Poland, C-718/17 Commission v. Hungary and C-719/17 Commission v. Czech Republic, EU:C:2019:917.

<sup>99</sup> See Portuguese Prime Minister Costa’s remarks responding to the Dutch Minister of Finance Hoekstra who reportedly called for an investigation to countries like Spain and Italy regarding their calls for EU solidarity on the basis of the negative economic impacts of the COVID-19 pandemic. See Politico (2020), Dutch try to calm north-south economic storm over coronavirus, 27 March 2020, at <https://www.politico.eu/article/netherlands-try-to-calm-storm-over-repugnant-finance-ministers-comments/>

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## Annex 1. Overview of EU member states and Schengen countries' measures in light of COVID-19 Pandemic

Updated to 31 March 2020

This Annex provides an empirical overview of the measures taken by various EU member states and Schengen countries containing intra-EU or in-country mobility restrictions.

### 1. Measures reintroducing internal border controls in the Schengen area

The Table below sets out the temporary reintroduction of internal border controls at the Schengen internal borders by member states of the Schengen Area in response to the COVID-19 situation in Europe. The information below is based on two sets of primary sources: a) notifications under the SBC by Schengen countries,<sup>100</sup> and b) national legislative and regulatory instruments explicitly declaring the temporary reintroduction of internal border controls. For each Schengen country, the scope of the internal border controls (i.e. whether the internal border controls are at the borders with specific Schengen countries, or at all internal borders), as well as the duration of the temporarily reintroduced border controls. Where certain Schengen countries have not officially reintroduced internal border controls (as documented in national legislative instruments or notifications under the SBC), but national measures have been adopted that necessarily imply border controls, this will be indicated.

Reintroduction of internal border controls		
<b>Austria</b>	<p>Reintroduction of internal border controls at the borders with Germany Italy, Switzerland and Liechtenstein</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 11 March 2020, ST 6784 2020 REV 1 (Austria-Italy);</li> <li>• Notification of 13 March 2020, ST 6784 2020 ADD 1 (Austria-Switzerland + Austria-Liechtenstein);</li> <li>• Notification of 18 March 2020, ST 6914 2020 INIT (prolongation Austria-Italy, Austria-Switzerland and Austria-Liechtenstein   Austria-Germany).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>• Austria-Italy &amp; Austria-Germany: BGB1. II Nr. 84/2020,<sup>101</sup> as amended by BGB1. II Nr. 102/2020;<sup>102</sup></li> </ul>	<p>11-20 March 2020</p> <p>14-23 March 2020</p> <p>18 March 2020 – 6 April 2020</p> <p>10 March 2020 – 7 April 2020</p>

<sup>100</sup> The notifications can be found in the Register of Documents of the General Secretariat of the Council, available at <https://www.consilium.europa.eu/en/documents-publications/public-register/>.

<sup>101</sup> <https://www.ris.bka.gv.at/eli/bgb/II/2020/84/20200310>.

<sup>102</sup> <https://www.ris.bka.gv.at/eli/bgb/II/2020/102/20200318>.

	<ul style="list-style-type: none"> <li>• Austria-Switzerland &amp; Austria-Liechtenstein: BGB1. II Nr. 91/2020,<sup>103</sup> as amended by BGB1. II Nr. 102/2020.</li> </ul>	13 March 2020 – 7 April 2020
<b>Belgium</b>	<p>Reintroduction of internal border controls at all internal borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 20 March 2020, ST 6942 2020 INIT (all internal borders);</li> <li>• Notification of 30 March 2020, ST 7080 2020 INIT (prolongation, all internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>• No explicit national provision found but seems to be introduced in order to enforce the in-country mobility restrictions.<sup>104</sup></li> </ul>	20-29 March 2020  30 March 2020 – 18 April 2020
<b>Czech Republic</b>	<p>Reintroduction of internal border controls at Czechia-Austria and Czechia-Germany land borders, as well as Czech internal air borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 12 March 2020, ST 6790 2020 INIT (Czechia-Austria &amp; Czechia-Germany &amp; internal air borders);</li> <li>• Notification of 16 March 2020, ST 6790 2020 REV 1 (Czechia-Austria &amp; Czechia-Germany &amp; internal air borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>• Emergency measures of the Ministry of the Interior of 12 and 13 March 2020 and Measures of a General Nature of the Ministry of the Interior of 15 and 16 March 2020.<sup>105</sup></li> </ul>	14 March 2020 – 4 April 2020   14 March 2020 – 4 April 2020
<b>Denmark</b>	<p>Reintroduction of internal border controls at all Danish internal borders, including land, sea and air borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 13 March 2020, ST 6846 2020 INIT (all Danish internal borders).</li> </ul>	14 March 2020 – (end date unclear)

<sup>103</sup> <https://www.ris.bka.gv.at/eli/bgbl/II/2020/91/20200313>.

<sup>104</sup> See “België sluit grenzen voor niet-essentiële verplaatsingen” [Belgium closes borders for non-essential movements], *De Morgen*, 20 March 2020, <https://www.demorgen.be/nieuws/belgie-sluit-grenzen-voor-niet-essentielle-verplaatsingen~bb2d908c/>; “Belgium closes borders for ‘non-essential’ travel”, *Politico.eu*, 20 March 2020, <https://www.politico.eu/article/belgium-closes-borders-for-non-essential-travel/>.

<sup>105</sup> Available at <https://www.mvcr.cz/clanek/opatreni-vlady-o-prodlouzeni-docasneho-znovuzavedeni-ochrany-vnitrich-hranic-ceske-republiky.aspx> (in Czech).

	<p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>No explicit national provision found. Information obtained from official (COVID-19) website of the Danish government.<sup>106</sup></li> </ul>	14 March 2020 – 13 April 2020
<b>Estonia</b>	<p>Reintroduction of internal border controls at all Estonian internal borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 16 March 2020, ST 6860 2020 INIT (all Estonian internal borders);</li> <li>Notification of 25 March 2020, ST 7025 2020 INIT (prolongation, all Estonian internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Regulation of 15 March 2020, No. 15, “Temporary Restoration of Border Checks and Border Controls at the Internal Border”.<sup>107</sup></li> </ul>	17-26 March 2020 27 March 2020 – 15 April 2020  17 March 2020 – indeterminate date
<b>Finland</b>	<p>Reintroduction of internal border controls at all Finnish internal borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 17 March 2020, ST 6906 2020 INIT (all Finnish internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Government Decision SM/2020/20 on the temporary reintroduction of border controls at internal borders.<sup>108</sup></li> </ul>	19 March 2020 – 13 April 2020  19 March 2020 – 13 April 2020
<b>France</b>	<p>Reintroduction of internal border controls at all French internal borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 30 March 2020, ST 7138 2020 INIT (prolongation, all French internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li><u>No national legislative instrument found</u> explicitly reintroducing internal border controls. However, various news sources<sup>109</sup> note</li> </ul>	1 May 2020 – 30 October 2020

<sup>106</sup> See <https://politi.dk/en/coronavirus-in-denmark/if-you-are-travelling-to-and-from-denmark>, under “Is the border to Denmark closed?”.

<sup>107</sup> <https://www.riigiteataja.ee/en/eli/517032020003/consolide>.

<sup>108</sup> <https://valtioneuvosto.fi/paatokset/paatokset?decisionId=0900908f8068f44f> (in Finnish).

<sup>109</sup> See <https://www.theguardian.com/world/2020/mar/16/coronavirus-spain-takes-over-private-healthcare-amid-more-european-lockdowns>, [https://www.lexpress.fr/actualite/monde/europe/fermeture-des-frontieres-queelles-consequences-pour-les-francais-et-les-etrangers\\_2121128.html](https://www.lexpress.fr/actualite/monde/europe/fermeture-des-frontieres-queelles-consequences-pour-les-francais-et-les-etrangers_2121128.html).

	<p>that France's borders were closed from 17 March 2020, which would necessitate internal border controls.</p> <p>It should be noted that France's existing temporarily reintroduced border controls, most recently extended by notification of 2 October 2019 (ST 12867 2019 INIT), applicable to all French internal borders, remains in effect from 1 November 2019 to 30 April 2020. The Notification of 30 March 2020 explicitly refers to this prior notification as the basis for national measures reintroducing internal border controls in response to the COVID-19 pandemic.</p>	1 November 2019 – 30 April 2020
<b>Germany</b>	<p>Reintroduction of internal border controls at German internal land borders with Denmark, Luxembourg, France, Austria and Switzerland, as well as air borders with Austria, Switzerland, France, Luxembourg, Denmark Italy and Spain, and sea borders with Denmark.</p> <p><b>Notifications under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 15 March 2020, ST 6851 2020 INIT (German land borders with Denmark, Luxembourg, France, Austria &amp; Switzerland);</li> <li>• Notification of 19 March 2020, ST 6851 2020 ADD 1 (German land borders as above + German air borders with Denmark, Luxembourg, France, Austria, Italy, Spain &amp; Switzerland + German sea borders with Denmark);</li> <li>• Notification of 24 March 2020, ST 7033 2020 INIT (prolongation, German land borders with Austria, Denmark, France, Italy, Luxembourg, Spain &amp; Switzerland + German sea borders with Denmark).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>• No explicit national provision found. Information obtained from official websites of the Federal Government.<sup>110</sup></li> </ul>	16-25 March 2020  19-28 March 2020  26 March 2020 – 14 April 2020
<b>Greece</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Hungary</b>	<p>Reintroduction of internal border controls at all Hungarian internal borders</p> <p><b>Notifications under SBC:</b></p> <ul style="list-style-type: none"> <li>• Notification of 12 March 2020, ST 6788 2020 INIT (Hungarian-Slovenian &amp; Hungarian-Austrian borders);</li> </ul>	12-23 March 2020

<sup>110</sup> See <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>, <https://www.bundesregierung.de/breg-de/themen/coronavirus/kontrollen-an-den-grenzen-1730742> and <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/EN/2020/03/corona-ein-und-ausreise-en.html>.

	<ul style="list-style-type: none"> <li>Notification of 18 March 2020, ST 9626 2020 INIT (Hungarian internal borders with Austria, Slovakia and Slovenia + all Hungarian internal air borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Government Decree 41/2020 (Hungarian-Slovenian &amp; Hungarian-Austrian borders);<sup>111</sup></li> <li>National provisions temporarily reintroducing border controls at all internal Hungarian borders not found.</li> </ul>	17 March 2020 – 10 April 2020
<b>Iceland</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Italy</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Latvia</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Lithuania</b>	<p>Reintroduction of internal border controls at all Lithuanian internal borders</p> <p><b>Notifications under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 14 March 2020, ST 6848 2020 INIT (all Lithuanian internal borders);</li> <li>Notification of 24 March 2020, ST 7003 2020 INIT (prolongation, all Lithuanian internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Order of the Ministry of the Interior of 14 March 2020 No. 1V-217, extended by Order of the Ministry of the Interior of 23 March 2020 No. 1V-255 (extension – all Lithuanian internal borders).<sup>112</sup></li> </ul>	14-24 March 2020 24 March 2020 – 13 April 2020 14 March 2020 – 13 April 2020
<b>Luxembourg</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Netherlands</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Norway</b>	Reintroduction of internal border controls at all Norwegian internal borders (land, sea and air borders)	

<sup>111</sup> <https://magyarkozlony.hu/dokumentumok/af0a665e93020a1bb69193ed9a8379f516854bf7/megtekintes>.

<sup>112</sup> <https://www.e-tar.lt/portal/lt/legalAct/2d0bc4b0660f11eabee4a336e7e6fdab>.

	<p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 15 March 2020, ST 6850 2020 INIT (all Norwegian internal borders);</li> <li>Notification of 25 March 2020, ST 7013 2020 INTI (prolongation, all Norwegian internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>National provisions explicitly temporarily reintroducing border controls at Norwegian internal borders not found. Information obtained from official website of Norwegian government.<sup>113</sup></li> </ul>	<p>16-26 March 2020</p> <p>26 March 2020 – 14 April 2020</p> <p>16 March 2020 – (end date unclear)</p>
<b>Poland</b>	<p>Reintroduction of internal border controls at Polish internal land borders with Czech Republic, Slovakia, Germany and Lithuania and Polish internal sea and air borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 13 March 2020, ST 6844 2020 INIT (Polish land borders with Czech Republic, Slovakia, Germany and Lithuania &amp; Polish air and sea borders);</li> <li>Notification of 24 March 2020, ST 9649 2020 INIT (Polish land borders with Czech Republic, Slovakia, Germany, and Lithuania &amp; Polish air and sea borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Ordinance Dz. U. 2020 No. 434,<sup>114</sup> prolonged by Ordinance Dz. U. 2020 No. 519 (Polish land borders with Czech Republic, Slovakia, Germany and Lithuania + Polish air and sea borders).<sup>115</sup></li> </ul>	<p>15-24 March 2020</p> <p>25 March 2020 – 13 April 2020</p> <p>15 March 2020 – 13 April 2020</p>
<b>Portugal</b>	<p>Reintroduction of internal border controls at Portuguese-Spanish internal border</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 18 March 2020, ST 6896 2020 INIT (Portuguese-Spanish internal borders);</li> <li>Notification of 25 March 2020, ST 7067 2020 INTI (prolongation Portuguese-Spanish internal borders).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Resolution of the Council of Ministers of 16 March 2020, no. 10-B/2020.</li> </ul>	<p>16-25 March 2020</p> <p>26 March 2020 – 14 April 2020</p> <p>16 March 2020 – 15 April 2020</p>

<sup>113</sup> <https://www.regjeringen.no/en/aktuelt/stricter-border-controls-being-introduced/id2693624/>.

