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STUDY

Requested by the LIBE committee



In the Name of COVID-19: An Assessment of the Schengen Internal Border Controls and Travel Restrictions in the EU



Policy Department for Citizens' Rights and Constitutional Affairs
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Directorate-General for Internal Policies
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In the Name of COVID-19: Schengen Internal Border Controls and Travel Restrictions in the EU

Abstract

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, assesses the mobility restrictive measures adopted by the EU and its Member States in the fight against COVID-19. It examines the reintroduction of Schengen internal border controls and intra- and extra-EU travel restrictions. It assesses their compatibility with the Schengen Borders Code, including proportionality, non-discrimination, privacy and free movement. The research demonstrates that policy priorities have moved from a logic of containment to one characterized by a policing approach on intra-EU mobility giving priority to the use of police identity/health checks, interoperable databases and the electronic surveillance of every traveller. It concludes that Schengen is not in 'crisis'. Instead there has been an 'EU enforcement and evaluation gap' of Member States compliance with EU rules in areas falling under EU competence.

This document was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs.

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LIST OF ABBREVIATIONS

AFSJ	Area of Freedom, Security and Justice
BGBI.	Bundesgesetzblatt (AT)
CJEU	Court of Justice of the European Union
Coreper	Committee of the Permanent Representatives of the Governments of the Member States to the EU
COVID-19	Coronavirus disease 2019
e.g.	Exempli gratia (for example)
ECDC	European Centre for Disease Prevention and Control
EEA	European Economic Area
EMN	European Migration Network
EP	European Parliament
EU	European Union
EUCFR	EU Charter of Fundamental Rights
GDPR	General Data Protection Regulation
IPCR	Integrated Political Crisis Response
LIBE	Committee on Civil Liberties, Justice and Home Affairs
NDPA	National Data Protection Authority
SARS-CoV-2	Severe acute respiratory syndrome coronavirus 2
SBC	Schengen Borders Code
SEM	Schengen Evaluation Mechanism
SIS II	Schengen Information System II
TFEU	Treaty on the Functioning of the European Union
WHO	World Health Organization

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EXECUTIVE SUMMARY

Background

The abolition of internal border controls and the non-discriminatory treatment of individuals when exercising the freedom of movement is one of the most emblematic characteristics of the European Union (EU). The COVID-19 pandemic has shone a spotlight on the Union's free movement foundations and their legitimation and reignited the debate about whether the Schengen area is in need of reform or indeed in 'crisis'. The Schengen area is anchored in a common set of codified rules enshrined in the Schengen Borders Code (SBC). The Code still leaves the possibility for Member States to temporarily and exceptionally reintroduce internal border controls under well-justified conditions and to carry out non-systematic police spot checks inside border areas.

Nevertheless, the latest (2013) legislative reform of the Schengen regime (Schengen Governance Package) reinforced EU scrutiny so as to ensure an objective, efficient and principled application of the Schengen *acquis* by Member States. Safeguarding EU Treaty principles – including the rule of law, democracy and fundamental rights – constitutes preconditions for 'merited or deserving trust' in the scope of Schengen cooperation. The Schengen Evaluation Mechanism (SEM) and the EU's oversight of Member States' reintroduction of internal border controls constitute crucial trust-enhancing factors in the functioning of the Schengen regime.

Aim

This study assesses the state of play of the Schengen area, with a particular focus on the reintroduction of internal border controls and (intra- and extra-EU) travel restrictions related to the COVID-19 pandemic. It conducts a legality test on all these measures in light of the SBC and EU free movement legislation, paying attention to their compliance with the principles of proportionality and non-discrimination and the EU Charter of Fundamental Rights (EUCFR). The study 'unpacks' the framing of the current picture that sees 'Schengen being in crisis' by showing that this is a problematic view. It identifies the actual challenges characterising the implementation, evaluation and enforcement of common EU rules and principles that the pandemic has made visible.

This study aims to provide an independent, research-based input to the European Parliament (EP) in its assessment of the state of the Schengen regime in view of the Annual Report on the Functioning of the Schengen area that the Committee on Civil Liberties, Justice and Home Affairs (LIBE) draws up. Based on the research, the study puts forward a set of policy priorities and recommendations to the European Parliament and EU institutions.

Due to the very targeted scope of this study and constraints of data collection, this research generally reflects the situation until the end of August and in some cases until beginning of September 2020.

Key findings

- Most EU Member States have responded to the COVID-19 pandemic with restrictions to cross-border mobility, both intra- and extra-EU. The resulting picture is a web of dynamic, multi-layered measures, ranging from the reintroduction of internal border controls at specific land, sea and air borders, to intra-EU travel bans and an extra-EU travel ban. All these restrictions, carrying a strong symbolic relevance, were introduced well after the arrival and spread of COVID-19 across Europe. They reveal a large amount of differentiation and variable geometry in terms of their scope and implementation. They have been subject to highly evolving and

rapid changes, leading to profound legal uncertainty for individuals and negative impacts on EU rights and freedoms.

- One of the first and most visible policy responses to the pandemic introduced by several Member States' governments has been 'containment'. Intra-Schengen border closures and systematic internal border checks have been implemented in a unilateral, paranoid, ad hoc and uncoordinated fashion. There has also been an EU entry ban for extra-Schengen travel. A small group of Schengen governments continue to apply internal border checks, though most have more recently transitioned towards 'surveyed mobility'. These are intra-Schengen area travel restrictions aimed at the *policing and surveillance* of all travellers and their data – and representing electronic frontiers to free movement in the EU.
- By the end of March 2020, 16 EU Member States had reintroduced internal border controls in the name of COVID-19. As of 24 August 2020, however, only five Schengen countries continued to apply these controls. At the time of writing, most EU Member States have subsequently lifted their internal border controls, considering them unnecessary and/or ineffective. Of the five Member States retaining internal border controls, three (Denmark, France and Norway) still unlawfully conduct the internal border checks that have been in place since 2015. These were introduced in the name of the so-called 'European refugee humanitarian crisis', crime and even terrorism. Austria and Germany have also been applying internal border controls on the same asylum-related basis since 2015. Three Member States (Italy, Malta and Slovenia) that introduced travel restrictions for COVID-19 related grounds have not communicated or issued the required notifications under the SBC. Therefore, the six Member States that have internal border controls in place for non-COVID-19 reasons (Austria, Denmark, France, Germany, Norway, and Sweden) do not fully correspond to the five Member States that still have COVID-19 internal border controls in place. It is by and large unclear how and if these internal border controls are implemented in practice.
- In the initial stages, most Member States used Article 28 of the SBC as the legal basis to justify internal border controls (maximum of two months). Therefore, their application should have expired by mid-May 2020. Nearly all Member States have subsequently used Article 25 SBC (in conjunction with Article 27 SBC) instrumentally. They have continued with illegal internal border controls which will run until mid-September (Finland, Lithuania and Norway), end of October (France) and mid-November (Denmark).
- The responses of Schengen States and EU institutions and agencies have moved from measures aimed at border closures and territorial border checks to measures that police the mobility of every individual, irrespective of nationality or status. This is done through the incremental use of 'screening procedures' by police authorities and the use and processing of electronic information. These have given a large amount of discretion to national police authorities. Decisions as to the exact application and interpretation of these measures on the ground, such as what or who qualifies as an 'essential' traveller and who does not, or the exact ways in which individuals can prove that they meet the medical requirements or the criterion of 'residence' are now in their hands and discretion.
- Most EU Member States now apply a conglomerate of restrictive travel measures that apply prior to and/or after entry. A handful of EU Member States have applied intra-EU travel bans (Hungary, Cyprus, Denmark and Finland), which are not formally foreseen or permitted by the SBC. These range from a total prohibition of entry for certain persons, to what can be called 'conditioned or qualified entry'. Entry requirements can include proof of medical certificate, prior proof of negative test, mandatory filling of travel or passenger location forms, temperature screenings at airports, mandatory/voluntary quarantine upon entry and/or a

requirement to submit to in-country testing after entry. Iceland's and Finland's have by far adopted restrictive entry measures targeting the most other EU+ countries. Only seven EU+ countries (Bulgaria, Croatia, France, Luxembourg, the Netherlands, Portugal, and Sweden) do not have any of the examined types of COVID-19-related restrictive entry measures in place. The framing, criteria and methods used by EU+ governments in the geographical application of these restrictions reveal an incredibly diverse and incoherent picture, sometimes going beyond purely official epidemiological grounds. This raises questions about the underlying reasoning – beyond strictly health-related considerations – behind certain Member States' decisions to implement restrictive entry measures vis-à-vis certain EU+ and third countries.

- All EU+ countries that have introduced a form of restrictive entry measures provide for fines in the case of non-compliance, with maximum fines ranging from EUR 500 (Belgium) to maximum fines in excess of EUR 10 000 (Cyprus, the Czech Republic, Germany, and Spain). In addition to prohibiting entry, the most common sanction among relevant EU Member States for non-compliance with COVID-19 entry restrictions is an administrative or criminal fine, with some Member States even attaching a prison sentence to non-compliance. Other Schengen members have promoted the use of employers' sanctions, which may include wages being withheld during the period of mandatory quarantine upon return from an EU+ country for which there is a travel warning (e.g. Austria). This is a clear trend towards the criminalisation or sanctioning of individual non-compliance with travel restrictions.
- Alongside the adoption of intra-EU mobility restrictions is the 'EU travel ban' – a temporary restriction on non-essential travel into the EU – adopted by the Council, on a proposal by the Commission. This includes a common list of countries whose residents can travel to the EU for 'non-essential' reasons. As of August 2020, the list includes Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia, Uruguay, as well as China (on the basis of reciprocity). Austria, Belgium, Croatia, Norway, Poland and Romania have not reopened their external borders to residents of non-EU+ countries for non-essential travel. Despite the commitment of Member States to not allow travel from countries not included in the list, the following Member States deviate from the Recommendation by allowing entry for non-essential travel from other third countries: Bulgaria, Germany, Hungary, Malta, Slovenia, Switzerland and Liechtenstein.

Testing legality

The study carries out a legality test of the measures set out above, with the additional findings:

- Most EU Member States have formally used the provisions stipulated in the SBC and its notification requirement. COVID-19 travel measures do not show that the rules are not 'fit for purpose' and that legislative changes of the SBC are currently necessary. The main challenge, however, has been an *EU enforcement and evaluation gap* in an area where the EU has a clear legal competence. Member States' interior ministries have fallen short of the timely and effective compliance with existing EU legal standards in the following ways:
 1. Relevant Member States have failed to provide robust independent and scientific evidence demonstrating the proportionality of internal border checks and intra-EU travel bans to contain and prevent the spread of COVID-19. They have failed to meet their *incremental burden of proof* to justify and regularly reassess the proportionality of any free movement restrictions. They have not shown the existence of less restrictive/intrusive means (that therefore ensures the 'last resort' nature of these measures) and their actual impacts on the rights of mobile EU citizens and their families, third-country nationals and asylum seekers and refugees.

2. By extending the originally envisaged time period, Member States have made temporary border checks quasi-permanent. They have done this by the instrumental use of different legal bases of the SBC, that is, jumping from one legal basis to another. Additionally, some Member States have not issued separate notifications for these different grounds, some of which are not at all related to COVID-19. Five Schengen Member States in particular (Austria, Denmark, France, Germany and Norway) have continued applying post-2015 internal border checks in some parts of their borders on non-COVID-19-related grounds. Therefore, none of the EU Member States extending or currently applying internal border controls in relation to the pandemic is in line with the SBC rules.
 3. Member States have made expansionist use of the notions of public policy and internal security as grounds to justify the reintroduction of border controls and travel restrictions. None of their relevant notifications explain, explicitly or implicitly, how the COVID-19 pandemic is considered as a serious threat to their public policy or internal security. Most interior ministries have blurred the notions of public policy and public security with that of public health. It was the explicit wish of the EU legislators during the inter-institutional negotiations of the SBC that public health was not included as one of the legitimate grounds for reintroducing internal border checks. The new measures instead promote a policing approach. The assessment of health measures should primarily be in the hands of health and fundamental rights professionals, with the primary aim of ensuring access to healthcare and medical treatment to anyone in need as enshrined in Article 35 EUCFR. The concepts of public policy and national security are nevertheless subject to EU scrutiny and cannot be unilaterally used by governments in an attempt to escape their obligations in EU law. Mobility restrictions cannot be introduced on a mere suspicion or for general prevention purposes. They must rather be founded on an individual case-by-case assessment – of specific, consistent and objective evidence or facts.
- Intra-EU travel bans sit most uneasily with the SBC provisions. They are clearly unlawful under EU law, constituting as they do a disproportionate automatic or outright refusal of entry into a Schengen country. Sometimes, based on dubious and largely discretionary criteria, they target entire populations residing in specific Member States. The very idea of a ban runs contrary to the obligation by EU Schengen countries to carry out an individualised assessment and ensure access to healthcare and treatment. Some intra-EU travel restrictions implemented as police checks, while not officially presented as constituting formal internal border controls, have features that risk having equivalent effects to border controls, and therefore running contrary to the SBC. These amount to serious obstacles to freedom of movement.
 - A high level of discrepancies and inconsistencies can be seen in EU Member States' application of the EU travel ban to third countries. The Council Recommendation constituting the legal act of the EU travel ban is not a legally binding act. However, all participating Member States have a clear obligation under the Recommendation and EU law to coordinate their policies and avoid unilateral and ad hoc responses in light of the EU general principle of sincere and loyal cooperation. In particular, the Schengen governments allowing entry for non-essential reasons beyond the list provided by the Recommendation are in direct contradiction with their agreed legal obligations. The adoption of the Recommendation has not complied with EU Better Regulation commitments in an area falling under EU shared competence. The selection criteria are furthermore openly broad. Moreover, non-health and evidence-based considerations have played a problematic role in the changing shape of the agreed list of countries. National and financial interests, including tourism and reciprocity, have opened the way for discrimination and arbitrariness.

Testing proportionality

- A proportionality assessment of all the above COVID-19-related border controls and travel restrictions leads to the following six findings:
1. The burden of proof to demonstrate the proportionality of mobility restrictions lies with the Schengen governments, and this increases over time. All relevant EU Member States have failed to prove or show any independent evidence on the effectiveness of internal border controls in addressing the COVID-19 pandemic. Academic research has reached no consensus about the effectiveness of highly restrictive travel or border measures in delaying or preventing the spread of a virus, particularly after an outbreak has already taken place. An assessment of the effectiveness of the criminalisation and sanctioning of individuals, which in some cases include employers' sanctions, or the ways in which they have targeted structurally vulnerable communities on the basis of wealth/social status, ethnic or racial origin or other grounds, is also by and large absent.
 2. There is no evidence showing that the internal border controls and the plethora of travel restrictions across all the relevant EU Member States have been consistently and coherently implemented and enforced. This puts into question the extent to which the actual application of these policies is both realistic and feasible. The assumption that the reintroduced internal border controls and travel restrictions are enforced in practice, and their actual impacts on people's lives, needs to be examined and reinterrogated with qualitative social sciences research and an independent (fieldwork) evaluation. The feasibility of a consistent and non-discriminatory application of all these travel restrictions and surveillance measures across all their land, sea and air borders – which entail very high budgetary costs – remains to be proved and assessed.
 3. Border controls and travel restrictions constitute serious interferences with several fundamental rights such as free movement, non-discrimination, privacy and more generally equal and effective access to healthcare and medical treatment. Member States have provided no meaningful or detailed information regarding the practical impacts of these measures on the free movement of persons. Moreover, not all Member States have complied with the obligation to safeguard the principle of non-discrimination when comparing COVID-19-related restrictions applicable to nationals to those applied to EU citizens and their families and resident third-country nationals benefiting from EU rights and administrative safeguards.
 4. A key issue of concern is the evidence demonstrating that police identity checks – including spot-checks in border areas – and the enforcement of COVID-19 policies disproportionately affect certain individuals. These include racial or ethnic groups protected by prohibited grounds of discrimination, such as those of Asian background, black people or Roma communities, and those who could be targeted by wealth or immigration status, such as the poor or homeless. These restrictions may further magnify previously existing discriminatory patterns characterised by the selection and profiling of target groups of police checks inside the Schengen area.
 5. COVID-19-related surveillance or health data-driven measures also run the risk of stigmatising certain individuals, such as those infected or previously infected, people who have been subject to quarantine, frequent travellers, and healthcare and related professionals. This is particularly the case in light of the European Commission calling for Member States to carry out 'border screenings' based on risk profiles/indicators and

'secondary security checks against relevant databases', and their interoperability. All these 'dataveillance' measures pose serious challenges to EU data protection law which proclaims the principle of purpose limitation and confers the ownership of data to the individual. Moreover, they do not always guarantee a sound, clear and robust national legal framework demarcating their exact scope, limits, data usage/processing and access to rights – including administrative and judicial redress – by affected data subjects.

6. The situation of refugees and people seeking international protection is particularly

concerning in light of all the existing travel restrictions. Several EU Member States have given priority to expulsions and rejection of entry or the suspension of access to international protection. They have therefore violated the fundamental right to seek asylum and the absolute obligation by Member States to prevent expulsions leading to violation of the *non-refoulement* principle and other forms of inhuman and degrading treatment. Moreover, the application of certain travel restrictions (such as the mandatory medical proof or test) disproportionately affects asylum seekers.

The study concludes by identifying a set of policy priorities and recommendations. These aim at enhancing trust in Schengen cooperation and focus on ensuring objective, accountable and principled application of the Schengen *acquis*, which goes hand in hand with the safeguarding of individuals' fundamental rights. The study recommends to effectively use and further expand the Schengen Evaluation Mechanism (SEM), the Schengen Information System (SIS II) and the European Parliament LIBE Working Group on Schengen Scrutiny so as to better evaluate and independently monitor the implementation of Member States internal border controls, in-territory border areas and surveillance-driven travel restrictions so that they are not discriminatory and equivalent to formal border controls.

1. SETTING THE SCENE: FROM CONTAINMENT TO POLICING MOBILITY AS A RESPONSE TO COVID-19

The Coronavirus disease 2019 (COVID-19) is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). It was first reported in China towards the end of December 2019 and early January 2020, and the first cases reached Europe towards the end of January 2020.¹ The World Health Organization (WHO) declared the COVID-19 outbreak as a Public Health Emergency of International Concern in January 2020,² and a pandemic in March 2020.³

This study examines these containment and policing measures restricting travel, taken by the EU and its Member States, in light of the standards laid down in the Schengen Borders Code (SBC) and other relevant pieces of EU law. It examines the state of play of Schengen countries having temporarily reintroduced internal border controls pursuant to the SBC during the COVID-19 pandemic. Intra-EU travel bans and entry restrictions using electronic borders and surveying free movement as imposed by the EU Member States is assessed. It looks at the EU travel ban adopted by EU Member States to temporarily suspend travel to the Schengen area from non-EU countries, and its relationship to the intra-EU travel restrictions, as the EU travel ban was expected to lead to the lifting of internal border controls. **Due to constraints of data collection, this study reflects the situation until the end of August and in some cases until beginning of September 2020.**

Restrictions on international and intra-EU traffic of persons has become one of the most visible policy responses to the Coronavirus pandemic. In early March 2020 several EU Member States reintroduced internal border controls in the Schengen area, restricted intra-EU travel through entry bans and shut down international passenger transport.⁴ This was quickly followed by the so-called EU travel ban – the closure of the EU's external borders and restriction of entry into the EU from third countries.⁵

The resulting web of dynamic, multi-layered restrictions has led to profound legal uncertainty for individuals and negative impacts on EU rights and freedoms. It has also revealed a lack of interstate solidarity and coordination in areas falling within clear EU competence and scrutiny. The border and travel restrictions have had a major impact on the EU Treaties' objective of ensuring an area of free movement without any controls on persons, whatever their nationality, when crossing internal borders.

The European Commission issued a set of guidelines in March 2020 in an attempt to facilitate a coordinated approach to the containment measures adopted by the EU Member States. The most notable of these were the *Guidelines for border management measures to protect health and ensure the availability of goods and essential services*⁶ and the *Guidance on the implementation of the temporary*

¹ ECDC, "Outbreak of acute respiratory syndrome associated with a novel coronavirus, China; First cases imported in the EU/EEA; second update", Rapid Risk Assessment, Solna, European Centre for Disease Prevention and Control, 26 January 2020; G. Spiteri et al., "First cases of coronavirus disease 2019 (COVID-19) in the WHO European Region, 24 January to 21 February 2020", *Eurosurveillance*, Vol. 25, No. 9, doi: 10.2807/1560-7917.ES.2020.25.9.2000178.

² WHO, "Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV)", Geneva, World Health Organization, 30 January 2020.

³ WHO, "WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020", Geneva, World Health Organization, 11 March 2020.

⁴ Cf. S. Carrera and N.C. Luk, "Love thy neighbour? Coronavirus politics and their impact on EU freedoms and rule of law in the Schengen Area", CEPS Paper in Liberty and Security No. 2020-04, Brussels, Centre for European Policy Studies, April 2020.

⁵ See European Council, "Joint statement of the Members of the European Council", Brussels, 26 March 2020.

⁶ European Commission, "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.

restriction on non-essential travel to the EU.⁷ On 15 April 2020, the Commission and the European Council issued the *Joint European Roadmap towards lifting COVID-19 containment measures*,⁸ setting out the plan towards phasing out containment measures in the EU. Initially introduced for a period of 30 days, the Commission recommended that Member States extend the EU travel ban in April, May, and June 2020.⁹ The partial easing of the EU travel ban was in sight by 30 June 2020, when Council Recommendation (EU) 2020/912 called on Member States to gradually lift the restriction on non-essential travel into the EU from a selected number of third countries.¹⁰

This study investigates *the state of play* of internal border controls and the extent to which Member States' policies are moving towards lifting them. It considers whether a policing approach to cross-border mobility is being reinvigorated in the name of COVID-19, where police identity and health checks, electronic borders and the surveillance (or rather dataveillance)¹¹ of every traveller is prioritised. Such a *policing approach* of intra-EU travel restrictions and screening procedures takes many shapes and forms, which permit police checks against databases and/or electronic information based on risk assessments, profiling,¹² and statistical discrimination¹³ of 'risky individuals'.

Under COVID-19 travel restrictions, passengers' and individuals' digital and health information is increasingly used or required to authorise intra-EU mobility, with non-compliant behaviour being criminalised. The extra-EU travel ban uses a similar approach centred on 'surveyed mobility' of every individual, irrespective of nationality and migration status, through incremental 'screening border procedures'. Health checks are merged with border controls and identity checks that rely on EU and national databases/systems and their (envisaged) interoperability.

The examination of the temporary reintroduction of internal border controls adopted by Schengen countries is based on the notifications issued by Schengen countries pursuant to Article 27 SBC (Annex 1). Analysis of entry restrictions in the EU and Schengen area is based, where available, on legal and regulatory instruments adopted by the EU Member States and Schengen countries, complemented by

⁷ European 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, and on the effects on visa policy", C(2020) 2050 final, Brussels, 30.3.2020.

⁸ European Commission and European Council, "Joint European Roadmap towards lifting COVID-19 containment measures", Brussels, 15.4.2020.

⁹ See European Commission, Communication from the Commission to the European Parliament, the European Council and the Council on the assessment of the application of the temporary restriction on non-essential travel to the EU", COM(2020) 148 final, Brussels, 8.4.2020; and European Commission, Communication from the Commission to the European Parliament, the European Council and the Council on the second assessment of the application of the temporary restriction on non-essential travel to the EU, COM(2020) 222 final, Brussels, 8.5.2020; European Commission, Communication from the Commission to the European Parliament, the European Council and the Council on the third assessment of the application of the temporary restriction on non-essential travel to the EU, COM(2020) 399 final, Brussels, 11.6.2020.

¹⁰ Council Recommendation (EU) 2020/912 of 30 June 2020 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction, OJ L 208I, 1.7.2020, p. 1–7.

¹¹ R. Clarke defined 'dataveillance' as "the systematic monitoring of people's actions or communications through the application of information technology". See R. Clarke, 'Information Technology and Dataveillance', *Communications of the ACM*, Vol 31, No 5, May 1988, pp. 498–512.

¹² According to the FRA, 'profiling' can be understood as "categorising individuals according to personal characteristics. These characteristics can be 'unchangeable' (such as age or height) or 'changeable' (such as clothing, habits, preferences and other elements of behaviour). Profiling includes data mining whereby individuals are categorised 'on the basis of some of their observable characteristics in order to infer, with a certain margin of error, others that are not observable'; see FRA, 'Preventing unlawful profiling today and in the future: a guide', European Union Agency for Fundamental Rights, Vienna, December 2018, p. 15.

¹³ According to Gandy, statistical discrimination can be understood as "a decision to exclude or deny opportunity to an individual on the basis of the attributes of the group to which he or she is assumed to belong ... as a result, what would otherwise be treated as illegal racial discrimination is routinely justified as a legitimate and inherently rational act"; see Gandy, O. H. Jr, 'Statistical Surveillance: Remote Sensing in the Digital Age', in K. Ball, H. Haggerty and D. Lyon (eds.), *Routledge Handbook of Surveillance Studies*, Routledge, Abingdon, 2012.

information obtained from official government sources (Annex 2.1), as well as a set of semi-structured interviews with EU policy makers (European Commission and European Parliament) in Brussels.

The research presented in this study is systematically and comprehensively updated as applicable to the situation in the EU Member States and Schengen countries until 24 August 2020.¹⁴ EU policies in respect of containment measures in light of COVID-19 are included up to 4 September 2020. The geographical scope of this study is primarily the EU Member States and Schengen countries. **Where reference is made to the EU+ countries, this consists of the 27 EU Member States, as well as Iceland, Liechtenstein, Norway, and Switzerland.** As an exception, where the study examines the implementation of the EU travel ban by EU+ countries, the UK, Andorra, Monaco, San Marino, and Vatican City will not be considered as third countries.

The study carries out a *legality test* of all these measures. This focuses on the extent to which they comply with the Schengen and EU free movement rules, the general principles of proportionality and non-discrimination as well as the EU Charter of Fundamental Rights (EUCFR). The proportionality test includes two core dimensions: the first considers how effective the measures are in relation to the policy goal pursued by these restrictions, which in the case of COVID-19 should be based on health considerations; the second looks at their impacts on fundamental rights and the rule of law, some of which are absolute in nature and allow for no derogation, even at times of declared crisis.

The SBC allows for EU Member States to apply exceptions and temporarily derogate from internal control-free borders on the basis of public policy and public security. However, Member States hold an *incremental burden of proof* to justify and provide evidence on their proportionality. This is subject to EU scrutiny, including effective democratic control by the European Parliament. The burden of proof increases from the moment these restrictions are first introduced and every time they are renewed or prolonged. In this way, the SBC places EU-level accountability of Member States' measures at the centre of mutual trust in Schengen cooperation.

Where EU Member States apply travel restrictions as police checks rather than the reintroduction of internal border controls, they are still subject to Schengen rules and other relevant EU legal standards, including EU privacy law. In the absence of formal or systematic internal border checks, the SBC allows for in-country police spot checks in border areas. However, these must not be equivalent to systematic border controls and need to be laid down in strict, clear and precise rules in national legislation that demarcates the intensity, frequency and selectivity of these checks. This study examines the extent to which these intra-EU travel restrictions introduced in the name of COVID-19 qualify as restrictions equivalent to internal border controls. Legal certainty, non-discrimination and EU privacy benchmarks are of crucial importance at times such as this, where the lawfulness of travel restrictions must be determined.

This study makes use of the term 'travel ban' to denote "a law preventing people from travelling somewhere, especially preventing a particular person or group from entering a particular country".¹⁵ The term 'entry ban' in this study thus relates to legal provisions prohibiting persons or groups from entering a country. These terms will be used in the study with respect to (COVID-19 related) measures, policies and recommendations of the EU, its Member States, and Schengen associated countries.¹⁶ The

¹⁴ Developments of particular relevance in national measures in the fight against the COVID-19 pandemic may incidentally be included.

¹⁵ Cf. the definition of 'travel ban' in the Cambridge online dictionary, <https://dictionary.cambridge.org/dictionary/english/travel-ban>.

¹⁶ The use of the term 'travel ban' or 'entry ban' in this study does not relate to any measures adopted by non-EU countries restricting travel/entry in the context of COVID-19 or other grounds, such as the controversial measures adopted in March 2020 by the United States suspending entry into the US of persons from the Schengen area (Proclamations of the President of the US No. 9993 of 11 March 2020,

recommendation of the European Commission for a temporary restriction of non-essential travel from outside the EU¹⁷ and subsequent developments therein – including Council Recommendation (EU) 2020/912 – will be referred to as the ‘EU travel ban’.¹⁸ The term ‘entry restrictions’ is used, within the context of COVID-19, to denote any (additional) conditions, requirements, or obligations linked to the entry of a person into an EU Member State or Schengen country, including (but not limited to) entry bans and mandatory quarantine. Mutual trust lies at the foundations of Schengen cooperation. Evaluation and accountability are crucial trust-enhancing factors. In this context, safeguarding EU rule of law and fundamental rights principles constitute preconditions for ‘merited or deserving trust’ in Schengen cooperation. With this in mind, the study concludes with a set of policy priorities and recommendations for the European Parliament which are *trust enhancing* in Schengen cooperation.

and No. 9996 of 14 March 2020). For an overview of the ‘travel ban’ adopted by the US vis-à-vis European travellers and the EU response thereto, see Carrera and Luk (2020), pp. 16-18.

¹⁷ European Commission, 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.

¹⁸ The use of the term ‘entry ban’ or ‘travel ban’ to refer to the coordinated Member States’ action to temporarily restrict entry from third countries for non-essential travel can be observed in the media (see e.g. “The EU travel ban explained”, *Politico.eu*, 17 March 2020; “Commission proposes ‘non-essential travel’ EU entry ban”, *EUobserver*, 17 March 2020), as well as in official information provided by Member States, such as the Netherlands (see <https://www.government.nl/latest/news/2020/08/05/the-travel-ban-for-the-netherlands-as-of-5-august-2020>) and Sweden (see <https://www.government.se/press-releases/2020/03/temporary-ban-on-travel-to-sweden-du-e-to-covid-19/> and <https://www.swedenabroad.se/en/about-sweden-non-swedish-citizens/going-to-sweden/temporary-ban-on-travel-to-sweden/>).

2. REINTRODUCTION OF INTERNAL BORDER CONTROLS: STATE OF PLAY

KEY FINDINGS

- From early March 2020, Schengen countries started to temporarily reintroduce internal border controls in the fight against the COVID-19 pandemic. Most Schengen countries started lifting their internal border controls from around mid-May 2020. As of 24 August 2020, only five Schengen countries (Denmark, Finland, France, Lithuania, and Norway) still have temporary COVID-19-based internal border controls in place.
- Three Schengen countries (Italy, Malta, and Slovenia) have introduced entry restrictions. Despite the fact that the enforcement of the national measures would necessitate internal border controls, these three Schengen countries have not notified the temporary reintroduction of internal border controls pursuant to the SBC.

As a direct response to the outbreak of COVID-19 in Europe towards the end of February and beginning of March 2020, Member States have adopted measures to contain and prevent the spread of the virus into their own territory and within the EU more widely.¹⁹ A total of 16 Schengen countries reintroduced internal border controls pursuant to the SBC²⁰ to address the challenges posed by the COVID-19 pandemic.²¹

This section sets out the state of play with internal border controls reintroduced by Schengen countries in the fight against COVID-19 on the basis of the SBC as of August 2020. The full list of notifications by Schengen countries on internal border controls can be found in Annex 1. The findings in this section are based exclusively on the notifications issued by Schengen countries under Article 27 of the SBC. Excluded from the scope of this section (and this study) are the internal border controls which have temporarily been introduced pursuant to the SBC for reasons other than COVID-19, unless such internal border controls have been extended to additionally cover COVID-19-related border controls.²²

2.1. Schengen countries with COVID-19 temporary internal border controls still in place

As of 24 August 2020, five Schengen countries still have temporary internal border controls in place because of the COVID-19 epidemic: Denmark, Finland, France, Lithuania, and Norway (see Figure 1 below).²³ **Denmark** extended its 'existing' temporary internal border controls on 14 March 2020 to cover all Danish internal borders as a result of the COVID-19 pandemic. On the same day, **Lithuania** reintroduced internal border controls at all Lithuanian internal borders. Both Denmark and Lithuania

¹⁹ Cf. Carrera and Luk (2020).

²⁰ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1–52.

²¹ These Schengen countries are Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Lithuania, Poland, Portugal, Slovakia, Spain, and Switzerland. (Temporary) internal border controls are also in place in Sweden; however, these internal border controls are not related to COVID-19 and will therefore not be covered in this report. Liechtenstein fully follows the approach of Switzerland for all restrictive measures based on COVID-19 (see Carrera and Luk 2020).

²² The Schengen countries which, as of August 2020, have internal border controls in place for reasons *other than* COVID-19 are Austria, Denmark, France, Germany, Norway, and Sweden; see https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en.

²³ Note that, in addition to these six Schengen countries and Sweden, Germany also has temporary internal border controls in place at the land borders with Austria not related to the COVID-19 pandemic.

still retain internal border controls based on COVID-19, although the Lithuanian internal border controls were reduced to exclude its land borders with Latvia (from 1 June) and Poland (from 12 June).

Finland reintroduced internal border controls at its internal borders on 19 March 2020. Border controls at the Finnish internal borders with Norway, Denmark, Iceland, Estonia, Latvia and Lithuania were lifted on 15 June 2020. On 13 July 2020, border controls at the Finnish internal borders were further partly lifted, namely at all Finnish internal borders except for its borders with the Czech Republic, France, Luxembourg, Poland, Portugal, Spain and Sweden. These latter border controls were extended until 11 August 2020, and further extended until 25 August 2020. On 27 July 2020, Finland reintroduced further internal border controls at its internal borders with Austria, Slovenia and Switzerland.

From 31 March 2020, **France** extended its existing internal border controls (introduced for non-COVID-19 reasons) to cover internal border controls at all French internal borders to address the COVID-19 pandemic.²⁴ These internal border controls, which were extended to include COVID-19 until 31 October 2020, have not been notified as having been lifted as of 24 August 2020.²⁵ **Norway** temporarily reintroduced border controls at its internal borders on 16 March 2020. Norway's temporary internal border controls cover all Norwegian internal borders and remain in place as of end of August 2020.

2.2. Schengen countries that have introduced temporary internal border controls due to COVID-19 that have since been lifted or expired

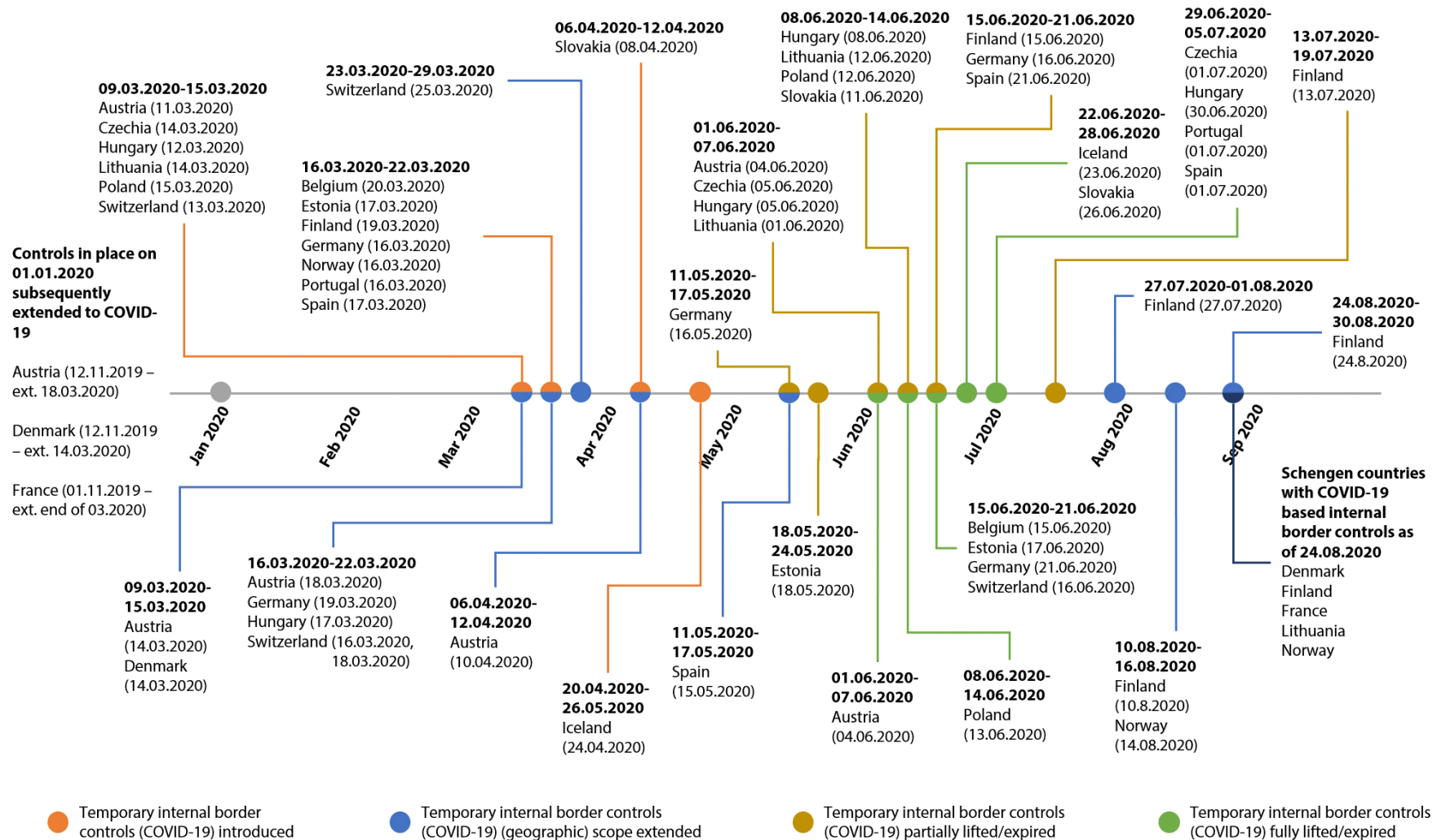
Austria was the first Schengen country to temporarily reintroduce internal border controls citing COVID-19, starting with the land border with Italy (11 March), Switzerland and Liechtenstein (14 March), Germany (18 March), and the Czech Republic and Slovakia (10 April 2020). Austria also extended 'health checks' to its 'existing' internal border controls at the land borders with Hungary and Slovenia from 18 March 2020.²⁶ These COVID-19-based internal border controls were subsequently extended multiple times, and controls at the Austrian internal borders with Germany, Liechtenstein, Switzerland, Czech Republic and Slovakia were only lifted from 4 June 2020; controls at the internal borders with Hungary and Slovenia remain in place.

²⁴ French notification of 31 March 2020, ST 7138/2020 REV 1.

²⁵ According to the European Commission, the temporary internal border controls at the French internal borders which were introduced in the context of COVID-19 are no longer applicable. However, as no formal notification under the Schengen Borders Code reflecting the lifting of the French temporary internal border controls due to COVID-19 has been found, this study considers that the French internal border controls continue to cover controls in the context of COVID-19 (at the minimum until 31 October 2020).

²⁶ The Austrian internal border controls at the land borders with Hungary and Slovenia were already in place (based on secondary movements, the situation at the Schengen external border and risks associated with terrorism and organised crime) in March 2020.

Figure 1: Timeline of temporary reintroduction and lifting of internal border controls (as of 24 August 2020)



Source: Authors' own elaboration

Hungary followed soon after with internal border controls reintroduced at its land borders with Austria and Slovenia (12 March). It further extended border controls to Hungarian internal land borders with Slovakia and to its internal air borders from 17 March. Hungary lifted its internal border controls at its land borders with Austria and Slovakia on 5 June and Slovenia on 8 June, and at its air borders from 30 June 2020.

Switzerland became the third Schengen country to reintroduce internal border controls owing to COVID-19. From 13 June 2020, Switzerland applied border controls at its internal land borders with Italy. This was subsequently extended to its land borders with France, Germany, and Austria from 16 March, and to Swiss air borders with Italy, France, Germany, Austria, and Spain from 18 March 2020. On 25 March 2020, Switzerland further extended its internal border controls to its internal air borders with all Schengen countries except for Liechtenstein. Switzerland has not notified its intention under the SBC to prolong its temporary internal border controls beyond 15 June 2020. It can therefore be assumed that, as of 16 June 2020, Switzerland is not applying border controls at its internal borders.

The **Czech Republic** reintroduced internal border controls at its internal land borders with Germany and Austria, and internal air borders on 14 March 2020. Internal border controls at its land borders with Austria and Germany were lifted on 5 June 2020 and controls at its internal air borders were not prolonged past 30 June 2020. **Poland** followed on 15 March 2020 by temporarily reintroducing internal border controls at its internal land, air, and sea borders. The controls have been lifted as of 13 June 2020 (with border controls at its internal land borders with Lithuania lifted a day earlier on 12 June).

Germany²⁷ and **Portugal** introduced controls at their internal borders for reasons of COVID-19 on 16 March 2020. Germany first introduced internal border controls at its land borders with Austria, Denmark, France, Luxembourg and Switzerland on 16 March, and subsequently extended these to German air borders with these countries, air borders with Italy and Spain, and sea borders with Denmark (19 March). Germany partially lifted its internal border controls with Luxembourg on 16 May, and further lifted controls at all German internal borders, except for its air borders with Spain, on 16 June 2020. Controls at German internal air borders with Spain were lifted on 21 June 2020. Portugal's internal border controls covered only its internal borders with Spain; the controls were lifted from 1 July 2020.

Spain followed on 17 March 2020 with internal border controls at all Spanish internal land borders, and subsequently extended these to all Spanish internal air and sea borders from 15 May 2020. Internal border controls at Spanish internal borders were prolonged until 21 June 2020, with the exception of Spanish internal borders with Portugal, where border controls were finally lifted on 1 July 2020. **Estonia** also reintroduced internal border controls on 17 March 2020 at all Estonian internal borders. These controls were lifted at the Estonian land borders with Latvia on 18 May 2020, and border controls at all other Estonian internal borders were not prolonged past 16 June 2020.

Belgium introduced internal border controls at all Belgian internal borders on 20 March 2020, which were prolonged until the controls were lifted on 15 June 2020.

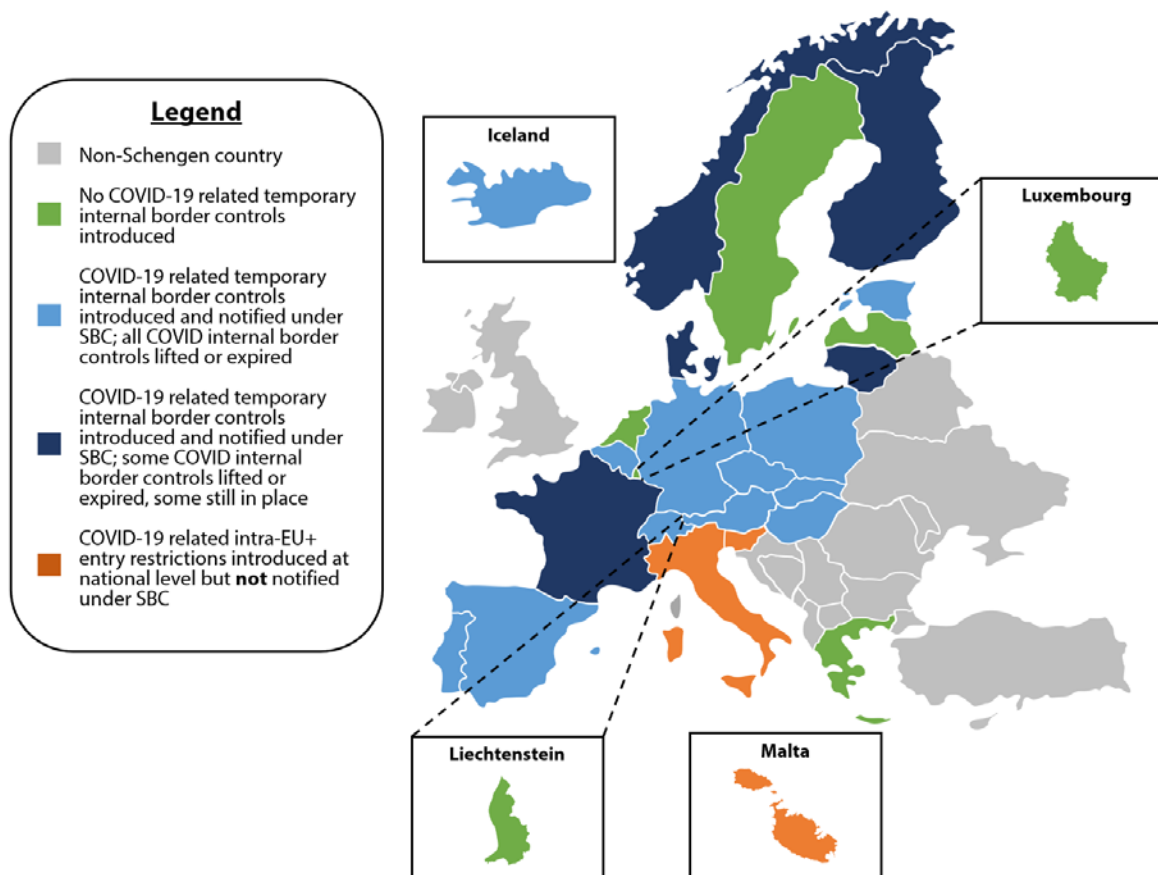
The two last Schengen countries to temporarily reintroduce internal border controls based on COVID-19 were **Slovakia**, on 8 April 2020, and **Iceland**, on 20 April 2020. Slovak internal borders controls were lifted at the Slovak internal land borders with Austria, the Czech Republic and Hungary on 11 June 2020,

²⁷ Prior to 16 March 2020, Germany also had in place temporary internal border controls at its land borders with Austria related to secondary movements at the situation at the external borders. While this was further prolonged until 11 November 2020, these border controls are not based on the COVID-19 pandemic.

with the remaining internal border controls 'expiring' on 26 June 2020. Icelandic border controls at its internal (sea and air) borders were not prolonged beyond 22 June 2020.

Figure 2 shows the Schengen countries that have temporarily reintroduced internal border controls and any COVID-19-related internal border controls that were in place on 24 August 2020.

Figure 2: COVID-19 related internal border controls notified under SBC as of 24 August 2020



Source: Authors' own elaboration

2.3. Border controls without SBC notifications

Schengen countries have introduced national measures restricting intra-EU entry (see Section 3.1.1), which by their nature necessitate internal border controls to be enforced. Nevertheless, three Schengen countries have introduced such restrictions without notification of temporary reintroduction of internal border controls under the SBC (see Figure 2).²⁸

From 22 March 2020, **Italy** introduced a ban, throughout its territory, on people moving from an Italian municipality where he or she was currently situated, except for 'proven work needs', absolute urgency or health reasons.²⁹ An entry ban into Italy under the same three restrictions was introduced from 28

²⁸ See Carrera and Luk 2020; G. Sabbati and C. Dumbrava, "The impact of coronavirus on Schengen borders", EPRS Briefing PE 649.347, Brussels, European Parliamentary Research Service, April 2020.

²⁹ See Art. 1 Order of the Minister of Health of 22 March 2020 on further urgent measures regarding the containment and management of the epidemiological emergency from COVID-19, applicable throughout the national territory (G.U. No. 75 of 22 March 2020) and Art. 1(1)(b) Decree of the President of the Council of Ministers of 22 March 2020 further implementing provisions of the Decree-Law of 23 February 2020, no. 6, containing urgent measures regarding the containment and management of the epidemiological emergency from COVID-19, applicable throughout the national territory (G.U. No. 76 of 22 March 2020). A similar restriction on mobility was applicable as from 8 March 2020 for specific Italian regions; see Art. 1(1)(a) Decree of the President of the Council of Ministers of 8 March 2020 (G.U. No.

March 2020.³⁰ The reasons permitting entry into Italy and movement within Italy was expanded to include 'returning to one's home or residence' as of 4 May 2020.³¹ As of 3 June 2020, the entry ban into Italy was expanded to exempt intra-EU+ travel and, from 1 July 2020, travel from selected third countries.³²

Malta introduced an intra-EU+ travel ban with Italy, Switzerland, France, Germany and Spain on 12 March 2020,³³ which was extended to all (EU+) countries on 21 March 2020.³⁴ The Maltese travel ban was lifted for most EU+ countries (except Belgium, Bulgaria, the Netherlands, Portugal, Romania, Sweden and the UK) as of 1 July 2020,³⁵ and with all EU+ countries except for Sweden as of 15 July 2020.³⁶

Slovenia introduced an entry ban, except for persons with proof of negative COVID-19 testing, at the Slovenian-Italian border on 11 March 2020,³⁷ and the Slovenian-Austrian border on 25 March 2020.³⁸ This was replaced by an entry ban for non-Slovenian residents positive for COVID-19 or displaying symptoms of COVID-19, and a mandatory quarantine and in-country testing for persons entering Slovenia from 12 April 2020.³⁹ As from 17 May 2020, the Slovenian provisions provide for an exemption to the quarantine rule and entry ban for persons entering from a (EU+ and third) country on the 'green list'.⁴⁰

59 of 8 March 2020). The period of application of these Decrees were further extended until 13 April 2020 (DPCM 1 April 2020, G.U. No. 88 of 2 April 2020), and superseded by DPCM 10 April 2020 (G.U. No. 97 of 11 April 2020).

³⁰ Art. 1(1)(a) and (2) Order of the Minister of Health of 28 March 2020 (G.U. No. 84 of 29 March 2020) and Art. 4(1)(a) and (2) Decree of the President of the Council of Ministers of 10 April 2020 (G.U. No. 97 of 11 April 2020). Superseded by DPCM of 26 April 2020 (G.U. No. 108 of 27 April 2020).

³¹ Art. 1(1)(a) Decree of the President of the Council of Ministers of 26 April 2020 (G.U. No. 108 of 27 April 2020). Superseded by DPCM of 17 May 2020 (G.U. No. 126 of 17 May 2020).

³² Art. 6 Decree of the President of the Council of Ministers of 17 May 2020 (G.U. No. 126 of 17 May 2020). See also Art. 6 DPCM of 11 June 2020 (G.U. No. 147 of 11 June 2020), extended until 31 July 2020 (DPCM of 14 July 2020, G.U. No. 176 of 14 July 2020), as well as Art. (1)(2)(c) Order of the Minister of Health of 30 June 2020 (G.U. No. 165 of 2 July 2020), as amended by Orders of the Ministry of Health of 16 July 2020 (G.U. No. 178 of 16 July 2020) and 30 July 2020 (G.U. No. 191 of 31 July 2020). These provisions have since been superseded by Decree of the President of the Council of Ministers of 7 August 2020 (G.U. No. 198 of 8 August 2020), as amended by Order of the Ministry of Health of 12 August 2020 (G.U. No. 202 of 13 August 2020).

³³ Travel Ban Order, 2020, L.N. 42 of 2020.

³⁴ Travel Ban (Extension to all Countries) Order, 2020, L.N. 92 of 2020.

³⁵ See Travel Ban (extension to all Countries) (Amendment) Order, 2020, L.N. 244 of 2020; Travel Ban (extension to all Countries) (Amendment No. 2) Order, 2020, L.N. 255 of 2020; and Travel Ban (extension to all Countries) (Amendment No.) Order, 2020, L.N. 280 of 2020.

³⁶ See Travel Ban (extension to all Countries) (Amendment No. 4) Order, 2020, L.N. 290 of 2020.

³⁷ Order of 11 March 2020 determining the conditions of entry into the Republic of Slovenia from the Italian Republic in order to prevent the spread of an infectious disease (Official Gazette No. 18/20 of 11 March 2020), as amended by Order of 12 March 2020 (Official Gazette No. 20/20 of 12 March 2020), and superseded by Decree of 18 March 2020 determining the conditions for entry into the Republic of Slovenia from the Italian Republic for the purpose of containment and control of an infectious disease (Official Gazette No. 29/20 of 18 March 2020).

³⁸ Ordinance of 24 March 2020 determining the conditions for entry into the Republic of Slovenia from the Republic of Austria for the purpose of containment and control of an infectious disease (Official Gazette No. 34/20 of 24 March 2020).

³⁹ Ordinance of 11 April 2020 enacting and implementing measures related to the prevention of the spread of COVID-19 at border crossings at the external border and at checkpoints at the internal borders of the Republic of Slovenia (Official Gazette No. 50/20 of 11 April 2020), as amended by Ordinance of 7 May 2020 (Official Gazette No. 64/20 of 7 May 2020).

⁴⁰ Ordinance of 14 May enacting and implementing measures related to the prevention of the spread of COVID-19 at border crossings at the external border and at checkpoints at the internal borders of the Republic of Slovenia (Official Gazette No. 68/20 of 14 May 2020), as amended by Ordinance of 17 May 2020 (Official Gazette No. 71/20 of 17 May 2020). Superseded by Ordinance of 25 May 2020 (Official Gazette No. 76/20 of 25 May 2020), further superseded by Ordinance of 7 June 2020 (Official Gazette No. 83/20 of 7 June 2020) as most recently amended by Ordinance of 7 July 2020 (Official Gazette No. 95/20 of 7 July 2020), further superseded by Ordinance of 16 July 2020 enacting and implementing measures to prevent the spread of the infectious disease COVID-19 at border crossings at the external borders, at checkpoints at internal borders and in the interior of the Republic of Slovenia (Official Gazette No. 100/20 of 16 July 2020), and further superseded by Ordinance No. 112/20 of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia. The latest list of countries in the 'green', 'yellow' and 'red' lists may be found at <https://www.gov.si/en/topics/coronavirus-disease-covid-19/border-crossing/>.

3. INTRA-EU TRAVEL BANS AND OTHER TRAVEL RESTRICTIONS

KEY FINDINGS

- Most EU Member States and Schengen countries (EU+ countries) have adopted restrictive measures in respect of intra-EU+ travel in an attempt to prevent the spread of the virus. These restrictive measures include entry bans and the restriction of intra-EU+ travel to essential travel, additional entry conditions (such as proof of having tested negative for COVID-19 prior to entry), mandatory quarantine and/or in-country testing for COVID-19, and compulsory submission of a Passenger Locator Form (PLF).
- As of 24 August 2020, only seven EU+ countries (Bulgaria, Croatia, France, Luxembourg, the Netherlands, Portugal, and Sweden) have none of the examined types of COVID-19-related restrictive entry measures in place.
- All EU+ countries that have introduced a form of restrictive entry measures (such as mandatory quarantine) provide for fines in cases of non-compliance, with maximum fines ranging from EUR 500 (such as in Belgium) to maximum fines in excess of EUR 10 000 (such as in Cyprus, the Czech Republic, Germany and Spain).

This section examines the entry restrictions imposed by the EU Member States and Schengen countries pursuant to COVID-19 on intra-EU mobility. For the purposes of this section, travel bans are understood as measures temporarily prohibiting or banning entry of nationals and residents of another Schengen country on grounds of public health. Travel (entry) restrictions related to COVID-19 shall refer to measures adopted by EU+ countries which restrict entry, impose additional entry conditions, or apply mandatory measures as a direct result of the entry into the territory by the person affected. While travel restrictions are not formally presented as 'internal border controls', this section shows that in many cases they have equivalent effects to intra-EU border controls.

Other travel restrictions, applicable to entry from a particular country, cover situations where a) the national measures specifically designate entry from said country, or b) the entry restrictions apply to nationals *and* residents of such countries. The analysis focuses specifically on the following forms of entry restrictions: 1) prohibition of entry (entry ban); 2) requirement of proof – by means of a medical certificate – of having tested negative for COVID-19 as a condition for entry (prior proof of negative COVID-19 test); 3) mandatory quarantine upon entry; 4) requirement to submit to in-country testing for COVID-19 after entry; and 5) the mandatory use of passenger locator forms (see Figure 3). It also includes the enforcement of these measures, and their criminalisation, through the application of penalties and sanctions (Section 3.1.3).

The examination in this section is restricted to entry restrictions (such as entry bans, mandatory quarantines, and conditional entry authorisations) imposed by EU Member States and Schengen countries in light of the COVID-19 pandemic. The study does not cover advices and/or warnings issued by Member States and Schengen countries in respect of travel abroad (including travel risks associated with COVID-19), i.e. 'travel advice' or 'travel warnings' applying to entry restrictions.

3.1.1. Intra-EU+ mobility: the restrictions imposed

3.1.1.1. Intra-EU entry bans

Hungary classifies countries for the purpose of entry into Hungary for ‘unofficial purposes’ into three categories: green, yellow and red,⁴¹ with EU+ countries being either green or yellow. The restrictive measures applicable to entry into Hungary further depends on whether persons are Hungarian nationals or residents, or other persons. Hungarian nationals and residents may enter into Hungary from a green EU+ country without COVID-19 related restrictions (**no COVID-19 restrictions**).⁴² Hungarian nationals and residents entering Hungary from a yellow EU+ country are subject to mandatory in-country testing and mandatory quarantine (for 14 days in the case of a negative result, and for an indeterminate period pending subsequent negative COVID-19 test if the in-country test upon entry is positive) (**mandatory quarantine and in-country testing**).⁴³ Hungarian nationals and residents arriving from a yellow EU+ country and whose in-country COVID-19 test is negative may be exempted from the mandatory 14-day quarantine upon submitting proof of two negative results of COVID-19 testing prior to their entry into Hungary.⁴⁴

Entry into Hungary of non-Hungarian nationals or residents is stricter. Non-Hungarian nationals or residents entering Hungary from a green EU+ country are not subject to COVID-19 related restrictions (**no COVID-19 restrictions**).⁴⁵ Entry into Hungary from a yellow EU+ country by a non-Hungarian national or resident is dependent on the results of a mandatory COVID-19 testing upon entry. A negative COVID-19 test result permits the non-Hungarian national or resident to enter into Hungary subject to a mandatory 14-day quarantine (**mandatory quarantine and in-country testing**).⁴⁶ Exemption from the mandatory quarantine is granted upon submitting proof of two negative results for COVID-19 testing, at least 48 hours apart, within the last five days prior to entry into Hungary.⁴⁷ Entry into Hungary will be denied if the COVID-19 test result is positive (**entry ban if symptomatic**).⁴⁸

Note: The rules on intra-EU+ entry into Hungary set out above and valid on 24 August 2020 have changed as of 1 September 2020.⁴⁹ As the cut-off date for this study is end of August 2020, the modified Hungarian entry restrictions will not be included in the remaining analysis.

Cyprus groups intra-EU+ entry restrictions into three categories, depending on the country of ‘departure’: A (‘low risk countries’); B (‘countries with a possibly low risk but greater uncertainty

⁴¹ Communication on the National Chief Medical Officer's decision of 20 August 2020 on the classification of countries based on the current COVID-19 infection status. For the list of green, yellow and red countries as of August 2020, see also <https://konzulizsolgalat.kormany.hu/download/f/26/a2000/Orszaglista200821.pdf> (in Hungarian). All EU+ countries are green countries, except for Bulgarian, Romania, Spain, and Sweden, which are yellow countries.

⁴² § 3(1)(a) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴³ § 3(1)(b), 3(2) and 3(3) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁴ § 3(5) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁵ § 4(1) of Government Decree 341/2020 (VII 12), as most recently amended. They are required, however, to stay within their place or residence in Hungary for a period of 14 days (or until their departure), see §4(2) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁶ § 5(1) and (3) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁷ § 5(5) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁸ § 5(1) and (2) of Government Decree 341/2020 (VII 12), as most recently amended.

⁴⁹ In accordance with Government Decrees 408/2020 (VIII 30) and 409/2020 (IX 1), as of 1 September 2020, persons who are not Hungarian nationals or residents of Hungary are not permitted to enter into Hungary, unless exempted from the entry ban by law or decree (as is the case for nationals of the Czech Republic, Poland and Slovakia under certain conditions). See further “Coronavirus Entry Ban from September 1st: Details and Exceptions”, *Hungary Today*, 31 August 2020; “Hungary to Close Borders to Foreigners Next Week to Curb Coronavirus Infections”, *The New York Times*, 28 August 2020.

compared to category A'); and C ('high-risk countries compared to categories A and B').⁵⁰ Entry from an EU+ country in category A is not subject to any entry restrictions (**no COVID-19 restrictions**). Persons entering Cyprus from an EU+ country in category B are required to provide documentary evidence demonstrating a negative result for a molecular examination for COVID-19. Cypriot nationals and residents may opt instead for in-country testing for COVID-19, during which time they must self-isolate (**prior proof of negative COVID-19 test or mandatory quarantine pending in-country testing**). For other persons travelling from a category B EU+ country, in-country testing for COVID-19 is only available if such tests are not available in their country of departure (**prior proof of negative COVID-19 test, alternatively mandatory quarantine pending in-country testing**).

From category C EU+ countries (i.e. Bulgaria, Luxembourg, Portugal, Romania and Sweden), only Cypriot nationals permanently residing in Cyprus and Cypriot residents (as well as medical professionals, patients, and first-degree relatives of Cypriot residents for family reunification) may enter into Cyprus, subject to prior proof of a negative medical examination for COVID-19 or self-isolation pending in-country testing (**prior proof of negative COVID-19 test or mandatory quarantine pending in-country testing**). Other persons from category C EU+ countries are not permitted to enter into Cyprus (**entry ban**).

The measures for entry into **Denmark** from an EU+ country is based on whether a person is resident in a 'border region',⁵¹ an 'open country' or a 'banned country'.⁵² Danish nationals and residents of Denmark are permitted to enter Denmark regardless of the purpose of entry (**no COVID-19 restrictions**).⁵³ Residents of an 'open' border region (i.e. a border region of an 'open country') are not restricted in their entry into Denmark (**no COVID-19 restrictions**), while residents of a 'banned' border region may only enter Denmark for a 'worthy purpose' or upon presentation of a negative COVID-19 test (**entry for essential reason or prior proof of negative COVID-19 test**).⁵⁴

Residents from 'banned' EU+ countries (i.e. Andorra, Belgium, Bulgaria, Luxembourg, Malta, Monaco, Romania and Spain) are permitted to enter into Denmark only for a 'worthy purpose' (**entry for essential reasons**). Worthy purposes for entry into Denmark include business or professional reasons (including study), family and private reasons (including family reunification, medical treatment and attending a funeral) and for legal matters.⁵⁵ Residents from 'open' EU+ countries are permitted to enter Denmark without COVID-19 related restrictions (**no COVID-19 restrictions**).⁵⁶ Transit through Denmark for

⁵⁰ The list of countries classified as categories A, B and C can be found at <https://www.pio.gov.cy/coronavirus/en/fly.html>. The following EU+ countries are listed in the aforementioned categories as of 24 August 2020:

- Category A: Estonia, Finland, Germany, Hungary, Latvia, Liechtenstein, Lithuania, Norway, Slovakia, and Slovenia;
- Category B: Austria, Belgium, Czech Republic, Denmark, Greece, Iceland, Ireland, Italy, Monaco, Poland, Portugal, San Marino, Sweden, Switzerland, and Vatican City;
- Category C: Andorra, Bulgaria, Croatia, France, Luxembourg, Malta, the Netherlands, Romania, and Spain;

⁵¹ Border regions of Denmark for the purpose of entry measures due to COVID-19 are Germany (Schleswig-Holstein), Norway, and Sweden (Blekinge, Halland, and Scania/Skåne); see <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-the-border-regions>.

⁵² The list of open countries can be found at <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/is-my-country-open-or-banned>. All countries not listed as an open country are considered a 'banned' country. The list of 'banned' EU+ countries as of 24 August 2020 are Andorra, Belgium, Bulgaria, Luxembourg, Malta, Monaco, Romania and Spain.

⁵³ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-denmark-and-or-of-danish-nationality>.

⁵⁴ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-the-border-regions>.

⁵⁵ The complete list of what is considered a 'worthy purpose' for entry into Denmark from a 'banned' country can be found at <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-banned-countries>.

⁵⁶ For the complete list of 'worthy purpose' of entry from an 'open country', see <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-open-countries>.

tourism or another 'worthy purpose' is permitted.⁵⁷ Entry into Denmark is not permitted for any other purpose, and non-Danish nationals/residents showing 'signs of illness' will also be denied entry into Denmark ([entry ban if symptomatic](#)).

Finland permits, without COVID-19 related restrictions, the entry into Finland of persons from certain EU+ countries ([no COVID-19 restrictions](#)).⁵⁸ For other EU+ countries,⁵⁹ entry into Finland is only permitted for persons (Finnish nationals and residents) returning to Finland and persons travelling for reasons of business or for other necessary reasons ([essential reasons](#)).⁶⁰ Travel from these EU+ countries other than for the aforementioned reasons is not permitted ([entry ban if non-essential reasons](#)).

3.1.1.2. Restrictions prior to and after entry

Austria imposes a different set of entry restrictions depending on the category to which a person belongs. It also depends on the Member State or Schengen country from which he or she enters Austria.⁶¹ The general rule is that persons entering Austria from an EU+ country are required to provide a medical certificate based on a molecular test demonstrating a negative finding for the presence of SARS-CoV-2, and are further required to enter into a 10-day mandatory quarantine upon entry into Austria ([prior proof of negative COVID-19 test and mandatory quarantine](#)).⁶² The restrictions do not apply to *residents* of Austria or of a country listed in Annex A1 of Ordinance BGBl. II No. 263/2020, as most recently amended, provided they have not been in any country or region outside of those listed in Annex A1 within 10 days prior to their entry into Austria ([no COVID-19 restrictions](#)).⁶³

EU+ citizens (and their family members) and third-country nationals residing in Austria entering into Austria from an EU+ country listed in Annex A1 *and* who have been in an EU+ country other than those listed in Annex A1 within 14 days prior to entry into Austria, must present a medical certificate proving they are not infected with COVID-19; if such a medical certificate cannot be presented, they must enter into a 10-day mandatory quarantine ([prior proof of negative COVID-19 test, alternatively mandatory quarantine](#)).⁶⁴

EU+ citizens (and their family members) and third-country nationals residing in Austria entering into Austria from an EU+ country listed in Annex A2 (i.e. Bulgaria, Croatia, Portugal, Romania, Spain [except for the Canary Islands] and Sweden) are similarly required to provide a medical certificate prior to entry into Austria. Where such a medical certificate cannot be provided, such persons will be required to enter into a mandatory quarantine for an *indeterminate* duration, which can only be ended upon a

⁵⁷ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-in-transit>.