<sup>114</sup> <http://dziennikustaw.gov.pl/DU/2020/434>.

<sup>115</sup> <http://dziennikustaw.gov.pl/DU/2020/519>.

<b>Romania</b>	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
<b>Slovakia</b>	<p>Reintroduction of internal border controls at Slovakian internal borders with all neighbouring countries (including Hungary, Austria and the Czech Republic) except for Poland.</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li><u>No notification found</u> of temporary reintroduction of internal border controls.</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li><u>No national legislative instrument found</u> explicitly reintroducing internal border controls. However, the Central Crisis Staff of the Slovak Republic has announced, as of 13 March 2020, temporary reinstatement of internal border controls with all neighbouring countries, except for Poland.<sup>116</sup></li> </ul>	13 March 2020 – (indeterminate date)
<b>Slovenia</b>	<p><u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.</p> <p>However, as noted below, Slovenia has reduced the border crossing points between Slovenia-Italy,<sup>117</sup> Slovenia-Croatia,<sup>118</sup> and Slovenia-Austria,<sup>119</sup> as well as imposed (medical) entry conditions, measures which necessitate internal border controls.</p>	n/a
<b>Spain</b>	<p>Reintroduction of internal border controls at Spanish internal land borders</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 16 March 2020, ST 6868 2020 INIT (all Spanish internal land borders);</li> <li>Notification of 26 March 2020, ST 7054 2020 INIT (prolongation all Spanish internal land borders).</li> </ul>	<p>17-26 March 2020</p> <p>27 March 2020 – 11 April 2020</p>

<sup>116</sup> See <http://www.minv.sk/?tlacove-spravy-4&sprava=ustredny-krizovy-stab-pritvrdil-opatrenia-v-boji-proti-sireniu-koronavirusu>, <https://www.mindop.sk/media-5144/tlacove-spravy-2726/mimoriadne-opatrenia-v-doprave-prijate-ustrednym-krizovym-stabom-sr-na-zastavenie-sirenia-koronavirusu>, <https://www.korona.gov.sk/covid-19-prijate-opatrenia.php> and [http://www.uvzsr.sk/index.php?option=com\\_content&view=article&id=4087:covid-19-ustredny-krizovy-tab-zavadza-alie-opatrenia-zatvorja-sa-koly-inletiska-karantena-plati-pre-vetkych-ktori-sa-vratia-zo-zahranicia&catid=250:koronavirus-2019-ncov&Itemid=153](http://www.uvzsr.sk/index.php?option=com_content&view=article&id=4087:covid-19-ustredny-krizovy-tab-zavadza-alie-opatrenia-zatvorja-sa-koly-inletiska-karantena-plati-pre-vetkych-ktori-sa-vratia-zo-zahranicia&catid=250:koronavirus-2019-ncov&Itemid=153).

<sup>117</sup> See Decree laying down the conditions of entry into the Republic of Slovenia from the Italian Republic in order to prevent the spread of infectious disease”, RS. No. 29/20, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2020>.

<sup>118</sup> See Decree on the temporary suspension of the operation of border crossings for border traffic at the border with the Republic of Croatia, RS. No. 28/20, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2017>.

<sup>119</sup> See Decree laying down the conditions of entry into the Republic of Slovenia from the Republic of Austria for the control and control of communicable diseases, RS. No. 34/20, <https://www.uradni-list.si/1/objava.jsp?sop=2020-01-0658>.

	<p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>Order of the Ministry of the Interior INT/239/2020,<sup>120</sup> extended by Order of the Ministry of the Interior INT/283/2020.<sup>121</sup></li> </ul>	17 March 2020 – 11 April 2020
Sweden	<u>No notification found</u> of temporary reintroduction of internal border controls. <u>No national legislative instrument found</u> explicitly reintroducing internal border controls.	n/a
Switzerland	<p>Reintroduction of internal border controls at Swiss internal borders with Italy, Germany, France, Austria and Spain</p> <p><b>Notification under SBC:</b></p> <ul style="list-style-type: none"> <li>Notification of 13 March 2020, ST 6845 2020 INIT (Swiss-Italian border);</li> <li>Notification of 16 March 2020, ST 6845 2020 ADD 1 (Swiss internal borders with Germany, France and Austria);</li> <li>Notification of 18 March 2020, ST 6845 2020 ADD 2 (Swiss-Spanish border);</li> <li>Notification of 20 March 2020, ST 6950 2020 INIT (Swiss internal borders with Italy,  Germany, France and Austria,  Spain;</li> <li>Notification of 26 March 2020, ST 6950 2020 ADD 1 (Swiss internal borders with all Schengen countries, except Liechtenstein).</li> </ul> <p><b>National legislation:</b></p> <ul style="list-style-type: none"> <li>No national provision found explicitly reintroducing internal border controls at Swiss borders with Schengen countries. However, internal border control at Swiss internal borders with Schengen countries seems to be implied in entry ban under COVID-19-Verordnung 2 (applicable from 13 March 2020 until an indeterminate date).</li> </ul>	13-22 March 2020  16-25 March 2020  18-27 March 2020  23 March 2020 – 11 April 2020  26 March 2020 – 14 April 2020  28 March 2020 – 16 April 2020  25 March 2020 – 3 April 2020

<sup>120</sup> <https://www.boe.es/eli/es/o/2020/03/16/int239>.

<sup>121</sup> <https://www.boe.es/eli/es/o/2020/03/25/int283/con>.

## 2. Restrictions on entry for modes of transportation

The following table sets out the measures taken by EU member states and Schengen countries restricting the entry into (and/or departure from) their territory of modes of international passenger transportation. The information is primarily based on national legislative and regulatory instruments. Where restrictions on international passenger transportation have been adopted, but such legislative and regulatory instruments have not been found, this will be noted. The table further indicates the duration of any measures in place restricting international passenger transportation.

Restrictions of modes of international passenger transportation																						
<b>Austria</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Landing ban on (international) passenger flights originating from ‘COVID-19 risk areas’, including from:               <ul style="list-style-type: none"> <li>○ Italy (BGB1. II Nr. 83/2020,<sup>122</sup> as amended by BGB1. II Nr. 85/2020,<sup>123</sup> and last amended by BGB1. II Nr. 109/2020);<sup>124</sup></li> <li>○ Switzerland, France and Spain (BGB1. II Nr. 83/2020, as amended by BGB1. II Nr. 93/2020,<sup>125</sup> and last amended by BGB1. II Nr. 109/2020);</li> <li>○ United Kingdom and the Netherlands (BGB1. II Nr. 83/2020, as amended by BGB1. II Nr. 95/2020,<sup>126</sup> and last amended by BGB1. II Nr. 109/2020).</li> </ul> </li> </ul> <p>Landing ban does not apply to cargo flights, mission flights, ambulance/rescue flights, transfer flights or (from 19 March 2020, BGB1. II Nr 103/2020)<sup>127</sup> repatriation flights.</p> <ul style="list-style-type: none"> <li>• Cancellation of (international) passenger rail transport from:               <ul style="list-style-type: none"> <li>○ Italy (BGB1. II Nr. 86/2020,<sup>128</sup> as last amended by BGB1. II Nr. 124/2020);<sup>129</sup></li> <li>○ Switzerland and Liechtenstein (BGB1. II Nr. 86/2020, as amended by BGB1. II Nr. 94/2020,<sup>130</sup> and as last amended by BGB1. II Nr. 124/2020).</li> </ul> </li> </ul> <p>Measure does not apply to freight transport or rail traffic without a commercial stop in Austria or Liechtenstein.</p>	<table border="0"> <tr> <td style="padding-right: 10px;">9 March 2020</td> <td style="padding-right: 10px;">–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>16 March 2020</td> <td>–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>17 March 2020</td> <td>–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>10 March 2020</td> <td>–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>15 March 2020</td> <td>–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> </table>	9 March 2020	–	13 April 2020		16 March 2020	–	13 April 2020		17 March 2020	–	13 April 2020		10 March 2020	–	13 April 2020		15 March 2020	–	13 April 2020	
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<sup>122</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/83/20200309>.

<sup>123</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/85/20200310>.

<sup>124</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/109/20200320>.

<sup>125</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/93/20200313>.

<sup>126</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/95/20200315>.

<sup>127</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/103/20200318>.

<sup>128</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/86/20200310>.

<sup>129</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/124/20200327>.

<sup>130</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/94/20200313>.

<b>Belgium</b>	No restrictions on modes of international passenger transportation have been found.	n/a
<b>Bulgaria<sup>131</sup></b>	No restrictions on modes of international passenger transportation found.	n/a
<b>Croatia</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Restriction of maritime transport to the Croatian islands and Peljesac peninsula, including cancellation of passenger maritime transport (Decision of the Civil Protection Headquarters NN 34/2020 (732)),<sup>132</sup> except for: <ul style="list-style-type: none"> <li>○ Croatian nationals and foreign nationals with permanent residence on Croatian islands or Peljesac peninsula;</li> <li>○ Public health workers or workers in other public services;</li> <li>○ Persons working in goods transport;</li> <li>○ Workers performing necessary emergency repairs on these islands.</li> </ul> </li> <li>• Suspension of all modes of public transportation by land, including international passenger public transportations and excluding taxi services (Decision of the Civil Protection Headquarters NN 34/2020 (733)).<sup>133</sup></li> <li>• Prohibition of entry at Croatian ports for all international maritime transportation that 'have an obligation of self-isolation or quarantine', except for vessels under the Croatian flag, cargo transport vessels, passenger vessels without passengers, and vessels entering a shipyard for repairs (Decision of the Civil Protection Headquarters of 19 March 2020).<sup>134</sup></li> </ul>	<p>21 March 2020 – (indeterminate date)</p> <p>21 March 2020 – 19 April 2020</p> <p>19 March 2020 – 19 April 2020</p>
<b>Cyprus</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Cancellation of all flights between Cyprus and EU member states and Schengen countries, as well as flights from third countries, except for cargo flights, empty flights for repatriation out of Cyprus, ambulance/repatriation flights and flights for humanitarian reasons, or other individual flights approved by the Minister for Transport (Civil Aviation (Defining of Measures for the Prevention of COVID-19 Spread), 2020 Decree).<sup>135</sup></li> </ul>	21 March 2020 – 4 April 2020
<b>Czech Republic</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Suspension of all modes of cross-border passenger transportation, including road transport, rail transport, waterway</li> </ul>	14 March 2020 – (indeterminate date)

<sup>131</sup> All COVID-19 related measures taken by Bulgaria can be found at <https://www.mh.government.bg/bg/informaciya-za-grazhdani/informaciya-otnosno-noviya-koronavirus-2019-ncov/>.

<sup>132</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2020\\_03\\_34\\_732.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_34_732.html).

<sup>133</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2020\\_03\\_34\\_733.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_34_733.html).

<sup>134</sup> [https://civilna-zastita.gov.hr/UserDocImages/CIVILNA%20ZA%C5%A0TITA/PDF\\_ZA%20WEB/Odluka%20-%20kruzeri\\_2.pdf](https://civilna-zastita.gov.hr/UserDocImages/CIVILNA%20ZA%C5%A0TITA/PDF_ZA%20WEB/Odluka%20-%20kruzeri_2.pdf)

<sup>135</sup> <https://www.pio.gov.cy/coronavirus/diat/8en.pdf>.

	<p>transport and air transport (except for Vaclav Havel Airport) (Resolution of 12 March 2020, No. 200).<sup>136</sup></p> <ul style="list-style-type: none"> <li>○ Does not affect entry of Czech nationals and residents of Czech Republic;</li> <li>○ Does not affect right of foreign nationals to leave the Czech Republic;</li> <li>○ Does not affect empty passenger transportation modes entering or leaving Czech Republic.</li> </ul>	
<b>Denmark</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Prohibition of landing of flights originating from countries or regions identified as ‘red zones’ (including parts of Italy and Austria). Landing ban repealed on 17 March 2020.<sup>137</sup></li> </ul>	11-17 March 2020
<b>Estonia</b>	No restrictions on modes of international passenger transportation found.	n/a
<b>Finland</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Restriction of international passenger transportation to a restricted number of border crossing points (Government Decisions SM/2020/20<sup>138</sup> SM/2020/21,<sup>139</sup> as amended by Government Decision SM/2020/24),<sup>140</sup> including: <ul style="list-style-type: none"> <li>○ Air passenger transport: only at Helsinki-Vantaa, Mariehamn and Turku airports;</li> <li>○ Rail passenger transport: only at Imatra, Kuusamo, Niirala, Nuijamaa, Rajajoosepi, Salla, Vaalimaa and Vartius border crossing points;</li> <li>○ Maritime passenger transport: only at ports of Helsinki, Långnäs, Turku and Vaasa.</li> </ul> </li> </ul> <p>All other border crossing points are either closed or restricted to goods transport.</p> <p>Border crossing points open to passenger transport are restricted to passenger transport involving return traffic and other necessary travel of Finnish nationals, residents of Finland or nationals of other EU member states.</p>	19 March 2020 – 13 April 2020
<b>France</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Prohibition of cruise ships and passenger ships carrying more than 100 passengers from stopping at ports in Corsica (and French overseas territories), and;</li> </ul> <p>Prohibition of cruise ships and non-regular passenger ships carrying more than 100 persons from stopping at French ports.</p>	14 March 2020 – 15 April 2020  20 March 2020 – 15 April 2020

<sup>136</sup> [https://koronavirus.mzcr.cz/wp-content/uploads/2020/03/R\\_measures-in-transport.pdf](https://koronavirus.mzcr.cz/wp-content/uploads/2020/03/R_measures-in-transport.pdf).