⁵⁸ See Guidelines of the Finnish Border Guard for border traffic during pandemic from 24.8.2020, available at https://www.raja.fi/current_issues/guidelines_for_border_traffic. The EU+ countries for which no COVID-19 related entry restrictions are applicable are, as of 24 August 2020, Estonia, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Slovakia, and Vatican City.

⁵⁹ I.e. Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, France, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden and Switzerland.

⁶⁰ See Guidelines of the Finnish Border Guard for border traffic during pandemic from 24.8.2020, available at https://www.raja.fi/current_issues/guidelines_for_border_traffic. It is unclear whether persons travelling from these EU+ countries to Finland are also required to enter into mandatory quarantine. Official Finnish government sources make reference to "recommended self-quarantine".

⁶¹ Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection of 11 June 2020 on entry to Austria in connection with the containment of SARS-CoV-2, BGBl. II No. 263/2020, as most recently amended.

⁶² § 2(1) Ordinance of 11 June 2020, BGBl. II No. 263/2020, as most recently amended.

⁶³ § 2(5) and (6) Ordinance of 11 June 2020, BGBl. II No. 263/2020, as most recently amended. At the time of writing, Annex A1 lists all EU+ countries, with the exception of Bulgaria, Croatia, Portugal, Romania, Spain (excluding the Canary Islands), and Sweden.

⁶⁴ § 2(2), under 1, Ordinance of 11 June 2020, BGBl. II No. 263/2020, as most recently amended.

molecular test conducted in Austria demonstrating a negative presence for SARS-CoV-2 ([prior proof of negative COVID-19 test or mandatory quarantine pending in-country testing](#)).⁶⁵

Belgium imposes a mandatory quarantine and mandatory PCR-testing for persons coming to Belgium for 'non-essential' reasons from an EU+ country or region marked as a 'red zone' by the Belgian Ministry of Foreign Affairs, and 'strongly recommends' quarantine and testing for persons arriving from an EU+ country or region in an 'orange zone' ([mandatory quarantine and in-country testing](#)).⁶⁶

For entry into the **Czech Republic**, persons coming from an EU+ country not identified as having a 'low risk of COVID-19 contagion', or who have stayed in such a country for more than 12 hours within 14 days prior to entry into the Czech Republic, are required to undertake a mandatory test for SARS-CoV-2 and, upon a positive result for the presence of SARS-CoV-2, must enter into mandatory quarantine of 14 days ([in-country testing and mandatory quarantine](#)).⁶⁷ For entry into the Czech Republic from other EU+ countries, no COVID-19-related entry restrictions have been applied ([no COVID-19 restrictions](#)).

Estonia imposes a 14-day mandatory quarantine for *asymptomatic* persons entering from an EU+ country where the rate of infection per 100 000 inhabitants in the past 14 days is higher than 16 ([asymptomatic and mandatory quarantine](#)).⁶⁸ Estonian nationals and residents are permitted to enter into Estonia (even if symptomatic of COVID-19),⁶⁹ but are subject to the mandatory quarantine if they display symptoms of COVID-19 ([mandatory quarantine if symptomatic](#)).⁷⁰ Entry into Estonia from an EU+ country by non-Estonian nationals/residents who are symptomatic of COVID-19 is not permitted ([entry ban if symptomatic](#)).

Germany requires all persons entering from an EU+ country identified as a 'risk area' by the *Robert Koch Institut* to present proof of negative COVID-19 test ([prior proof of negative COVID-19 test](#)) or to enter into mandatory quarantine for 14 days *and* to submit to in-country testing ([mandatory quarantine and in-country testing](#)).⁷¹

In terms of intra-EU+ mobility to **Greece**, persons arriving from Belgium, Bulgaria, Malta, the Netherlands, Romania, Spain, and Sweden are required to submit proof of negative COVID-19 testing

⁶⁵ § 2(2), under 2, Ordinance of 11 June 2020, BGBl. II No. 263/2020, as most recently amended.

⁶⁶ The list of countries and regions marked as a 'red' or 'orange' zone can be found at <https://diplomatie.belgium.be/en>. The following EU+ countries or regions thereof are marked as a 'red zone' as of 24 August 2020: Bulgaria (regions of Northeast and Southwest), France (Bouches-du-Rhône, French Guyana), Malta, Romania (all development regions except for Vest), Spain (autonomous regions of Aragón, Basque country, Madrid, Navarra, and provinces of Barcelona and Lleida (Catalonia), Soria and Burgos (Castilla y Leon), Almeria (Andalusia), and Balearic Islands).

⁶⁷ Point 1.2 and 1.3 of Protective Measure of the Ministry of Health of 24 August 2020, MZDR 20599/2020-25/MIN/KAN. As of 24 August 2020, only Romania and Spain (except for the Canary Islands) have been identified as an EU+ country not being of a "low risk for COVID-19 contagion", see Notice from the Ministry of Health of 24 August 2020 issuing a list of countries or parts thereof with a low risk of COVID-19 contagion, MZDR 20599/2020-26/MIN/KAN. See also <https://koronavirus.mzcr.cz/ze-seznamu-zemi-s-nizkym-rizikem-nakazy-bude-vyrazeno-spanelsko/> (in Czech).

⁶⁸ Clause 1 Government Order No. 282 of 19 August 2020. Exceptionally, entry from EU+ countries with an infection rate under 17.6 and where the infection rate has not increased for two consecutive days within the last 7 days, are also excluded from the mandatory quarantine (clause 4, sub-clause 6, Government Order No. 282 of 19 August 2020). The list of EU+ countries with an infection rate mandating quarantine measures can be found at <https://vm.ee/en/information-countries-and-self-isolation-requirements-passengers>, and (as of August 2020) are Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, France, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Poland, Portugal, Romania, Spain, Sweden and Switzerland.

⁶⁹ See Clause 2 Government Order No. 169 of 15 May 2020, as most recently amended.

⁷⁰ Pursuant to Clause 1 Government Order No. 282 of 19 August 2020.

⁷¹ See § 1 of Ordinance of 6 August 2020 on Compulsory Testing of Persons Entering from Risk Areas. The list of countries identified by the RKI as 'international risk areas' include the following EU+ countries and regions: Belgium (Antwerp, Brussels), Bulgaria (Blagoevgrad, Dobrich), Croatia (Šibensko-kninska, Splitsko-Dalmatinska), France (Île-de-France, Provence-Alpes-Côte d'Azur), Romania (Argeş, Bacău, Bihor, Brăila, Braşov, Bucureşti, Buzău, Dâmboviţa, Galaţi, Gorj, Ilfov, Neamţ, Prahova, Vâlcea, Vaslui, and Vrancea), and Spain (except for the Canary Islands); see https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogebiete_neu.html.

(prior proof of negative COVID-19 test).⁷² Entry into Greece from other EU+ countries is not subject to COVID-19-related restrictions (no COVID-19 restrictions).

Restrictions for entry into **Iceland** from an EU+ country depends on the classification of the EU+ country as a 'high-risk' area.⁷³ Entry into Iceland from a 'high-risk' EU+ country is subject to a mandatory quarantine of 14 days or in-country testing immediately upon entry into Iceland and a second test after five days.⁷⁴ Icelandic nationals and residents returning from a 'high-risk' EU+ country, as well as travellers from a 'high-risk' EU+ country intending to stay in Iceland for more than 10 days opting for testing are required to further undergo a second COVID-19 test within four to six days of entry into Iceland (mandatory quarantine or (double) in-country testing). A positive test result (for the first COVID-19 test for short-term travellers, or for the second test for Icelandic nationals, Icelandic residents and travellers staying for more than 10 days) entails a mandatory quarantine for 14 days.

Ireland maintains a 'COVID-19 Green List' of countries for which no COVID-19-related entry restrictions are applicable (no COVID-19 restrictions).⁷⁵ All persons entering into Ireland from an EU+ country not on the COVID-19 Green List are requested to restrict their movements for 14 days (mandatory quarantine).⁷⁶

Italy defines six categories of countries for the purpose of COVID-19 restrictive measures for entry into Italy, with EU+ countries listed in categories A, B and C.⁷⁷ Entry into Italy from an EU+ country listed in category C (i.e. Bulgaria and Romania) or for persons who have been to a category C country within the last 14 days prior to entry into Italy are subject to a mandatory quarantine of 14 days (mandatory quarantine).⁷⁸ Entry into Italy from Croatia, Greece, Malta or Spain is subject to prior proof of a negative COVID-19 test or in-country testing and mandatory quarantine pending results thereof (prior proof of negative COVID-19 test or mandatory quarantine pending in-country testing).⁷⁹ Entry into Italy from other EU+ countries by persons who have not been in a country other than categories A and B are not subject to COVID-19 entry restrictions (no COVID-19 restrictions).

Latvia imposes a mandatory quarantine for 14 days for entry into Latvia from EU+ countries designated as 'orange' or 'red' countries or by persons who have been in an 'orange' or 'red' EU+ country within

⁷² Art. 1(1) of Joint Ministerial Decision No. Δ1α/Γ.Π.οικ. 50682 of 10 August 2020, as most recently amended. See also <https://travel.gov.gr/>.

⁷³ The list of high-risk areas can be found at <https://www.landlaeknir.is/um-empaettid/greinar/grein/item39194/Skilgreind-ahaettusvaedi--Defined-high-risk-areas>, and includes, as of August 2020, all EU+ (and third) countries. While entry into Iceland from non-'high-risk areas' are not subject to these restrictive measures, as of August 2020, no country is considered not being a 'high-risk area'.

⁷⁴ See Art. 3, para. 1, and Art. 4, para. 1, Regulation No. 800/2020 on quarantine, isolation and testing at the Icelandic border due to COVID-19.

⁷⁵ The list of countries on the COVID-19 Green List can be found at <https://www.dfa.ie/travel/travel-advice/coronavirus/>, and consists, as of 24 August 2020, of Denmark (Greenland), Estonia, Finland, Greece, Hungary, Italy, Latvia, Lithuania, Norway and Slovakia.

⁷⁶ See <https://www2.hse.ie/conditions/coronavirus/managing-coronavirus-at-home/if-you-live-with-someone-who-has-a-coronavirus.html>.

⁷⁷ The list of countries is defined in Annex 20 to the Decree of the President of the Council of Ministers of 7 August 2020, with EU+ countries placed into the following categories:

- Category A: San Marino and Vatican City;
- Category B: all EU+ countries not in categories A and C;
- Category C: Bulgaria and Romania.

⁷⁸ Art. 6(1) of Decree of the President of the Council of Ministers of 7 August 2020 further implementing provisions of the decree-law of 25 March 2020, n. 19, containing urgent measures to deal with the epidemiological emergency from COVID-19, and the decree-law of 16 May 2020, n. 33, containing further urgent measures to deal with the epidemiological emergency from COVID-19.

⁷⁹ Art. 1(1) of Order of the Minister of Health of 12 August 2020 containing further urgent measures on containment and management of the epidemiological emergency from COVID-19.

the last 14 days (**mandatory quarantine**).⁸⁰ For other EU+ countries, no COVID-19-related entry restrictions apply (**no COVID-19 restrictions**).⁸¹

Entry into **Lithuania** from EU+ countries is dependent on the infection rate and whether the persons entering are nationals of Lithuania or of another EU+ country. This can be categorised into two groups: group A ('countries affected by COVID-19') or B ('countries not affected by COVID-19').⁸² Lithuanian nationals arriving from a country in group A must either provide a negative COVID-19 test result done at the latest 72 hours prior to entry into Lithuania, or must submit to in-country testing within 24 hours of entry and mandatory quarantine of 14 days (**prior proof of negative COVID-19 or in-country testing and mandatory quarantine**).⁸³ Persons arriving from an EU+ country 'affected by COVID-19' are required to provide a negative COVID-19 test result done at the latest 72 hours prior to entry into Lithuania, as well as mandatory 14-day quarantine (**prior proof of negative COVID-19 test and mandatory quarantine**).⁸⁴ Entry into Lithuania from EU+ countries not 'affected by COVID-19' are not subject to COVID-19-related restrictions (**no COVID-19 restrictions**).⁸⁵

Entry into **Malta** from all EU+ countries except for Sweden is currently permitted without any COVID-19-related restrictive measures (**no COVID-19 restrictions**). An entry ban is in place from Sweden, and a 14-day mandatory quarantine applies to persons exempted from the entry ban from Sweden (**entry ban and mandatory quarantine**).

Norway imposes a mandatory quarantine of 10 days for entry from EU+ countries enumerated in Appendix A to the COVID-19 Regulations.⁸⁶ Specifically, the mandatory quarantine applies to persons arriving from certain regions of Denmark⁸⁷ and Sweden,⁸⁸ as well as for the EU+ countries of Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, France, Greece, Iceland, Ireland, Luxembourg, Malta, Monaco, the Netherlands, Poland, Portugal, Romania, Spain, and Switzerland (**mandatory quarantine**).⁸⁹

⁸⁰ Para. 56 of Regulations of the Cabinet of Ministers No. 360 of 9 June 2020, as most recently amended. The list of 'red' and 'orange' countries, found at <https://www.spkc.gov.lv/valstu-saslimstibas-raditaji-ar-covid-19-0>, consists of the following EU+ countries:

- Red countries: Andorra, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, France, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, Romania, Spain, Sweden, and Switzerland;
- Orange countries: Cyprus and Germany;

⁸¹ Cf. para 38.2 of Regulations of the Cabinet of Ministers No. 360 of 9 June 2020, as most recently amended.

⁸² The list of EU+ countries in the respective groups are defined in the Decision of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended. They are grouped for the purpose of this study as follows:

- Group A ('affected by COVID-19'): Andorra, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, France, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, Romania, San Marino, Spain, Sweden, and Switzerland;
- Group B ('not affected by COVID-19'): Cyprus, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Norway, Slovakia, Slovenia, and Vatican City;

⁸³ Para. 2.1, 2.2, and 2.5 of Order of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended; para. 1 of Decision of the Minister of Health of 17 July 2020 No. V-1680 on the conditions for the isolation and testing of aliens from third countries for COVID-19 (coronavirus infection), as most recently amended.

⁸⁴ Para. 2.1, 2.2, and 2.4 of Order of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended; para. 1 of Decision of the Minister of Health of 17 July 2020 No. V-1680 on the conditions for the isolation and testing of aliens from third countries for COVID-19 (coronavirus infection), as most recently amended.

⁸⁵ Cf. para. 2.4 of Decision of the Minister of Health of 17 July 2020 No. V-1680 on the conditions for the isolation and testing of aliens from third countries for COVID-19 (coronavirus infection), as most recently amended.

⁸⁶ §5 of Covid-19 Regulations. See also <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/travel-advice-COVID19/>.

⁸⁷ I.e. the regions of Hovedstaden (Capital Region), Midtjylland, Sjælland (Zealand), and the Faroe Islands.

⁸⁸ I.e. all regions of Sweden except for Kalmar, Norrbotten, Södermanland, and Västerbotten.

⁸⁹ §5 of and Annex A to Covid-19 Regulations.

Romania identifies a list of ‘yellow area’ countries of ‘high epidemiological risk’ (i.e. Luxembourg, Malta, and certain regions of Spain),⁹⁰ the entry into Romania from which is subject to a mandatory quarantine for a period of 14 days ([mandatory quarantine](#)).⁹¹ No COVID-19-related entry restrictions have been imposed on entry into Romania from other EU+ countries ([no COVID-19 restrictions](#)).

Entry into **Slovakia** from EU+ countries identified as ‘low-risk countries and territories’ is not subject to COVID-19-related entry restrictions ([no COVID-19 restrictions](#)).⁹² Persons entering Slovakia from EU+ countries not on the list of ‘low-risk countries and territories’ (i.e. Bulgaria, Luxembourg, Portugal, Romania, and Sweden) or who visited a country not on the aforementioned list within the past 14 days are required to undergo mandatory home isolation until they have tested negative for COVID-19 ([mandatory quarantine pending in-country testing](#)).⁹³

Entry restrictions into **Slovenia** depends on whether an EU+ country or region thereof is defined as ‘epidemiologically safe’ (‘green list’).⁹⁴ Entry from an EU+ country considered as ‘epidemiologically safe’ is not subject to COVID-19-related restrictions ([no COVID-19 restrictions](#)). Entry into Slovenia from an EU+ country considered as ‘epidemiologically unstable’ (‘red list’), i.e. Andorra, Belgium, Croatia, Malta, Monaco, Netherlands, Romania, and Spain, is subject to a 14-day mandatory quarantine ([mandatory quarantine](#)).⁹⁵ Slovenian nationals and residents entering from another EU+ country (‘yellow list’, i.e. EU+ countries not on the ‘green’ or ‘red’ lists) are not subject to the mandatory quarantine if they can demonstrate that they have not been in a country on the ‘red list’ ([no COVID-19 restrictions](#)),⁹⁶ while other persons travelling from an EU+ country on the ‘yellow list’ are subject to the 14-day quarantine ([mandatory quarantine](#)).⁹⁷ In all cases, persons proven to have COVID-19 based on a positive medical test or who display symptoms of COVID-19 are refused entry into Slovenia ([entry ban if symptomatic](#)).⁹⁸

Switzerland imposes a mandatory quarantine of 10 days for all persons entering from an EU+ country identified as a country or area ‘with an increased risk of infection’, or who have been in such countries

⁹⁰ The list of ‘yellow area’ countries can be found at <http://www.cnscbt.ro/index.php/liste-zone-afectate-covid-19>, and, as of 24 August, only includes Luxembourg, Malta, and Spain (regions of Aragon, Catalonia, Navarra, Madrid, Balearic Islands and Basque Country) as EU+ countries.

⁹¹ Art. 2(1) of Decision No. 36 of 21 July 2020 of the National Committee for Emergency Situations, as most recently amended.

⁹² See <https://www.mzv.sk/web/en/covid-19>. The list of ‘low risk countries’ includes as of 24 August 2020 all EU+ countries except for Bulgaria, Luxembourg, Portugal, Romania and Sweden.

⁹³ Point 1 of Measure of the Public Health Authority of 3 July 2020, No. OLP/5455/2020, as most recently amended.

⁹⁴ The list of countries and regions defined as ‘epidemiologically safe’ can be found at <https://www.njz.si/en/list-countries-cross-in-q-national-borders-without-restrictions> and consists of the following EU+ countries as of 24 August 2020: Austria, Cyprus, Estonia, Finland, Germany, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Norway, San Marino, Slovakia, and Vatican City. See also the list of countries on the ‘red’, ‘yellow’ and ‘green’ list at <https://www.policija.si/eng/newsroom/news-archive/103470-crossing-the-state-border-during-the-coronavirus-epidemic>, <https://www.policija.si/eng/newsroom/news-archive/105468-croatia-on-the-red-list-as-of-21-august> and <https://www.gov.si/teme/koronavirus-sars-cov-2/prehajanje-meja/> (in Slovenian)

⁹⁵ Art. 9(1) of Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia.

⁹⁶ Art. 9(2) of Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia.

⁹⁷ Pursuant to Art. 9(1) of Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia.

⁹⁸ Art. 12(2) of Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia.

within the last 14 days ([mandatory quarantine](#)).⁹⁹ **Liechtenstein** follows the same entry restriction measures as Switzerland.¹⁰⁰

3.1.1.3. Passenger Locator Forms and temperature screenings

A number of EU+ countries have introduced a requirement for travellers to register their arrival, often in support of national contact tracing measures and passenger forms. These Passenger Locator Forms (PLFs) require travellers to provide information *inter alia* on their means of travel (e.g. by plane or car) and the locations they have been to within 14 days prior to entry. This is the case for **Belgium**,¹⁰¹ **Cyprus**,¹⁰² **Germany**,¹⁰³ **Greece**,¹⁰⁴ **Iceland**,¹⁰⁵ **Ireland**,¹⁰⁶ **Latvia**,¹⁰⁷ **Lithuania**,¹⁰⁸ **Malta**,¹⁰⁹ **Poland**,¹¹⁰ **Romania**,¹¹¹ **Slovakia**¹¹² and **Spain**,¹¹³ all of which have introduced an obligation for travellers (from countries 'of risk' of COVID-19 contagion) to fill in a PLF.¹¹⁴ Only in the case of Greece, however, is the PLF directly linked to whether a traveller will be subjected to *random* health checks upon arrival.¹¹⁵ In the case of **Belgium, Cyprus, Greece, Iceland, Ireland, Latvia, Malta, Poland, Romania, Slovakia** and **Spain**, all passengers entering the country must submit the PLF. For entry into **Germany** or **Lithuania**, the PLF must only be submitted by persons travelling from certain 'risk' areas.

While not directly an obligation to act or an explicit condition for intra-EU+ entry, an interesting phenomenon observed across the EU+ countries is the issue of temperature screenings at airports. Temperature screening of arriving passengers is taking place at international airports in *inter alia*

⁹⁹ Art. 2 of Ordinance on measures to combat the coronavirus (Covid-19) in the field of international passenger traffic; the full list of countries and areas with an increased risk of infection can be found in the Annex to aforementioned Ordinance, as well as at <https://www.bag.admin.ch/bag/en/home/krankheiten/ausbrueche-epidemien-pandemien/aktuelle-ausbrueche-epidemien/novel-cov/empfehlungen-fuer-reisende/quarantaene-einreisende.html>, and includes the following EU+ countries as of 24 August 2020: Andorra, Belgium, Luxembourg, Malta, Monaco, Romania, and Spain (except for the Canary Islands).

¹⁰⁰ See Art. 1(3) of Ordinance No. 2020.206 of 25 June 2020 on measures to combat the coronavirus (Covid-19), as most recently amended.

¹⁰¹ Art. 18(3) to (6) of the Ministerial Decree containing urgent measures to limit the spread of the coronavirus COVID-19; see <https://travel.info-coronavirus.be/public-health-passenger-locator-form>.

¹⁰² Art. 2.3 of Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No.31) of 2020; see also <https://cyprusflightpass.gov.cy/>.

¹⁰³ See §1 of the Orders relating to travel after the German Bundestag has determined an epidemic situation of national concern. See also https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Transport/Aussteigekarten_Covid_Tab.html.

¹⁰⁴ Art. 1(1) of Joint Ministerial Decision No. ΔΔ/ΓΠ.οικ. 40383/2020 on the application of the measure of random laboratory control and the temporary restriction of persons entering from abroad, to limit the spread of the coronavirus COVID-19, as most recently amended; see also <https://travel.gov.gr/>.

¹⁰⁵ Art. 4, para. 2, of Regulation 759/2020 on quarantine, isolation and testing at the Icelandic border due to COVID-19; see also <https://visit.covid.is/>.

¹⁰⁶ Regulation 5(1) of Health Act 1947 (Section 31A – Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2020; see also <https://www.gov.ie/en/publication/ab900-covid-19-passenger-locator-form/>.

¹⁰⁷ § 38 of Regulation of the Cabinet of Ministers No. 360 "Epidemiological Safety Measures for the Containment of the Spread of COVID-19 Infection"; see also <https://www.sam.gov.lv/en/article/questionnaire-be-filled-persons-entering-latvia-using-services-international-carriers>.

¹⁰⁸ Para. 2.3 of Order of the Minister of Health of 15 June 2020 No. V-1463 for the Approval of the List of Countries Affected by COVID-19 (Coronavirus Infection). See also <https://keleiviams.nvsc.lt/lt/form>.

¹⁰⁹ See <https://www.maltairport.com/declarationforms/>.

¹¹⁰ §2(2) of Regulation of the Council of Ministers of 7 August 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic; see also <https://www.lotnisko-chopina.pl/en/news/0/984/szczegoly.html>.

¹¹¹ See <https://www.sts.ro/ro/comunicate-de-presa//o-noua-aplicatie-dezvoltata-pentru-fluidizarea-traficului-aerian-de-calatori> (in Romanian); and <https://chestionar.stsisp.ro/start>.

¹¹² See <https://www.mzv.sk/web/en/covid-19> and <https://korona.gov.sk/en/ehranica/>.

¹¹³ See Provision 3 of Resolution of 24 July 2020 of the General Directorate of Public Health, Quality and Innovation regarding the health controls to be carried out at points of entry in Spain; see also <https://www.spth.gob.es/>.

¹¹⁴ The following EU+ countries have introduced an (electronic) passenger locator form in relation to COVID-19 contact tracing, but have not imposed an obligation for travellers to complete this form: Croatia (see <https://entercroatia.mup.hr/>), Portugal (see <https://www.publico.pt/2020/06/29/sociedade/noticia/controlo-restricoes-aerportos-continente-aquardam-instrucoes-1922386>).

¹¹⁵ Art. 1(2) of Joint Ministerial Decision No. ΔΔ/ΓΠ.οικ. 40383/2020 on the application of the measure of random laboratory control and the temporary restriction of persons entering from abroad, to limit the spread of the coronavirus COVID-19, as most recently amended.

Austria,¹¹⁶ **Belgium,**¹¹⁷ **Bulgaria,**¹¹⁸ **Cyprus,**¹¹⁹ **Estonia,**¹²⁰ **France,**¹²¹ **Hungary (from ‘risk’ countries),**¹²² **Italy,**¹²³ **Latvia,**¹²⁴ **Malta,**¹²⁵ **Poland,**¹²⁶ **Portugal,**¹²⁷ **Romania,**¹²⁸ **Slovakia**¹²⁹ and **Spain.**¹³⁰

3.1.1.4. No entry restrictions

Bulgaria, Croatia, Luxembourg, Portugal, and Sweden do not impose COVID-19-related entry restrictions for intra-EU+ mobility (no COVID-19 restrictions). Similarly, neither **France**¹³¹ nor the **Netherlands**¹³² impose any COVID-19-related restrictions for entry from an EU+ country.

3.1.2. Comparative observations on intra-EU+ entry restrictions

Some Member States still implement entry bans for intra-EU+ mobility, as set out in Figure 3 (based on the overview in Section 3.1.1). Cyprus and Hungary restrict entry from certain ‘high-risk’ EU+ countries to its own nationals and residents (and, in the case of Cyprus, to limited number of exceptional reasons). Forms of qualified conditions of entry – *conditional entry* – can be observed in Denmark and Finland, which restrict entry from certain EU+ countries for non-essential reasons. This entails an entry ban for ‘non-essential reasons’ of non-nationals and non-residents. Conditional entry can be further observed in Denmark, Estonia, Hungary, and Slovenia, which prohibit the entry of persons (non-nationals or residents) who either display symptoms or who test positive for COVID-19 infection.

A form of mandatory quarantine is imposed on persons entering from ‘non-safe’ EU+ countries in Austria, Belgium, the Czech Republic, Estonia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein Lithuania, Malta, Norway, Romania, Slovakia, Slovenia and Switzerland. Furthermore, testing for COVID-19 after entry is mandatory in Austria, Belgium, the Czech Republic, Germany, Hungary, Lithuania and Slovakia, while Austria and Iceland provide the possibility of conducting in-country testing for COVID-19 to (certain categories of) intra-EU+ travellers as an alternative to

¹¹⁶ See <https://www.viennaairport.com/currentinformation>.

¹¹⁷ See <https://www.brusselsairport.be/en/passengers/the-impact-of-the-coronavirus/health-rules>.

¹¹⁸ See <https://www.sofia-airport.bg/en/sofia-airport/press-centre/news/sofia-airport-remains-open-passengers>.

¹¹⁹ See <https://www.hermesairports.com/covid-19/qa>.

¹²⁰ There is conflicting information on temperature screenings at Estonian international airports. Tallinn Airport states that thermal cameras have been installed for the purpose of temperature measurement of arriving passengers since March 2020 (<https://www.tallinn-airport.ee/en/news/tallinn-airport-introduced-thermal-cameras/>), but also notes that body temperature is not taken nor are health checks performed at the airport (<https://www.tallinn-airport.ee/en/news/faq-main-questions-of-passengers-concerning-the-coronavirus/>).

¹²¹ See <https://www.parisaeroport.fr/en/passengers/services/news/coronavirus---information-to-passengers-traveling-from-paris>.

¹²² See https://www.bud.hu/en/covid_19/coronavirus_airport_measures.

¹²³ Cf. <http://www.adr.it/web/aeroporti-di-roma-en-/coronavirus>.

¹²⁴ See <https://www.riga-airport.com/covid-19-faq/en>.

¹²⁵ See <https://www.maltaairport.com/covid19-2/>.

¹²⁶ See <https://lotnisko-chopin.pl/en/news/0/1002/szczegoly.html>.

¹²⁷ See https://www.ana.pt/en/system/files/documents/covid19-medidas_implementation_6julho_ing.pdf.

¹²⁸ See <https://www.bucharestairports.ro/en/coronavirus-recommendations>.

¹²⁹ See <https://www.bts.aero/en/covid-19-faq/>.

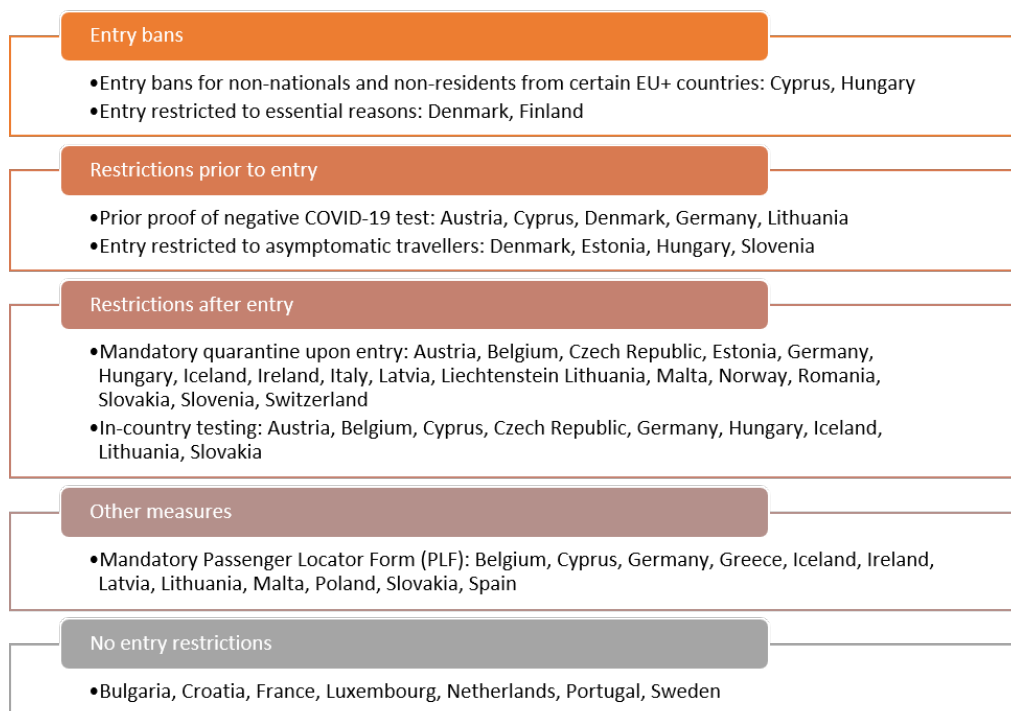
¹³⁰ See “Thermal imaging and e-forms: How Spain will screen for Covid-19 when the travel ban is lifted”, *El País*, 12 June 2020; see also http://www.aena.es/csee/Satellite?Language=EN_GB&c=Microsite_FP&cid=1445453934814&d=DesktopES&pagename=AenaInforma

¹³¹ Cf. Art. 1 of Order of July 10, 2020 identifying the areas of circulation of the SARS-CoV-2 virus infection, as most recently amended. There are indications, however, that France is applying a ‘voluntary quarantine’ to persons entering France from EU+ countries “whose authorities have decided, in an uncoordinated fashion, to apply 14-day quarantine measures to travellers entering their territory from European countries” on a reciprocal basis (see <https://uk.ambafrance.org/COVID-19-UK-and-French-travel-and-quarantine-measures>; see also <https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Attestation-de-deplacement-et-de-voyage> (in French)).

¹³² In a letter to the Dutch Parliament of 31 July 2020, the Dutch Minister of Health reiterated that the “strong recommendation” for persons to enter into self-isolation for 14 days after visiting a region marked as an ‘orange’ travel advice cannot currently be legally enforced; see <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/documenten/kamerstukken/2020/07/31/reactie-na-v-73e-omt-covid-19-deel-2>.

mandatory quarantine and/or prior proof, by means of a medical certificate, of having tested negative for COVID-19.

Figure 3: Types of COVID-19 restrictive measures adopted by EU Member States and Schengen countries for intra-EU+ travel (as of 24 August 2020)



Source: Authors' own elaboration

Iceland and Finland have adopted restrictive entry measures that target by far the most EU+ countries, with 30 and 23 respectively, followed by Ireland (22), Latvia (22), Estonia (21), Cyprus (20), Lithuania (20), Norway (20) and Slovenia (18). The EU+ countries affected the most by restrictive entry measures are Romania (20), Spain (20), Bulgaria (17), Malta (16), Belgium (14), Luxembourg (14) and Sweden (14), while the EU+ countries that are the least targeted by restrictive intra-EU+ mobility measures are Estonia, Finland, Hungary, Latvia, Lithuania, and Slovakia, each being the subject of restrictive entry conditions of one Member State or Schengen country respectively. Only eight EU+ countries, namely Austria, Belgium, the Czech Republic, Germany, Liechtenstein, Norway, Romania and Switzerland currently apply their entry restrictions to certain *regions* of other EU+ countries (as opposed to the EU+ country concerned entirely).¹³³

¹³³ While Ireland is also marked in Table 1 as applying its entry restrictions regionally to Denmark, this is because Greenland is marked as a 'green' or safe country, while the rest of Denmark is subject to the entry restriction concerned.

Table 1: Geographical scope of COVID-19 intra-EU+ entry restrictions (as of 24 August 2020)

		EU+ country affected by entry restrictions																																
		AT	BE	BG	HR	CY	CZ	DK	EE	FI	FR	DE	EL	HU	IS	IE	IT	LV	LI	LT	LU	MT	NL	NO	PL	PT	RO	SK	SV	ES	SE	CH		
EU+ country implementing entry restrictions	AT	Grey	Green	Orange	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Orange	Green	Green	Yellow	Orange	Green	
	BE	Green	Grey	Yellow	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Green	Green	Green	Green	Yellow	Green	Green	Yellow	Green	Green	
	BG	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	
	HR	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	
	CY	Orange	Orange	Orange	Orange	Grey	Orange	Orange	Green	Green	Orange	Green	Orange	Green	Orange	Orange	Orange	Green	Green	Green	Green	Orange	Orange	Orange	Green	Orange	Orange	Orange	Green	Green	Orange	Orange	Orange	
	CZ	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Green	Green	Yellow	Green	Green	
	DK	Green	Orange	Orange	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Orange	Green	Green	Green	Orange	Orange	Green	Green	Orange	Green	Green	
	EE	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Grey	Green	Orange	Green	Orange	Green	Orange	Orange	Green	Green	Orange	Green	Orange	Orange	Orange	Green	Orange	Orange	Orange	Orange	Green	Green	Orange	Orange	Orange	
	FI	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Grey	Orange	Orange	Orange	Green	Orange	Orange	Green	Green	Green	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Orange	Orange	Orange	Orange	
	FR	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	
	DE	Green	Yellow	Yellow	Yellow	Green	Green	Green	Green	Green	Green	Yellow	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Yellow	Green	Green	Yellow	Green	Green	
	EL	Green	Orange	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Orange	Green	Green	Green	Orange	Orange	Green	Green	Orange	Orange	Green	
	HU	Green	Green	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Green	Green	Orange	Orange	Green	
	IS	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Grey	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange
	IE	Orange	Orange	Orange	Orange	Orange	Orange	Yellow	Green	Green	Orange	Orange	Green	Green	Orange	Grey	Green	Green	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Orange	Orange	Orange	Orange	
	IT	Green	Green	Orange	Orange	Orange	Orange	Orange	Green	Green	Orange	Orange	Orange	Green	Green	Grey	Green	Green	Green	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	
	LV	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Green	Orange	Orange	Orange	Orange	Orange	Green	Grey	Orange	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	
	LI	Green	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Green	Yellow	Green	Green	
	LT	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Green	Green	Orange	Orange	Orange	Green	Orange	Orange	Green	Green	Green	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange	Orange
LU	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green		
MT	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Green		
NL	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	

		EU+ country affected by entry restrictions																															
		AT	BE	BG	HR	CY	CZ	DK	EE	FI	FR	DE	EL	HU	IS	IE	IT	LV	LI	LT	LU	MT	NL	NO	PL	PT	RO	SK	SV	ES	SE	CH	
EU+ country implementing entry	NO	Orange	Orange	Orange	Orange	Orange	Orange	Yellow	Green	Green	Orange	Green	Orange	Green	Orange	Orange	Green	Green	Green	Green	Orange	Orange	Orange	Grey	Orange	Orange	Orange	Green	Green	Orange	Yellow	Orange	
	PL	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	Green	
	PT	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	Green	Green	Green	Green	
	RO	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Orange	Green	Green	Green	Green	Grey	Green	Green	Yellow	Green	Green	
	SK	Green	Green	Orange	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Green	Green	Green	Green	Orange	Orange	Grey	Green	Orange	Green	Green	
	SV	Green	Orange	Orange	Orange	Green	Orange	Orange	Green	Green	Orange	Green	Orange	Green	Orange	Orange	Green	Green	Green	Green	Orange	Orange	Orange	Green	Orange	Orange	Orange	Green	Grey	Orange	Orange	Orange	
	ES	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green	
	SE	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Grey	Green	Green
	CH	Green	Orange	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Green	Orange	Orange	Green	Green	Green	Green	Orange	Green	Green	Yellow	Green	Grey	
		No entry restrictions applicable							Entry restrictions applicable for departures from country							Entry restrictions applicable for departures from regions within the country							Not applicable										

Source: Authors' own elaboration

3.1.3. Enforcement and sanctioning of violations of COVID-19 intra-EU+ entry restrictions

What are the legal consequences attached to non-compliance with these entry restrictions and their enforcement? As illustrated in Table 2, the most common sanction among relevant EU Member States for non-compliance with the COVID-19 entry restrictions is an administrative or criminal fine. Some EU Member States or Schengen countries also attach a prison sentence for violation of COVID-19 entry restrictions. These sanctions for non-compliance with COVID-19 restrictive measures are set out in Table 2.

The maximum amount set for fines for violation of containment measures in the EU+ countries differ wildly, with Austria, Belgium, Denmark, Hungary, Lithuania, Norway, Romania and Slovakia setting a maximum fine of less than EUR 2000, while Cyprus, the Czech Republic, Germany and Spain set maximum fines greater than EUR 10 000. Violations (of e.g. mandatory quarantine obligations) are classified as criminal offences in inter alia Belgium, Finland, Hungary, Iceland, Ireland, Lithuania, Spain and Switzerland.

Table 2: Sanctions (fines and prison sentences) for non-compliance with COVID-19 restrictive measures in the EU+ countries

Member State / Schengen country	Sanctions for violation of COVID-19 restrictive measures
Austria ¹³⁴	Fine of up to EUR 1 450 (prison sentence of up to 4 weeks if non-payment of fine) – unless such act constitutes a criminal offence
Belgium	Flanders: fine of EUR 26 – EUR 500 and/or prison sentence of 8 days – 6 months ¹³⁵ Wallonia: fine of EUR 1 – EUR 500 and/or prison sentence of 8 days – 6 months ¹³⁶ Brussels Capital Region: fine of EUR 1 – EUR 500 and/or prison sentence of 8 days – 6 months ¹³⁷
Bulgaria ¹³⁸	General sanction for non-compliance: fine of BGN 300 – BGN 1 000 (BGN 1 000 – BGN 2 000 for repeat offence) Non-compliance with mandatory quarantine: fine of BGN 5 000
Croatia ¹³⁹	Fine of HRK 8 000 – HRK 15 000
Cyprus ¹⁴⁰	Fine of up to EUR 50 000 and/or prison sentence of up to 1 year
Czech Republic ¹⁴¹	Fine of up to CZK 1 000 000
Denmark ¹⁴²	Fine of up to DKK 3 500
Estonia ¹⁴³	Fine of up to EUR 9 600

¹³⁴ §40, under c, Epidemic Act 1950.

¹³⁵ Art. 79(1) Flemish Decree on Preventative Health Policy.

¹³⁶ Art. 47/15bis (5) Walloon Code of Social Action and Health.

¹³⁷ Art. 15(2) Brussels Ordinance on Preventative Health Policy.

¹³⁸ Art. 209a(1) and 215b(1) Health Act.

¹³⁹ Art. 76 Act on the Protection of the Population from Infectious Diseases.

¹⁴⁰ Art. 7 Infectious Disease Act, Cap. 260; see 'Coronavirus: cabinet approves hefty new fines, inspectors say people too lax', *Cyprus Mail*, 22 May 2020.

¹⁴¹ §92k(3) and (6) Act. No. 258/2000 Coll.

¹⁴² See <https://politi.dk/coronavirus-i-danmark/boedetakster-for-at-overtraede-restriktioner-som-foelge-af-covid-19>.

¹⁴³ Government Order of 16 May 2020, No. 172, postscript; and §28(2) Law Enforcement Act.

Member State / Schengen country	Sanctions for violation of COVID-19 restrictive measures
Finland ¹⁴⁴	Fine or prison sentence of up to 3 months
France	n/a
Germany ¹⁴⁵	Fine of up to EUR 25 000
Greece ¹⁴⁶	Fine of up to EUR 5 000
Hungary ¹⁴⁷	Fine of HUF 5 000 – HUF 500 000
Iceland ¹⁴⁸	Fine of ISK 50 000 – ISK 250 000 (for quarantine violations) or ISK 150 000 – ISK 500 000 (for violation of rules on isolation) and/or prison sentence of up to 3 months
Ireland ¹⁴⁹	Fine of EUR 1 000 - EUR 2 500 and/or prison sentence of up to 6 months
Italy ¹⁵⁰	Fine of EUR 400 – EUR 3 000
Latvia ¹⁵¹	Fine of EUR 10 - EUR 2 000
Liechtenstein	(see Switzerland)
Lithuania ¹⁵²	Fine of EUR 500 – EUR 1 500
Luxembourg	n/a
Malta ¹⁵³	Fine of up to EUR 3 000
Netherlands	n/a
Norway ¹⁵⁴	Fine of up to NOK 20 000
Poland ¹⁵⁵	Fine of up to PLN 30 000
Portugal	n/a

¹⁴⁴ §88 Communicable Diseases Act (No. 1227/2016), in conjunction with Chapter 44, §2, Criminal Code. It is unclear whether Finland has to date introduced such a mandatory quarantine obligation for persons entering from abroad (cf. 'Minister: Fines or prison time for travelers who don't self-isolate', *News Now Finland*, 10 August 2020; 'Coronavirus: Finland mandates quarantine for arrivals from high-risk countries', *Yle*, 10 August 2020).

¹⁴⁵ §73(1a)(1) and (19) Protection against Infection Act.

¹⁴⁶ Art. 1(5) Joint Ministerial Decision No. Δ1α/ΓΠ.οικ. 40383/2020, as most recently amended.

¹⁴⁷ §18 of Government Decree 341/2020 (VII 12), in conjunction with §361 Penal Code and §187(2) Act LVIII of 2020.

¹⁴⁸ Art. 10 Regulation No. 800/2020 on quarantine, isolation and testing at the Icelandic border due to COVID-19, in conjunction with Art. 19 Epidemic Prevention Act (Act No. 19/1997) and Instructions of the Icelandic Public Prosecutor on "Violations of the Epidemic Prevention Act and rules set in accordance with it, cf. Art. 19 Epidemic Prevention Act No. 19/1997, due to COVID-19 pandemic", RS 7/2020, 14 August 2020, <https://www.rikissaksoknari.is/media/arsskyrslur/RS-7-2020-Sektir-fyrir-brot-qeegn-sottvarnarlogum.pdf> (in Icelandic).

¹⁴⁹ Regulation 5(5) Health Act 1947 (Section 31A – Temporary Requirements) (Covid-19 Passenger Locator Form) Regulations 2020, in conjunction with Section 31A Health Act 1947 and Section 6 of the Fines Act 2010.

¹⁵⁰ Art. 2(1) Decree-Law No. 33 of 16 May 2020 containing further urgent measures to deal with the epidemiological emergency from COVID-19, in conjunction with Art. 4(1) Decree-Law No. 19 of 25 March 2020 on urgent measures to address the epidemiological emergency from COVID-19.

¹⁵¹ Art. 50(1) Law on the Management of the Spread of COVID-19 Infection. A unit of fine is defined as €5 pursuant to Art. 16(2) Law on Administrative Liability.

¹⁵² See 'Lithuanian parliament adopts €6,000 fines for breaking quarantine rules', *LRT*, 1 April 2020. Cf. Art. 277 Criminal Code, in conjunction with Art. 47 Criminal Code and Resolution of the Government of 14 October 2008 approving the basic amount of fines and penalties (as most recently amended).

¹⁵³ Regulation 4 of Enforcement of Directions relating to Quarantine Regulations, 2020, as most recently amended.

¹⁵⁴ § 19 Covid-19 Regulations. See 'Norway to hit those breaking quarantine with \$2,000 fines', *The Local.no*, 16 March 2020.

¹⁵⁵ <https://www.gov.pl/web/coronavirus/temporary-limitations>.

Member State / Schengen country	Sanctions for violation of COVID-19 restrictive measures
Romania ¹⁵⁶	Fine of RON 1 000 to RON 5 000
Slovakia ¹⁵⁷	Fine of up to EUR 1 659
Slovenia ¹⁵⁸	Fine of EUR 400 - EUR 4 000
Spain ¹⁵⁹	Fine of EUR 601 - EUR 10 400.
Sweden	n/a
Switzerland ¹⁶⁰	Fine of up to CHF 10 000

Source: Authors' own elaboration

A number of EU+ countries prohibit or deny entry into the country for persons not meeting the conditions for intra-EU+ mobility. Two categories of 'conditional entry bans' can be observed, namely entry bans for persons confirmed to have COVID-19 (or who are symptomatic) and, related thereto, persons who cannot prove (by means of a medical certificate) that they do not have COVID-19. The prohibition of entry from EU+ countries of persons confirmed to have or are displaying symptoms of COVID-19 can be explicitly observed in **Denmark** (symptomatic for COVID-19),¹⁶¹ **Estonia** (symptomatic for COVID-19),¹⁶² **Hungary** (positive in-country COVID-19 test)¹⁶³ and **Slovenia** (positive COVID-19 test or symptomatic for COVID-19).¹⁶⁴

An entry ban for intra-EU+ mobility of persons who are unable to prove that they are 'COVID-19-negative' can be observed in **Austria**, which also denies entry, as a general rule, to persons (non-Austrian nationals or residents) who cannot confirm a suitable location where he or she will undergo mandatory quarantine in Austria.¹⁶⁵ **Slovenia** similarly prohibits the entry of non-Slovenian nationals/residents who are unable to provide evidence of adequate accommodation for the mandatory quarantine.¹⁶⁶

Travel from a 'high risk' EU+ country may have additional consequences. Intra-EU+ travel to another EU+ country, for which the Member State has issued a negative travel advice or travel warning, may result in consequences, for example in the field of labour laws. Anecdotal evidence suggests that Austrian residents who travel to an EU+ country for which the Ministry of Foreign Affairs has issued

¹⁵⁶ Art. 65(i) and 66(b) Act No. 55 of 15 May 2020.

¹⁵⁷ Measure of the Public Health Authority of 3 July 2020, No. OLP/5455/2020, as most recently amended.

¹⁵⁸ Art. 57 Infectious Diseases Act.

¹⁵⁹ 'What are the penalties for breaching Spain's lockdown? And can you appeal?', *The Local.es*, 17 April 2020. Cf. Art. 36 & 38(1)(b) of Organic Law for the protection of citizen security.

¹⁶⁰ Art. 83(1)(h) Epidemics Act in conjunction with Art. 106(1) Swiss Criminal Code.

¹⁶¹ Cf. <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-banned-countries> and <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-open-countries> ("Rejection at the border when showing signs of illness") for non-Danish nationals or residents.

¹⁶² Cf. clauses 3 to 12³, 13 Government Order No. 169 of 16 May 2020, for entry of non-Estonian nationals or residents.

¹⁶³ Cf. § 5(2) Government Decree 341/2020 (VII 12) for non-Hungarian nationals or residents.

¹⁶⁴ See Art. 12(2) Ordinance No. 112/20 of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia, for non-Slovenian residents.

¹⁶⁵ See §2(1) Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection on entry to Austria in connection with the containment of SARS-CoV-2, BGBl. II No. 263/2020, as most recently amended.

¹⁶⁶ Art. 9(5) Ordinance No. 112/20 of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia.

travel warnings¹⁶⁷ may see their wages being withheld for the duration of the period of mandatory quarantine upon return. This seems to result from the interpretation of travel to a 'high-risk' EU+ country against travel warnings of the Austrian MFA as a conduct of 'gross negligence' on the part of the employee,¹⁶⁸ which results in the forfeiture by the employee of the right to continued pay of his or her wages during the period of absence due to illness.¹⁶⁹ Similar effects of intra-EU+ travel to 'high risk' areas can be observed inter alia in other EU+ countries' labour laws, such as Belgium,¹⁷⁰ Denmark (loss of right to payment of wages if the inability to work is considered to be due to a 'self-inflicted illness' [*selvforskyldt sygdom*]),¹⁷¹ Germany¹⁷² and the Netherlands.¹⁷³

¹⁶⁷ See <https://www.bmeia.gv.at/reise-aufenthalt/reisewarnungen/>.

¹⁶⁸ See §8(1) Salaried Employee Act (*Angestelltengesetz*), which grants an employee the right to continued payment of wages for six weeks if he or she is unable to work due to illness or an accident, unless the employee caused the inability to work intentionally or through gross negligence (*vorsätzlich oder durch grobe Fahrlässigkeit*).

¹⁶⁹ This interpretation seems to be espoused by the Vienna Chamber of Labour (*Arbeiterkammer*) (see "Urlaub in der Coronavirus-Zeit kann Gehalt kosten", *Wien.ORF.at*, 16 June 2020), the Austrian Economic Chamber (see <https://www.wko.at/service/faq-coronavirus-infos.html>), under "Einreise nach Österreich" > "6. Ein Arbeitnehmer tritt nach einer Reise eine 10-tägige Heimquarantäne an. Muss der Arbeitgeber für diesen Zeitraum Entgelt bezahlen?"; and the Austrian Ministry of Labour (see 'Coronavirus-Reisewarnung: Wer sich in Gefahr begibt, kann um Lohn umfallen', *VIENNA.AT*, 17 August 2020 (in German)).

¹⁷⁰ 'Employeurs : que faire si votre travailleur décide de voyager en zone à risque?', Brussels, Acerta, 9 July 2020 (in French).

¹⁷¹ Cf. 'Hvad gør du, hvis din medarbejder rejser til udlandet på trods af myndighedernes anbefalinger', *Visma DataLøn*, Copenhagen (in Danish); 'Hvad sker der, hvis du tager på ferie i et 'forbudt' land?', *Djøfbladet*, 10 June 2020 (in Danish); '6 spørgsmål og svar om coronavirus og din ansættelse', *Advodan*, Aarhus, 17 March 2020 (in Danish); 'Coronavirus: Spørgsmål og svar', *Lederne*, Copenhagen, 11 September 2020 (in Danish).

¹⁷² B. Alles and M. Hoffmann, 'Urlaub im Risikogebiet – wer zahlt die Quarantäne? – Update #1', *CMS Germany Blogs*, August 2020 (in German).

¹⁷³ Cf. 'Coronavirus en reizen: de meest gestelde vragen', *Het Juridisch Loket*, July 2020 (in Dutch).

4. EU TRAVEL BAN

KEY FINDINGS

- Following the EU's recommendation in March 2020 to introduce an entry ban for non-essential travel from third countries, the Council adopted Council Recommendation (EU) 912/2020, re-opening the EU's external borders to selected third countries. As of 24 August 2020, the list of third countries for which the Council recommends the reopening of the EU's external borders are Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia, and Uruguay (as well as China, subject to confirmation of reciprocity).
- As of August 2020, six EU+ countries (AT, BE, HR, NO, PL, RO) have not opened their external borders to residents of third countries for non-essential travel. Seven EU+ countries (FR, LT, LU, NL, PT, ES, SE) have followed the Council's recommendation as regards third countries from which non-essential travel is permitted, while seven EU+ countries (CY, CZ, DK, FI, DE, HU, SK) have not opened their external borders to all third countries recommended by the Council.
- Seven EU+ countries have opened their external borders to additional third countries not mentioned by the Council (BG, EL, HU, MT, SV, CH, LI).

4.1. EU+ entry restrictions: gradual reopening of the EU's external borders for non-essential travel

On 16 March 2020, the European Commission adopted a Communication¹⁷⁴ recommending a temporary restriction of non-essential travel from third countries into the EU+ area for one month. On 17 March 2020, the Heads of State or Government of the EU agreed to implement the temporary restriction of non-essential travel. The four Schengen Associated States also implemented it. For the purpose of this study, this is understood to be the "EU travel ban". The Council recommended on 30 June 2020 that Member States reopen their external borders for non-essential travel from certain third countries. As of August 2020, these third countries are Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia, Uruguay, as well as China on the basis of reciprocity.¹⁷⁵ The explicit mention of reciprocity in the case of China entails that, up until China opened its borders to EU+ countries for non-essential travel on 10 August 2020,¹⁷⁶ entry into the EU+ of Chinese residents has not been effective.

Algeria, Montenegro, Morocco, and Serbia, which were listed in Annex 1 of Council Recommendation (EU) 2020/912, were subsequently removed owing to deteriorating epidemiological conditions.¹⁷⁷ It

¹⁷⁴ 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 March 2020.

¹⁷⁵ Council Recommendation (EU) 2020/912, as most recently amended by Council Recommendation of 6 August 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction.

¹⁷⁶ See 'China Reopens Borders, Visa Channels to 36 European Countries', *China Briefing*, 12 August 2020.

¹⁷⁷ See Council Recommendation (EU) 2020/1052 of 16 July 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction, ST/9596/2020/INIT, OJ L 230, 17.7.2020, p. 26–28; Council Recommendation (EU) 2020/1144 of 30 July 2020 amending Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction, ST/9978/2020/INIT, OJ L 248, 31.7.2020, p. 26–28; and Council Recommendation (EU) 2020/1186 of 7 August 2020 amending Council Recommendation (EU) 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction, ST/10095/2020/INIT, OJ L 261, 11.8.2020, p. 83–85.

should be noted that the UK (as a 'third country'), as well as Andorra, Monaco, San Marino and Vatican City, were considered as part of the EU+ area for the purpose of the initial travel ban.¹⁷⁸

While Member States are allowed to determine individually the extent to which they will follow the Council's recommendation of lifting the travel ban to the specified third countries, they should not go beyond the list of third countries identified in Annex 1 of the Recommendation. It therefore lays down a list of 'maximums'. Council Recommendation (EU) 2020/912 specifically states that Member States "should not decide to lift the restrictions on non-essential travel into the EU for a specific third country before the lifting of the restriction has been coordinated" at the EU level.

This section examines the extent to which the EU+ countries have reopened their external borders for residents of third countries for non-essential travel (see Table 3). As of end of August 2020, **Austria**,¹⁷⁹ **Belgium**,¹⁸⁰ **Croatia**,¹⁸¹ **Norway**,¹⁸² **Poland**¹⁸³ and **Romania**¹⁸⁴ have not reopened their external borders to residents of non-EU+ countries for non-essential travel. **Ireland** did not originally implement the extra-EU travel ban proposed by the EU in March 2020.¹⁸⁵ It is further not bound by Council Recommendation (EU) 2020/912.¹⁸⁶ Ireland does not seem to have imposed an entry ban for non-essential travel from third countries per the EU travel ban.¹⁸⁷

4.2. Lifting of EU travel ban in line with Council Recommendation (EU) 2020/912

France,¹⁸⁸ **Luxembourg**,¹⁸⁹ the **Netherlands**¹⁹⁰ and **Sweden**¹⁹¹ have opened their external borders for non-essential travel to residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay (following Council Recommendation (EU) 2020/912).

¹⁷⁸ See European Commission, 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.

¹⁷⁹ See Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection on entry to Austria in connection with the containment of SARS-CoV-2, as most recently amended.

¹⁸⁰ See Art. 18(1) of the Ministerial Decree of 30 June 2020 containing urgent measures to limit the spread of the coronavirus COVID-19.

¹⁸¹ See Decision of the Civil Protection Headquarters on the temporary prohibition of crossing the border crossings of the Republic of Croatia (published in the Official Gazette NN 74/2020), as amended.

¹⁸² See § 3(q) Regulations relating to entry restrictions for foreign nationals out of concern for public health, in conjunction with §§ 5 and 5a of the Covid-19 Regulations.

¹⁸³ § 2(1) Regulation of the Council of Ministers of 7 August 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic.

¹⁸⁴ Art. 2(1)(2) of Annex 3 to Decision No. 553 of 15 July 2020 on the extension of the alert status on the Romanian territory starting with 17 July 2020, as well as the establishment of the measures applied during it to prevent and combat the effects of the COVID-19 pandemic

¹⁸⁵ Cf. Communication from the Commission to the European Parliament, the European Council and the Council "On the third assessment of the application of the temporary restriction on non-essential travel to the EU", COM(2020) 399 final, Brussels, 11.6.2020, p. 1.

¹⁸⁶ See Council Recommendation (EU) 2020/912, preamble, para. 14.

¹⁸⁷ Cf. "Ireland Has a New Coronavirus Fear: Americans Who Flout Quarantine", *The New York Times*, 14 July 2020.

¹⁸⁸ Art. 1, under 3, of Order of July 10, 2020 identifying the areas of circulation of the SARS-CoV-2 virus infection, as most recently amended. See also <https://www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs/informations-pratiques/article/coronavirus-covid-19-5-aout-2020>.

¹⁸⁹ Art. 2bis Grand-Ducal Regulation of 20 June 2020 relating to the duration of the ban and the scope of the exceptions provided for in article 2 of the law of June 20, 2020 introducing certain temporary measures relating to the application of the amended law of August 29, 2008 on the free movement of persons and immigration, as most recently amended.

¹⁹⁰ See <https://www.rijksoverheid.nl/actueel/nieuws/2020/08/03/het-inreisverbod-voor-nederland-per-5-augustus-2020> (in Dutch).

¹⁹¹ § 3(2)(6) of and Annex to Ordinance (2020:127) on a temporary entry ban to Sweden, as most recently amended. Morocco has been removed from the list of third countries whose residents may enter into Sweden for non-essential travel; see <https://www.government.se/press-releases/2020/08/change-to-the-temporary-ban-on-entry-into-sweden1/>.

Lithuania,¹⁹² **Portugal**¹⁹³ and **Spain**¹⁹⁴ permit entry for non-essential travel of residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay, as well as China (in the case of Lithuania, subject to reciprocity).

Estonia has opened its external borders to non-essential travels of residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay.¹⁹⁵ However, it should be noted that residents of Australia are required, upon entry into Estonia, to enter into quarantine for a period of 14 days.¹⁹⁶ **Iceland** allows entry to residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay.¹⁹⁷ However, as these countries fall within the scope of the countries considered as an epidemiological 'risk area',¹⁹⁸ all persons entering Iceland from these third countries will be required to undergo a mandatory quarantine of 14 days (they may also opt for in-country testing for COVID-19 twice).¹⁹⁹

Italy has opened its external borders to non-essential travel from Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay ('group D' countries).²⁰⁰ Residents from these third countries are, however, subject to a mandatory quarantine of 14 days upon entry into Italy.²⁰¹ **Latvia** permits the entry for non-essential travel of residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay.²⁰² However, as Australia is considered to be a country "subject to special precautionary and restrictive measures due to a high number of confirmed COVID-19 cases",²⁰³ entry into Latvia from these countries is subject to a mandatory quarantine of 14 days.²⁰⁴

4.3. Entry for non-essential travel from third countries deviating from Council Recommendation (EU) 2020/912

Where an EU+ country permits entry for non-essential travel from third countries *additional* to the list of third countries contained in Annex 1 to Council Recommendation (EU) 2020/912, they will be marked in blue and italicised. Third countries listed in the Council Recommendation, for which entry for non-

¹⁹² Para. 3.3.4 of Government Resolution of 26 February 2020, No. 152 on the declaration of a state of emergency. Australia is exempted from the entry ban at the Lithuanian external borders, as it does not meet the epidemiological conditions stipulated in the Regulation (i.e. more than 25 infections per 100 000 inhabitants in the past 14 days).

¹⁹³ Para. 2 of Order No. 8001-A/2020, and Annex 1 thereof.

¹⁹⁴ Art. 1(1)(j) of and Annex to Order INT/657/2020 of 17 July by which the criteria for the application of a temporary restriction of non-essential travel from third countries to the European Union and Schengen associated countries are modified for reasons of public order and public health with reason for the health crisis caused by COVID-19.

¹⁹⁵ Pursuant to clause 12² of Government Order No. 169 of 16 May 2020, RT III, 17.05.2020, 2, as most recently amended. See <https://vm.ee/en/information-countries-and-self-isolation-requirements-passengers>.

¹⁹⁶ Pursuant to clause 1 of Government Order No. 282 of 19 August 2020. See also <https://vm.ee/en/information-countries-and-self-isolation-requirements-passengers>.

¹⁹⁷ See Regulation No. 781/2020 on amendments to the Regulation on cross-border movement, no. 866/2017. The list of third countries from which non-essential travel is permitted is contained in the Annex to the Regulation No. 781/2020.

¹⁹⁸ See <https://www.landlaeknir.is/um-empaettid/qreinar/qrein/item39194/Skilgreind-ahaettusvaedi---Defined-high-risk-areas>.

¹⁹⁹ See Article 4 of Regulation No. 800/2020 on quarantine, isolation and testing at the Icelandic border due to COVID-19.

²⁰⁰ See Annex 20 to Decree of the President of the Council of Ministers of 7 August 2020 further implementing provisions of the decree-law of 25 March 2020, n. 19, containing urgent measures to deal with the epidemiological emergency from COVID-19, and the decree-law of 16 May 2020, n. 33, containing further urgent measures to deal with the epidemiological emergency from COVID-19. See also <http://www.salute.gov.it/portale/nuovocoronavirus/dettaglioContenutiNuovoCoronavirus.jsp?lingua=english&id=5412&area=nuovoCoronavirus&menu=vuoto>.

²⁰¹ Pursuant to Art. 6(1)(b) of the Decree of the President of the Council of Ministers of 7 August 2020.

²⁰² Para. 36 of Regulations of the Cabinet of Ministers No. 360 of 9 June 2020 on Epidemiological Safety Measures for the Containment of the Spread of COVID-19 Infection, as most recently amended. See also https://www.spkc.gov.lv/lv/valstu-saslimstibas-raditaji-ar-cov-id-19-0/21.08.2020-valstu-saraksts-en_0.pdf.

²⁰³ See *ibid*, and <https://www.spkc.gov.lv/lv/if-returning-toentering-latvia>.

²⁰⁴ Pursuant to paragraph 38.1 of Regulation No. 360 of the Cabinet of Ministers of 9 June 2020, as most recently amended.

essential travel is not permitted by an EU+ country, will be expressly stated. Entry for non-essential travel for Chinese residents will be noted where this is expressly permitted in the relevant national regulatory framework.

Bulgaria (as a non-Schengen country) has reopened its external borders with Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay. It has further permitted the entry into Bulgaria of residents (and nationals) of *Albania, Bosnia and Herzegovina, Israel, Kuwait, Moldova, Montenegro, North Macedonia, Serbia, UAE and Ukraine*.²⁰⁵ However, entry into Bulgaria from Algeria, Bosnia and Herzegovina, Israel, Kuwait, Moldova, Montenegro, North Macedonia and Serbia is contingent on the provision of proof of a negative COVID-19 test.²⁰⁶

Cyprus (as a non-Schengen country) has reopened its external borders to non-essential travel by residents of Canada, Georgia, New Zealand, South Korea and Thailand (without COVID-19 related restrictive measures), as well as residents of China, Japan, Rwanda and Uruguay upon proof of a negative COVID-19 test.²⁰⁷ Australian and Tunisian residents are therefore not permitted to enter Cyprus for non-essential travel. The **Czech Republic** permits non-essential travel of residents of Australia, Canada, Japan, New Zealand, South Korea, Thailand and Tunisia.²⁰⁸ It therefore deviates from Council Recommendation (EU) 2020/912 (as amended), since non-essential travel to Croatia from Georgia, Rwanda and Uruguay are not permitted.

Denmark defines a list of 'open countries', from which entry into Denmark is without COVID-19-related entry restrictions. Third countries to which entry into Denmark has thus been opened are Australia, Canada, Georgia, Japan, New Zealand, South Korea, Thailand, Tunisia and Uruguay.²⁰⁹ Rwanda, as a third country in the list of Council Recommendation (EU) 2020/912, is therefore excluded for non-essential travel. Non-essential travel to **Finland** for residents of Georgia, New Zealand, Rwanda, South Korea, Thailand, Tunisia, and Uruguay are permitted.²¹⁰ Finland differs from Council Recommendation (EU) 2020/912 by no longer allowing entry for non-essential travel by residents of Australia, Canada and Japan.