<sup>137</sup> No national legislative instrument found for this measure. Information from official website of the Danish Ministry for Transport and Housing: <https://www.trm.dk/nyheder/2020/ophaevelse-af-flyveforbud-men-fortsat-indrejseforbud/>.

<sup>138</sup> <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f8068f44f> (in Finnish).

<sup>139</sup> <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f8068f450> (in Finnish).

<sup>140</sup> <https://valtioneuvosto.fi/paatokset/paatos?decisionId=0900908f806928f9> (in Finnish).

	<ul style="list-style-type: none"> <li>○ Passengers transported pursuant to the above must present documentary evidence to justify their travel. Otherwise, they must be denied boarding.</li> </ul> <p>The measures are based on Order of 14 March 2020 (as amended, prior to its repeal)<sup>141</sup> and Decree of 23 March 2020,<sup>142</sup> as recently amended by Decree No. 2020-370 of 30 March 2020.<sup>143</sup></p>	31 March 2020 15 April 2020	–
<b>Germany</b>	No restrictions on modes of international passenger transportation found.	n/a	
<b>Greece</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Prohibition of <i>inter alia</i> the following modes of (passenger) transportation to Greece (Joint Ministerial Decision D1a / GP 18170 / 2020):<sup>144</sup> <ul style="list-style-type: none"> <li>○ All air and sea passenger transportation connection from Italy;</li> <li>○ All air passenger transportation from Spain;</li> <li>○ Prohibition of entry into Greek ports by all cruise ships and the disembarkation of passengers from said cruise ships.</li> </ul> </li> <li>● Prohibition of entry into Greek ports of all private seafaring vessels, and the disembarkation of passengers from said vessels (Joint Ministerial Decision D1a / GP 19421 / 2020).<sup>145</sup></li> <li>● Prohibition of <i>inter alia</i> the following modes of passenger sea transportation (Joint Ministerial Decision D1a / GP 20009 / 2020):<sup>146</sup> <ul style="list-style-type: none"> <li>○ Prohibition of all forms of passenger sea transportation between mainland Greece and the Greek islands, as well as between the Greek islands, except for transportation of: <ul style="list-style-type: none"> <li>▪ Permanent residents of Greece (between mainland Greece and the Greek islands, as well as between the Greek islands);</li> <li>▪ Security personnel for official purposes;</li> <li>▪ Public servants and educational staff working on a Greek island;</li> <li>▪ Medical staff and other healthcare workers;</li> <li>▪ Migrants for emergency purposes.</li> </ul> </li> </ul> </li> </ul>	15 March 2020 15 April 2020	–
		19 March 2020 19 April 2020	–
		21 March 2020 21 April 2020	–

<sup>141</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041722917&dateTexte=20200323>.

<sup>142</sup> [https://beta.legifrance.gouv.fr/loda/texte\\_lc/JORFTEXT000041746694/2020-03-31/](https://beta.legifrance.gouv.fr/loda/texte_lc/JORFTEXT000041746694/2020-03-31/).

<sup>143</sup> <https://beta.legifrance.gouv.fr/jorf/jo/2020/03/31/0078>.

<sup>144</sup> <https://www.e-nomothesia.gr/kat-ygeia/astheneies/koine-upourgike-apophase-d1a-gp-oik-18170-2020.html>.

<sup>145</sup> <https://www.e-nomothesia.gr/kat-ygeia/astheneies/koine-upourgike-apophase-dia-gp-oik-19421-2020.html>.

<sup>146</sup> <https://www.e-nomothesia.gr/kat-ygeia/astheneies/koine-upourgike-apophase-diagpoik-200092020.html>.

	<ul style="list-style-type: none"> <li>○ Prohibition of all forms of private sea vessels and professional cruise ships from entering the Greek territory (territorial waters).</li> <li>● Landing ban for all flights from <i>inter alia</i> the United Kingdom (Joint Ministerial Decision D1a. / GP 20042 / 2020).<sup>147</sup> It is unclear whether the exceptions stipulated for the prohibition of all modes of transportation between Greece and Turkey (in the same Decision) apply to landing ban for flights from the United Kingdom (most importantly, exempting Greek nationals and residents of Greece from the flight ban).</li> </ul>	23 March 2020 – 15 April 2020
<b>Hungary</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Prohibition of entry into Hungary of international passenger transportation by rail, bus or air. <ul style="list-style-type: none"> <li>○ Prohibition does not apply to international air passenger transportation transiting through Hungary without landing;</li> <li>○ Special exemption may granted by the Director-General of Policy of the National Police Headquarters.</li> </ul> </li> </ul> <p>Measure based on Government Decree 41/2020 (III. 11),<sup>148</sup> as amended by Government Decrees 45/2020 (III. 14)<sup>149</sup> and 46/2020 (III. 16).<sup>150</sup></p>	12 March 2020 – (indeterminate date)
<b>Iceland</b>	No restrictions on modes of international passenger transportation have been found. <sup>151</sup>	n/a
<b>Ireland</b>	No restrictions on modes of international passenger transportation have been found. <sup>152</sup>	n/a
<b>Italy</b>	No restrictions on modes of international passenger transportation have been found.	n/a
<b>Latvia</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Prohibition of entry into Latvia of all international passenger transportation by air, sea, rail and road (buses), excluding passenger flights organised by the State and military transports (Order of the Cabinet of Minister No. 103 of 12 March 2020, as most recently amended).<sup>153</sup></li> </ul>	17 March 2020 – (indeterminate date)

<sup>147</sup> <https://www.e-nomothesia.gr/kat-yeia/astheneies/koine-upourgike-apophase-diagp-oik-20042-2020.html>.

<sup>148</sup> <https://magyarkozlony.hu/dokumentumok/af0a665e93020a1bb69193ed9a8379f516854bf7/megtekintes>.

<sup>149</sup> <https://magyarkozlony.hu/dokumentumok/9421b74af54379d07ba8934a5fe3180c7f62d0be/megtekintes>.

<sup>150</sup> <https://magyarkozlony.hu/dokumentumok/c4210b08dd73832b3ca261193f85d508498c9718/megtekintes>.

<sup>151</sup> See <https://www.covid.is/categories/icelands-response>.

<sup>152</sup> See <https://www.gov.ie/en/news/7e0924-latest-updates-on-covid-19-coronavirus/>, <https://www.gov.ie/en/publication/a02c5a-what-is-happening/> and <https://www.gov.ie/en/publication/12e1d9-updated-measures-in-response-to-covid-19-tuesday-24-march/>.

<sup>153</sup> <https://likumi.lv/ta/id/313191-par-arkartejas-situacijas-izsludinasanu>.

Liechtenstein	No explicit restrictions on modes of international passenger transportation have been found. Restrictions on road, rail, ship and air passenger transport imposed by Switzerland apply to Liechtenstein. <sup>154</sup>	n/a
Lithuania	<b>Restrictions on modes of international passenger transportation:</b> <ul style="list-style-type: none"> <li>Prohibition of entry into the Lithuanian port of Klaipeda by cruise ships (Government Decision No. 207 of 14 March 2020, as most recently amended).<sup>155</sup></li> </ul>	16-30 March 2020
Luxembourg	No restrictions on modes of international passenger transportation have been found.	n/a
Malta	<b>Restrictions on modes of international passenger transportation:</b> <ul style="list-style-type: none"> <li>Prohibition of all modes of (international) passenger transportation (travel ban) to and from Malta and <i>inter alia</i> France, Germany, Italy, Spain and Switzerland (Travel Ban Order, 2020).<sup>156</sup> <ul style="list-style-type: none"> <li>Extended to prohibition of all modes of (international) passenger transportation (travel ban) to and from Malta (Travel Ban (Extension to all Countries) Order, 2020),<sup>157</sup> except for cargo flights, ferry flights, humanitarian flights and repatriation flights, as well as cargo ships carrying goods.</li> </ul> </li> </ul>	12-21 March 2020 (superseded)  21 March 2020 – (indeterminate date)
Netherlands	<b>Restrictions on modes of international passenger transportation:</b> <ul style="list-style-type: none"> <li>Prohibition of international air passenger transportation (landing ban) arriving in the Netherlands (Regulation temporary ban civil aviation Dutch airspace in connection with the virus causing the COVID-19 disease, as most recently amended)<sup>158</sup> from the following countries EU countries: <ul style="list-style-type: none"> <li>Italy;</li> <li>Spain;</li> <li>Austria.</li> </ul> </li> </ul> <p>The landing ban does not apply to:</p> <ul style="list-style-type: none"> <li>Flight underway upon entry into force of the respective landing ban;</li> <li>Repatriation of residents of EU member states, Schengen countries or the United Kingdom, under the condition that</li> </ul>	13 March 2020 – 10 April 2020  21 March 2020 – 10 April 2020  23 March 2020 – 10 April 2020

<sup>154</sup> See Ordinance of 13 March 2020 on measures to combat the coronavirus (COVID-19), LR. No. 818.101.24, <https://www.gesetze.li/konso/2020094000>.

<sup>155</sup> <https://www.e-tar.lt/portal/lt/legalAct/73c0b060663111eabee4a336e7e6fdab/asr>.

<sup>156</sup> <https://legislation.mt/eli/ln/2020/42>.

<sup>157</sup> <https://legislation.mt/eli/ln/2020/92>.

<sup>158</sup> <https://wetten.overheid.nl/BWBR0043269/>.

	<ul style="list-style-type: none"> <li>▪ non-Dutch residents have a demonstrable onward journey;</li> <li>▪ passengers are permitted to embark in accordance with WHO and EU guidelines;</li> <li>○ Transport of medical personnel or patients in the interest of public health.</li> </ul>	
<b>Norway</b>	No restrictions on modes of international passenger transportation have been found.	n/a
<b>Poland</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Prohibition of international air passenger transportation landing in Poland, except for flights chartered for returning to Poland persons entitled to enter into Poland (Ordinance Dz. U. 2020 No. 436,<sup>159</sup> as most recently amended by Ordinance Dz. U. 2020 No. 482,<sup>160</sup> Ordinance Dz. U. 2020 No. 521).<sup>161</sup></li> <li>• Suspension of international passenger rail transportation entering into Poland (Ordinance Dz. U. 2020 No. 433,<sup>162</sup> as most recently amended by Ordinance Dz. U. 2020 No. 478,<sup>163</sup> prior to its repeal by Ordinance Dz. U. 2020 No. 490;<sup>164</sup> superseded by Ordinance Dz. U. 2020 No. 491,<sup>165</sup> as last amended by Ordinance Dz. U. 2020 No. 531).<sup>166</sup></li> </ul>	<p>14-27 March 2020 29 March 2020 – 11 April 2020</p> <p>15-20 March 2020 20 March 2020 – (indeterminate date)</p>
<b>Portugal</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Prohibition of entry into Portuguese ports of cruise ships or disembarkation of passengers on cruise ships (Order No. 3298-C/2020),<sup>167</sup> except for: <ul style="list-style-type: none"> <li>○ Portuguese nationals;</li> <li>○ Foreign nationals with a residence title in Portugal.</li> </ul> </li> <li>• Suspension of all passenger flights between Portugal and Italy, except for State aircrafts, cargo flights, and flights for humanitarian or medical emergency reasons (Order No. 3186-D/2020,<sup>168</sup> extended by Order No. 3659-B/2020).<sup>169</sup></li> </ul>	<p>14 March 2020 – 9 April 2020</p> <p>11 March 2020 – 7 April 2020</p>

<sup>159</sup> <http://dziennikustaw.gov.pl/DU/2020/436>.

<sup>160</sup> <http://dziennikustaw.gov.pl/DU/2020/482>.

<sup>161</sup> <http://dziennikustaw.gov.pl/DU/2020/521>.

<sup>162</sup> <http://dziennikustaw.gov.pl/DU/2020/433>.

<sup>163</sup> <http://dziennikustaw.gov.pl/DU/2020/478>.

<sup>164</sup> <http://dziennikustaw.gov.pl/DU/2020/490>.

<sup>165</sup> <http://dziennikustaw.gov.pl/DU/2020/491>.

<sup>166</sup> <http://dziennikustaw.gov.pl/DU/2020/531>.

<sup>167</sup> <https://dre.pt/web/guest/home/-/dre/130243049/details/maximized?dreId=130243045>.

<sup>168</sup> <https://dre.pt/web/guest/pesquisa/-/search/130114105/details/normal>.

<sup>169</sup> <https://dre.pt/web/guest/home/-/dre/130600805/details/maximized?dreId=130600802>.

	<ul style="list-style-type: none"> <li>• Suspension of all passenger flights to and from Portugal, except for flights to and from the following countries (Order No. 3427-A/2020):<sup>170</sup> <ul style="list-style-type: none"> <li>○ EU member states;</li> <li>○ Schengen countries (Liechtenstein, Norway, Iceland and Switzerland);</li> <li>○ Lusophone countries, with flights to and from Brazil restricted to São Paulo and Rio de Janeiro;</li> <li>○ The United Kingdom, the United States, Venezuela, Canada and South Africa.</li> </ul> <p>Flight ban does not apply to flights intended to allow the return to Portugal of Portuguese nationals or residents of Portugal, nor to flights departing Portugal intended to allow foreign nationals to return to their country of origin.</p> <p>Flight ban further does not apply to State aircrafts, military flights, cargo flights, or flights for humanitarian or medical emergency purposes.</p> </li> <li>• Suspension of all international passenger transportation modes between Portugal and Spain (Resolution of the Council of Minister No. 10-B/2020),<sup>171</sup> i.e.: <ul style="list-style-type: none"> <li>○ All flights between Portugal and Spain, except for State aircrafts, military flights, cargo flights or flights for humanitarian or medical emergency reasons;</li> <li>○ All passenger road traffic at the Portuguese-Spanish land border, except for cross-border workers and circulation of emergency relief and emergency services vehicles;</li> <li>○ Passenger rail traffic;</li> <li>○ River transportation;</li> <li>○ Prohibition of docking by recreational vessels and disembarkation of persons from such vessels.</li> </ul> <p>Suspension of international passenger transportation does not affect:</p> <ul style="list-style-type: none"> <li>○ Entry of Portuguese nationals and residents (into Portugal) or Spanish nationals and residents (into Spain);</li> <li>○ Circulation of diplomatic personnel or military and security forces;</li> <li>○ Circulation, exceptionally, for the purpose of family reunification of spouses (or similar) and family members up to the first degree;</li> <li>○ Mobility related to access to medical and health services;</li> <li>○ The right to leave of persons residing in another country.</li> </ul> </li> </ul>	<p>18 March 2020 – 16 April 2020</p> <p>16 March 2020 – 15 April 2020</p>
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<sup>170</sup> <https://dre.pt/web/guest/home/-/dre/130376669/details/maximized?drelid=130376667>.

<sup>171</sup> <https://dre.pt/web/guest/home/-/dre/130326108/details/maximized>.

Romania	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Suspension of passenger flights between Romania and the following countries (Military Ordinances No. 1 of 2020,<sup>172</sup> No. 2 of 2020,<sup>173</sup> and No. 3 of 2020):<sup>174</sup> <ul style="list-style-type: none"> <li>○ Italy (n.b. Military Ordinance No. 1 of 2020 refers to extension of Italian flight ban for a period of 14 days. Original legislative instrument imposing flight ban with Italy not found);</li> <li>○ Spain;</li> <li>○ France and Germany.</li> </ul> </li> </ul> <p>Flight bans do not apply to state aircrafts, cargo flights or flights for humanitarian or emergency reasons.</p>	<p>23 March 2020 – 6 April 2020</p> <p>18 March 2020 – 1 April 2020</p> <p>25 March 2020 – 8 April 2020</p>
Slovakia	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Suspension of all international passenger transportation by air, bus, rail and sea.<sup>175</sup></li> </ul>	<p>13 March 2020 – (indeterminate date)</p>
Slovenia	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>• Suspension of all passenger public transportation in Slovenia, including domestic and international traffic (Ordinance RS No. 24/30).<sup>176</sup></li> <li>• Suspension of international train and (occasional and regular) bus services between Italy and Slovenia (Decree RS. No. 18/20, as amended by Decree RS. No. 20/20,<sup>177</sup> and superseded by Decree RS. No. 29/20).<sup>178</sup></li> <li>• Suspension of the following passenger air transportation to Slovenia (Decree RS. 26/20,<sup>179</sup> superseded by RS. No. 37/20):<sup>180</sup> <ul style="list-style-type: none"> <li>○ Intra-EU passenger flights;</li> </ul> </li> </ul>	<p>16 March 2020 – (indeterminate date)</p> <p>11 March 2020 – (indeterminate date)</p>

<sup>172</sup> <http://legislatie.just.ro/Public/DetaliuDocument/223888>.

<sup>173</sup> <http://legislatie.just.ro/Public/DetaliuDocument/224284>.

<sup>174</sup> <http://legislatie.just.ro/Public/DetaliuDocument/224340>.

<sup>175</sup> No national legislative instrument introducing this measure found. Information obtained from official websites of the Slovak Republic, including: [http://www.uvzsr.sk/index.php?option=com\\_content&view=article&id=4087:covid-19-ustredny-krizovy-tab-zavadza-alie-opatrenia-zatvorila-sa-koly-inletiska-karantena-plati-pre-vetkych-ktori-sa-vratia-zo-zahranicia&catid=250:koronavirus-2019-ncov&Itemid=153](http://www.uvzsr.sk/index.php?option=com_content&view=article&id=4087:covid-19-ustredny-krizovy-tab-zavadza-alie-opatrenia-zatvorila-sa-koly-inletiska-karantena-plati-pre-vetkych-ktori-sa-vratia-zo-zahranicia&catid=250:koronavirus-2019-ncov&Itemid=153), <http://www.minv.sk/?tlacove-spravy-4&sprava=ustredny-krizovy-stab-pritvrdil-opatrenia-v-boji-proti-sireniu-koronavirusu>, <https://www.mindop.sk/media-5144/tlacove-spravy-2726/mimoriadne-opatrenia-v-doprave-prijate-ustrednym-krizovym-stabom-sr-na-zastavenie-sirenia-koronavirusu> and <https://www.korona.gov.sk/covid-19-prijate-opatrenia.php>.

<sup>176</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2008>.

<sup>177</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2544>.

<sup>178</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2020>.

<sup>179</sup> <https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2020-01-0577/odlok-o-prepovedi-opravljanja-zracnih-prevozov-v-republiki-sloveniji>.

<sup>180</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2036>.

	<ul style="list-style-type: none"> <li>○ International passenger flights to or from non-EU countries.</li> </ul> <p>Flight suspension does not apply to:</p> <ul style="list-style-type: none"> <li>○ Cargo flights;</li> <li>○ Aircraft operating international passenger flights without passengers;</li> <li>○ State aircrafts;</li> <li>○ Individual flights of foreign state aircrafts operating for humanitarian and medical purposes;</li> <li>○ Flights exempted from suspension by the Minister of Infrastructure or Minister of Foreign Affairs.</li> </ul>	<p>17 March 2020 – 13 April 2020</p> <p>17 March 2020 – (indeterminate date)</p>
<b>Spain</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Suspension of all international passenger flights between Spain and Italy (Order PCM/205/2020,<sup>181</sup> extended by Order TMA/278/2020).<sup>182</sup> Suspension does not apply to State aircrafts, cargo flights, or humanitarian, medical or emergency flights.</li> <li>● Prohibition of entry into Spanish ports of all sea passenger vessels coming from Italian ports, as well as of all cruise ships (Order PCM/216/2020,<sup>183</sup> as extended by Order TMA/286/2020).<sup>184</sup> Prohibition does not apply to State vessels, cargo ships, or ships operating for humanitarian, medical or emergency purposes.</li> </ul>	<p>11-24 March 2020 25 March 2020 – (indeterminate date)</p> <p>13 March 2020 – 9 April 2020</p>
<b>Sweden</b>	No restrictions on modes of international passenger transportation have been found.	
<b>Switzerland</b>	<p><b>Restrictions on modes of international passenger transportation:</b></p> <ul style="list-style-type: none"> <li>● Restriction of all international passenger flights to Switzerland to the national airports of Zurich-Kloten, Geneva-Cointrin and Basel-Mulhouse coming from (COVID-19-Verordnung 2):<sup>185</sup> <ul style="list-style-type: none"> <li>○ Austria, France, Germany, Italy and Spain;</li> <li>○ All countries outside of the Schengen area;</li> <li>○ All passenger flights from abroad.</li> </ul> </li> </ul>	<p>19-25 March 2020 (superseded)</p> <p>21-25 March 2020 (superseded)</p> <p>25 March 2020 – (indeterminate date)</p>

<sup>181</sup> <https://www.boe.es/buscar/act.php?id=BOE-A-2020-3433>.

<sup>182</sup> <https://www.boe.es/buscar/doc.php?id=BOE-A-2020-4028>.

<sup>183</sup> <https://www.boe.es/eli/es/o/2020/03/12/pcm216/con>.

<sup>184</sup> <https://www.boe.es/eli/es/o/2020/03/25/tma286/con>.

<sup>185</sup> Consolidated version available at <https://www.admin.ch/opc/de/classified-compilation/20200744/index.html>.

### 3. Intra-EU and intra-Schengen entry bans

The following Table lists the measures adopted by EU member states and Schengen countries restricting the entry into (and exit from) their territory, i.e. intra-EU and intra-Schengen entry (and exit) bans. Entry bans shall refer to any measures restricting the entry into the country by persons, while exit bans refer to measures restricting the departure from the country. The table indicates, where applicable, the territorial scope of entry and exit bans, as well as the duration of said prohibitions. Information in this Table is obtained primarily from national legislative and regulatory instruments. Where such legislative and regulatory instruments have not been found, this is noted. In order to ensure, as much as possible, a consistent format, entry bans are presented as applicable to all persons, with the categories of persons exempted therefrom (including nationals of the EU member state or Schengen country) identified, regardless of the language of the national measure concerned.

Intra-EU entry (and exit) bans																		
<b>Austria</b>	<p><b>Restriction of intra-EU mobility into Austria:</b></p> <ul style="list-style-type: none"> <li>• Entry ban for all persons coming from:               <ul style="list-style-type: none"> <li>○ Italy (BGB1. II Nr. 87/2020,<sup>186</sup> as most recently amended by BGB1. II Nr. 111/2020);<sup>187</sup></li> <li>○ Switzerland and Liechtenstein (BGB1. II Nr. 87/2020, as amended by BGB1. II Nr. 92/2020,<sup>188</sup> and most recently amended by BGB1. II Nr. 111/2020);</li> <li>○ Germany, Hungary and Slovenia (BGB1. II Nr. 87/2020, as amended by BGB1. II Nr. 104/2020,<sup>189</sup> and most recently amended by BGB1. II Nr. 111/2020).</li> </ul> </li> <li>Exempted from the entry ban are:               <ul style="list-style-type: none"> <li>○ Austrian nationals or residents of Austria (who are mandatorily quarantined for 14 days);</li> <li>○ Persons able to provide a medical certificate for negative COVID-19 testing, not older than 4 days.</li> </ul> </li> <li>• Entry ban for third country nationals who, within 14 days before the start of their travel itinerary, have been in an area for which a travel warning has been issued related to COVID-19 (including France, Italy, the Netherlands, Spain, Switzerland, and United Kingdom), unless they are able to provide a medical certificate for negative COVID-19 testing not older than 4 days (BGB1. II Nr. 80/2020).<sup>190</sup></li> </ul>	<table border="0"> <tr> <td style="padding-right: 10px;">7 March 2020</td> <td style="text-align: right;">–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>16 March 2020</td> <td style="text-align: right;">–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>19 March 2020</td> <td style="text-align: right;">–</td> </tr> <tr> <td>13 April 2020</td> <td></td> </tr> <tr> <td>11 March 2020</td> <td style="text-align: right;">–</td> </tr> <tr> <td>(indeterminate date)</td> <td></td> </tr> </table>	7 March 2020	–	13 April 2020		16 March 2020	–	13 April 2020		19 March 2020	–	13 April 2020		11 March 2020	–	(indeterminate date)	
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<sup>186</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/87/20200310>.

<sup>187</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/111/20200322>.

<sup>188</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/92/20200313>.

<sup>189</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/104/20200318>.

<sup>190</sup> <https://www.ris.bka.gv.at/eli/bgb1/II/2020/80/20200306>.

	<p>This entry ban does not apply to crew of cargo flights, emergency flights, ambulance/rescue flights or transfer flights (BGB1. II Nr. 89/2020).<sup>191</sup></p> <ul style="list-style-type: none"> <li>• Entry ban for all persons entering into Austria <u>by air</u> from outside of the Schengen area (BGB1. II Nr. 105/2020), except for: <ul style="list-style-type: none"> <li>○ Austrian nationals and persons with legal residence title in Austria (who are instead subject to mandatory quarantine for 14 days);</li> <li>○ Diplomatic staff and their family members;</li> <li>○ Humanitarian workers;</li> <li>○ Healthcare workers;</li> <li>○ Transit passengers;</li> <li>○ Persons working in freight transport;</li> <li>○ Other foreign nationals not covered by the above (EU citizens), only upon presentation of a medical certificate for negative COVID-19 testing not older than 4 days. Such persons permitted entry into Austria must undergo a 14-day mandatory quarantine;</li> <li>○ Crew of passenger and cargo flights, emergency flights, ambulance/rescue flights, repatriation flights or transfer flights.</li> </ul> </li> </ul>	19 March 2020 – 10 April 2020
<b>Belgium</b>	<p><b>Restriction of intra-EU mobility into Belgium:</b></p> <ul style="list-style-type: none"> <li>• No explicit entry restrictions of intra-EU mobility into Belgium have been found. However, various other sources indicate that Belgium has closed its internal borders for all non-essential travel.<sup>192</sup></li> <li>• Exit ban for non-essential travel for all persons in Belgium (Ministerial Decrees of 18 March 2020,<sup>193</sup> and of 23 March 2020).<sup>194</sup></li> </ul>	18 March 2020 – 5 April 2020
<b>Bulgaria<sup>195</sup></b>	<p><b>Restriction of intra-EU mobility into Bulgaria:</b></p> <ul style="list-style-type: none"> <li>• Entry ban into Bulgaria for all persons coming from, among others, France, Germany, Italy, the Netherlands, Spain,</li> </ul>	18 March 2020 – (indeterminate date)

<sup>191</sup> <https://www.ris.bka.gv.at/eli/bgb/II/2020/89/20200312>.