Germany permits non-essential travel from the following third countries: Australia, Canada, Georgia, New Zealand, Thailand, Tunisia and Uruguay.²¹¹ Entry for non-essential travel from Japan and South Korea (as well as China) has not yet been permitted,²¹² and Rwanda is not on the list of third countries from which residents may travel to Germany for non-essential reasons. Non-essential travel to **Greece**

²⁰⁵ See item I.2(a) of Order No. RD-01-459 of 11.08.2020 for temporary ban on entry into the territory of the Republic of Bulgaria and determination of the persons who are placed under quarantine upon entering the territory of the country.

²⁰⁶ See item I.6 of Order No. RD-01-459 of 11.08.2020.

²⁰⁷ See https://www.pio.gov.cy/coronavirus/press/24082020_3.pdf (in Greek).

²⁰⁸ See point I.4 of Protective Measure of the Ministry of Health of 24 August 2020, MZDR 20599/2020-25/MIN/KAN; and Notice from the Ministry of Health of 24 August 2020 issuing a list of countries or parts thereof with a low risk of COVID-19 contagion, MZDR 20599/2020-26/MIN/KAN.

²⁰⁹ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/is-my-country-open-or-banned>.

²¹⁰ See Government Decision SM/2020/70 amending and extending the decision on the restriction of traffic at border crossing points. See also Guidelines of the Finnish Border Guard for border traffic during pandemic from 24.8.2020, available at https://www.raja.fi/current_issues/guidelines_for_border_traffic.

²¹¹ See <https://www.bmi.bund.de/SharedDocs/faqs/DE/themen/bevoelkerungsschutz/coronavirus/reisebeschraenkungen-grenzkontrollen/reisebeschraenkungen-grenzkontrollen-liste.html#f13738796>.

²¹² Authorisation for non-essential travel from these third countries is, according to the German government, pending confirmation of reciprocity; see *ibid*.

has been permitted for residents of Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay (as well as the *United Arab Emirates*).²¹³

Hungary has opened its external borders to non-essential travel by residents of Canada, China, Japan, and South Korea, as well as from *Serbia, Russia* and the *US*.²¹⁴ It should be noted that residents from Canada, China, Japan, Serbia, Russia and the US ('yellow countries') intending to enter Hungary for non-essential travel will be required to undergo in-country testing for COVID-19 and, if the result thereof is negative, must undergo a mandatory quarantine for 14 days.²¹⁵ Residents of South Korea are permitted to enter into Hungary without COVID-19-related restrictions.²¹⁶ Residents of other third countries listed in Annex 1 to Council Recommendation (EU) 2020/912, i.e. Australia, Georgia, New Zealand, Rwanda, Thailand, Tunisia and Uruguay, have therefore not been permitted to enter into Hungary (for non-essential travel).

Malta (as a non-Schengen country) allows residents of Australia, Canada, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay to enter Malta for non-essential travel. Furthermore, residents of China, *Indonesia, Jordan, Lebanon, Morocco, Turkey* and the *United Arab Emirates* are similarly entitled to enter Malta for non-essential travel.²¹⁷

Slovakia has opened its external borders to non-essential travel by residents of Australia, China, Japan, New Zealand and South Korea.²¹⁸ It therefore deviates from Council Recommendation (EU) 2020/912, as it has not permitted non-essential travel to Slovakia by residents of Canada, Rwanda, Thailand, Tunisia or Uruguay. **Slovenia** seems to have opened its external borders to residents of *all third countries*. Travellers from a (third) country on the 'red list' are subject to a mandatory 14-day quarantine upon entry into Slovenia (including China). Similarly, a mandatory 14-day quarantine applies to all travellers (not being Slovenian nationals or residents of Slovenia) entering from a third country on the 'yellow list' (including Australia, Canada, Japan, South Korea, Thailand and Tunisia).²¹⁹ Residents and travellers from third countries on the 'green list' (including Georgia, New Zealand, Rwanda and Uruguay) may enter Slovenia (for non-essential travel) without COVID-19 related restrictions.²²⁰

Switzerland (and **Liechtenstein**) have opened their external borders to non-essential travel of persons from the following non-'risk countries': Australia, Canada, Georgia, Japan, *Morocco*, New Zealand, Rwanda, South Korea, Thailand, Tunisia and Uruguay.²²¹

²¹³ Art. 1(3) of Joint Ministerial Decision No. Δ1α/Γ.Π.οικ. 50680 of 11 August 2020, "Enforcement of the ban on entry into the country of third-country nationals other than the countries of the European Union and the Schengen Agreement to limit the spread of COVID-19 coronavirus for the period from 15.8.2020 to 31.8.2020"; see also <https://travel.gov.gr/>.

²¹⁴ See Communication on the National Chief Medical Officer's decision of 20 August 2020 on the classification of countries based on the current COVID-19 infection status.

²¹⁵ Pursuant to § 5(1) to (3) of Government Decree 341/2020 (VII 12), as most recently amended.

²¹⁶ See § 4(1) of Government Decree 341/2020 (VII 12), as most recently amended.

²¹⁷ Art. 2, second proviso, of the Travel Ban (Extension to all Countries) Order, 2020.

²¹⁸ See <https://www.mzv.sk/web/en/covid-19>.

²¹⁹ Art. 9(1) of Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia. See also <https://www.policija.si/eng/newsroom/news-archive/103470-crossing-the-state-border-during-the-coronavirus-epidemic>.

²²⁰ For the full list of 'green countries', see <https://www.nijz.si/en/list-countries-crossing-national-borders-without-restrictions>.

²²¹ Art. 4(1) of and Annex 1 to the Covid-19 Regulations 3.

Table 3: List of third countries from which non-essential travel is permitted (as of 24 August 2020)

		Third countries from which entry for non-essential travel is permitted											
		AU	CA	GE	JP	NZ	RW	KR	TH	TN	UY	CN	Others
EU+ countries which have opened their external borders to non-essential travel from third countries	AT												N/a
	BE												N/a
	BG												UAE, Ukraine Albania, Bosnia and Herzegovina, Israel, Kuwait, Moldova, Montenegro, North Macedonia, and Serbia
	HR												N/a
	CY											R	N/a
	CZ												N/a
	DK												N/a
	EE												N/a
	FI												N/a
	FR												N/a
	DE												N/a
	EL												UAE
	HU											R	United States
	IS												N/a
	IE												All third countries
	IT												N/a
	LV												N/a
	LI												N/a
	LT											R	N/a
	LU											R	N/a
	MT											R	Indonesia, Jordan, Lebanon, Morocco, Turkey, UAE
	NL											R	N/a
	NO												N/a
	PL												N/a
PT												N/a	
RO												N/a	
SK											R	N/a	
SV											R	All third countries	
ES											R	Morocco	
SE												N/a	

5. ASSESSING THE LEGALITY OF BORDER CONTROLS AND TRAVEL BANS IN THE EU

KEY FINDINGS

- The Schengen Borders Code (SBC) provides a *Union-led procedure* whereby Member States are obliged to comply with a set of common criteria and procedures which fall under EU scrutiny. As the length of time of, for example, internal border controls, increases, the *burden of proof* on Member States to re-examine and reassess the necessity and effectiveness of border controls increases *incrementally*. In the context of the COVID-19 pandemic, Member States must in particular increasingly justify their use of border controls over other, less intrusive, measures.
- The SBC does not permit Member States to *interchangeably* use the legal bases under Article 25 (general framework for temporary internal border controls) and 28 SBC (imminent action) in order to unlawfully extend their border controls beyond the time permitted. This is particularly the case for the Member States who still have border controls in place due to COVID-19 since March 2020.
- Intra-EU+ travel bans, particularly those of a quasi-indefinite nature and targeting EU citizens, run counter to the SBC. Moreover, Member States apply entry bans and restrictions to other Member States in a non-coordinated manner, without being fully based on epidemiological criteria, which leads to a patchwork of intra-EU+ mobility restrictions.
- Notwithstanding the call for a coordinated approach by the EU in respect of entry restrictions at the EU's external borders, including Council Recommendation (EU) 2020/912, a number of Member States have adopted measures that do not reflect the 'duty to cooperate'.
- The SBC requires (internal) border controls to be necessary, proportionate, and effective. Scientific research has *not shown* that border controls or restrictions of human mobility are an *effective* means to contain the spread of COVID-19. Moreover, border controls and the mobility restrictions adopted by Member States pose challenges of proportionality, particularly in respect of EU fundamental rights, such as the freedom of movement of EU citizens, non-discrimination on the basis of nationality, and the disproportionate impact on specific groups of persons.
- An increasing securitisation and policing approach towards border controls has also permeated the approach of Member States towards tackling the COVID-19 pandemic. This raises concerns, such as placing police authorities in charge of addressing a (public) health crisis, as well as the risk of profiling practices guiding checks conducted by police authorities.

This section carries out a legality test of the reintroduction of internal border controls, intra-EU travel bans and travel restrictions, and the EU travel ban as applied to international mobility from non-Schengen countries in the light of EU law. It starts by setting out the applicable EU legal criteria or benchmarks that Member States must uphold when applying border controls and interfering with EU free movement liberties (Section 5.1). It then moves into a detailed examination of the procedural criteria in Section 5.2 and those of a substantive nature in Section 5.3, paying particular attention to the proportionality of these measures, both in terms of their effectiveness and impacts on the fundamental rights of individuals.

5.1. Applicable EU legal criteria: the Schengen Borders Code and EU free movement law

The Schengen Borders Code (SBC) allows EU Member States to temporarily reintroduce internal border controls, and exceptionally derogate from intra-EU free mobility, in Articles 25 to 35. The choice of a Schengen country as to the legal basis to invoke determines, however, the conditions to be met and

the procedure to be followed under the SBC. The SBC provides a *Union-led procedure* whereby Member States are obliged to comply with a set of common criteria and procedures which fall under EU scrutiny. This procedure ensures the necessary checks and balances to avoid arbitrariness by states in derogating key EU freedoms and to facilitate coordination. By doing so, the SBC places legal and democratic accountability as a *trust-enhancing factor* in the legitimization of border policies in the EU. This also includes situations where border controls are introduced on grounds of national security and public order or security, as well as at times of declared emergencies and ‘crises’.

A key characteristic of the SBC Union-led procedure is that Member States hold the burden of proof to substantiate and justify the necessity and proportionality of any border and travel restrictions derogating free movement. The weight of the proportionality test is incremental in nature as time passes, that is, from the moment where the border controls/checks are first reintroduced, to any subsequent prolongation. Such an *incremental burden of proof* means that Member States are called on to constantly and rigorously re-examine the necessity and effectiveness of border controls, the existence of any less intrusive means to achieve the same public goal, and that these measures don’t disproportionately interfere or impact EU rights and freedoms.

Article 25 SBC provides the general framework for temporarily reintroducing intra-EU border controls:

Article 25 SBC

General framework for the temporary reintroduction of border control at internal borders

1. Where, in the area without internal border control, there is a serious threat to public policy or internal security in a Member State, that Member State may exceptionally reintroduce border control at all or specific parts of its internal borders for a limited period of up to 30 days or for the foreseeable duration of the serious threat if its duration exceeds 30 days. The scope and duration of the temporary reintroduction of border control at internal borders shall not exceed what is strictly necessary to respond to the serious threat.
2. Border control at internal borders shall only be reintroduced as a last resort, and in accordance with Articles 27, 28 and 29. The criteria referred to, respectively, in Articles 26 and 30 shall be taken into account in each case where a decision on the reintroduction of border control at internal borders is considered pursuant, respectively, to Article 27, 28 or 29.
3. If the serious threat to public policy or internal security in the Member State concerned persists beyond the period provided for in paragraph 1 of this Article, that Member State may prolong border control at its internal borders, taking account of the criteria referred to in Article 26 and in accordance with Article 27, on the same grounds as those referred to in paragraph 1 of this Article and, taking into account any new elements, for renewable periods of up to 30 days.
4. The total period during which border control is reintroduced at internal borders, including any prolongation provided for under paragraph 3 of this Article, shall not exceed six months. Where there are exceptional circumstances as referred to in Article 29, that total period may be extended to a maximum length of two years, in accordance with paragraph 1 of that Article.

Internal border controls must be a last resort, when “immediate or urgent actions are not required” and when “there is a serious threat to public policy or internal security”. Importantly, public health is not expressly included among the grounds for legitimately reintroducing internal border checks in the SBC. Importantly, and in contrast with the reintroduction of internal border checks, which in the past was often invoked by some EU Member States before the COVID-19 pandemic,²²² the provisions of the SBC do not formally envisage any lawful option for EU Member States to apply any form of ‘travel ban’ temporarily prohibiting or banning entry of nationals and residents of another Schengen country.

²²² S. Carrera, E. Guild, M. Merlino and J. Parkin, ‘A Race against Solidarity: The Schengen Regime and the Franco-Italian Affair’, *CEPS Papers in Liberty and Security in Europe*, CEPS, Brussels, April 2011; and E. Guild, E. Brouwer, K. Groenendijk and S. Carrera, ‘What is happening to the Schengen borders?’, *CEPS Paper in Liberty and Security in Europe* No. 86, CEPS, Brussels, December 2015.

Article 25 grants Member States the possibility of reintroducing border checks for foreseeable events of up to 30 days, which can be renewed up to a total period not exceeding six months. In addition, Article 28 SBC offers the possibility of reintroducing internal border checks “where a serious threat to public policy or internal security in a Member State requires immediate action to be taken”. Article 28 provides for a preliminary 10-day derogation, which can be extended for renewable periods of up to 22 days and which must not exceed two months.

The EU set of rules applicable to derogating the internal border checks-free area are of *substantive and procedural nature* and they can be summarised in the following main three points:

First, EU Member States are under the obligation to assess the extent to which border checks remedy or impact the public goal pursued, as well as the impacts of the free movement of persons (Article 26 SBC). Moreover, any reintroduction of internal border controls is without prejudice Member States' obligation to “the rights of refugees and persons requesting international protection, in particular as regards *non-refoulement*” (Article 3.b SBC). When conducting border checks, the SBC obliges member countries to carry them out respecting human dignity and without any discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation (Article 7 SBC).

Second, the SBC envisages a duty of notification to the other EU Member States and the European Commission and shall be at the same time notified to the European Parliament and the Council (Article 27 SBC). This needs to be read in combination with Article 31 SBC, which requires Member States and the Commission to keep “as soon as possible” the European Parliament informed “of any reasons which might trigger the application” of internal border controls. The notification must satisfactorily supply a list of detailed information which in accordance with Article 27 SBC includes the following items:

- “(a) the reasons for the reintroduction, including all relevant data detailing the events that constitute a serious threat to its public policy or internal security;
- “(b) the scope of the proposed reintroduction, specifying at which part or parts of the internal borders border control is to be reintroduced;
- “(c) the names of the authorised crossing-points;
- “(d) the date and duration of the planned reintroduction;
- “(e) where appropriate, the measures to be taken by the other Member States.”

Third, within four weeks of lifting of internal border controls, the Member State(s) concerned are required to present a report to the European Commission, the European Parliament and the Council on “the initial assessment and the respect of the SBC criteria, the operation of the checks, the practical cooperation with neighbouring Member States, the resulting impact on the free movement of persons, the effectiveness of the reintroduction of border control at internal borders, including an ex-post assessment of the proportionality of the reintroduction of border control.” These reports are not, however, freely accessible as they are not available to the public.

It is important to underline that the SBC does not allow EU Member States to use the general framework envisaged in Article 25 and the ‘imminent action’ one foreseen in Article 28 SBC interchangeably, so as to unlawfully prolong the time permitted under each of these respective provisions by jumping from one provision to another. Neither does the Code permit interior ministries to indefinitely extend the time limits foreseen under each of these Articles by reusing or reinvoking them at the point when the deadline expires so that the time starts recounting.

While EU Member States may decide to classify some part of this information, such classification must not preclude making it available to the European Commission and the European Parliament (Article 27.3 SBC). A key issue here relates to the transparency regarding the classification of information or findings which may be wrongly or discretionally qualified as ‘sensitive’. It is not clear the extent to which

the implementation of Article 25 SBC by EU Member States has allowed Parliament to have access to all the relevant information that it needs to carry out effective democratic control of temporary internal border controls and Member States' reassessments and implementation reports.

The SBC grants the Commission the power to issue an 'Opinion' in cases where it has doubts about the necessity and proportionality of the national measures. Up to now, the Commission has not used this power in relation to any of the internal border controls reintroduced on COVID-19 related grounds. Article 27.5 also foresees the possibility of organising 'joint meetings' between the relevant Member States and those affected by these measures, and the European Commission with the aim of organising coordination and "mutual cooperation", and "examining the proportionality of these measures". The Commission has implemented this Article by organising informal coordination meetings with representatives of the interior ministries concerned, several Commission Directorates-General (DGs), and relevant EU bodies such as the European Centre for Disease Prevention and Controls (ECDC) and Frontex. The outputs and results of these meetings, however, are not publicly available either. This informal coordination by the European Commission was later subsumed into the Council's Integrated Political Crisis Response (IPCR) mechanism.²²³

It is worth underlining that even in the absence of any temporary reintroduction of internal border checks, the SBC lays down provisions allowing for the exercise of police controls (checks within the territory) in the form of 'spot identity checks' in border areas and sites. The main requirement for these to be lawful is that they must not have border control as their goal. They must not be equivalent to the exercise of systematic border checks (Article 23 SBC), and "aim, in particular, to combat cross-border crime". The objective pursued is therefore of central importance. The Court of Justice of the EU has made several judgments on this. Its assessments emphasised that the legality of national border/police checks in 'border zones' within the territory – and the more extensive the evidence of a possible equivalent effect – is intimately related to the existence in the Member State at hand of strict, clear and precise rules (legal basis) in national law that lay down clearly the limits, conditions and details for the practical exercise of these border police powers. These include aspects such as the *intensity, frequency, and selectivity* of these checks.²²⁴

In addition to the provisions laid down in the SBC, the substantive criteria related to the impacts on free movement of persons need to be conducted in combination with a legality test in light of the EU free movement rules envisaged in the EU Treaties and secondary legislation. Article 29 of the EU Free Movement Directive²²⁵ foresees the possibility of applying exceptions to free movement rights in cases of "diseases with epidemic potential", Member State-specific notions of public health, and that its consideration as a 'security' issue should be resisted. A central EU benchmark in this respect, which has been confirmed by the case law of the Court of Justice of the European Union in Luxembourg,²²⁶ is the obligation to carry out an *individualised or case-by-case assessment* (see also Art. 8.2 SBC).

²²³ On the IPCR mechanism of the Council in the context of COVID-19, see Council of the EU, "Croatian Presidency activates EU's Integrated Crisis Response in relation to corona virus", 28 January 2020; Council of the EU, "COVID-19 outbreak: the presidency steps up EU response by triggering full activation mode of IPCR", 2 March 2020.

²²⁴ CJEU 21 June 2017, Case C-9/16 *Criminal proceedings against A*, ECLI:EU:C:2017:483, para. 38-41. See also CJEU 19 July 2012, Case C-278/12 PPU *Atiqullah Adil v Minister voor Immigratie, Integratie en Asiel*. The judgment refers to the Court's ruling in CJEU 22 June 2010, Joined Cases C-188/10 and 189/10 *Aziz Melki and Sélim Abdeli*.

²²⁵ 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.

²²⁶ CJEU 29 April 2004, Joined Cases C-482/01 and C-493/01 *Georgios Orfanopoulos and Others v Land Baden-Württemberg and Oliveri v Land Baden-Württemberg*, ECLI:EU:C:2004:262, paras. 95-97.

Furthermore, Article 27.4 of the EU Free Movement Directive prescribes an obligation by EU Member States to allow the re-entry to its territory by its own nationals and their families which have been expelled on grounds of public health “without any formality”. This provision can be therefore read as a prohibition to the Member State of origin not to apply any travel restrictions to returned nationals on grounds of COVID-19. In any case, EU Member States should give priority to ensuring that *everyone* – irrespective of nationality and administrative status – has the right of access to healthcare and medical treatment, as enshrined in Article 35 of the EUCFR.

One of the fundamental principles upon which EU (free movement) law is based is the principle of non-discrimination on the basis of nationality.²²⁷ The Commission has emphasised the principle of non-discrimination on the basis of nationality in respect of restrictions to the right of free movement of workers.²²⁸ The importance of the principle of non-discrimination of EU citizens in the COVID-19 pandemic is further reflected in the Commission’s publications concerning the approach towards the gradual lifting of internal border controls and resuming EU free movement.²²⁹ In its *Guidelines for border management measures to protect health and ensure the availability of goods and essential services*, the European Commission clearly reiterates that Member States may not, in their efforts to contain the spread of COVID-19 through entry restrictions and internal border controls, discriminate between their own nationals and EU citizens (and their families) residing in or transiting through their territory:

“For EU citizens, the safeguards laid down in the Free Movement Directive must be guaranteed. In particular, **non-discrimination** between Member States’ own nationals and resident EU-citizens must be ensured. A Member State 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. 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**.”²³⁰ (Emphasis added).

5.2. Compatibility with EU procedural criteria

5.2.1. Reintroducing internal border checks

At the time of finalising this study, most EU Member States have subsequently lifted internal border controls, considering them unnecessary. As of 24 August, only five Schengen countries continue to apply internal border controls. Out of these five, three (Denmark, France and Norway) conduct internal border checks in place since 2015 in the name of non-COVID-19 grounds, chiefly the ‘European refugee

²²⁷ Cf. Art. 18 TFEU and Art. 24 Free Movement Directive.

²²⁸ See European Commission, Communication from the Commission, “Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak”, 2020/C 102 I/03, C/2020/2051, OJ C 102 I, 30.3.2020, p. 12–14.

²²⁹ Cf. European Commission and Council, Joint European Roadmap towards lifting COVID-19 containment measures”, Brussels, 15.04.2020, p. 12 (“The gradual reopening of borders should give priority to cross-border and seasonal workers and should avoid any discrimination against EU mobile workers.”); European Commission, Communication from the Commission, “Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls”, C(2020) 3250 final, Brussels, 13.05.2020, OJ C 169, 15.5.2020, p. 36 (“[...] any envisaged remaining restrictions should only be based on public health considerations and should be designed in a proportionate and non-discriminatory manner.”); European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Tourism and transport in 2020 and beyond”, COM(2020) 550 final, Brussels, 13.5.2020, p. 3 (“For the gradual removal of restrictions to free movement and lifting of internal borders, proportionality and non-discrimination between EU citizens must be ensured.”).

²³⁰ European Commission, “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, para. 21.

crisis' (and so-called secondary movements), and other broad non-evidence-based grounds such as 'crime' and even 'terrorism'.²³¹

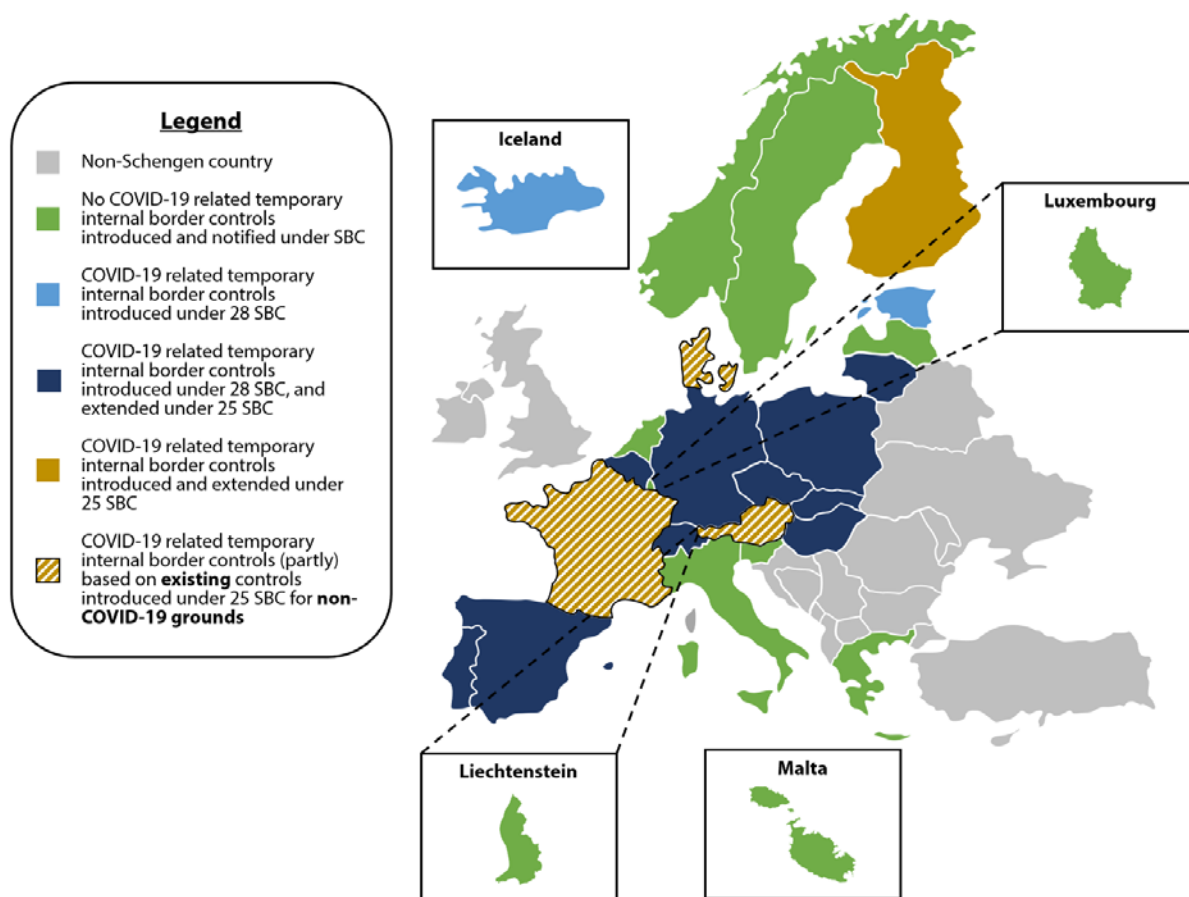
As argued in a previous European Parliament Study²³², the key question that these Member States must answer is "how the reintroduction of border controls between them contributes to the task of dismantling terrorist network(s)". It is largely unclear the positive impact that border controls may have in counter-terrorism terms. Therefore, their proportionality calls for a thorough justification by the relevant Ministries.

Therefore, apart from the specific problematic cases of Austria, Denmark, France, Germany and Norway, which are in clear violation of their obligations under EU law since 2015, it can be concluded that most EU Member States have formally used the procedures and followed the notification requirements stipulated in the SBC as regards border closures adopted in the name of COVID-19. The six Member States that have internal border controls in place for non-COVID-19 reasons (Austria, Denmark, France, Germany, Norway and Sweden) therefore do not fully correspond to the five Member States that still have COVID-19 internal border controls in place (Denmark, Finland, France, Lithuania and Norway). Only three Member States' governments have failed to notify their border-related measures and therefore not complied with their procedural obligations under the Code.

²³¹ For a detailed assessment refer to S. Carrera, M. Stefan, N.C. Luk and L. Vosyliute, 'The Future of the Schengen Area: Latest Developments and Challenges in the Schengen Governance Framework since 2016', Study for the European Parliament (DG IPOL), PE 604.943, European Parliament, Brussels, March 2018.

²³² Guild, E., E. Brouwer, K. Groenendijk and S. Carrera, Internal Border Controls in the Schengen Area: Is Schengen Crisis-Proof?, Study for the European Parliament PE 571.356, European Parliament, Brussels, June 2016, [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571356/IPOL_STU\(2016\)571356_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571356/IPOL_STU(2016)571356_EN.pdf)

Figure 4: Legal basis under Schengen Borders Code for the temporary reintroduction of internal border controls in light of COVID-19 epidemic



Source: Authors' own elaboration

Nevertheless, a number of challenges have characterised the ways in which the reintroduction of internal border checks have taken place since March 2020. These have revealed a continuing '*EU scrutiny and enforcement gap*' as regards the timely and effective compliance of existing EU legal standards by interior ministries. Two challenges in particular can be highlighted as regards their compatibility with EU procedural criteria: the instrumental use of SBC legal bases (Section 5.2.1.1); and an expansionist use of the concepts of public policy and security (Section 5.2.1.2).

5.2.1.1. Instrumental uses of SBC legal bases

Nearly all Schengen countries temporarily reintroducing internal border controls based on the COVID-19 pandemic have invoked Article 28 SBC as the legal basis at the initial stage (see Figure 4). As most of the Schengen countries first reintroduced their internal border controls around mid-March 2020, Article 28 SBC could serve as the legal basis only until mid-May 2020.

However, only Iceland, which introduced its internal border controls on 24 April 2020, stayed within the maximum period of Article 28 SBC, lifting its border controls on 23 June 2020. All other Schengen countries concerned, including Slovakia (which first introduced its internal border controls on 8 April 2020), subsequently relied on Article 25 (in conjunction with Article 27) SBC to maintain internal border controls until mid-September (Finland, Lithuania and Norway), end of October (France) and mid-November (Denmark).

An exception was Finland, which relied exclusively on Articles 25 and 27 SBC as the legal basis for its reintroduction of internal border controls to address the COVID-19 pandemic. Furthermore, Austria, Denmark and France extended their existing internal border controls (not based on COVID-19), introduced pursuant to Articles 25 and 27 SBC, to include COVID-19-related border controls.

In its 2018 Report on the Functioning of the Schengen Area,²³³ in paragraph 9, the European Parliament expressed concerns about and regretted “the practice by Member States of artificially changing the legal basis for reintroduction to extend it beyond the maximum possible period in the same factual circumstances”. A similar malpractice has come about by some of these Member States not issuing separate notifications for different grounds, some of which are not at all related to the COVID-19 pandemic. More recently, the European Parliament expressed in a Resolution of June 2020 on the situation of the Schengen area following the COVID-19 outbreak that overall “Parliament has been uninformed”.²³⁴ The resulting picture shows an instrumental use of different legal bases of the SBC by a few interior ministries – i.e. jumping from one legal base to another – which results in unlawfully extending the originally-envisaged deadlines in the relevant SBC provisions.

None of the EU Member States extending or currently applying internal border controls are therefore in line with the existing SBC rules. This malpractice makes the required temporary nature of border checks quasi-permanent beyond the legally permitted time period in the Code. This reflects and follows a similarly instrumental pattern still carried out by the six Schengen Member States (Austria, Denmark, France, Germany, Norway and Sweden) which have continued to illegally apply non-COVID-19-related internal border checks in some parts of their borders since 2015.

5.2.1.2 An Expansionist use of public policy and internal security

Most of the Schengen countries’ notifications under the SBC refer only in broad general terms to the COVID-19 pandemic as a serious threat to their public policy and internal security (see Box 1). The notifications under the SBC by Belgium, Denmark, France²³⁵ and Iceland do not explicitly (or implicitly) indicate that (or how) the COVID-19 pandemic is considered by the Schengen country concerned as a serious threat to their public policy or internal security.

The basis for the phrasing used is diverse and includes the threat of or a need to reduce the spread of COVID-19,²³⁶ the need to protect citizens’ lives and health,²³⁷ the need to ensure the capacity of healthcare facilities,²³⁸ or a combination thereof. Estonia and Hungary refer to equally dubious grounds, such as “protecting the property of their citizens”,²³⁹ while Finland goes even further by citing “the protection of its economy” as one of the underlying reasons for the temporary reintroduction of

²³³ European Parliament, ‘Report on the annual report on the functioning of the Schengen Area (2017/2256(INI))’, A8-0160/2018, PE 613.539, European Parliament, LIBE Committee, 3.5.2018, para. 9.

²³⁴ European Parliament, Motion for a Resolution on the Situation in the Schengen area following the COVID-19 outbreak (2020/2640(RSP)), B9-1065/2020, European Parliament, 10.6.2020, paragraph 14.

²³⁵ The French notifications refer to the threat of COVID-19 as causing a risk of an increased movement of persons, which in turn is linked to a threat to public order, see e.g. French notification of 31 March 2020 (7138/20 INIT): “To date and despite these emergency measures, the development of the international health situation, in France and in neighbouring countries, indicates that the risks associated with international movements of persons will persist in the months ahead. Consequently, the threat to public order and public health in Europe is very great, and all available means should be used to limit the spread of the virus.”

²³⁶ As in the notifications of Austria, Denmark, Finland, France, Germany, Iceland, Norway, Poland, Portugal, Slovakia, Spain, and Switzerland. See Annex 1.

²³⁷ As in the notifications of Belgium, Estonia, Finland, Hungary, Norway, and Switzerland. See Annex 1.

²³⁸ As in the notifications of Norway and Switzerland. See Annex 1.

²³⁹ Cf. the Estonian notification of 16 March 2020, 6860/20, and the Hungarian notification of 12 March 2020, 6788/20.

internal border controls.²⁴⁰ All these grounds are tainted with a clear public security or policing rationale taking priority over access to health and medical treatment of individuals.