<sup>192</sup> See “België sluit grenzen voor niet-essentiële verplaatsingen. ‘Grenscontroles zullen van toepassing zijn’”, *Nieuwsblad*, 20 March 2020, [https://www.nieuwsblad.be/cnt/dmf20200320\\_04897005](https://www.nieuwsblad.be/cnt/dmf20200320_04897005); “België sluit grenzen voor niet-essentiële verplaatsingen”, *De Morgen*, 20 March 2020, <https://www.demorgen.be/nieuws/belgie-sluit-grenzen-voor-niet-essentielle-verplaatsingen~bb2d908c/>; “Belgium closes borders for ‘non-essential’ travel”, *Politico.eu*, 20 March 2020, <https://www.politico.eu/article/belgium-closes-borders-for-non-essential-travel/>. See also Belgian Crisis Centre, “Travailleurs transfrontaliers dans des secteurs vitaux et des professions cruciales : une vignette pour franchir la frontière avec les Pays-Bas plus rapidement” [Frontier workers in vital sectors and with an essential profession: a vignette to cross the border with the Netherlands more quickly], website of the Belgian Crisis Centre, 22 March 2020, <https://crisiscentrum.be/nl/news/grensarbeiders-vitale-sectoren-en-met-cruciaal-beroep-kunnen-sneller-de-grens-met-nederland>.

<sup>193</sup> <http://www.ejustice.just.fgov.be/eli/arrete/2020/03/18/2020030331/moniteur>.

<sup>194</sup> <http://www.ejustice.just.fgov.be/eli/arrete/2020/03/23/2020030347/moniteur>.

<sup>195</sup> All COVID-19 related measures taken by Bulgaria can be found at <https://www.mh.government.bg/bg/informaciya-zagrazhdani/informaciya-otnosno-noviya-koronavirus-2019-ncov/>.

	<p>Switzerland and the United Kingdom (Order of the Minister of Health RD-01-127/2020),<sup>196</sup> except for:</p> <ul style="list-style-type: none"> <li>○ Bulgarian nationals and their family members;</li> <li>○ Permanent and long-term residents of Bulgaria and their family members;</li> <li>○ EU citizens and nationals of Schengen countries and their family members transiting through Bulgaria to their country of residence (Order of the Minister of Health RD-01-138/2020).</li> </ul> <ul style="list-style-type: none"> <li>● Entry ban into Bulgaria for all third country nationals, except for health professionals, transport personnel, diplomatic staff, persons travelling for humanitarian reasons, or third country nationals with an EU long-term residence permit transiting through Bulgaria to their country of residence (Order of the Minister of Health RD-01-138/2020).</li> </ul>	20 March 2020 – 17 April 2020
Croatia	<p><b>Restriction of intra-EU mobility into Croatia:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Croatia for all persons (Decision of the Civil Protection Headquarters NN 32/2020 (714)),<sup>197</sup> except for: <ul style="list-style-type: none"> <li>○ Croatian nationals;</li> <li>○ EU citizens and nationals of Schengen countries, as well as their family members, returning to their country of residence;</li> <li>○ Third country nationals with EC long-term residence permit or other residence titles under EU or national law.</li> </ul> </li> </ul> <p>Entry ban does not apply to health professionals, persons requiring urgent medical treatment, cross-border workers, freight transport workers, diplomatic, police and civil protection staff, or transit passengers.</p>	19 March 2020 – 17 April 2020
Cyprus	<p><b>Restriction of intra-EU mobility into Cyprus:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Cyprus of all persons,<sup>198</sup> except for: <ul style="list-style-type: none"> <li>○ Cypriot nationals;</li> <li>○ Foreign nationals legally residing in Cyprus;</li> <li>○ EU citizens and third country nationals working in Cyprus</li> <li>○ Diplomatic staff;</li> <li>○ Individual cases of foreign nationals whose entry is unavoidable for professional obligations;</li> <li>○ EU citizens and third country nationals attending educational institutions in Cyprus.</li> </ul> </li> </ul> <p>Furthermore, as of 16 March 2020, the categories of persons permitted entry into Cyprus must provide a medical certificate of negative COVID-19 testing as an additional <i>condition</i> for entry (Vaccination (Determination of Measures for the Prevention of COVID-19 Spread) Ordinance (No. 3) of 2020).<sup>199</sup></p>	16 March 2020 – 30 April 2020

<sup>196</sup> [https://www.mh.government.bg/media/filer\\_public/2020/03/16/rd-01-127\\_zatvariane\\_na\\_granitsite\\_ss\\_stranite\\_s\\_ogranichen\\_dostp\\_do\\_teritoriiata\\_na\\_republika\\_blgariia.pdf](https://www.mh.government.bg/media/filer_public/2020/03/16/rd-01-127_zatvariane_na_granitsite_ss_stranite_s_ogranichen_dostp_do_teritoriiata_na_republika_blgariia.pdf).

<sup>197</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2020\\_03\\_32\\_714.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_32_714.html).

<sup>198</sup> See <http://www.moi.gov.cy/moi/moi.nsf/All/557CBC78C1DDE5E6C225852B005B768D?OpenDocument> and <https://www.pio.gov.cy/avakoiwθέντα-άρθρο.html?id=12663>.

<sup>199</sup> <https://www.pio.gov.cy/coronavirus/diat/3.pdf>. See also <https://www.pio.gov.cy/avakoiwθέντα-άρθρο.html?id=12672>.

Czech Republic	<p><b>Restriction of intra-EU mobility into Czech Republic:</b></p> <ul style="list-style-type: none"> <li>• Entry ban into Czech Republic of all persons (Resolution of 13 March 2020 No. 203,<sup>200</sup> as superseded by Government Resolution of 30 March 2020 No. 334),<sup>201</sup> except for:<sup>202</sup> <ul style="list-style-type: none"> <li>○ Czech nationals;</li> <li>○ Temporary (over 90 days) and permanent residents of the Czech Republic;</li> <li>○ If the entry of a foreign national is in the interest of the Czech Republic;</li> <li>○ EU citizens<sup>203</sup> (as well as nationals of Schengen countries and the UK) who are spouses of Czech nationals;</li> <li>○ EU citizens and third country nationals legally residing in the EU transiting through the Czech Republic to return to their country of residence;</li> <li>○ Cross-border workers who are in Germany or Austria for work for a period of more than 21 days, and at least 14 days have passed since their last entry into the Czech Republic;</li> <li>○ Cross-border healthcare, social services and integrated rescue system workers regularly crossing the border with Germany, Austria, Poland or Slovakia;</li> <li>○ Cross-border workers regularly crossing the border with Poland or Slovakia;</li> <li>○ Workers in the international transportation sector;</li> <li>○ Personnel of critical infrastructure services;</li> <li>○ Diplomatic staff;</li> <li>○ In emergency situations.</li> </ul> </li> <li>• Exit ban from Czech Republic of all Czech nationals and temporary and permanent residents of the Czech Republic (Resolution of 13 March 2020 No. 203, as superseded by Government Resolution of 30 March 2020 No. 334), except for:<sup>204</sup> <ul style="list-style-type: none"> <li>○ Foreign nationals leaving the Czech Republic (without possibility to re-enter before end of the exit ban);</li> <li>○ Czech nationals residing in another country leaving the Czech Republic to go to their country of residence (without possibility to re-enter before end of the exit ban);</li> <li>○ Cross-border workers crossing the border for work in Germany or Austria for a period of more than 21 days;</li> </ul> </li> </ul>	<p>16 March 2020 – 12 April 2020</p> <p>16 March 2020 – 12 April 2020</p> <p>← the exceptions from this point apply from 31 March 2020 to 12 April 2020</p> <p>16 March 2020 – 12 April 2020</p> <p>← the exceptions from this point apply from 31 March 2020 – 12 April 2020</p>
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<sup>200</sup> <https://www.mvcr.cz/soubor/usneseni-vlady-ceske-republiky-ze-dne-13-brezna-2020-c-203-o-prijeti-krizoveho-opatreni.aspx> (in Czech).

<sup>201</sup> <https://www.mvcr.cz/clanek/karantena-pro-vsechny-keri-prijizdeji-do-ceska-prekracovani-hranic-nove-upravuje-komplexni-usneseni-vlady.aspx> (in Czech).

<sup>202</sup> See also Communication of the Ministry of the Interior on the conditions for entry at the Czech national border, <https://www.mvcr.cz/soubor/sdeleni-mv-kterym-se-stanovuji-podminky-a-nalezitosti-vyzadovane-pro-prekroceni-statni-hranice-cr-za-ucelem-vstupu-platne-31-03-2020-12-04-2020.aspx> (in Czech).

<sup>203</sup> EU citizens is interpreted as including nationals of Switzerland, Liechtenstein, Norway, Iceland and the United Kingdom; see <https://www.mvcr.cz/clanek/vyjimky-z-omezeni-cestovani.aspx>.

<sup>204</sup> See also Communication of the Ministry of the Interior on the conditions for exit from the Czech Republic, <https://www.mvcr.cz/soubor/sdeleni-mv-kterym-se-stanovuji-podminky-a-nalezitosti-vyzadovane-pro-prekroceni-statni-hranice-cr-za-ucelem-vycestovani-platne-31-03-2020-12-04-2020.aspx> (in Czech).

	<ul style="list-style-type: none"> <li>○ Cross-border healthcare, social services and integrated rescue system workers regularly crossing the border with Germany, Austria, Poland or Slovakia;</li> <li>○ Cross-border workers regularly crossing the border with Poland or Slovakia;</li> <li>○ Workers in the international transportation sector;</li> <li>○ Personnel of critical infrastructure services;</li> <li>○ Diplomatic staff;</li> <li>○ In emergency situations.</li> </ul>	
<b>Denmark</b>	<p><b>Restriction of intra-EU mobility into Denmark:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Denmark of all persons,<sup>205</sup> except for: <ul style="list-style-type: none"> <li>○ Danish nationals;</li> <li>○ Residents of Denmark, Greenland or Faroe Islands;</li> <li>○ Persons transiting through Denmark in order to return to their country of residence;</li> <li>○ Persons transiting through Denmark for a “worth purpose”;</li> <li>○ Foreign nationals having a “worthy purpose” for entry. “Worthy purposes” include: <ul style="list-style-type: none"> <li>○ Persons residing or working in Denmark;</li> <li>○ Persons delivering goods or services to Denmark;</li> <li>○ Persons who serve as primary caregivers for minors residing in Denmark;</li> <li>○ Persons entering Denmark to visit seriously ill or dying family members.</li> </ul> </li> </ul> </li> </ul>	14 March 2020 – (indeterminate date)
<b>Estonia</b>	<p><b>Restriction of intra-EU mobility into Estonia:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Estonia of all persons (Order of 15 March 2020, No. 78, as most recently amended),<sup>206</sup> except for: <ul style="list-style-type: none"> <li>○ Estonian nationals;</li> <li>○ Foreign nationals with Estonian residence permit, right of residence in Estonia, or whose permanent place of residence according to the Population Register is in Estonia;</li> <li>○ Diplomatic staff who are asymptomatic, and their family members;</li> <li>○ Asymptomatic persons directly involved in transportation of goods;</li> <li>○ Asymptomatic persons providing health services or other necessary services;</li> <li>○ Asymptomatic foreign nationals whose entry is approved by the Police and Border Guard Board and: <ul style="list-style-type: none"> <li>▪ Whose direct blood relatives in ascending or descending line or whose spouse is an Estonian national or resident of Estonia;</li> <li>▪ Whose entry into Estonia is justified under a special request.</li> </ul> </li> <li>○ Asymptomatic persons transiting through Estonia in order to return to their country of residence;</li> </ul> </li> </ul>	17 March 2020 – (indeterminate date)

<sup>205</sup> No national legislative provisions found for this measure. Information from the official ‘coronavirus’ website of the Danish police: <https://politi.dk/en/coronavirus-in-denmark/if-you-are-travelling-to-and-from-denmark>.

<sup>206</sup> <https://www.riigiteataja.ee/en/eli/ee/526032020001/consolide>.

	<ul style="list-style-type: none"> <li>○ Asymptomatic crew members of (international) transport of goods and passengers;</li> <li>○ Asymptomatic persons whose entry is related to ensuring the continuity of a vital service;</li> <li>○ Asymptomatic persons entering Estonia for the provision of maintenance, repair, warranty or ICT work necessary for the survival of a company operating in Estonia;</li> <li>○ Asymptomatic cross-border workers moving between Estonia and Latvia.</li> </ul>	← These exceptions apply from 26 March 2020 – (indeterminate date)
<b>Finland</b>	<p><b>Restriction of intra-EU mobility into Finland:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Finland of all persons (Government Decision SM/2020/21),<sup>207</sup> except for:<sup>208</sup> <ul style="list-style-type: none"> <li>○ Finnish nationals;</li> <li>○ Nationals of EU and Schengen countries residing in Finland, and their family members;</li> <li>○ Third-country nationals residing in Finland with a residence permit;</li> <li>○ Transit traffic through Finland to return to country of residence;</li> <li>○ Necessary cross-border work traffic and other necessary traffic.</li> </ul> </li> </ul>	19 March 2020 – 13 April 2020
<b>France</b>	No explicit entry restrictions of intra-EU mobility into France have been found.	
<b>Germany</b>	<p><b>Restriction of intra-EU mobility into Germany:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into and exit ban from Germany of all persons at the borders with Austria, Denmark, France, Luxembourg and Switzerland,<sup>209</sup> except for: <ul style="list-style-type: none"> <li>○ German nationals;</li> <li>○ Foreign nationals resident in Germany;</li> <li>○ Foreign nationals entering Germany for work-related reasons or to pursue a professional activity to perform contractual services (including cross-border work);</li> <li>○ Foreign nationals for urgent reasons (determined up to the discretion of the police authorities);</li> <li>○ Transit passenger returning to their country of residence, unless alternative connections are available.</li> </ul> </li> <li>● Entry ban from third countries into Germany by air or sea for all persons,<sup>210</sup> except for: <ul style="list-style-type: none"> <li>○ German nationals entering Germany;</li> </ul> </li> </ul>	16 March 2020 – (indeterminate date)  16 March 2020 – (indeterminate date)

<sup>207</sup> <https://valtioneuvosto.fi/paatokset/paatokset?decisionId=0900908f8068f450>.