Some Schengen countries have directly cited the epidemiological situation in another Schengen country to support their need to reintroduce internal border controls. Thus, **Switzerland** attributes the need to reintroduce internal border controls at its internal borders with Italy to the fact that “Italy has so far been the most affected Schengen State, with very serious growth rates of COVID-19 disease”.²⁴¹ Similarly, **Austria** notes that “Italy has so far been the most affected country, with very serious growth rates of COVID-19 disease” in its notification on temporarily reintroducing border controls at the Austrian-Italian land border,²⁴² and references the “travel warnings [issued] for France, Spain and Switzerland” in its SBC notification on internal border controls at the Austrian-Swiss border.²⁴³

In a similar manner, Schengen States have also referenced the (improved) epidemiological situation in other Schengen countries as the basis for lifting internal border controls imposed due to COVID-19. This is the case for **Austria**,²⁴⁴ the **Czech Republic**,²⁴⁵ **Germany**,²⁴⁶ **Lithuania**,²⁴⁷ **Poland**²⁴⁸ and **Slovakia**.²⁴⁹

A number of Schengen States explicitly provide that the necessity of temporary internal border controls lies in the effective enforcement of national measures taken to address the spread of COVID-19, rather than in the border controls functioning by themselves as a tool to tackle the spread of COVID-19. **Belgium**, for example, explicitly states that the temporary reintroduction of internal border controls is predicated on the “priority for the Belgian government to enforce the provisions of the ministerial decree of 18 March 2020 that prohibits non-essential movements”.²⁵⁰

Similarly, **Finland** links its reintroduction of border controls at the Finnish internal borders with the package of measures adopted by the Finnish government, including restrictions to non-essential travel.²⁵¹ **Iceland**'s notification under the SBC notes that “[for] Icelandic authorities to be able to enforce the regulation on quarantine for all travellers to Iceland and to combat the further spread of the virus, it is imperative to reintroduce border controls at all internal borders in Iceland (air and sea borders)”.²⁵² **Spain** references the state of alarm and other measures adopted in the light of COVID-19 as “entail[ing] directly or indirectly serious restrictions on mobility within the territory itself, upon entry or exit” and

²⁴⁰ See the Finnish notification of 17 March 2020, 6906/20.

²⁴¹ Swiss notification of 13 March 2020, 6845/20.

²⁴² Austrian notification of 11 March 2020, 6784/1/2020 REV 1.

²⁴³ Austrian notification of 13 March 2020, 6784/20 ADD 1

²⁴⁴ See Austrian notification of 4 June 2020, 8617/20 (“Positive developments can also be observed in our neighbouring countries Germany, Liechtenstein, Switzerland, the Slovak Republic, the Czech Republic, Hungary and Slovenia”).

²⁴⁵ See Czech notification of 5 June 2020, 8633/20 (“Following the positive epidemiological situation in the Czech Republic, Austria and Germany [...]").

²⁴⁶ See German notification of 15 June 2020, 8867/20 (“The decrease in the infection rate has made it possible and reasonable to adjust our approach to checks at the borders with Austria, Switzerland, France, Denmark, Italy and Spain, also owing to the fact that similar steps have, to varying degrees, been taken in these states”).

²⁴⁷ See Lithuanian notification of 28 May 2020, 8469/20 (“After thorough examination of the epidemiological situation based on most recent information and data evidence in the Republic of Lithuania, other Baltic States and across Europe [...]").

²⁴⁸ Polish notification of 12 June 2020, 8822/20 (“Due to the stabilisation of the epidemiological situation on the territory of the Republic of Poland and in the neighbouring states [...]").

²⁴⁹ Slovak notification of 12 June 2020, 8935/20 (“[...] following the positive epidemiological situation in the Slovak republic, Czech Republic, Austria and Hungary [...]").

²⁵⁰ Belgian notification of 20 March 2020, 6942/20.

²⁵¹ Finnish notification of 17 March 2020, 6906/20.

²⁵² Icelandic notification of 21 April 2020, 7505/20.

therefore it being “necessary to enable the possibility of restricting movements of persons who will not be able to continue travel to their programmed destination”.²⁵³

Austria and **France** add the significance of the COVID-19 pandemic to other threats to their public policy or internal security. Austria notes, for example, that the “current measures to combat the COVID 19 crisis (especially border closures) might cause that migrants get stranded in the countries of the Western Balkans” and, once lifted, will lead to “the migration pressure increase[ing]”.²⁵⁴ France directly links the COVID-19 pandemic to potential terrorist threats, noting that the “vulnerability of States whose security forces are heavily involved in combating the spread of the COVID-19 pandemic is conducive to new terrorist plots”.²⁵⁵

The above shows the application of an *instrumental approach* to the COVID-19 pandemic that should have been primarily in the hands of health and fundamental rights professionals, including the assessment of their proportionality. The key assessment role attributed to border and police authorities results in a disproportionate degree of discretion regarding what the legitimate set of grounds are for justifying border controls or equivalent travel restrictions.

However, the notions of public policy and internal security are subject to EU scrutiny and cannot be unilaterally misused by governments or relevant ministries in an attempt to escape their EU legal obligations under the Treaties and EU secondary legislation. The Court of Justice of the EU has confirmed that Member States cannot use the concepts of public policy and internal security based on a “mere suspicion or general prevention purposes”. They must be founded on an individual case-by-case assessment of specific, consistent and objective evidence or facts.²⁵⁶

The above illustrates an expansionist usage of the notions of public policy and internal security beyond what is legally permitted under the provisions laid down in the SBC. As stated above, the relevant articles of the SBC do not expressly foresee ‘public health’²⁵⁷ as a legitimate ground for Member States to reintroduce internal border checks. This was in fact the intention of the EU legislators during the inter-institutional negotiations of the Code. While the European Commission’s legislative proposal had included “a threat to public health” among these grounds, the European Parliament succeeded in deleting it by arguing that in the event of an outbreak the most appropriate and proportionate reaction would not be border controls but rather health-related measures such as quarantines.²⁵⁸

During the COVID-19 pandemic, the Commission actually agreed with this argument in its Communication titled “Guidelines for border management measures to protect health and ensure the availability of goods and essential services”, published on 16 March 2020. The Guidelines expressly stated in point 20 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.” The fact that the Commission has accepted Member States’ misuse of the terms of public policy and internal security as

²⁵³ Spanish notification of 16 March 2020, 6868/20.

²⁵⁴ See Austrian notification of 16 April 2020, 7392/20.

²⁵⁵ French notification of 31.03.2020, 7138/20.

²⁵⁶ Court of Justice of the EU, Joined Cases C715/17, C718/17 and C719/17, *European Commission v. Czech Republic and Hungary*, 2 April 2020, paragraphs 157-161.

²⁵⁷ Art. 2.21 SBC provides the following definition of what constitutes a “threat to public health”: “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”.

²⁵⁸ According to the amendment presented by the European Parliament “It is difficult to imagine that in such a case internal border controls should be reintroduced to undertake health checks of travellers (if “threat to public health” is the justification to reintroduce controls then that makes only sense if the controls focus on detecting such a threat).” Refer to European Parliament, Amendment by Sylvia-Yvonne Kaufmann (MEP), Amendment 171, Schengen Border Code Regulation.

comprising public health considerations may have set a worrying precedent for current and future derogations of the internal border checks-free area.

However, as analysed in Section 5.2.2 below, it is noticeable that the most recent Commission Proposal for Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic COM(2020) 499 of September 2020²⁵⁹ states that "Any restrictions to the free movement of persons within the Union put in place to limit the spread of COVID-19 should be based on specific and limited public interest grounds, namely the protection of public health".

Box 1: Selected (implicit) references to 'serious threat to public policy or internal security' of COVID-19 in Schengen countries' notifications under SBC

Austria: "The Austrian Federal Government has analyzed in detail the developments of the last days in connection with the spread of the new coronavirus COVID-19. The increases in disease and death rates are rising significantly throughout Europe. Among the European countries, Italy has so far been the most affected country, with very serious growth rates of COVID-19 disease. In Austria the number of cases is rising too. These developments give cause for concern.

In this light, it is necessary to take all available measures to contain the further spread of the coronavirus in Austria and to counter a serious threat to public policy or public security as defined in the Schengen Borders Code" (Notification of 11.03.2020, 6784/1/2020 REV 1).

Czech Republic: "In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities" (Notification of 16.03.2020, 6790/1/20 REV 1).

Estonia: "The aim of the implemented measures is to control and prevent the more extensive spread of Coronavirus which poses threat to public health and to ensure public order on the territory of the state" (Notification of 16.03.2020, 6860/20).

France: "Consequently, the threat to public order and public health in Europe is very great, and all available means should be used to limit the spread of the virus."

²⁵⁹ European Commission, Proposal for a Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic, Brussels, 4.9.2020 COM(2020) 499 final 2020/0256. See https://ec.europa.eu/info/sites/info/files/council-proposal-coordinated-approach-restriction-movement_en.pdf

Germany: “The rapid spread of the coronavirus (SARS-CoV-2) in many European countries is alarming. It will lead to *disruptions in all European countries and societies* and demand considerable efforts from all of us over the coming months” (emphasis added) (Notification of 15 March 2020, 6851/20).

Hungary: “[...] the Government of Hungary has declared a state of emergency throughout the territory of Hungary in order to protect the health and lives of the Hungarian citizens and to prevent the consequences of the mass epidemic threatening the life and property security of our citizens” (Notification of 12 March 2020, 6788/20).

Lithuania: “Such a decision was taken in reaction to serious and immediate threat caused by the spread of COVID-19” (Notification of 14 March 2020, 6848/20).

Norway: “The Norwegian authorities now views the continued spread of the covid-19 as constituting a serious threat to public policy and internal security” (Notification of 15 March 2020, 6850/20).

Poland: “Due to the serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order [...]” (Notification of 13 March 2020, 6844/20 INIT).

Portugal: “Due to the increasing number of cases of CODIV 19 [*sic*] infections at national level, with a progressive extension of its geographical expression, the Portuguese authorities [*sic*] considered, for public health reasons, necessary to guarantee the internal security through appropriate measures that contain the possible contagion lines, including the reintroduction of controls at the internal border between Portugal and Spain” (Notification of 17 March 2020, 6896/20).

Slovakia: “The scope and intensity of the controls will be limited to the extent necessary to ensure public order and internal security, with a minimum impact on other public interests, in particular the unhindered movement of goods” (Notification of 7 April 2020, 7312/20).

Spain: “Therefore, it is necessary to enable the possibility of restricting movements of persons who will not be able to continue travel to their programmed destination, either for being incompatible with the measures adopted within the Spanish territory, or because its continuation is not possible in or to other territories, or because of the need to give preference to more urgent movements of people or goods. The purpose is to avoid possible disturbances of public order as a consequence of the interruption of the journey of individuals or groups” (Notification of 16 March 2020, 6868/20).

Switzerland: “Switzerland recognises the need to slow down the further spread of the corona virus by all available means, thus ensuring that the health systems of Switzerland and neighbouring countries do not collapse under the burden. Restriction of the free movement of persons in the Schengen area under these circumstances is an unavoidable and necessary measure to guarantee public order and internal security” (Notification of 16 March 2020, 6845/20 ADD 1).

Source: Notifications of Schengen countries under the Schengen Borders Code (see Annex 1)

5.2.2. Intra-EU travel bans and restrictions

Several EU Member States have applied intra-EU travel bans and travel restrictions whose compatibility with the provisions of the Schengen Borders Code and EU Free Movement Law is at stake. These come along with a highly-evolving and divergent picture of restrictive measures, ranging from a total prohibition of entry for certain persons or EU Member States’ nationals and residents, to cases of ‘*conditioned or qualified entry*’ on the basis of a wide range of diverse policies, such as requiring proof of medical certificate, prior or post negative test, and/or mandatory filling in of (electronic) passenger locator, and mandatory quarantine upon entry.

The EU countries that are ‘banned’ as of August 2020 vary greatly among EU Member States. Only a few EU Member States apply restrictions to certain regions of specific countries. Most EU Member States applying intra-EU travel bans make additional use of a ‘traffic light’ model, labelling EU countries as green, orange or yellow, and red. Others use A/B/C categories or various risk categories (high or low risk). The countries which are most targeted or labelled as high risk or red are Romania, Spain, Bulgaria,

Malta, Belgium, Luxembourg and Sweden, while the EU+ countries that are the least targeted by restrictive intra-EU+ mobility measures are Estonia, Finland, Hungary, Latvia, Lithuania and Slovakia.

The reason most often cited by EU+ countries for adopting restrictive entry conditions are the epidemiological situation in the countries concerned. A prime example of this epidemiological approach is **Denmark**, which adopts the criteria of less than 20 infected persons per 100 000 inhabitants per week in order for a country to be considered 'open', with 'open' countries changing (back) to 'banned' countries if the infection rate rises to 30 infections per 100 000 inhabitants.²⁶⁰ Similarly, entry restrictions based on infection rates per 100 000 inhabitants is employed by **Estonia** (16),²⁶¹ **Finland** (16),²⁶² **Latvia** (16),²⁶³ **Lithuania** (16),²⁶⁴ **Norway** (20)²⁶⁵ and **Romania** (infection rate higher than in Romania).²⁶⁶ **Germany** (50)²⁶⁷ and **Switzerland** (60)²⁶⁸ consider the infection rate in a country as a factor in determining whether entry restrictions should apply to persons travelling from there. **Cyprus** adopts a combination of epidemiological factors, including effective reproduction rate (Rt), COVID-19 infection and mortality rate per 100 000 inhabitants, and a country's laboratory testing capacity in order to determine the classification of countries for the purpose of entry restrictions.²⁶⁹

The framing, understanding and application of these epidemiological criteria reveal an incredibly diverse and incoherent picture as regards the exact grounds, methods and indicators being used to apply mobility restrictions by the authorities of each relevant Member State. All of this challenges the proportionality and non-discriminatory nature of these decisions.

Table 4: Infections per 100 000 inhabitants in the past 14 days in the EU+ (on 24 August 2020)

Member State / Schengen country	Infections per 100 000 inhabitants in the last 14 days
Austria	36.4
Belgium	59.1
Bulgaria	26.2
Croatia	63.1
Cyprus	20.4
Czech Republic	33.5
Denmark	29.0
Estonia	9.1
Finland	5.2
France	67.1
Germany	20.0
Greece	28.4

²⁶⁰ See <https://www.justitsministeriet.dk/nyt-og-presse/pressemeddelelser/2020/danmark-aabner-graense-me-yderligere-og-lemper> (in Danish).

²⁶¹ See <https://vm.ee/en/information-countries-and-self-isolation-requirements-passengers>.

²⁶² See §§ 1², under 7) and 1³ of Government Order No. 172 of 16 May 2020; see also <https://valtioneuvosto.fi/delegate/file/75112>.

²⁶³ See <https://www.spkc.gov.lv/lv/valstu-saslimstibas-raditaji-ar-covid-19-0/valstu-saraksts-eng.pdf>.

²⁶⁴ See <http://koronastop.lv/lt/en/news/restrictions-on-arrivals-from-poland-the-netherlands-iceland-and-cyprus>.

²⁶⁵ See <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/travel-advice-COVID19/>.

²⁶⁶ See Art. 2(2) of Decision No. 36 of 21 July 2020 of the National Committee for Emergency Situations.

²⁶⁷ See https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogebiete_neu.html (in German).

²⁶⁸ See Art. 3 of the *Covid-19-Verordnung Massnahmen im Bereich des internationalen Personenverkehrs*.

²⁶⁹ See https://www.pio.gov.cy/coronavirus/en/press/05082020_1.pdf.

Hungary	4.7
Iceland	29.7
Ireland	25.6
Italy	14.5
Latvia	2.4
Liechtenstein	31.3
Lithuania	13.7
Luxembourg	96.3
Malta	122.4
Netherlands	45.9
Norway	13.7
Poland	26.3
Portugal	28.5
Romania	86.3
Slovakia	13.9
Slovenia	19.3
Spain	152.7
Sweden	36.6
Switzerland ²⁷⁰	38.2

Source: ECDC, "COVID-19 situation update for the EU/EEA and the UK, as of 24 August 2020", 10.08.2020

A closer look at the infection rate in the EU+ countries raises questions about the underlying reasoning behind certain Member States' decisions to implement restrictive entry measures vis-à-vis certain other EU+ countries. It can be seen that decisions are not always based on strictly health-related considerations. For example, Austria imposes entry restrictions in respect of travellers from inter alia Bulgaria (26.2), Portugal (28.5) and Sweden (36.6), but does not restrict entry of persons from EU+ countries with a higher infection rate, such as Belgium (59.1), Luxembourg (96.3) and Malta (122.4). Similarly, Italy imposes restrictions on entry from Bulgaria (26.2) and Romania (86.3) but does not impose any such restrictions on entries from Belgium or Luxembourg.

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. As explained in Section 5.1 above, the possibility of applying travel bans are not expressly foreseen by the SBC and are therefore clearly unlawful under EU law. They constitute an automatic or outright refusal of entry into the country, based on dubious and largely discretionary criteria and sometimes targeting entire populations residing in specific Member States

The very idea of an entry ban runs contrary to the obligation by EU Schengen countries to carry out an individualised assessment of the person involved before a potential refusal of entry is issued. It is also incompatible with European Commission guidelines. These underline that Member States cannot

²⁷⁰ The number of infections per 100 000 inhabitants of Switzerland over the past 14 days is calculated based on the total population of Switzerland at the end of 2019 (8.6039 million), see <https://www.bfs.admin.ch/bfs/en/home/statistics/population/effe ctif-change/population.html> and the number of infections over the past 14 days according to the ECDC ("COVID-19 situation update worldwide, as of August 2020", 10.08.2020).

refuse entry because the person is clearly sick. Rather, they must ensure access to appropriate medical or healthcare.²⁷¹

Furthermore, intra-EU travel restrictions that are not officially presented by EU Member States as qualifying as formal reintroductions of internal border controls, or even as intra-EU travel bans, must be assessed in light of standards developed by the Luxembourg Court. These judge the legality of in-territory police checks in border areas foreseen in Article 23 SBC, and their *equivalent effect* to formal internal border controls. The compulsory and at times systematic application of some of these restrictive surveillance measures suggests that they are being considered as *equivalent* to border controls (See Section 5.3.2 below).

The crucial relevance of this issue is well illustrated by a number of pending preliminary ruling before the Luxembourg Court dealing with EU Passenger Name Record Directive 2016/681.²⁷² Here, the referring courts are asking for a clarification as to whether a surveillance information system based on the generalised collection and processing of data relating to passengers travelling to or from or transiting through their territory can indirectly involve a re-establishment of internal border controls and be incompatible with EU privacy law.²⁷³

On 4 September 2020, the European Commission published a Proposal for a Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic²⁷⁴. The instrument comes in the shapes of a Recommendation, which lacks legally binding nature, and is anchored on Articles 21(2), 46, 52(2), 168(6) and 292 TFEU. The proposal's main goal is to address the *variable geometry* illustrated above and "to ensure increased coordination among Member States considering the adoption of measures restricting free movement on grounds of public health." It seeks to facilitate this through the following three points: first, common criteria and thresholds; second, a mapping of 'the risk of COVID-19 transmission' anchored on a common 'colour code'; and third, a common approach on the travel restrictions to be applied.

The proposal puts particular emphasis on the need for Schengen member countries to focus on the application of restrictions to the extent that they are 'strictly necessary and non-discriminatory', and on regionalisation. In the latter case, restrictions should be limited to persons travelling from specific regions particularly affected by the pandemic, rather than the entire territory of a particular member country. Despite being non-legally binding, and similar to the Council Recommendation covering the EU travel ban examined in Section 5.2.3 below, the proposal makes use of normatively strong language in many of its passages, including the word *should*. It underlines Member States' obligations under EU law and their duty to coordinate efforts in the spirit of loyal cooperation under the EU Treaties. Particular attention is paid to the situation of families by recommending that Member States do not require quarantine measures for

²⁷¹ European Commission, "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, pp. 3-4.

²⁷² Directive 2016/681 of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime, OJ L 119, 4.5.2016, p. 132-149.

²⁷³ See for instance Request for a preliminary ruling from the Cour constitutionnelle (Belgium) lodged on 31 October 2019 in the case *Ligue des droits humains v Conseil des ministres* (Case C-817/19); of the Amtsgericht Köln (Germany) lodged on 20 January 2020 in the joined cases *AC, DF and BD v Deutsche Lufthansa* (Joined Cases C-148/20, C-149/20 and C-150/20) and of the Verwaltungsgericht Wiesbaden (Germany), lodged on 19 May 2020 in the case *JV v Germany* (C-215/20) and on 27 May 2020 in the case *OC v Germany* (C-222/20). See also <https://www.statewatch.org/media/documents/news/2019/nov/belgium-constitutional-court-PNR.pdf>

²⁷⁴ European Commission, Proposal for a Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic, COM(2020) 499 final, Brussels, 4.9.2020.

...travellers with an essential function or need, such as workers or self-employed persons exercising critical occupations, cross-border workers, transport workers or transport service providers, seafarers, and persons travelling for imperative business or family reason, *including members of cross-border families travelling on a regular basis*. (Emphasis added).

The proposal considers as 'non-discriminatory' the possibility of EU Member States applying "more generous rules to travel to and from neighbouring Member States as compared to travel to and from other Member States in the same epidemiological situation". To find common assessment criteria, the Commission proposes the following three grounds: the 14-day cumulative COVID-19 case notification rate; the test positivity rate; and the testing rate.²⁷⁵ The set of proposed criteria diverges from those applicable to the EU travel ban and extra-Schengen travel explained below. For instance, they do not include 'the overall response to COVID-19' by the country or region concerned and are overall less restrictive in nature.

The proposal recommends that Member States use the IPCR²⁷⁶ as *the* main venue for sharing information and communicating national measures. The IPCR is mainly in the hands of the running EU Presidency and the Committee of Permanent Representatives of the Governments of the Member States of the EU (Coreper), which is composed of the EU Permanent Representations and their Ambassadors to the EU.²⁷⁷ This recommendation displaces Member States' interior ministries (or ministries tasked with similar subject matters) from the heart of EU decision-making and brings to the fore national and EU actors with competence on foreign affairs, health and defence (and 'civil protection').

The Commission proposal places the European Centre for Disease Prevention and Control (ECDC) in a critically important knowledge-creation role and at the centre of the newly envisaged assessment model. The ECDC would elaborate regularly updated maps (by regions) indicating the applicable thresholds and colour range, which would then serve as the basis for Member States' decisions according to an agreed timeline.²⁷⁸ These maps are expected to be primarily based on data made available by EU Member States, including at various regional and local levels. This leaves relevant authorities with a lot of room for manoeuvre and discretion and puts a stop to the diversity of methods and the politicisation of the scope and ambition of testing policies.²⁷⁹

The Commission states that "This Recommendation should not be understood as facilitating or encouraging the adoption of restrictions to free movement put in place in response to the pandemic". However, in some cases it recommends measures that, depending on their exact use, may amount to indirect electronic barriers to the free movement inside the Schengen area. Examples of this include: the proposal that Member States use a digital option for passenger information forms; the sharing of information on cases detected on arrival with public health authorities, of for example the country of

²⁷⁵ According to the proposal "restrictions could be applied, if at all, to regions with a 14-day cumulative COVID-19 case notification of 50 or more and a test positivity rate of 3% or more. Restrictions could be applied to regions where the 14-day cumulative COVID-19 case notification rate is more than 150 per 100 000 population even if the test positivity rate is below 3%.", page 5.

²⁷⁶ Refer to <https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:32018D1993&from=EN>. The IPCR also includes representatives from the Standing Committee on operational cooperation on internal security (COSI), the Political and Security Committee (PSC), the Health Security Committee (HSC), the Secretary General of the European Commission, the High Representative of the Union for Foreign Affairs and Security Policy (HR) and the European External Action Service (EEAS).

²⁷⁷ <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/coreper-i/>

²⁷⁸ The Proposal envisages the following timeline: "(a) Each week: the European Centre for Disease Prevention and Control publishes an updated version of the colour-coded map. (b) Thursday: Member States intending to apply restrictions to persons travelling from an area classified as 'red' or 'grey' inform other Member States and the Commission of its intention. (c) Monday: the measures notified by a Member States should enter into force, save for exceptional circumstances.", page 6.

²⁷⁹ See paragraph 9 of the Recommendation.

residence, for 'contact-tracing purposes';²⁸⁰ and the clear preference shown by the Commission for Member States to make people undergo tests for COVID-19 instead of applying quarantine. Neither does the Commission properly consider the agency of individuals over which kinds of measures (and the effects of making them mandatory or voluntary) can be applied, and the serious fundamental rights' implications of these data-based tools in general (See Section 5.3.2).

5.2.3. EU travel ban to non-Schengen countries

The European Commission has argued that it does not have an express legal competence to adopt legislation banning or prohibiting altogether the entry of individuals travelling from non-Schengen countries, irrespective of whether or not they are subject to common EU visa requirements. However, it recommended that the Council adopt the "Temporary Restriction on Non-Essential Travel to the EU".²⁸¹ This was agreed by EU heads of state or government on 17 March 2020.²⁸²

Adopting a non-legally binding Recommendation significantly limits the Commission's powers to make EU Member States implement this travel ban effectively and in a timely way. Furthermore, the original attempt to persuade EU Member States to lift internal border controls and agree on a list of 'maximums' of third countries whose nationals and residents can travel to the Schengen area has had mixed results.

While the Recommendation is not legally binding, the language used carries particular legal weight and could be interpreted as drawing an agreement, and even legal obligations, among states within the Council. Paragraph 7 states that Member States "should not decide" to lift the EU travel ban to countries not included in the common list before this has been coordinated among all EU Member States.

The word 'should' carries significant legal weight when ascertaining whether all EU participating countries policies comply with *the 'duty to cooperate'* envisaged in the Recommendation, such as where the list does not anticipate lifting the travel ban for non-Schengen countries. This duty was deemed to be essential by EU Member States' representatives for dealing with practical situations. For example, a person from a non-listed country could travel to one Schengen country and be able to enter the Schengen area while still being subject to the internal border controls and travel restrictions analysed in this study.

Section 4 shows that this duty has not been complied with in all cases by Schengen governments. The list of countries was initially adopted in Council Recommendation 2020/912 and most recently updated in Council Recommendation 2020/1186, which laid down the temporary restriction on non-essential travel into the EU, and the possible lifting of such restriction. But implementation and compliance by EU Member States varies considerably, with several EU governments implementing the travel ban in incoherent and conflicting ways.

Interestingly, the Recommendation points out that the connecting factor that determines whether the EU travel ban applies to an individual is not nationality but rather 'residence' in the specific third country. The extent to which each Member State defines or understands the concept of residence can be expected to lead to wide discrepancies and practical open questions as to what qualifies or not

²⁸⁰ Refer to paragraphs 22 and 26 of the Proposal.

²⁸¹ European Commission, 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.

²⁸² 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

precisely as ‘residence’ and the kinds of documents deemed to prove it. This differs from the criteria currently applicable in EU visa policy, which among others are primarily based on the nationality, and not the residence, of the applicant at hand. The European Commission has clearly stated in its Guidance for a Phased and Coordinated Resumption of Visa Operations of 11 June 2020²⁸³ that “while an assessment of threats to public health is an element of the visa procedure, visa policy is not primarily a health policy tool”. Therefore, the Commission’s view is that health checks should not be required by Schengen states at the time of the visa application. The same Commission guidance adds that

“[...] once non-essential travel becomes possible from a certain third country, attempts at defining additional categories as ‘priority travellers’ seem unnecessary and counterproductive. Further differentiation among travel purposes could be seen as **disproportionate and discriminatory**, since it cannot be linked to a threat to public health at the visa application stage.” (Emphasis added).

It is worth recalling that, during Member States’ negotiations behind closed doors in the European Council, the grounds for including or excluding non-Schengen countries from the list was controversial. The above-mentioned Council Recommendation refers to the epidemiological situation in the third countries concerned as the key criterion for lifting the EU travel ban, mainly “close to or below the EU average, as it stands on 15 June 2020, of new COVID-19 cases over the last 14 days and per 100 000 inhabitants”. Yet it has been reported that other non-health and evidence-based considerations played a crucial role in the final list of agreed countries.²⁸⁴

Reciprocity (which is expressly mentioned in relation to China and envisaged in paragraph 6 of the Recommendation) is one such consideration.²⁸⁵ The practical application of the concept of reciprocity in the Recommendation is not entirely clear, in particular the extent to which it includes reciprocity of no-travel restrictions to the entire group of Schengen members. Media reports have also referred to the key role played by Member States’ bilateral foreign relations, as well as national and financial interests, including tourism. Notably, a strict application of the stated epidemiological situation should have meant the inclusion of other non-EU countries that did not make it to the finally agreed list, for example Venezuela, Cuba or Angola.

Furthermore, one of the criteria listed in the Council Recommendation is so open that it allows a lot of room for manoeuvre by the Member States and the European Council, including the use that they make of various sources of information. In particular, the criterion related to “the overall response to COVID-19” includes aspects as broad as the country’s capacities on “testing, surveillance, contact tracing, containment, treatment and reporting as well as the reliability of available information and data sources and, if needed, the total average score across all dimensions for International Health Regulations (IHR)”. It is doubtful that all EU Member States would satisfactorily pass that same capacity test.

Figure 5 maps the EU travel ban as of end of August 2020. It shows the EU+ countries that have exempted the third country concerned from the restriction on entry for non-essential travel (see

²⁸³ European Commission, Communication from the Commission, ‘Guidance for a phased and coordinated resumption of visa operations’, C(2020) 3999 final, Brussels, 11.6.2020.

²⁸⁴ Refer to ‘EU’s travel safe list emerges from battle for national interests’, *Politico.eu*, 30 June 2020. See also ‘La UE acuerda abrir las fronteras a 15 países y mantiene el veto a EE UU, Brasil, Rusia o México’, *El País*, 29 June 2020 (in Spanish).

²⁸⁵ Paragraph 6 of the Recommendation states that “In order to lift the temporary restriction on non-essential travel into the EU with regard to the third countries listed in Annex I, reciprocity should also be taken into account regularly and on a case-by-case basis.”

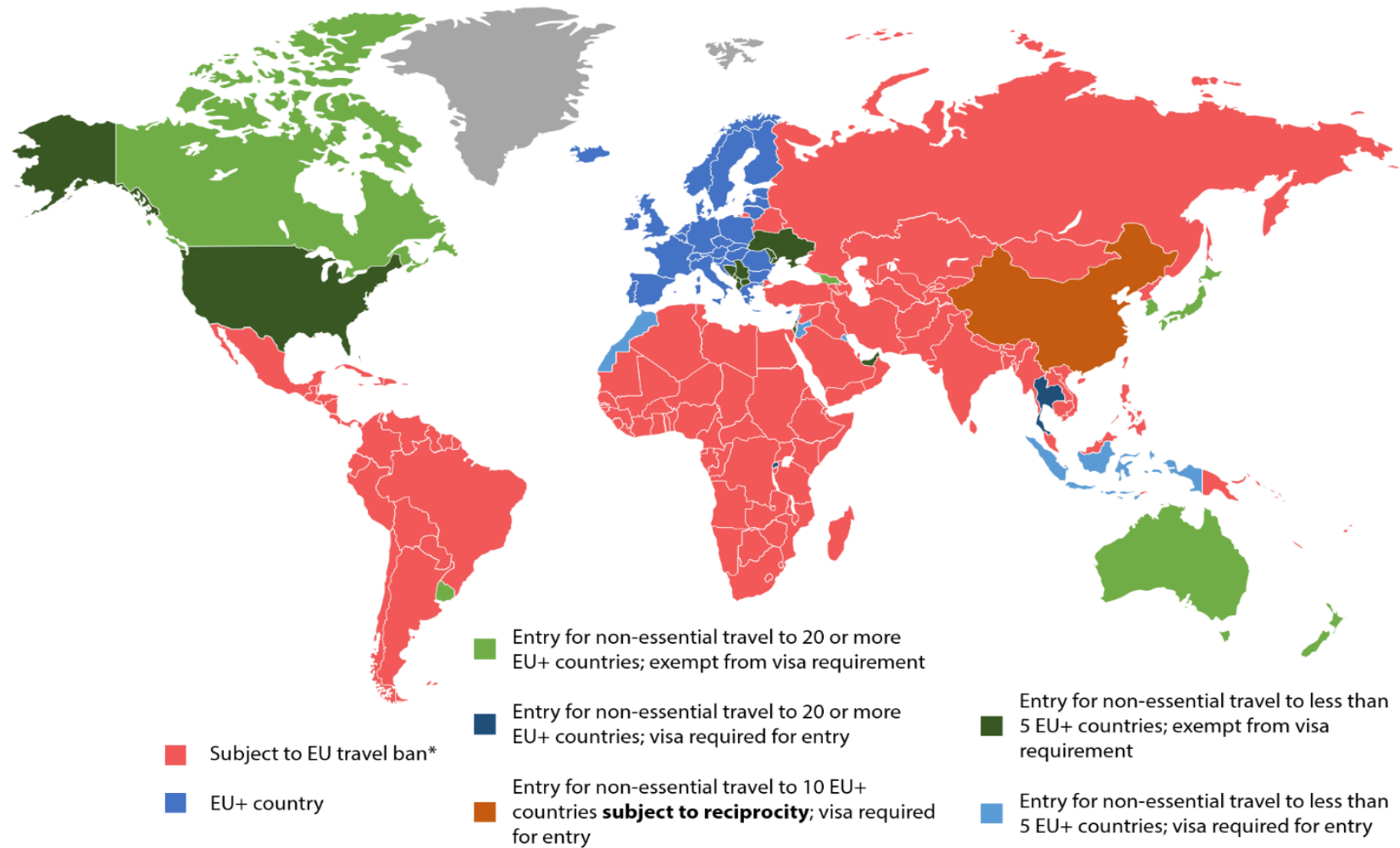
Section 4.2), in light of visa requirements for entry of third country nationals as set out in the EU Visa Code²⁸⁶ and Regulation (EU) 2018/1806.²⁸⁷

Figure 5 has four caveats. First, the map does not represent Ireland's situation, as it does not participate in Regulation (EU) 2018/1806 nor implement the EU travel ban. Second, with the exception of third countries listed in Annex 1 to Council Recommendation (EU) 2020/912, the map does not reflect the Slovenia's position on restriction of entry from third countries for non-essential travel (as Slovenia has, from the information available, opened its external borders to all third countries). Third, the map conflates, for the sake of simplicity, the subjects of the EU travel ban (*residents* of third countries) with the subjects of Regulation (EU) 2018/1806 and the EU Visa Code (*nationals* of third countries). Fourth, the map does not reflect the situation for territories that belong to an EU Member State, but that are not part of the Schengen area (notably Greenland).

²⁸⁶ 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), OJ L 243, 15.9.2009, p. 1–58.

²⁸⁷ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 303, 28.11.2018, p. 39–58.

Figure 5: Third countries exempted from the EU travel ban in light of visa requirement (updated to 24 August 2020)²⁸⁸



Source: Authors' own elaboration

²⁸⁸ This map draws inspiration from the one included in Bigo, D., and E. Guild, *La mise à l'écart des étrangers: Les effets du Visa Schengen*, Volume 1, Cultures et Conflits series No. 49, L'Harmattan editions, Paris, March 2003.

5.3. Compatibility with EU substantive criteria: testing proportionality

5.3.1. Effectiveness

Are internal border controls an effective policy response to COVID-19? Is there a public health policy argument based on evidence? Considerations about the proportionality of internal border controls to address the COVID-19 pandemic is found in only a limited number of SBC notifications. Some Schengen countries have noted in rather general and elusive terms either that the measures are proportionate, or have expressed their intention to impose internal border controls *only to the extent* that they are necessary and proportionate.²⁸⁹ It is interesting that a number of these countries guarantee that the cross-border movement of goods would not be (substantially) affected by the temporary internal border controls.²⁹⁰

Some Schengen countries have not, or barely, expanded on the necessity of temporarily reintroducing internal border controls in their notifications. This is best evidenced by the **Czech Republic's** notification on the reason for reintroducing internal border controls. This merely states that "[i]n connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified".²⁹¹

Similarly, the notifications by **Lithuania** under the SBC give as the reason for the temporary reintroduction of internal border controls simply that the "decision was taken in reaction to the serious and immediate threat caused by the spread of COVID-19".²⁹² **Poland** provides that its reintroduction of internal border controls is due to "the serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order" and is necessary in order "to counter the spread of the coronavirus and hence the entry into Poland of persons who may pose a serious threat to public health".²⁹³

On the information required under Article 27(1) SBC, it can be noted that only some Schengen countries refer to the existence of national (and/or European) epidemiological data upon which their decision to temporarily reintroduce or prolong internal border controls was based. This is the case for Austria, Belgium, Estonia, Germany, Iceland, Lithuania, Norway, Portugal, and Switzerland.²⁹⁴ Only Lithuania,²⁹⁵ Norway²⁹⁶ and Portugal²⁹⁷ explicitly recognise the exceptional nature of reintroduced internal border controls, and that they should be a measure of last resort, in the SBC notification.

While border closures and travel bans have carried important symbolic weight, scientific research has reached no consensus about the effectiveness of human mobility restrictions in delaying or preventing the spread of a virus and the total number of people falling sick. This is particularly so in a context where these travel restrictions are introduced after an outbreak has already taken place, which was exactly

²⁸⁹ See e.g. the notifications of Austria (27 May 2020, 8398/20), Belgium (30 March 2020, 6942/20), the Czech Republic (12 March 2020, 6790/20), Estonia (16 March 2020, 6860/20), Hungary (12 March 2020, 6788/20), Lithuania (14 March 2020, 6848/20), Poland (13 March 2020, 6844/20 INIT), Portugal (17 March 2020, 6896/20), and Slovakia (7 April 2020, 7312/20).

²⁹⁰ See e.g. notifications of Belgium, the Czech Republic, Germany, and Norway.

²⁹¹ Cf. the Czech notification of 1 April 2020, 7185/20.

²⁹² Cf. the Lithuanian notification of 14 March 2020, 6848/20.

²⁹³ Cf. the Polish notification of 13 March 2020, 6844/20 INIT.

²⁹⁴ See Annex 1.

²⁹⁵ See Lithuanian notifications of 24 April 2020, 7572/20, and of 6 May 2020, 7784/20.

²⁹⁶ See Norwegian notifications of 15 March 2020, 6850/20; and of 25 March 2020, 7013/20.

²⁹⁷ See, among others, the Portuguese notification of 17 March 2020, 6896/20.

the situation in most of the relevant EU Member States.²⁹⁸ In fact, the opposite seems to be true, with these kinds of restrictions found to only modestly affect the epidemic trajectory of the virus.²⁹⁹ None of the relevant ministries of interior provided any meaningful explanation of why they considered COVID-19 something ‘foreign’ from abroad, when the virus was already present and spreading across their own territories and populations.

Furthermore, the effectiveness of the increasing application of criminalisation, including the use of both administrative and criminal law sanctions, calls for a similar evidence-based assessment when it comes to ensuring compliance. But this has been equally absent from Member States’ notifications. In fact, evidence regarding COVID-19-related sanctions has revealed that these regulations have been enforced in a largely discretionary way. This has limited the possibilities for individuals to appeal penalties and seek effective remedies before independent judicial authorities. The enforcement of COVID-19 measures has also targeted disadvantaged or structurally vulnerable communities on the basis of wealth/social status and ethnic or racial origin (See Section 5.3.2 on racial profiling and stigmatisation).³⁰⁰

Moreover, the exact ways in which Member States have the capacity to effectively and consistently implement all these border controls and travel restrictions on the ground are uncertain, or even if they have any capacity at all. It has been reported that in some cases the envisaged measures have remained by and large ‘theoretical’.³⁰¹ This illustrates what Bigo (2005) has called “the myth of mastering the frontiers” where “nobody is really in control”.³⁰² The commonly held assumption that reintroduced internal border controls and travel restrictions are enforced in practice, and their actual effects on people’s lives, needs to be unpacked, examined and reinterrogated with qualitative social sciences research and independent monitoring. That the mastery of border management is a myth was also evident in an interview with an EU official for the purposes of this study. This official stated that “Member States cannot have thousands of police enforcing all these measures”, and questioned the extent to which all relevant national authorities are systematically enforcing them in practice.

This again raises the question as to whether the different national security professionals and administrations have the actual ability to put all the border and travel-related measures introduced in the name of COVID-19 into effect, including those related to the use of information systems and databases. It remains to be proved whether a consistent and non-discriminatory application of all these travel restrictions, border controls, surveillance measures and databases by national authorities across all their land, sea, and air borders, including those applicable across EU airports is actually feasible.

Health ministries have reiterated that, despite their exorbitant costs, technologies of identification have limited effect in detecting early or asymptomatic cases of viruses such as COVID-19.³⁰³ Moreover, it is clear that these restrictive tools divert essential financial resources from other crucial health policy

²⁹⁸ See for instance T.C. Germann, Germann, T.C., K. Kadau, I.M. Longini, Jr. and C.A. Macken, ‘Mitigation strategies for pandemic influenza in the United States’, *Proceedings of the National Academy of Sciences of the USA*, Vol. 103, No. 15, April 2016, pp. 5935-5940; 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’, *Bulletin of the World Health Organization*, Vol. 92, No. 12, December 2014, pp. 868-880.

²⁹⁹ M. Chinazzi et al., ‘The effect of travel restrictions on the spread of the 2019 novel coronavirus (COVID-19) outbreak’, *Science*, Vol. 368, No. 6489, April 2020, pp. 395-400. See also M.U.G. Kraemer et al., ‘The effect of human mobility and control measures on the COVID-19 epidemic in China’, *Science*, Vol. 368, No. 6490, May 2020, pp. 493-497.

³⁰⁰ FRA, ‘Coronavirus pandemic in the EU - Fundamental Rights Implications’, FRA Bulletin #4, European Union Agency for Fundamental Rights, Vienna, 29 July 2020.

³⁰¹ See for instance ‘Les touristes de retour de zone rouge échappent aux contrôles en Flandre’, *La Libre Belgique*, 26 August 2020 (in French).

³⁰² D. Bigo, ‘Frontier Controls in the European Union: Who is in Control?’, in D. Bigo and E. Guild (eds), *Controlling Frontiers: Free Movement into and within Europe*, Ashgate, Aldershot, 2005, pp. 49-99.

³⁰³ J. Welshman and A. Bashford, ‘Tuberculosis, migration and medical examination: lessons from history’, *Journal of Epidemiology & Community Health*, Vol. 60, No. 4, April 2006, pp. 282-284.

needs and hospital infrastructures. A closely related question, therefore, is *who is to cover the financial costs* of developing and implementing the plethora of travel advice and restrictive instruments which prove to be not only unrealistic but also by and large unfeasible in practice?

All the above shows that all relevant Member States authorities have failed to provide robust, independent information and scientific evidence demonstrating the effectiveness and necessity of internal border checks and intra and extra-EU travel bans and restrictions at times of containing and preventing the spread of COVID-19. All relevant EU Member States have therefore failed to meet their *incremental 'burden of proof'*. They have failed to justify or constantly and regularly reassess the proportionality of these measures as time passes, to take less restrictive means into account (so as to comply with the 'last resort' requirement under the SBC), and to review their impacts on the EU rights of European citizens and their families, third country nationals and refugees. Section 5.3.2 analyses these rights.

5.3.2. Fundamental rights

The proportionality test entails not only an examination of the extent to which any policy measures are effective in pursuing a particular goal. It also assesses the impacts of the restrictions and the extent to which they interfere with fundamental rights. This includes, for the purposes of this study, the impacts of COVID-19-related border controls and travel restrictions on free movement, non-discrimination and privacy, and more generally healthcare, as laid down in the EUCFR.

5.3.2.1. Free movement

When it comes to freedom of movement, as enshrined in Art. 45 EUCFR and Arts. 20 and 21 TFEU, only a handful of the Schengen countries concerned explicitly considered or provided any assessment of the actual impacts of the temporary internal border controls on the free movement of citizens and their families. **Germany** notes, for instance, that "[despite] the great importance of border-free travel within the Schengen area [...] the temporary reintroduction of internal border controls is necessary, as an additional measure to stem and slow the spread of the virus",³⁰⁴ and that "[internal] border control naturally implies restrictions in cross-border traffic [...]. However, restrictions are necessary to break the chains of infection and to effectively contain the rapid spread of the coronavirus SARS-CoV-2".³⁰⁵

In its notifications under the SBC, **Norway** states that "[in] order to combat the spread of COVID-19 it is unavoidable that the free movement of persons and the internal market will be temporarily negatively affected".³⁰⁶ **Spain** similarly remarks that the measures taken by the Spanish authorities and other European countries in the fight against COVID-19 "entail directly or indirectly serious restrictions on mobility within the territory itself, upon entry or exit" and that "it is necessary to enable the possibility of restricting movement of persons".³⁰⁷ **Switzerland** initially noted that the Swiss internal border control measures aim to address the COVID-19 pandemic in a manner which "[minimises] the impact of the measures on the free movement of persons",³⁰⁸ but subsequently acknowledged that, in light of the COVID-19 situation towards the latter half of March 2020, "[restriction] of the free movement of persons in the Schengen area [...] is an unavoidable and necessary measure to guarantee public order and internal security".³⁰⁹

³⁰⁴ German notification of 15 March 2020, 6851/20.

³⁰⁵ German notification of 14 April 2020, 7340/20.

³⁰⁶ See Norwegian notification of 15 March 2020, 6850/20.

³⁰⁷ Spanish notification of 16 March 2020, 6868/20.

³⁰⁸ See Swiss notification of 13 March 2020, 6845/20.

³⁰⁹ Swiss notification of 16 March 2020, 6845/20 ADD 1.

5.3.2.2. Discrimination

Non-discrimination in the scope of internal border controls constitutes a central challenge in the COVID-19 intra-EU mobility measures covered in this study. Article 18 TFEU stipulates that any discrimination on grounds of nationality – among EU citizens and their families – shall be prohibited. This provision goes hand in hand with Article 21 EUCFR, which enshrines the prohibition of any discrimination on grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, age, sexual orientation, disability, and so on. When comparing COVID-19-related restrictions applicable to nationals, to those applied to residents, EU citizens and their families, and third-country nationals benefiting from EU rights, it can be seen that some Member States have not complied with the obligation to unequivocally safeguard the principle of non-discrimination.

Cyprus is one example of a Member State that does not apply entry restrictions equally to all EU citizens. To enter Cyprus from an (EU+) country categorised as a ‘category B’ country, the requirements differ between Cypriot nationals/residents – who may choose between providing prior proof of negative COVID-19 testing or undertaking in-country COVID-19 testing – and other persons (including other EU citizens) – who are only given the option of in-country testing if their country of departure does not provide COVID-19 testing services.³¹⁰ Moreover, Cyprus restricts entry from ‘category C’ countries (which includes, as of 24 August, Bulgaria, Luxembourg, Portugal, Romania and Sweden) to *only* Cypriot (resident) nationals and Cypriot residents.³¹¹

Hungary similarly applies different restrictive entry measures to its own nationals and residents compared with other persons (such as EU citizens). Hungarian nationals (and residents) are entitled to enter Hungary from ‘green’ countries without restrictions, whereas EU citizens would be required to stay at his or her place of accommodation for the first 14 days.³¹² While all persons coming into Hungary from a ‘yellow’ (EU+) country are required to submit to a COVID-19 test, the consequences of a positive test result differs between Hungarian nationals/residents and, for example, other EU citizens. The former will be placed in quarantine (of indeterminate duration), while the latter will not be permitted to enter into Hungary.³¹³ **Lithuania** also applies different (COVID-19) entry conditions to its own nationals than to other EU citizens. Lithuanian nationals (and residents) coming from a country ‘affected by COVID-19’ must either present a medical certificate proving a negative test result for COVID-19 or conduct an in-country COVID-19 test within 24 hours of entry.³¹⁴ On the other hand, non-Lithuanian nationals/residents arriving from a country ‘affected by COVID-19’ do not have the option for in-country COVID-19 testing.³¹⁵

The *discrimination by design* inherent in intra-EU travel bans has been a key challenge. Bans that apply to nationals and/or residents of targeted EU countries do not allow for an individualised assessment of the health status of each individual with EU mobility rights. A number of EU Member States have adopted (and maintain) entry restrictions that differentiate between their own nationals (and

³¹⁰ Cf. Regulation 2.7, under (c) and (d), of Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No.30) of 2020.

³¹¹ Regulation 2.8, under (a) and (d), of Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No.30) of 2020.

³¹² Cf. §3(1) and §4 Government Decree 341/2020 (VII 12).

³¹³ See §3(2) and §5(2) Government Decree 341/2020 (VII 12).

³¹⁴ Item 2.5 of Order of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended.

³¹⁵ Item 2.4 of Order of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended.

residents) and other EU citizens. For example, **Denmark** restricts entry from 'banned' (EU+) countries to persons who have a 'worthy purpose' for entering Denmark.³¹⁶ However, this does not apply to Danish nationals (including non-resident Danish nationals).³¹⁷

The application of restrictive COVID-19-related entry measures to third country nationals with residence rights under EU law or national migration laws can also be questioned in light of the principle of non-discrimination and applicable intra-EU mobility rights. While all EU+ countries apply the same COVID-19 restrictive measures to their own (non-national) residents as to their own nationals, the same cannot be said, for example, for third-country nationals with a residence title valid in another EU+ country.

As well as treating their own citizens differently from EU citizens in relation to COVID-19-related intra-EU entry bans, **Cyprus, Denmark, Hungary, and Lithuania** also discriminate against third-country nationals with a residence title under EU law in (another) EU Member State. Differential treatment in respect of other forms of travel restrictions, such as quarantine, can also be observed in other countries. In **Austria**, for example, third-country nationals not residing in Austria or an EU+ country listed in Annex 1 need prior proof of negative COVID-19 test before entry *and* are required to enter into mandatory quarantine after before entry, but separate rules are applicable to Austrian nationals, EU+ citizens and Austrian residents.

Less obvious, but no less serious and deeply concerning, is the potential for the restrictive entry measures and travel restrictions in place in the EU and Schengen countries to disproportionately affect certain groups under prohibited grounds of discrimination. The European Commission has often recommended that Member States use non-systematic 'police checks' instead of reintroducing internal border controls. The Commission Communication of May 2020 titled "Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls — COVID-19" stated that "If it is not yet decided to lift internal border controls in full, there are also steps that could be taken to start the process of removing restrictions, such as replacing systematic border controls by border controls based on risk assessment or by local police measures."³¹⁸

However, such a recommendation carries profound risks, as it is encouraging Member States to engage in the proliferation of risk-based policing and arbitrary practices. This poses serious challenges to the compliance of national measures with current SBC standards as well as EU rule of law and fundamental principles.

Academic research has shown that police checks carried out in border zones, and falling within the scope of Article 23 SBC, allow too wide a margin for discretion or appreciation by national border police authorities. Racial profiling and selective discriminatory policing practices often happen where there is a low or non-existent degree of legal and judicial control and democratic accountability. EU Member States implement these kinds of intra-Schengen border checks in a variety of ways.

As Van der Woude (2020) has concluded, "it is basically unclear what is happening at Europe's intra-Schengen borders, and why, when and against whom border controls are exercised".³¹⁹ Research,

³¹⁶ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-banned-countries>.

³¹⁷ <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-denmark-and-or-of-danish-nationality>.

³¹⁸ Refer to [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0515\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0515(05)&from=EN)

³¹⁹ M. van der Woude, "Border policing in Europe and beyond: legal and international issues", in M. den Boer (ed.), *Comparative Policing from a Legal Perspective*, Research Handbooks in Comparative Law, Cheltenham: Edward Elgar Publishing, 2018, pp. 264-265; M. van der Woude, "A Patchwork of Intra-Schengen Policing: Border Games over National Identity and National Sovereignty", *Theoretical Criminology*, Vol. 24, No. 1, 2020, p. 121-122.

human rights monitoring bodies,³²⁰ and recent practical cases³²¹ have proved that in some Member States the discretionary nature of internal police border checks controversially allows for racial profiling and police arbitrariness.³²² According to Dekkers (2019), “stereotypes of race and nationality come to play an important role in selection processes” by in-territory police checks, which tend to mainly target individuals who are perceived by authorities as not looking like ‘the nationals’.³²³

More recent evidence has demonstrated how the implementation of COVID-19 restrictions and sanctions by national police authorities have been characterised by a racial bias. Black people, those of Asian background or Roma communities, for example, have been disproportionately affected. Other biases include targeting people based on their wealth status, such as the poor and homeless, or on immigration status (undocumented migrants).³²⁴

These restrictions may exacerbate or magnify existing discriminatory patterns, where police checks inside the Schengen area target selected groups. Furthermore, intra-EU travel restrictions not officially presented as internal border controls run the risk of stigmatising individuals, including those infected or previously infected, people who have been subject to quarantine (even if they have not been infected), frequent travellers, healthcare-related professionals or groups who are already structurally more affected by institutionalised manifestations of discrimination in the EU.

COVID-19-related internal border control measures and travel restrictions that focus on whose identity and health status is checked and whose is not, and who qualifies as an ‘essential’ traveller and who does not, have reinvigorated the scope and local divergences – or a ‘variable geometry’ – of police discretionary powers. This leads to profound legal uncertainty and divergences in the application of the envisaged policies on the ground.

The above-mentioned Commission Communication, ‘Guidelines for border management measures to protect health and ensure the availability of goods and essential services’, of 16 March 2020,³²⁵ underlined for Member States that “appropriate measures need to be taken for people who

³²⁰ See for instance ECRI, “ECRI report on the Netherlands (fourth monitoring cycle)”, CRI(2013)39, Strasbourg, Council of Europe, 15 October 2013; and ECRI, “ECRI report on the Netherlands (fifth monitoring cycle)”, CRI(2019)19, Strasbourg, Council of Europe, 4 June 2019; and ECRI, “ECRI report on Germany (fifth monitoring cycle)”, CRI(2014)2, Strasbourg, Council of Europe, 25 February 2014, para. 15; ECRI, “ECRI Report on Germany (sixth monitoring cycle)”, CRI(2020)2, Strasbourg, Council of Europe, 17 March 2020, para. 105.

³²¹ For the legal suit filed by the applicants see <https://www.rechtspraak.nl/SiteCollectionDocuments/dagvaarding-collectieve-voordering-de%20Staat%20der%20Nederlanden%20%28Ministerie%20van%20Defensie%20en%20het%20Ministerie%20van%20Justitie%29.pdf> (hereinafter: Applicants’ pleadings). For an analysis of the merits of the case, see A. Terlouw, “Gebruik van etniciteit in risicoprofielen Marechaussee is discriminatie”, *Nederlands Juristenblad* 2020/764. In the case of Germany, see OVG Koblenz, judgment of 21 April 2016, ECLI:DE:OVGR:2016:0421.7A11108.14.0A, BeckRS 2016, 47529. See in this regard Amnesty International, “Nur eine Kontrolle? Oder Racial Profiling? Die Berichte über kontroverse Vorfälle häufen sich”, Berlin, Amnesty International, Germany Division, 22 January 2017, <https://amnesty-polizei.de/nur-eine-kontrolle-oder-racial-profiling-die-berichte-ueber-kontroverse-vorfaelle-haeufen-sich/>; BUG, “Pressemeldung: Bundespolizeidirektion München erkennt ‘Racial-Profiling’-Kontrolle als rechtswidrig an”, Berlin, Büro zur Umsetzung von Gleichbehandlung, 8 April 2019, https://bug-ev.org/fileadmin/P_R_E_S_S_E_M_E_L_D_U_N_G_racial_profiling_BayVGH_Muenchen_final_14341.pdf.

³²² K. Brouwer, M. van der Woude & J. van der Leun, “Op de grens van het vreemdelingtoezicht: discretionaire beslissingen binnen het Mobiel Toezicht Veiligheid”, *Tijdschrift voor Veiligheid*, Vol. 16, No. 2/3, 2017, p. 73.

³²³ T.J.M. Dekkers, ‘Selecting in Border Areas: Profiling Immigrants or Crimmigrants?’, *The Howard Journal of Crime and Justice*, Vol. 58, No. 1, March 2019, pp. 25-44.

³²⁴ Refer to for instance Amnesty International, ‘Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe’, Amnesty International, London, 24 June 2020; HRW, ‘The French authorities should urgently take concrete measures to end discriminatory police checks and fines’, Open Letter to the Government of France, Human Rights Watch, Paris, 13 May 2020; and ENAR, ‘COVID-19 impact on racialised communities: interactive EU-wide map’, European Network Against Racism, Brussels, 12 May 2020. See also PICUM, ‘What’s happening to undocumented people during the COVID-19 pandemic?’, PICUM, Brussels, 24 July 2020.

³²⁵ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf

are identified as posing a risk to public health from Covid-19." It recommended Schengen Member States to

Put in place *entry screening measures* (primary and secondary) which aim at assessing the presence of symptoms and/or the exposure to Covid-19 of travellers arriving from affected areas or countries; completion of a Public Health Passenger Locator Form on board an aircraft, a ferry, a train or a bus arriving on a direct or indirect connection from an affected areas or countries; completion of Maritime Declaration of Health for all arriving ships, indicating all ports visited... Primary screening includes an initial assessment by personnel, who may not necessarily have medical training. Activities 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. Secondary screening should be carried out by personnel with medical training. It includes an in-depth interview, a focused medical and laboratory examination and second temperature measurement (Emphasis added).

Such an approach also promotes the notion of 'border screening'. This is problematic in that it merges police identity checks in the context of internal border controls with health checks, with primary screening being put into the hands of national law enforcement officials. These have no medical training or expertise and yet are expected to select and identify 'risky people'. According to an ad hoc query on 'Intra-Schengen border monitoring and border control' published by the European Migration Network (EMN) in November 2018,³²⁶ the main responsibility for conducting internal border controls across States lies in the hands of the police. In some EU countries they even fall under the competence of the military or armed forces. This blurring between health and insecurity (and even defence) stands in direct contradiction with the *objective* of border controls as laid down in the SBC, which is primarily concerned with checking the administrative status and travel documents of the person involved. Identity checks pursue a goal: border controls. This is fundamentally distinct from the purpose inherent in health checks, which is access to healthcare and medical treatment by *everyone* as established in Article 35 of the EUCFR. In this way the rationale for border checks supplants the purpose of health screening.

The move towards policing and surveillance, and their embedded discriminatory effects, is also evident in respect of the EU travel ban applicable to extra-EU travel. The Commission Communication, '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, and on the effects on visa policy', published on 30 March 2020,³²⁷ calls on EU Member States to carry out "secondary security checks against relevant databases" and makes an explicit reference to the role of the EU Agency Europol and cross-border police cooperation. It reminds Member States that they need to "grant access and use at the external borders of information systems or common frameworks for exchange of information: the Schengen Information System (SIS II); the Visa Information System; Eurodac. In addition, other non-EU systems such as Interpol's Lost and Stolen Travel Documents database should be consulted."

Here too the focus is to "prevent criminal offences and maintain public order and security", with explicit references made to crime and even terrorism (including so-called foreign terrorist fighters). The Commission promotes a more systematic use of 'risk indicators' and envisages a central role for Frontex and Europol in the identification of 'risk profiles'. The Communication explicitly mentions the role of

³²⁶ Refer to <https://emnetherlands.nl/sites/default/files/2018-12/AHQ%20NL%202018.1303%20Summary%20-%20Intra-Schengen%20border%20monitoring%20and%20border%20control.pdf>

³²⁷ European 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, and on the effects on visa policy', C(2020) 2050 final, Brussels, 30.3.2020.

Europol's databases "to extend border control reach to non-SIS II signalled individuals." As we have argued before, the policing and criminalising nature that characterises the envisaged role of Europol in an area dealing with *health* fails to pass the necessity test intrinsic to any proportionality assessment. It can be also expected to lead to more mistrust by travellers.³²⁸

5.3.2.3. Privacy

Travel bans and restrictions, and the development of electronic borders and surveillance measures linked to national and EU databases, can be expected to have an enormous impact on fundamental rights and the privacy and data protection of individuals, which are primarily enshrined in Articles 7 and 8 of the EU Charter. The increasing use at airports by some EU Member States of passenger location forms and other surveillance measures that rely on travellers' electronic data poses serious challenges from the perspective of EU data protection law. The use and potential storage of this data falls within the scope of application of the General Data Protection Regulation (GDPR)³²⁹ and the EUCFR, which entrusts the *ownership* of this information to individuals, and not to governments, security actors or private companies.³³⁰

Some National Data Protection Authorities (NDPAs) and media have raised concerns about the privacy and legal challenges inherent in the use of measures that monitor or perform diagnostic screening of incoming passengers at airports, including temperature screenings and other surveillance measures.³³¹ As with the EU benchmarks applicable to border areas with internal police controls and EU data protection law, these intra-EU travel restrictions and measures do not always guarantee a sound, clear and robust national legal framework that demarcates their exact scope, limits, data usage/processing and access to rights – including administrative and judicial redress – by affected data subjects.³³²

Some travel restriction measures entail serious interferences with the private life of individuals and their highly sensitive health data. It is not clear whether they are all limited to what is strictly necessary. When national authorities with access to that health-related data go beyond health professionals and include national police and military authorities, they also run a clear risk of undermining the EU data protection principle of purpose limitation.³³³ This opens up the possibility that the planned

³²⁸ Carrera and Luk (2020).

³²⁹ See in particular Art. 9 GDPR which prohibits the processing of health data with the exception of cases where "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 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), OJ L 119, 4.5.2016, p. 1–88.

³³⁰ D. Bigo, E. Isin and E. Ruppert (eds.), *Data Politics. Worlds, Subjects, Rights*, Routledge, London, 2019.

³³¹ In the case of Greece, see 'Handelsblatt: Προβληματική η ελληνική φόρμα εντοπισμού τουριστών', *Naftemporiki.gr*, 29 June 2020 (in Greek). In the case of Belgium, refer to 'Brussels Airport in hot water over temperature checks', *Politico.eu*, 17 June 2020; and APD, 'Prise de température dans le cadre de la lutte contre le COVID-19', Autorité de protection des données, Brussels, 18 June 2020 (in French). As regards France, refer to CNIL, 'La CNIL appelle à la vigilance sur l'utilisation des caméras dites « intelligentes » et des caméras thermiques', Commission Nationale de l'Informatique et des Libertés, Paris, 17 June 2020 (in French).

³³² The Portuguese national data protection authority has concluded that temperature screening constitutes data processing in the scope of the GDPR independently of whether the data is stored or not. See 'Medir temperatura, borrifar alunos com desinfetante e dar aulas só ao 12.º ano. Escolas abrem a várias velocidades', *Público*, 17 May 2020 (in Portuguese). Intra-EU travel restrictions through air borders must also comply with the set of benchmarks developed by the Court of Justice of the EU in its Opinion on the EU-Canada Passenger Name Record (PNR) Agreement, which was invalidated by the Court due to its serious interferences with the right to privacy and effective remedies, failing to pass the necessity test. Refer to: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-07/cp170084en.pdf>.

³³³ Brouwer, E.R., 'Legality and Data Protection Law: The Forgotten Purpose of Purpose Limitation', in L. F. M. Besselink, S. Prechal, & F. Pennings (eds.), *The Eclipse of the Legality Principle in the European Union*, Kluwer Law International, Alphen aan den Rijn, 2011, pp. 273–294; and Brouwer, E., 'A Point of No Return in Purpose Limitation? Interoperability and the Blurring of Migration and Crime', MPC Blog Forum 'Interoperable Informations Systems in the EU Area of Freedom, Security and Justice' post, Florence, Migration Policy Centre/EUI.

interoperability³³⁴ and cross-checking channels by border police actors among national and EU databases will enable 'function creep'.

5.3.2.4. Asylum

The situation of refugees and people seeking international protection is particularly concerning in light of all the existing travel restrictions. The EU fundamental right to seek asylum (enshrined in Article 18 EUCFR) and the SBC provision requiring EU Member States to comply with "the rights of refugees and persons requesting international protection, in particular as regards *non-refoulement*" (Article 3.b SBC), does not allow for derogations at times of declared crisis. This requires an individualised assessment and effective access to asylum procedures and healthcare.

However, despite the right to (seek) asylum being anchored in *inter alia* Article 14 of the EUCFR, and contrary to Council Recommendation (EU) 2020/912, it is notable that only four EU Member States (Luxembourg, Portugal, Romania and Sweden), as well as Norway and Iceland, explicitly exempt seekers of international protection from the entry ban at their external borders. Moreover, some Member States have adopted COVID-19-related measures that explicitly restrict the right to seek asylum.³³⁵ These include the declaration of Italian ports as 'unsafe' for the duration of the state of health emergency in Italy,³³⁶ the Hungarian law adopted during the COVID-19 state of emergency that abolishes the possibility for asylum seekers to apply for asylum in Hungary (they are directed to the nearest Hungarian embassy instead),³³⁷ or the suspension of submission of asylum applications in Greece in March 2020.³³⁸

The application of certain entry restrictions (at internal and/or external borders) clearly indicate that asylum seekers are disproportionately affected. One example is the requirement of certain EU+ countries that travellers coming from certain countries of departure considered 'unsafe' provide a medical certificate proving a negative test result for COVID-19 *as a condition or quasi-condition for entry*. This disproportionately affects asylum seekers where they have less access to such testing services in their country of departure.³³⁹ Other public health-related entry conditions, such as requiring proof of suitable accommodation as part of a mandatory quarantine (as is the case in Austria and Slovenia) also frustrate asylum seekers' entry.

³³⁴ Refer to Carrera, S., 'Towards interoperable justice: Interoperability and its asymmetry in access rights by EU digital citizens', MPC Blog Forum 'Interoperable Informations Systems in the EU Area of Freedom, Security and Justice' post, Florence, Migration Policy Centre/EU; and https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20171212_security_union_closing_the_information_gap_en.pdf.