<sup>208</sup> See [https://www.raja.fi/current\\_issues/guidelines\\_for\\_border\\_traffic](https://www.raja.fi/current_issues/guidelines_for_border_traffic).

<sup>209</sup> No national legislative instrument found for this measure. Information from the official website of the German Federal Ministry of the Interior, Building and Community: <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/EN/2020/03/corona-ein-und-ausreise-en.html> and <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>.

<sup>210</sup> No national legislative instrument found for this measure. Information from the official website of the German Federal Ministry of the Interior, Building and Community: <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/EN/2020/03/corona-ein-und-ausreise-en.html> and <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/coronavirus-faqs.html>.

	<ul style="list-style-type: none"> <li>○ EU citizens and nationals of Schengen countries, as well as their family members entering Germany (for residents of Germany) or transiting through Germany to return to their country of residence;</li> <li>○ Third country nationals with a long-term right of residence in an EU member state, Schengen country or the United Kingdom, and their family members, returning to their country of residence (including Germany);</li> <li>○ Third country nationals with a residence right in Germany.</li> </ul>	
<b>Greece</b>	<p><b>Restriction of intra-EU mobility into Greece:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Greece of all persons by all means, including by air, sea, rail and road, (Joint Ministerial Decision D1a / GP 19030 / 2020),<sup>211</sup> except for: <ul style="list-style-type: none"> <li>○ EU citizens and nationals of Schengen countries (including Greek nationals), their spouses and cohabitation partners and their minor children;</li> <li>○ Medical staff and healthcare professionals;</li> <li>○ Third country nationals who are long-term residents of or who hold a residence permit of an EU member state or Schengen country;</li> <li>○ Members of government missions and diplomatic staff;</li> <li>○ Truck drivers involved in transportation of goods;</li> <li>○ Transit passengers.</li> </ul> </li> </ul>	18 March 2020 – 18 April 2020
<b>Hungary</b>	<p><b>Restriction of intra-EU mobility into Hungary:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Hungary of all non-Hungarian nationals through passenger traffic (Government Decree 41/2020 (III. 11),<sup>212</sup> as amended by Government Decrees 45/2020 (III. 14)<sup>213</sup> and 46/2020 (III. 16)).<sup>214</sup> <ul style="list-style-type: none"> <li>○ Prohibition also does not apply to EEA nationals with permanent residence in Hungary (§8 of Government Decree 41/2020 (III. 11) stipulates that these EEA nationals are treated the same as Hungarian nationals).</li> </ul> </li> </ul>	12 March 2020 – (indeterminate date)
<b>Iceland</b>	<p><b>Restriction of intra-EU mobility into Iceland:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Iceland of all persons (Regulation No. 238/2020 of 20 March 2020),<sup>215</sup> except for: <ul style="list-style-type: none"> <li>○ Icelandic nationals;</li> <li>○ EU citizens, EEA nationals or Swiss nationals;</li> <li>○ Third-country nationals with a valid residence title in Iceland or another Schengen State;</li> <li>○ Third-country nationals with relatives in Iceland or another Schengen State;</li> <li>○ Transit passengers;</li> <li>○ Healthcare and elderly care workers;</li> </ul> </li> </ul>	20 March 2020 – 17 April 2020

<sup>211</sup> <https://www.e-nomothesia.gr/kat-ygeia/astheneies/upourgike-apophase-diagpoik-190302020.html>.

<sup>212</sup> <https://magyarkozlony.hu/dokumentumok/af0a665e93020a1bb69193ed9a8379f516854bf7/megtekintes>.

<sup>213</sup> <https://magyarkozlony.hu/dokumentumok/9421b74af54379d07ba8934a5fe3180c7f62d0be/megtekintes>.

<sup>214</sup> <https://magyarkozlony.hu/dokumentumok/c4210b08dd73832b3ca261193f85d508498c9718/megtekintes>.

<sup>215</sup> <https://www.stjornartidindi.is/Advert.aspx?RecordID=9cb48a0f-0d4d-4984-a13c-b2602bb4e6b0> (in Icelandic).

	<ul style="list-style-type: none"> <li>○ Persons engaged in transportation of goods;</li> <li>○ Persons in need of international protection;</li> <li>○ Persons travelling for urgent family reasons;</li> <li>○ Diplomatic staff.</li> </ul>	
<b>Ireland</b>	No explicit entry restrictions of intra-EU mobility into Ireland have been found. <sup>216</sup>	n/a
<b>Italy</b>	<p><b>Restriction of intra-EU mobility into Italy:</b></p> <ul style="list-style-type: none"> <li>• Restriction of entry into Italy of all persons (Order of the Ministry of Health of 28 March 2020),<sup>217</sup> requiring all persons entering into Italy by international passenger transportation to provide a (self-)declaration proving his or her ‘urgent reasons’ for travel, his or her address in Italy where he or she will self-isolate for 14 days upon entry, and contact information. Persons unable to provide such a declaration will be denied access to international passenger transportation services.<sup>218</sup> Obligation to provide declaration of ‘urgent travel reasons’ does not apply to <i>inter alia</i> persons engaged in goods transportation.</li> </ul> <p>Furthermore, Italy has imposed a restriction of entry into, exit from or mobility within Italy of all persons, except for ‘proven work or family needs’ (Decrees of the President of the Council of Ministers of 8 March 2020<sup>219</sup> and 9 March 2020)<sup>220</sup> as well as a prohibition of all persons from leaving the municipality in which they are currently situated, except for proven work needs, situations of emergency or health reasons (Decree of the President of the Council of Ministers of 22 March 2020).<sup>221</sup></p>	<p>28 March 2020 – (indeterminate date)</p> <p>10 March 2020 – 3 April 2020</p> <p>23 March 2020 – 3 April 2020</p>
<b>Latvia</b>	<p><b>Restriction of intra-EU mobility into Latvia:</b></p> <ul style="list-style-type: none"> <li>• Entry ban into Latvia for all persons (Order of the Cabinet of Minister No. 103 of 12 March 2020, as most recently amended),<sup>222</sup> except for: <ul style="list-style-type: none"> <li>○ Latvian nationals and foreign nationals permanently residing in Latvia;</li> <li>○ Persons working in transportation of goods and persons;</li> <li>○ Exceptions made by the Minister for the Interior, Minister for Foreign Affairs or the Head of the State Border Guard;</li> <li>○ Latvian nationals permanently residing abroad and Estonian or Lithuanian nationals, for the purpose of crossing the Latvia border once to return to their country of residence.</li> </ul> </li> </ul>	17 March 2020 – (indeterminate date)

<sup>216</sup> See <https://www.gov.ie/en/news/7e0924-latest-updates-on-covid-19-coronavirus/>, <https://www.gov.ie/en/publication/a02c5a-what-is-happening/> and <https://www.gov.ie/en/publication/12e1d9-updated-measures-in-response-to-covid-19-tuesday-24-march/>.

<sup>217</sup> <https://www.gazzettaufficiale.it/eli/id/2020/03/29/20A01921/sg>.

<sup>218</sup> As clearly noted in the same Order, this does not affect the possibility of persons from entering into Italy by their own means of transportation.

<sup>219</sup> <https://www.gazzettaufficiale.it/eli/id/2020/03/08/20A01522/sg>.

<sup>220</sup> <https://www.gazzettaufficiale.it/eli/id/2020/03/09/20A01558/sg>.

<sup>221</sup> <https://www.gazzettaufficiale.it/eli/id/2020/03/22/20A01807/sg>.

<sup>222</sup> <https://likumi.lv/ta/id/313191-par-arkartejas-situacijas-izsludinasanu>.

	Entry ban does not apply to asymptomatic persons engaged in transportation of goods or flights crews.	
<b>Liechtenstein</b>	<p><b>Restriction of intra-EU mobility into Liechtenstein:</b></p> <ul style="list-style-type: none"> <li>• Entry ban into Liechtenstein (Ordinance of 13 March 2020, LR. No. 818.101.24, as last amended),<sup>223</sup> for all persons coming from: <ul style="list-style-type: none"> <li>Italy;</li> <li>Austria, France and Germany;</li> <li>Spain;</li> <li>All countries outside of the Schengen area;</li> <li>All countries (except Switzerland).</li> </ul> </li> </ul> <p>Entry ban does not apply to:</p> <ul style="list-style-type: none"> <li>○ Nationals of Liechtenstein or Swiss nationals;</li> <li>○ Foreign nationals with a residence permit in Switzerland or Liechtenstein, a cross-border commuter permit, or a visa issued by Liechtenstein or Switzerland for specialist in the health sector or for official visits of ‘great importance’;</li> <li>○ Foreign nationals with a guarantee of a residence permit;</li> <li>○ Foreign nationals entitled to freedom of movement entering Liechtenstein for professional reasons;</li> <li>○ Persons engaged in transportation of goods;</li> <li>○ Transit passengers;</li> <li>○ Persons in situations of extreme necessity;</li> <li>○ Persons of great importance as specialists in the health sector.</li> </ul>	<p>13 March 2020 – 13 September 2020</p> <p>19 March 2020 – 13 September 2020</p> <p>19 March 2020 – 13 September 2020</p> <p>21 March 2020 – 13 September 2020</p> <p>26 March 2020 – 13 September 2020</p>
<b>Lithuania</b>	<p><b>Restriction of intra-EU mobility into Lithuania:</b></p> <ul style="list-style-type: none"> <li>• Entry ban into Lithuania of all persons (Government Decision No. 207 of 14 March 2020, as most recently amended),<sup>224</sup> except for: <ul style="list-style-type: none"> <li>○ Lithuanian nationals;</li> <li>○ Foreign nationals legally resident in Lithuania;</li> <li>○ Foreign nationals engaged in international commercial transport;</li> <li>○ Diplomatic staff and their family members.</li> </ul> </li> <li>• Exit ban from Lithuania of Lithuanian nationals (Government Decision No. 207 of 14 March 2020, as most recently amended), except for: <ul style="list-style-type: none"> <li>○ Returning to their place of permanent residence;</li> <li>○ Going to their place of employment;</li> <li>○ Crew members employed in international commercial transportation;</li> </ul> </li> </ul>	<p>16-30 March 2020</p> <p>16-30 March 2020</p>

<sup>223</sup> <https://www.gesetze.li/konso/2020094000>.

<sup>224</sup> <https://www.e-tar.lt/portal/lt/legalAct/73c0b060663111eabee4a336e7e6fdab/asr>.

	<ul style="list-style-type: none"> <li>○ Persons whose exit from Lithuania has been approved by the Head of the State Border Guard.</li> </ul>	
<b>Luxembourg</b>	<p><b>Restriction of intra-EU mobility into Luxembourg:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Luxembourg of persons (Grand-Ducal Regulation of 18 March 2020, as most recently amended),<sup>225</sup> except for: <ul style="list-style-type: none"> <li>○ EU citizens, nationals of Schengen countries and British nationals, as well as their family members, returning to their place of residence;</li> <li>○ Third-country nationals with an EC Long-term Residence permit or other residence title in Luxembourg or neighbouring countries;</li> <li>○ Medical and healthcare professionals;</li> <li>○ Frontier workers;</li> <li>○ Persons engaged in goods transport;</li> <li>○ Diplomatic staff;</li> <li>○ Transit passengers;</li> <li>○ Passengers travelling for urgent and duly justified family reasons;</li> <li>○ Persons seeking international protection.</li> </ul> </li> </ul>	18 March 2020 – 17 April 2020
<b>Malta</b>	No explicit entry restrictions of intra-EU mobility into Malta have been found.	n/a
<b>Netherlands</b>	No explicit entry restrictions of intra-EU mobility into the Netherlands have been found.	n/a
<b>Norway</b>	<p><b>Restriction of intra-Schengen mobility into Norway:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Norway of persons (Regulations of 15 March 2020 No. 293, as last amended),<sup>226</sup> except for <i>inter alia</i>: <ul style="list-style-type: none"> <li>○ Norwegian nationals;</li> <li>○ EEA nationals and their family members, who reside or work in Norway;</li> <li>○ EEA nationals starting employment in a sector where there is a critical need for labour;</li> <li>○ Posted workers from an EEA country who have started or will start an assignment in Norway lasting at least 3 months;</li> <li>○ Foreign nationals with a residence permit in Norway;</li> <li>○ Transit passengers;</li> <li>○ Foreign nationals seeking asylum/international protection in Norway;</li> <li>○ Foreign nationals on their way to work or residence in Svalbard;</li> <li>○ EEA nationals travelling through Norway to return to their country of residence;</li> <li>○ Foreign nationals performing professional goods transportation functions;</li> <li>○ Journalists and other foreign media personnel;</li> </ul> </li> </ul>	16 March 2020 – (indeterminate date)

<sup>225</sup> <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/18/a165/consolide>.

<sup>226</sup> <https://www.regjeringen.no/en/dokumenter/regulations-relating-to-rejection-etc.-of-foreign-nationals-without-a-residence-permit-in-the-realm-out-of-concern-for-public-health/id2693697/> or <https://lovdata.no/dokument/SFE/forskrift/2020-03-15-293> (consolidated English translation).

	<ul style="list-style-type: none"> <li>○ Diplomatic staff;</li> <li>○ Special reasons to indicate, such as specific care responsibilities for persons in Norway.</li> </ul>	
<b>Poland</b>	<p><b>Restriction of intra-EU mobility into Poland:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Poland of persons by air, sea or road border crossings with Germany, the Czech Republic, Lithuania and Slovakia (Ordinance Dz. U. 2020 No. 435,<sup>227</sup> as amended by Ordinance Dz. U. 2020 No. 469),<sup>228</sup> except for: <ul style="list-style-type: none"> <li>○ Polish nationals;</li> <li>○ Foreign national spouses or minor children of Polish nationals, or foreign nationals who are under the care of Polish nationals;</li> <li>○ Foreign nationals holding a <i>Karta polaka</i>;</li> <li>○ Diplomatic staff and their family members;</li> <li>○ Foreign nationals with temporary or permanent residence title in Poland;</li> <li>○ Foreign nationals entitled to work in Poland;</li> <li>○ Foreign nationals engaged in transportation of goods;</li> <li>○ Foreign nationals whose entry into Poland is authorised by the Border Guard.</li> </ul> </li> </ul>	15 March 2020 – (indeterminate date)
<b>Portugal</b>	No explicit entry restrictions of intra-EU mobility into Portugal have been found.	n/a
<b>Romania</b>	<p><b>Restriction of intra-EU mobility into Romania:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Romania of all persons (Military Ordinance No. 2 of 2020),<sup>229</sup> except for: <ul style="list-style-type: none"> <li>○ Romanian nationals, and their family members;</li> <li>○ EU citizens, EEA nationals or Swiss nationals,<sup>230</sup> and their family members, residing in Romania;</li> <li>○ Foreign nationals and stateless persons with a residence title in Romania;</li> <li>○ Foreign nationals and stateless persons travelling for reasons of professional activities;</li> <li>○ Diplomatic staff;</li> <li>○ Transit passengers;</li> <li>○ Passengers travelling for imperative (medical or family) reasons;</li> <li>○ Persons in need of international protection or for other humanitarian reasons.</li> </ul> </li> </ul>	22 March 2020 – (indeterminate date)
<b>Slovakia</b>	<p><b>Restriction of intra-EU mobility into Slovakia:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Slovakia of all persons, except for:<sup>231</sup></li> </ul>	

<sup>227</sup> <http://dziennikustaw.gov.pl/DU/2020/435>.

<sup>228</sup> <http://dziennikustaw.gov.pl/DU/2020/469>.

<sup>229</sup> <http://legislatie.just.ro/Public/DetaliuDocument/224284>.

<sup>230</sup> With reference to the definition of 'foreign national' in Emergency Ordinance No. 194 of 2002, available at <http://legislatie.just.ro/Public/DetaliuDocument/206467>.

<sup>231</sup> No national legislative instrument introducing this measure found. Information obtained from official websites of the Slovak Republic, including: <http://www.minv.sk/?tlacove-spravy-4&sprava=koronavirus-mimoriadna-situacia-nudzovy-stav-v->

	<ul style="list-style-type: none"> <li>○ Slovak nationals;</li> <li>○ Foreign nationals with valid residence title in Slovakia (including EU citizens registered in Slovakia and their family members);</li> <li>○ Foreign nationals who are close relatives (spouses, children and parents) of Slovak nationals;</li> <li>○ Foreign nationals commuting regularly for work in Slovakia;</li> <li>○ Diplomatic staff;</li> <li>○ Cross-border workers of Slovak and Hungarian nationality within 30km of the Slovak-Hungarian border (from 19 March 2020).<sup>232</sup></li> </ul>	13 March 2020 – (indeterminate date)
<b>Slovenia</b>	<p><b>Restriction of intra-EU mobility into Slovenia:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Slovenia all persons from: <ul style="list-style-type: none"> <li>Italy (Decree RS. No. 18/20, as amended by Decree RS. No. 20/20,<sup>233</sup> and superseded by Decree RS. No. 29/20);<sup>234</sup></li> <li>Austria (Decree RS. No. 34/20).<sup>235</sup></li> </ul> </li> </ul> <p>except for:</p> <ul style="list-style-type: none"> <li>○ Slovenian nationals;</li> <li>○ Foreign nationals with temporary or permanent residence in Slovenia;</li> <li>○ Foreign nationals with medical certificate, not older than 3 days, indicating negative result for COVID-19 testing;</li> <li>○ Foreign nationals whose body temperature is below 37.5°C and asymptomatic;</li> <li>○ (for Slovenia-Austria mobility): prohibition does not apply to cross-border workers, persons involved in freight transport, passengers of emergency, ambulance vehicles.</li> </ul> <p>Further, for <u>Slovenia-Austria mobility</u>, persons who are “assumed to be unable to leave Slovenia due to measures taken by neighbouring countries” will not be permitted entry.</p>	11 March 2020 – (indeterminate date)  25 March 2020 – (indeterminate date)
<b>Spain</b>	<p><b>Restriction of intra-EU mobility into Spain:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Spain through land borders of all persons (Order INT/239/2020,<sup>236</sup> extended by Order INT/283/2020),<sup>237</sup> except for: <ul style="list-style-type: none"> <li>○ Spanish nationals;</li> <li>○ Residents of Spain;</li> <li>○ Frontier workers;</li> <li>○ Persons whose entry is necessary for reasons of <i>force majeure</i> or situation of need;</li> </ul> </li> </ul>	17-26 March 2020

[zdravotnictve-kontroly-a-obmedzenia-na-hraniciach-i-v-beznom-zivote](https://www.zdravotnictve-kontroly-a-obmedzenia-na-hraniciach-i-v-beznom-zivote) and <https://www.mzv.sk/cestovanie/covid19/vstup-cudzincov-na-uzemie-sr-pocas-mimoriadnej-situacie>.

<sup>232</sup> See <https://www.minv.sk/?tlacove-spravy&sprava=volny-cezhranicny-pohyb-pre-slovakov-v-madarsku-zacne-platit-od-19-marca-od-6-hodiny>.

<sup>233</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2544>.

<sup>234</sup> <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODLO2020>.

<sup>235</sup> <https://www.uradni-list.si/1/objava.jsp?sop=2020-01-0658>.

<sup>236</sup> <https://www.boe.es/buscar/act.php?id=BOE-A-2020-3776>.

<sup>237</sup> <https://www.boe.es/eli/es/o/2020/03/25/int283/con>.

	<ul style="list-style-type: none"> <li>○ Diplomatic staff;</li> <li>○ Persons engaged in transport of goods.</li> <li>● Entry ban into Spain of all persons (Order INT/270/2020),<sup>238</sup> except for: <ul style="list-style-type: none"> <li>○ Spanish nationals;</li> <li>○ EU citizens and their family members whose residence is registered in Spain;</li> <li>○ Residents of EU member states or Schengen countries returning to their country of residence;</li> <li>○ Third-country nationals with a long-term visa issued by an EU member state or Schengen country travelling to said country;</li> <li>○ Frontier workers;</li> <li>○ Health and elderly care workers;</li> <li>○ Persons engaged in goods transport and members of flight crews;</li> <li>○ Diplomatic personnel;</li> <li>○ Persons travelling for imperative family reasons, duly justified;</li> <li>○ Persons travelling for duly documented reasons of <i>force majeure</i> or situation of need or whose entry is motivated by humanitarian reasons.</li> </ul> </li> </ul>	23 March 2020 – 21 April 2020
Sweden	<p><b>Restriction of intra-EU mobility into Sweden:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Sweden of all persons departing from non-EEA country or Switzerland (Regulation SFS 2020:127),<sup>239</sup> except for: <ul style="list-style-type: none"> <li>○ Swedish nationals;</li> <li>○ EEA nationals or Swiss nationals, as well as their family members;</li> <li>○ Foreign nationals having permanent residence in Sweden or another EU member state;</li> <li>○ Foreign nationals holding Swedish residence permits or residence permits from another EEA member state or Switzerland;</li> <li>○ Foreign nationals holding a Swedish national visa;</li> <li>○ Foreign nationals engaged in the performance of essential services in Sweden, including healthcare workers, frontier workers, persons engaged in goods transport, diplomatic staff, transit passengers, persons travelling for essential family reasons, and persons in need of international protection.</li> </ul> </li> </ul>	19 March 2020 – 17 April 2020
Switzerland	<p><b>Restriction of intra-EU mobility into Switzerland:</b></p> <ul style="list-style-type: none"> <li>● Entry ban into Switzerland of all persons (COVID-19-Verordnung 2)<sup>240</sup> from ‘risk countries and regions’, including: Italy;</li> </ul>	13-25 March 2020 (superseded)

<sup>238</sup> <https://www.boe.es/buscar/act.php?id=BOE-A-2020-3972>.

<sup>239</sup> <https://svenskfattningssamling.se/doc/2020127.html>.

<sup>240</sup> Consolidated version available at <https://www.admin.ch/opc/de/classified-compilation/20200744/index.html>.

	<p>Austria, France, Germany;</p> <p>Spain;</p> <p>All countries outside of the Schengen area;</p> <p>All countries, except for Liechtenstein.</p> <p>Entry ban applies to all persons, except for:</p> <ul style="list-style-type: none"> <li>○ Swiss nationals;</li> <li>○ Foreign nationals with a valid residence title in Switzerland;</li> <li>○ Persons entitled to freedom of movement, with a professional reason for entering Switzerland and have a confirmation of registration;</li> <li>○ Persons engaged in goods transport;</li> <li>○ Persons in transit through Switzerland;</li> <li>○ Persons in a situation of extreme necessity;</li> <li>○ Specialists in the health sector of vital importance.</li> </ul>	<p>17-25 March 2020 (superseded)</p> <p>19-25 March 2020 (superseded)</p> <p>21-25 March 2020 (superseded)</p> <p>25 March 2020 – (indeterminate date)</p>
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#### 4. Declarations of ‘exceptional states’ in light of COVID-19

The following table sets out whether EU member states and Schengen countries have issued declarations of ‘exceptional states’, including states of emergency, in light of COVID-19. ‘Exceptional states’ in this overview refers to states of emergency, alarm or other forms of exceptional states which may result in the temporary increase of government authority and/or restriction of individual, often constitutional, rights. Explicitly excluded from this overview are national declarations of COVID-19 or SARS-CoV-2 as an epidemic or infectious disease in light with national legislations relating to infectious diseases.

Declaration of State of Emergency or Exception		
<b>Austria</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Belgium</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Bulgaria</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Croatia</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Cyprus</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Czech Republic</b>	<b>State of emergency</b> (“Nouzový stav”) <ul style="list-style-type: none"> <li>Resolution of the Government No. 194 of 12 March 2020.<sup>241</sup></li> </ul>	12 March 2020 – 11 April 2020
<b>Denmark</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Estonia</b>	<b>State of emergency</b> (“eriolukorra”) <ul style="list-style-type: none"> <li>Order of the government No. 76 of 12 March 2020.<sup>242</sup></li> </ul>	12 March 2020 – 1 May 2020
<b>Finland</b>	<b>Exceptional circumstance</b> (“Poikkeusolojen”) under the Emergency Powers Act (“Valmiuslaki”) 1552/2011 <ul style="list-style-type: none"> <li>Government Resolution VNK/2020/31.<sup>243</sup></li> </ul>	13 March 2020 – (end date unknown)
<b>France</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Germany</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Greece</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Hungary</b>	<b>State of danger</b> (“A veszélyhelyzet”) <ul style="list-style-type: none"> <li>Government Decree 40/2020 (III. 11).<sup>244</sup></li> </ul>	11 March 2020 – (end date unknown)

<sup>241</sup> <https://www.mvcr.cz/soubor/sbirka-zakonu-ceske-republiky-c-30-z-roku-2020-usneseni-vlady-ceske-republiky-ze-dne-12-brezna-2020-o-vyhlaseni-nouzoveho-stavu.aspx> (in Czech) or [https://koronavirus.mzcr.cz/wp-content/uploads/2020/03/R\\_state-of-emergency.pdf](https://koronavirus.mzcr.cz/wp-content/uploads/2020/03/R_state-of-emergency.pdf) (in English).

<sup>242</sup> <https://www.riigiteataja.ee/akt/313032020001> (in Estonian), <https://www.riigiteataja.ee/en/eli/517032020002/consolide> (English translation).

<sup>243</sup> <https://valtioneuvosto.fi/paatokset/paatokset?decisionId=0900908f8068ec10>. See also the governmental decrees adopted under the Emergency Powers Act 1552/2011, including Government Decree No. 124/2020, 125/2020, 126/2020, 127/2020, 128/2020, and 140/2020 (texts of the government decrees available at <https://www.finlex.fi/fi/laki/kokoelma/2020/>).

<sup>244</sup> <https://magyarkozlony.hu/dokumentumok/6ddbac40c788cb35b5bd5a5be4bb31294b59f9fc/megtekintes>.

Iceland	No declaration of state of emergency or other exceptional states.	n/a
Ireland	No declaration of state of emergency or other exceptional states.	n/a
Italy	<b>State of emergency</b> (“stato di emergenza”) <ul style="list-style-type: none"> <li>Resolution of the Cabinet of Ministers of 31 January 2020.<sup>245</sup></li> </ul>	31 January 2020 – 31 July 2020
Latvia	<b>State of emergency</b> (“Ārkārtējā situācija”) <ul style="list-style-type: none"> <li>Order of the Cabinet of Ministers No. 103 of 12 March 2020.<sup>246</sup></li> </ul>	12 March 2020 – 14 April 2020
Liechtenstein	No declaration of state of emergency or other exceptional states.	n/a
Lithuania	No declaration of state of emergency or other exceptional states.	n/a
Luxembourg	<b>State of crisis</b> (“état de crise”) <ul style="list-style-type: none"> <li>Grand-Ducal Regulation of 18 March 2020 (as amended),<sup>247</sup> extended by Law of 24 March 2020.<sup>248</sup></li> </ul>	18 March 2020 – 24 June 2020
Malta	No declaration of state of emergency or other exceptional states.	n/a
Netherlands	No declaration of state of emergency or other exceptional states.	n/a
Norway	No declaration of state of emergency or other exceptional states. <sup>249</sup>	n/a
Poland	No declaration of state of emergency or other exceptional states.	n/a
Portugal	<b>State of emergency</b> (“estado de emergência”) <ul style="list-style-type: none"> <li>Presidential Decree No. 14-A/2020;<sup>250</sup></li> </ul>	19 March 2020 – 2 April 2020
Romania	<b>State of emergency</b> (“stării de urgență”) <ul style="list-style-type: none"> <li>Presidential Decree No. 195 of 16 March 2020.<sup>251</sup></li> </ul>	16 March 2020 – 15 April 2020
Slovakia	<b>State of emergency</b> (“núdzový stav”) <ul style="list-style-type: none"> <li>Government Resolution No. 114 of 15 March 2020 (45/2020 Z.z.),<sup>252</sup> as amended by Government Resolution No. 115 of 18 March 2020 (49/2020 Z.z.);<sup>253</sup></li> </ul>	19 March 2020 – (end date unknown)
Slovenia	No declaration of state of emergency or other exceptional states.	n/a
Spain	<b>State of alarm</b> (“estado de alarma”)	

<sup>245</sup> <https://www.gazzettaufficiale.it/eli/id/2020/02/01/20A00737/sg>.

<sup>246</sup> <https://likumi.lv/ta/id/313191-par-arkartejas-situacijas-izsludinasanu>.

<sup>247</sup> <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/18/a165/consolide/20200320>.

<sup>248</sup> <http://www.legilux.lu/eli/etat/leg/loi/2020/03/24/a178/jo>.

<sup>249</sup> A proposal for law, i.e. the Corona Act, is currently in its second reading before the Norwegian Parliament. If passed, this law would provide the Norwegian executive branch with powers similar to those during ‘states of emergency’ in other constitutional traditions. For the text of the draft Corona Act, see <https://www.regjeringen.no/no/dokumenter/prop.-56-l-20192020/id2694040/?ch=9>. For the state of the Corona Act proposal at the Norwegian Parliament, see <https://stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=79229>.

<sup>250</sup> <https://dre.pt/web/guest/pesquisa/-/search/130399862/details/maximized>.

<sup>251</sup> <http://legislatie.iust.ro/Public/DetaliiDocument/223831>.

<sup>252</sup> <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/45/>.

<sup>253</sup> <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/49/>.

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	<ul style="list-style-type: none"><li>Royal Decree 463/2020 of 14 March 2020,<sup>254</sup> extended by Royal Decree 476/2020 of 27 March 2020.<sup>255</sup></li></ul>	14 March 2020 – 12 April 2020
<b>Sweden</b>	No declaration of state of emergency or other exceptional states.	n/a
<b>Switzerland</b>	No declaration of state of emergency or other exceptional states.	n/a

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<sup>254</sup> <https://www.boe.es/eli/es/rd/2020/03/14/463/con>.

<sup>255</sup> <https://www.boe.es/buscar/doc.php?id=BOE-A-2020-4155>.

## Annex 2. Impact of COVID-19 internal border controls, restrictions on modes of transportation and intra-EU entry bans on entry of non-nationals<sup>256</sup>

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
<b>Austria</b>	Yes	Restricted (non-COVID)	Restricted (non-COVID)	Unknown: yes if long-term visa is counted as legal residence title	Restricted (certain professions) or Restricted (non-COVID)	No	No	No
<b>Belgium</b>	Restricted ('essential reasons')	Restricted ('essential reasons')	Restricted ('essential reasons')	Restricted ('essential reasons')	Restricted ('essential reasons')	Restricted ('essential reasons')	Restricted ('essential reasons')	Unknown <sup>265</sup>

<sup>256</sup> Based (partly) on the Communication of the European Commission of 16 March 2020, "COVID-19: Temporary Restriction on Non-Essential Travel to the EU", COM(2020) 115 final. In case of multiple possible answers, the most restrictive answer (i.e. least conducive to entry) will be set out. Where national measures do not explicitly provide for an option, the answer will be "No", unless otherwise documented in secondary sources. In case of doubt of interpretation, answer will be "Unknown: [reason for unclarity]".

<sup>257</sup> Whether EU citizens (and nationals of Schengen countries) are able to enter the EU member state or Schengen country. Possible answers are: Yes, Yes (EEA), Yes (EU), Restricted ([applicable restriction]), No, unknown.

<sup>258</sup> Whether EU citizens (and nationals of Schengen countries) are able to transit through an EU member state or Schengen country to return to their place of residence. Possible answers are: Yes, Yes (EEA), Yes (EU), Restricted ([applicable restriction]), No, unknown.

<sup>259</sup> Whether third-country nationals can enter the EU member state of Schengen country they are legally residing in. Possible answers are: Yes, Restricted ([applicable restriction]), No, unknown.

<sup>260</sup> Whether third-country nationals can enter the EU member state of Schengen country for which they have a long-term visa. Possible answers are: Yes, Restricted ([applicable restriction]), No, unknown.

<sup>261</sup> Whether cross-border or frontier workers are able to enter into the EU member state or Schengen country they work in. Possible answers are: Yes, Restricted ([applicable restriction]), No, unknown.

<sup>262</sup> Whether persons are able to enter into an EU member state or Schengen country for imperative family reasons. Possible answers are: Yes, Restricted (applicable restriction)), No, unknown.

<sup>263</sup> Whether persons are able to enter the EU member state or Schengen country to seek urgent or otherwise imperative (cross-border) medical treatment or services. Possible answers are: Yes, Restricted (non-COVID), Restricted ([applicable restriction]), No, unknown.

<sup>264</sup> Whether persons in need of international protection or for other humanitarian reasons are able to enter into an EU member state or Schengen country. Possible answers are: Yes, Restricted (applicable restriction)), No, unknown.

<sup>265</sup> Entry into Belgium of asylum seekers may be considered as an 'essential reason' for entry. Note however that, as of 17 March 2020, the Belgian government has shut down services and reception centres for asylum seekers, and will no longer review new or existing applications for asylum; see "Coronavirus: Belgium begins shutting down services for asylum seekers", *Brussels Times*, 17 March 2020, <https://www.brusselstimes.com/belgium/100794/coronavirus-belgium-begins-turning-away-asylum-seekers-brussels-refugees-belgium/>.

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
<b>Bulgaria</b>	Restricted (permanent and long-term residents)	Yes	Restricted (permanent and long-term residents)	No	Restricted (certain professions)	No	No	Yes
<b>Croatia</b>	Yes	Yes	Yes	Yes	Yes	No	Yes	No
<b>Cyprus<sup>266</sup></b>	Restricted (non-COVID)	No	Restricted (non-COVID)	Restricted (non-COVID)	n/a	No	No	No
<b>Czech Republic</b>	Yes	Yes	Yes	Unknown: yes if long-term visa is counted as temporary residence of more than 90 days	AT and DE: Restricted (cross-border work > 21 days + 14 days since last entry into CZ)  SK and PL: Yes	No	No	No
<b>Denmark</b>	Yes	Yes	Yes	Yes	Yes	Yes	Restricted ('worthy purpose')	Unknown: Yes if considered as a 'worthy purpose'
<b>Estonia</b>	Yes	Restricted (asymptomatic/non-COVID)	Yes	No	Restricted (certain professions + asymptomatic/non-COVID) or Restricted (EE-	Restricted (asymptomatic/non-COVID + permission necessary)	No	No

<sup>266</sup> All persons permitted entry into Cyprus must, as of 15 March 2020, provide evidence of negative COVID-19 testing as a precondition for entry. Note further that all international passenger flights to Cyprus have been suspended as of 21 March 2020. No restrictions on international maritime passenger transport was found.

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
					LV cross-border worker + asymptomatic/non-COVID)			
<b>Finland</b>	Yes	Yes	Yes	No	Restricted (only if 'necessary cross-border work')	No	No	No
<b>France</b>	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)	(unknown)
<b>Germany<sup>267</sup></b>	Yes	Restricted (only if alternative route if not possible)	Yes	Unknown: yes if long-term visa is counted as residence right	Yes	Restricted ('urgent reason')	Restricted ('urgent reason')	No
<b>Greece</b>	Yes	Yes	Yes	No	Restricted (certain professions)	No	No	No
<b>Hungary</b>	Unknown: unclear if entry ban applies to resident EU citizens	No <sup>268</sup>	No	No	Restricted (HU & SK nationals at HU-SK border)	Restricted (only nationals)	Restricted (only nationals)	No
<b>Iceland</b>	Yes	Yes	Yes	Yes	Restricted (certain professions)	Yes	No	Yes

<sup>267</sup> The interpretation of 'urgent reasons' is up to the discretion of the German border authorities. Indications and examples of what is considered an 'urgent reason' can be found at [https://www.bundespolizei.de/Web/DE/04Aktuelles/01Meldungen/2020/03/200317\\_faq.html](https://www.bundespolizei.de/Web/DE/04Aktuelles/01Meldungen/2020/03/200317_faq.html).

<sup>268</sup> Note that international passenger flights transiting Hungarian airspace without landing in Hungary is permitted.

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
<b>Ireland</b>	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)	Yes (no entry restrictions in place)
<b>Italy</b>	Unknown	Unknown	Unclear	Unclear	Unknown	Unknown	Unknown	Unknown
<b>Latvia</b>	Restricted (permanent residents) and Restricted (suspension of all international passenger transportation)	Restricted (suspension of all international passenger transportation)	Restricted (permanent residents) and Restricted (suspension of all international passenger transportation)	No	Restricted (certain professions + non-COVID)	No	No	No
<b>Liechtenstein</b>	Yes	Yes	Yes	Yes	Restricted (certain professions)	Restricted (only if situation of 'extreme necessity')	Restricted (only if situation of 'extreme necessity')	Restricted (only if situation of 'extreme necessity')
<b>Lithuania</b>	Yes	No	Yes	Yes	Restricted (international transport of goods)	No	No	No
<b>Luxembourg</b>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<b>Malta<sup>269</sup></b>	No	No	No	No	No	No	No	No
<b>Netherlands</b>	Restricted (flight landing ban from IT, ES, AT)	Restricted (flight landing ban from IT, ES, AT)	Restricted (flight landing ban from IT, ES, AT)	Restricted (flight landing ban from IT, ES, AT)	Yes (no entry restrictions in place)	Restricted (flight landing ban from IT, ES, AT)	Restricted (flight landing ban from IT, ES, AT)	Restricted (flight landing ban from IT, ES, AT)

<sup>269</sup> While Malta has no entry bans in place, the combination of the fact that it has no land borders, and all forms of commercial international passenger transport have been suspended, results in individuals being unable *de facto* to enter into Malta.

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
<b>Norway</b>	Yes (EEA)	Yes	Yes	Unknown: yes if long-term visa is considered a residence permit	Restricted (certain professions)	No	No	Yes
<b>Poland</b>	Restricted (suspension of flights and rail transport)	Restricted (suspension of flights and rail transport)	Restricted (suspension of flights and rail transport)	Unknown: yes if long-term visa is considered a right of temporary residence	Yes	No	No	No
<b>Portugal</b>	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Yes <sup>270</sup>	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)	Restricted (flight ban except for EU+Schengen countries, UK, and Lusophone countries)
<b>Romania</b>	Yes	Yes	Yes	Unknown: yes if long-term visa is considered a residence title in Romania	Yes	Yes	Yes	Yes
<b>Slovakia</b>	Restricted (suspension of all international passenger transportation)	Restricted (suspension of all international passenger transportation)	Restricted (suspension of all international passenger transportation)	Unknown: yes if long-term visa is considered a residence title in Slovakia	Yes	No	No	No

<sup>270</sup> See <https://www.saudemais.tv/noticia/5431-covid-19-portugal-e-espanha-limitam-circulacao-na-fronteira-a-mercadorias-e-trabalhadores-atualizada>.

	Entry of resident EU citizens <sup>257</sup>	Transit of EU citizens returning to their homes <sup>258</sup>	Entry of legally resident TCN <sup>259</sup>	Entry of TCN with long-term visas <sup>260</sup>	Entry of cross-border or frontier workers <sup>261</sup>	Entry or transit for imperative family reasons <sup>262</sup>	Entry for seeking urgent medical services <sup>263</sup>	Entry of international protection seekers <sup>264</sup>
<b>Slovenia</b>	Restricted (suspension of all international passenger transportation)	Restricted (suspension of all international passenger transportation)  From IT or AT: further Restricted (non-COVID)	Restricted (suspension of all international passenger transportation)	Restricted (suspension of all international passenger transportation)	From AT: Yes  From IT: Restricted (non-COVID)  Otherwise: Yes	Restricted (suspension of all international passenger transportation)  From IT or AT: further Restricted (non-COVID)	Restricted (suspension of all international passenger transportation)  From IT or AT: further Restricted (non-COVID)	No
<b>Spain</b>	Yes	Yes	Yes	Yes	Yes	Yes	Restricted (force majeure, situation of need or humanitarian reason)	Restricted (humanitarian reason)
<b>Sweden</b>	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<b>Switzerland</b>	Yes	Yes	Yes	Yes	Restricted (certain professions)	Restricted (only if situation of 'extreme necessity')	Restricted (only if situation of 'extreme necessity')	Restricted (only if situation of 'extreme necessity')

Source: Authors' own elaboration.



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