³³⁵ An overview of the COVID-19 related measures and their impact on the right to seek asylum has been published by ECRE, see ECRE, "Information Sheet 28 May 2020: COVID-19 measures related to asylum and migration across Europe", Brussels, European Council on Refugees and Exiles, 29 May 2020.

³³⁶ See the decree (https://altreconomia.it/app/uploads/2020/04/M_INFR.GABINETTO.REG_DECRETIR.0000150.07-04-2020-3.pdf.pdf); see further "Italy declares own ports 'unsafe' to stop migrants arriving", *The Guardian*, 8 April 2020; note further the recent attempt by the President of the region of Sicily to close down all reception centres and to prohibit the disembarkation of SAR vessels at Sicilian ports (See R. Brodie, "Sicily's Right-Wing President Is Using COVID-19 to Whip Up a Racist Frenzy", *Jacobin*, 27 August 2020; "Refugees in Italy bear brunt of coronavirus angst", *Al Jazeera*, 7 September 2020; "Emergenza migranti, Musumeci blinda la Sicilia: pubblicata l'ordinanza che vieta gli sbarchi", *Gazzetta del Sud online*, 23 August 2020 (in Italian)); the emergency decree concerned was suspended by the Italian courts (see <https://www.altalex.com/documents/news/2020/08/28/migranti-tar-sospende-ordinanza-regione-siciliana>).

³³⁷ See ECRE, "Hungary: New Law on the Lodging of Asylum Applications at Embassies", Brussels, European Council on Refugees and Exiles, 19 June 2020; UNHCR, "Access to asylum further at state in Hungary – UNHCR", Geneva, United Nations High Commissioner for Refugees, 29 June 2020.

³³⁸ Act of Legislative Content (A 02/03/2020. No. 45) Suspension of the submission of asylum applications, <http://asylo.gov.gr/wp-content/uploads/2020/03/bnp-anastolh-ths-ypovolis-aithseon-asylou.pdf>.

³³⁹ Austria and Cyprus apply such prior proof of negative COVID-19 test results as a *condition* for entry (see Section 3.1.1 of this study).

6. CONCLUSIONS AND RECOMMENDATIONS

Based on the research and analysis provided in this study, the next phases of Schengen cooperation should prioritise three main cross-cutting policies.

A first policy priority should be the effective and timely enforcement of existing EU Schengen standards to all EU Member States that have reintroduced internal border controls and other travel restrictions in the name of COVID-19. The analysis shows that the EU rules applicable to the temporary reintroduction of internal border controls are sound and clear both in scope and rationale. Most EU Member States now comply with the SBC rules and have lifted internal border checks. The need for legislative reform is therefore not substantiated. Any temptations to 'legalise' these malpractices and unlawful activities and lower existing standards envisaged in EU law should be prevented without question.³⁴⁰

Efforts should focus on the following recommendations:

1. Guaranteeing a stricter application of the deadlines and time periods foreseen by the SBC. EU Member States should be prevented from continuing to make an instrumental use of SBC legal basis. This 'pick and choose approach' – changing the legal base or re-invoking its application after the expiration of the foreseen time – leads to non-temporary or quasi-permanent border checks and mobility restrictions which directly contradict the SBC and the EU Treaties' objective of a common single area without border controls. The European Commission should ensure effective legal and judicial enforcement of EU standards and put an end to the current situation of impunity. It should also fulfil and enhance its reporting obligations towards the Parliament.³⁴¹
2. Ensuring that all relevant EU Member States comply with their obligation to EU-level coordination and loyal cooperation which does not permit unilateral and ad hoc decisions. They should also fulfil their duty to cooperate and carry out an incremental burden of proof – as time passes – regarding the provision of evidence about necessity, proportionality and fundamental rights compliance of their national policies. The proportionality test of border and travel measures related to COVID-19 should be evidence-based and put in the hands of health professionals, not ministries of interior or security professionals. Common EU criteria backing up any national travel restrictions should be developed and coordinated at EU level and should be based solely on robust health and epidemiological grounds and avoid any unilateral Member States' actions.

This should go hand in hand with guaranteeing that EU Member States do not use the notions of public policy and internal security in a generalised preventive way to derogate or restrict border control-free intra-EU mobility on health-related grounds, or – in the scope of the EU travel ban – to define additional categories as 'priority travellers' or 'risky travellers' in Schengen visa applications. The suitability, necessity and proportionality of the EU Travel Ban, and the reasons why the Commission's Guidelines on scope and methodology differ with those covering intra-EU travel restrictions, remains to be proven by an independent assessment of its application and implementation. Any measures prohibiting or conditioning entry must be founded on an individual case-by-case assessment – of specific, consistent, and objective

³⁴⁰ Such as European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 as regards the rules applicable to the temporary reintroduction of border controls at internal borders, COM(2017) 571 final, Brussels, 27.9.2017.

³⁴¹ The above-mentioned 2018 European Parliament Annual Report on the Functioning of the Schengen Area states called on the Commission "to enhance its reporting to Parliament on how it exercises its prerogatives under the Treaties" and expressed deep regret that since 2015 the Commission "has not published the annual report on the functioning of the area without internal border controls, something it is obligated to do under the Schengen Borders Code", paragraph 14. See European Parliament, 'Report on the annual report on the functioning of the Schengen Area (2017/2256(INI))', A8-0160/2018, PE 613.539, European Parliament, LIBE Committee, 3.5.2018.

evidence or facts. Furthermore, any potential classification of SEM information should not prevent compliance with the Member States' and European Commission's obligation to keep the European Parliament fully informed about it. This includes any subsequent reassessments, reports and follow-up measures related to the implementation and daily functioning of the Schengen area.

3. Declaring the incompatibility of intra-EU travel bans with the SBC and EU law. This should accompany a detailed, independent evaluation of the extent to which certain travel restrictions and advice by relevant EU Member States present *equivalent effects* to internal border checks. This particularly applies to those based on the use of systematic or scattered policing and surveillance checks and whose compliance may lead to non-entry, expulsion and/or criminal and administrative sanctions. In this same context, COVID-19 travel surveillance measures provide a timely opportunity to carry out an independent evaluation and added-value assessment of the current use by EU Member States of EU databases and information systems. The uses and potential misuses (and impacts on individuals) by EU Member States' police and border authorities of tools such as the EU Passenger Name Record (PNR) and vehicle surveillance technologies at land internal borders, as well as their compatibility with the SBC and EU privacy and data protection legal standards, should be included.

The second priority should be upholding and enhancing the EU rights and freedoms of mobile EU citizens and their families, third-country nationals with rights under EU migration and free movement laws, and asylum seekers and refugees. COVID-19 policies that interfere with mobility-related rights have disproportionately affected mobile individuals and frequent travellers, as well as communities subject to institutionalised forms of discrimination and racism. Our research reveals that not all EU Member States have fulfilled the obligation not to discriminate between restrictive travel measures applicable to own nationals and to mobile EU citizens and their families, as well as third-country nationals with intra-EU mobility rights. EU enforcement measures should therefore pay particular attention to the impacts that formalised internal border checks or policed travel restrictions have on individuals in the light of European citizenship rights, the EU principles of free movement and non-discrimination, effective remedies and EU data protection and privacy law. In particular the following two measures should be implemented:

1. Addressing any racial bias and ethnic profiling in the context of identity/health checks by police and border authorities at internal borders as well as in-territory screening procedures. Particular attention should be paid to the national legal frameworks and instruments applicable to police border checks inside the Schengen area within the scope of travel restrictions. The assessment should cover the extent to which the various intra-EU mobility-restricting travel measures are laid down in strict, clear and precise national law. The scope, limits/conditions and selective criteria in the hands of police or border police authorities, as well as the rights and access to justice of people subject to or affected by these restrictive measures should be specified.
2. Increasing accountability by ensuring that national police and border authorities have an obligation to register the number of individual checks carried out, the main reasons for selection, including any information related to the ethnic, racial or national background and nationality of the person involved and the existence of any incident or use of force by authorities in national and EU databases (e.g. Schengen Information System, SIS II). Statistical profiling of individuals should be prohibited. Any use, processing or transfer of (personalised or depersonalised) data should be based on specific, reliable and non-discriminatory criteria and require the informed, free and unambiguous consent of individuals, fully respecting the principle of purpose limitation. This should be accompanied by the creation of an *independent*

and effective complaint mechanism for individuals subject to police and surveillance travel measures. If national authorities use EU databases, those individuals should be able to complain to national and EU ombudspersons and national data protection authorities (NDPAs) if any of their fundamental rights (including discriminatory treatment) or privacy rights as data subjects are violated by authorities carrying out intra-Schengen border monitoring and border controls.³⁴²

The third policy priority should concern the evaluation of Member States' compliance with EU standards in relation to internal border controls and travel restrictions introduced in the name of COVID-19. The 2013 Schengen Evaluation Mechanism (SEM) envisages a common EU evaluation model where both the Council and the European Commission are now in the driving seat. The Commission is, however, the main actor responsible for the overall coordination of setting up the annual multi-annual evaluation programmes, the drafting of questionnaires and the scheduling/conducting of visits. While the main focus of the SEM is on external borders, the SEM Regulation³⁴³ also envisages the possibility of implementing EU scrutiny and evaluation of internal border checks, as well as the absence of controls at the internal borders, including unannounced visits.

In compliance with the implementation of the EU principle of inter-institutional balance, the content and results of these evaluations should be shared with the European Parliament, which must remain 'fully informed'. As previously advised by the European Parliament 2018 Report on the Functioning of the Schengen area, the efficiency of the current SEM programming and implementation methods of 'unannounced' visits call for a more detailed examination so as to ensure that these are truly 'unannounced' and that the Member States concerned take swift remedial actions.

The existing European Parliament LIBE Working Group on Schengen Scrutiny, which follows up and carries out Parliament's monitoring of all the results from SEM evaluations and Member States' reporting on internal border controls, should be significantly enhanced. This will boost its analytical capacity in the identification of key issues, trends and deficits across the hundreds of documents submitted by the Commission and the Member States. The Working Group should include among its key priorities internal border controls and intra-EU travel restrictions introduced or used in the name of COVID-19. A concerted methodology ensuring inputs and evidence by the EU Fundamental Rights Agency (FRA), civil society organisations and academics should complement this.

In order to strengthen the EU scrutiny of the Schengen area, it is necessary to develop the SEM's current scope and focus. This should move towards a more systematic and independent assessment of the impacts, lawfulness and shortcomings that characterise the reintroduction and implementation of internal border checks, police border checks inside-territory and in border areas as well as travel restrictions focused on policing and surveillance. In particular, priority should be given to the use and boosting of resources for conducting unannounced on-site visits – without prior notification – to relevant Member States bordering sites.

The above-mentioned Parliament Report also identified challenges in the national implementation and actual use of EU databases by national practitioners, which can be expected to increase with the forthcoming implementation of the so-called Interoperability Regulations. It is crucial to address the

³⁴² The 2018 European Parliament Annual Report on the Functioning of the Schengen Area called Member States to "implement provisions to enable the rights of data subjects to launch complaints and request their personal information", in paragraph 46.

³⁴³ Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen, OJ L 295, 6.11.2013, p. 27–37.

justice and data protection fragmentation resulting from the multiplicity of EU databases and their future interoperable functionalities. National DPAs perform a crucial role but many are currently understaffed and too overburdened to effectively perform their functions. They need significant financial resources and staff and guaranteed independence from governments.³⁴⁴

Evaluation and accountability are crucial legitimating and trust-enhancing factors in the Schengen system.³⁴⁵ Effective EU-level oversight and access to justice mechanisms are required. This is not only to ensure that border control and border surveillance policies and actions effectively comply with the Schengen *acquis*, but also for cases of fundamental rights violations in the context of both internal and external border checks and in-territory police controls. Safeguarding EU rule of law and fundamental principles constitutes preconditions for '*merited or deserving trust*' in Schengen cooperation and the EU principle of mutual recognition that applies in several policy areas in the scope of the EU Area of Freedom, Security and Justice (AFSJ).³⁴⁶ The legitimation of the EU free movement area relies on the effective and timely enforcing of existing rules and boosting the practical delivery of Schengen principles, norms, and the fundamental rights of all individuals on the ground.

³⁴⁴ See paragraph 46 of the same Parliament's Report.

³⁴⁵ The Parliament's Report also expressed the importance to have in the medium term a reflection on "how to enhance mutual trust between Member States and ensure that the Union's legislative tools provide for a truly European governance of the Schengen area", paragraph 17.

³⁴⁶ Refer to Article 70 TFEU. On 'earned trust' on EU mutual-recognition instruments see Mitsilegas, V. (2019), 'Resetting the Parameters of Mutual Trust: From Aranyosi to LM', in V. Mitsilegas, A. Di Martino and L. Mancano, (eds.), *The Court of Justice and European Criminal Law: Leading Cases in a Contextual Analysis*, Hart Publishing, Modern Studies in European Law, pp. 421-437.

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ANNEX 1. MEMBER STATES' NOTIFICATIONS UNDER THE SCHENGEN BORDERS CODE DUE TO COVID-19

This Annex sets out the temporary reintroduction, prolongation, and lifting of internal border controls of Schengen (Member) States as contained in the notifications issued by said States under the Schengen Borders Code. Notifications of temporary internal border controls for which the underlying justifications do not pertain to the COVID-19 epidemic will not be included in this overview.

Changes in the grounds for temporary internal border controls, the legal basis invoked under the SBC and/or the scope of application will be marked in **bold**.

Where possible, the notifications will be identified by their reference number in the Council Document Register (e.g. 6784/1/2020 REV 1 or 6914/20).

The overview is updated to include notifications prior to 24 August 2020.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
Austria				
12.11.2019 – 11.05.2020	10.10.2019 13018/19 ADD 1 Art. 25 and 27 SBC	Secondary movements Terrorism and organised crime Situation at the external borders COVID-19 (as of March 2020) (see 6914/20)	“Regrettably, illegal migration, which is essentially determined by criminal organisations, has for some time been posing a threat to the internal security of the Republic of Austria and the European Union at large.” “Observations made over the last few months regarding the developments of migratory movements towards Europe, of secondary movements within the Schengen area and of the effects on internal security show that we are still faced with ongoing high migratory pressure, a volatile migratory situation on and along the various routes as well as in the vicinity of the EU, and that human smuggling gangs have increased their activities.”	Austrian internal land borders with Hungary and Slovenia (<i>prolongation</i>)
11.03.2020 – 20.03.2020 <i>10 days</i>	11.03.2020 6784/1/2020 REV 1	COVID-19	“The Austrian Federal Government has analyzed in detail the developments of the last days in connection with the spread of the new coronavirus COVID-19. The increases in disease and death rates are rising significantly throughout Europe. Among the European countries, Italy has so far been	Austrian internal land border with Italy (<i>new</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
	Art. 28 SBC		<p>the most affected country, with very serious growth rates of COVID-19 disease. In Austria the number of cases is rising too. These developments give cause for concern.</p> <p>In this light, it is necessary to take all available measures to contain the further spread of the coronavirus in Austria and to counter a serious threat to public policy or public security as defined in the Schengen Borders Code.</p> <p>According to Article 28 of the Schengen Borders Code, internal border controls may be immediately reintroduced by a Member State in the event of unforeseen circumstances. Due to current developments and the resulting threat to Austria, the Republic of Austria is taking measures to reduce the growth rates of COVID-19 in Austria as efficiently as possible.</p> <p>[...]</p> <p>This measure has been coordinated with Italy. Austria is continuously assessing the development of the situation and will design the control modalities in such a way that they are proportionate to the situation."</p>	
<p>14.03.2020 – 23.03.2020</p> <p><i>10 days</i></p>	<p>13.03.2020</p> <p>6784/20 ADD 1</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"Due to the unpredictability of the spread of SARS-CoV-2 disease and the increasing restrictions in air and travel traffic, Austria has called for refraining from all unnecessary trips worldwide. In addition to Iran, South Korea and Italy, travel warnings for France, Spain and Switzerland were issued due to the current situation. In addition, quarantine was declared for individual areas in the state of Tyrol.</p> <p>In view of the current developments in connection with the spread of SARS-CoV-2 and the rapidly and continuously increasing number of cases associated with it, the Austrian Federal Government has decided, in accordance with the Schengen Borders Code, to take further measures to at least slow down the progressive spread.</p> <p>[...]</p> <p>This measure has been agreed with the countries concerned. Austria is constantly assessing the development of the situation and will design the control modalities in such a way that they are proportionate to the situation."</p>	<p>Austrian internal land borders with Switzerland and Liechtenstein (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
18.03.2020 – 06.04.2020 20 days	18.03.2020 6914/20 Art. 28 SBC	COVID-19	<p>“Due to the unpredictability of the spread of SARS-CoV-2 disease and the increasing restrictions in air and travel traffic, Austria has called for refraining from all unnecessary trips worldwide. In addition, Austria has taken measures to restrict public life, such as closing all shops with the exception of food retailing, pharmacies, banks, post offices, etc. as well as the closure of all restaurants, coffee shops and bars, for at least one week. In addition, an entry ban was issued for public spaces.</p> <p>Given the current developments and the associated rapid and continuously increasing number of cases, the Austrian Federal Government has decided, in accordance with the Schengen border code, to take further measures to at least slow the progressive spread.</p> <p>With this in mind, as the competent supreme authority of the Republic of Austria, I have therefore ordered the following from 18 March 2020 for an initial period of twenty days on the basis of Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code).</p> <ul style="list-style-type: none"> • Extension of the border controls at the Austrian national border with Italy, Liechtenstein and Switzerland, as well as • Additional border controls at the Austrian national border with Germany. <p>In addition, it may be informed that, due to the spread of the SARS-CoV-2 disease, health checks are now also carried out as part of the border controls with Hungary and Slovenia.”</p>	Austrian internal land borders with Italy, Switzerland, and Liechtenstein (<i>prolongation</i>) Austrian internal land border with Germany (<i>new</i>) Health checks at (existing) border controls at Austrian internal land borders with Hungary and Slovenia (<i>expansion of scope of application</i>)
08.04.2020 – 27.04.2020 20 days	06.04.2020 7189/20 Art. 28 SBC	COVID-19	<p>“The rapid spread of the SARS-CoV-2 disease in many European countries is alarming; the number of contaminations and deaths increases across Europe from day to day. Austria also continues to face increasing numbers of cases. This steady development is worrying and requires energetic measures, which also applies to the limitation of public life. Recently, as from the 6th April 2020, in Austria the obligatory wearing of mechanic protection devices in super markets and drug stores/drug store markets was introduced.</p>	Austrian internal land borders with Germany, Italy, Switzerland, and Liechtenstein (<i>prolongation</i>) Health checks at Austrian internal land borders with Hungary and

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>Further steps must also be taken in order to slow the progressive spread as far as possible and in order to counteract a serious threat to public order or internal security in the sense of the Schengen Border Code.</p> <p>With this in mind, as the competent supreme authority of the Republic of Austria, on the basis of Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code), I have therefore ordered the extension of the border controls at the Austrian national border with Italy, Liechtenstein, Switzerland and Germany, for a period of 20 days – starting from 8th April until 27th April included.</p> <p>In addition, it may be informed that the health checks that are carried out as part of the border controls with Hungary and Slovenia are also extended for a period of 20 days.</p> <p>Austria is constantly assessing the development of the situation and these measures are continuously coordinated with the countries concerned. The control modalities are such that they are proportionate to the situation.”</p>	Slovenia (<i>prolongation</i>)
<p>10.04.2020 – 27.04.2020</p> <p>18 days</p>	<p>09.04.2020</p> <p>7301/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“The rapid spread of the SARS-CoV-2 disease in many European countries is alarming; the number of contaminations and deaths increases across Europe from day to day. Austria also continues to face increasing numbers of cases. This steady development is worrying and requires strong action, which also applies to the limitation of public life. Recently, as from the 6th April 2020, in Austria the obligatory wearing of mechanic protection devices in super markets and drug stores/drug store markets was introduced.</p> <p>As from next week, this obligatory wearing will be extended to public transport.</p> <p>Further steps must also be taken in order to slow the progressive spread as far as possible and in order to counteract a serious threat to public order or internal security in the sense of the Schengen Border Code.</p> <p>With this in mind, as the competent supreme authority of the Republic of Austria, on the basis of Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code), I have therefore ordered the reintroduction of border</p>	<p>Austrian internal land borders with Czech Republic and Slovakia (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			controls at the Austrian national border with the Slovak Republic and the Czech Republic, starting from 10th April until 27th April included. Austria is constantly assessing the development of the situation and these measures are continuously coordinated with the countries concerned. The control modalities are such that they are proportionate to the situation.”	
28.04.2020 – 07.05.2020 <i>10 days</i>	24.04.2020 7569/20 Art. 28 SBC	COVID-19	“The Austrian Federal Government is constantly monitoring developments related to the SARS-CovV-2 virus in Austria and Europe. The situation in the individual countries is different and remains critical in some countries, despite the slowdown of the spreading of the virus. Austria has recently started to stepwise relax measures that had been taken, while adapting new measures, such as wearing mouth and nose protection in shops, or public transport, and is monitoring further developments. While relaxing these domestic measures, it is essential to take appropriate steps at the border to prevent SARS-CoV-2 from spreading across borders and to counteract a serious threat to public order or internal security in the sense of the Schengen Border Code.”	Austrian internal land borders with Germany, Italy, Switzerland, Liechtenstein, Slovakia, and Czech Republic <i>(prolongation)</i>
08.05.2020 – 31.05.2020 <i>24 days</i>	05.05.2020 7753/20 Art. 25 and 27 SBC	COVID-19	“The Austrian federal government continues to monitor developments related to the novel corona virus (SARS-Cov-2) in Austria and Europe. The situation remains critical in some countries. Austria tends to show a positive trend. Austria is currently gradually easing certain measures, linked to measures such as wearing mouth and nose protection in predefined areas. However, it is not possible to predict in detail how the spread of the pandemic will develop as there are considerable uncertainties in the forecast. The risk of a second wave of infection cannot be excluded. The SARS-Cov-2 virus continues to pose a persistent and serious threat to the Austrian population.	Austrian internal land borders with Germany, Italy, Switzerland, Liechtenstein, Slovakia, and Czech Republic <i>(prolongation)</i> ³⁴⁷

³⁴⁷ The Austrian Notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the ‘reintroduction of temporary internal border controls’ and its scope of application is identical to the preceding Austrian notification of 24 April 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The gradual easing of certain measures within the country requires appropriate steps to be taken at the border in order to prevent the cross-border spread of the corona virus in Austria.</p> <p>With this in mind, as the competent supreme authority of the Republic of Austria, on the basis of Articles 25 and 27 of Regulation (EU) 2016/399 (Schengen Borders Code), I have therefore ordered the reintroduction of border controls at the Austrian national border with Germany, Italy, Switzerland, Liechtenstein, the Slovak Republic and the Czech Republic from 8th May until 31st May included."</p>	
<p>12.05.2020 – 11.11.2020 <i>6 months</i></p>	<p>16.04.2020 7392/20 Art. 25 and 27 SBC</p>	<p>Secondary movements</p> <p>Terrorism and organised crime</p> <p>Situation at the external borders</p> <p>COVID-19</p> <p>COVID-19 additional movements "causing migrant movements"</p>	<p>"The Austrian federal government has closely monitored the developments of the past months in the area of migration towards Europe and secondary migration in the Schengen area, taking into account the latest events at the Greek-Turkish border.</p> <p>Due to the continuing high migration pressure and the continuing volatile migration situation on various routes and within the EU, as well as the increasing activity of human trafficking, the Austrian Federal Government concludes that the situation is still not sufficiently stable.</p> <p>Developments in the central and eastern Mediterranean routes are cause for concern. These routes have recently seen a significant increase in arrivals compared to the same period last year. The deterioration of the security situation in north-western Syria [...] could cause intensified migration movements to Turkey and further into the EU.</p> <p>In light of the current developments in Turkey, Greece and the Western Balkans, it is not to be expected that the situation will change in a significantly positive way in the short term.</p> <p>The tense situation at the Greek-Turkish border and the associated enormous pressure at the EU's external border remain. Turkey's targeted attempt to blackmail the EU on the back of migrants and corresponding statements by Turkish decision-makers, suggest a potential increase in this migration pressure after the COVID-19 situation will be defused.</p> <p>The volatile situation in Turkey had led to increasing arrivals on the eastern Mediterranean route and a massive congestion of the Greek islands even</p>	<p>Austrian internal land borders with Hungary and Slovenia <i>(prolongation)</i></p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>before the latest events on the EU-Turkey border began. The transfer of migrants from the Greek islands to the Greek mainland is expected to increase the pressure via the Balkan routes to Central Europe and secondary migration in the Schengen area will increase.</p> <p>The situation in the Western Balkans also remains extremely tense; the migration potential in this region still remains high [...]. Migrants are increasingly changing their route via Serbia and Romania to continue their journey into the Schengen area. In addition, current measures to combat the COVID 19 crisis (especially border closures) might cause that migrants get stranded in the countries of the Western Balkans. It can therefore be assumed that the migration pressure will increase once the situation will be less tense and the border is opened again.</p> <p>In addition, fundamental shortcomings in external border protection continue to exist. In addition to a crisis-resistant asylum system, this is the basic prerequisite for restoring the free movement of the Schengen area</p> <p>As the situation on the external borders of the European Union is still not sufficiently stable and the external border protection does not function adequately, there continues to be a criminal and terrorist threat, especially since terrorist actors in particular can use the migratory flows for their movements and operations. This latent terrorist threat across the European Union requires adequate controls to prevent entry of persons that can potentially pose a threat. Trafficking organizations could understand the absence of internal border controls as a wrong signal and intensify their activities.</p> <p>The intensification of police controls and bilateral cooperation measures in the border areas recommended by the European Commission is expressly welcomed and has been practiced and consolidated in Austria with all neighboring countries for years, which allows flexible action. However, these instruments are not a sufficient substitute for temporary internal border controls.</p> <p>Given current developments related to the spread of the COVID-19 pandemic, border controls are an effective measure to prevent the virus from uncontrolled spreading. The progressive spread of the novel corona</p>	

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			virus could in this regard be an additional push factor for migration movements."	
<p>01.06.2020 – 15.06.2020</p> <p>15 days</p>	<p>27.05.2020</p> <p>8398/20</p> <p>Art. 25 and 27 SBC</p> <p>8617/20 (04.06.2020)</p>	<p>COVID-19</p>	<p>"The Austrian federal government continues to permanently monitor and evaluate developments related to the novel corona virus (SARS-Cov-2) within the country and abroad.</p> <p>Austria is continuing to show a positive trend. The spread of the virus could be reduced, which allowed a gradual easing of certain measures.</p> <p>However, the current epidemiological situation in Europe and across the world remains fragile; a decline in the spread of the SARS-CoV-2 virus is not foreseeable in some countries. A second wave of infections can therefore not be excluded.</p> <p>The SARS-Cov-2 virus therefore continues to pose a persistent and serious threat to the Austrian population. It is still not possible to predict how the situation of the pandemic will develop in the future.</p> <p>Taking into account the difficulty of forecasting the epidemiological developments in Europe and across the world, appropriate measures at the Austrian national border are still necessary to prevent the cross-border spread of the pandemic in Austria and to continue to enable the gradual easing of certain measures.</p> <p>With this in mind, as the competent supreme authority of the Republic of Austria, on the basis of Articles 25 and 27 of Regulation (EU) 2016/399 (Schengen Borders Code), I have therefore ordered the extension of border controls at the Austrian national border with Germany, Italy, Liechtenstein, Switzerland, the Slovak Republic and the Czech Republic from 1st June until 15th June included.</p> <p>The control modalities are such that they are proportionate to the situation.</p> <p>Austria is constantly assessing the development of the epidemiological situation and these measures and further procedures at the internal borders are continuously coordinated with the neighbouring countries, taking into account the gradual approach proposed by the European Commission to lift internal border controls." (8398/20)</p>	<p>Austrian internal land borders with Germany, Italy, Switzerland, Liechtenstein, Slovakia, and Czech Republic (<i>prolongation</i>)</p> <p>Lifting of internal border controls at Austrian internal land borders with Czech Republic, Germany, Hungary, Liechtenstein, Slovakia, Slovenia, and Switzerland as from 04.06.2020 (8617/20)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>"Austria is continuing to show a positive trend. Positive developments can also be observed in our neighbouring countries Germany, Liechtenstein, Switzerland, the Slovak Republic, the Czech Republic, Hungary and Slovenia. The current epidemiological situation in these neighbouring countries therefore enables Austria to lift the reintroduced internal border controls to Germany, Liechtenstein, Switzerland, the Slovak Republic and the Czech Republic as from June 4th 2020. Persons entering Austria from Switzerland, Liechtenstein, Germany, the Czech Republic, the Slovak Republic, Hungary or Slovenia who are permanent or habitual residents in one of these countries are no longer subject to health-related measures. The current measures continue to apply to all other persons.</p> <p>Border controls with Hungary and Slovenia, which were introduced due to the migration and security situation, will remain unchanged until November 11th 2020." (8617/20)</p>	
Belgium				
<p>20.03.2020 – 29.03.2020</p> <p>10 days</p>	<p>20.03.2020</p> <p>6942/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"The rapid spread of the COVID-19 virus in Europe requires vigorous action. The primary objective is to do everything possible to protect the public health of our citizens.</p> <p>In Belgium, measure have already been taken in various domains.</p> <p>In light of the most recent developments, the National Security Council decided on 17 March 2020 to further strengthen social distancing measures. For example it was decided to ban all gatherings and non-essential movements. These measures are in force at least until 5 April.</p> <p>We are assessing the situation closely and today I believe that we should go even further. As it is under these circumstances a priority for the Belgian government to enforce the provisions of the ministerial decree of 18 March 2020 that prohibits non-essential movements, I have decided to make use of the option to temporarily reintroduce border control at all the internal borders in accordance with Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code) from today 20 March 2020 at 15.00, for an initial period of ten days.</p>	<p>All Belgian internal borders (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			Please rest assured that the border controls will only be carried out to the extent necessary and in a proportionate way, and that the Belgian authorities will work particularly closely with the authorities of neighbouring countries. Traffic of goods, and movement of persons for the purpose of frontier work or returning home to their residence on the territory of a country of the European Union will not be impeded."	
30.03.2020 – 18.04.2020 20 days	30.03.2020 7080/20 Art. 28 SBC	COVID-19	"Figures on the spread of the COVID-19 virus in Europe show that the risk for public health remains. As the situation hasn't changed, I'm obliged to extend this measure by at least 20 days. Belgium will continue to carry out border controls at all internal borders. As stated in my letter of 20 March, these controls are intended to ensure that the measures of social distancing and non-essential movements, as adopted by the government, are complied with on Belgian territory. Finally, I would like to inform you that several local authorities have taken the initiative to close a number of border crossings on local roads. However, passage at all primary border crossings remains fully assured."	All Belgian internal borders <i>(prolongation)</i>
19.04.2020 – 08.05.2020 20 days	17.04.2020 7411/20 Art. 28 SBC	COVID-19	"Actual figures show that the spread of the COVID-19 virus in Belgium and many other parts of Europe is starting to slow down but the risk for public health remains high. For this reason Belgium is extending the measure of internal border control for a new period of 20 days until 8 May. Further extensions may be envisaged. They will depend on future evaluations of the health risk. As stated in my first letter of 20 March, the controls at the internal borders are intended to ensure that the measures of non-essential movements and social distancing, as adopted by the government, are complied with on Belgian territory."	All Belgian internal borders <i>(prolongation)</i>
09.05.2020 – 19.05.2020 20 days 20.05.2020 – 08.06.2020	30.04.2020 7708/1/20 REV 1 Art. 28 SBC & Art. 25 and 27 SBC	COVID-19	"Last Friday April 24 th , the Belgian National Security Council decided on a first timeframe for the Belgium strategy to ease and leave confinement in three phases. [...] Only in a third phase, that will certainly not start earlier than June 8 th , we will consider the possibility of reopening our internal borders for other than essential movements. Specific timing will depend on the evolution of the health situation and the risk of spread of the COVID-19 virus in Belgium and in the neighboring countries."	All Belgian internal borders <i>(prolongation)</i>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
20 days			<p>I therefore have to notify a further extension of this measure on the base of article 28 SBC until May 19th. At that moment the maximum period of 2 months, provided for in article 28 SBC, will be covered.</p> <p>As mentioned before, Belgium will however not be able to lift internal border controls at that date. As non-essential travels to or from our territory will not be permitted until at least 8 June, I have to notify further internal border controls, based on article 25 and 27 SBC after 19 May at least until 8 June. I will keep you informed of any further necessary extension of this measure."</p>	
09.06.2020 – 14.06.2020 6 days	04.06.2020 8619/20 Art. 25 and 27 SBC	COVID-19	<p>"I have the pleasure to inform you that yesterday 3 June the Belgian National Security Council decided to lift all internal border restrictions from the date of 15 June. In setting this date, we have also taken into account the timing already announced by other Member States in order to ensure maximum coordination.</p> <p>From the same date Belgium will no longer carry out systematic border controls at internal borders. As the remaining restrictions at internal border will remain until 14 June (midnight), border controls will be possible until this date. This means I have to notify a further extension of this measure on the base of article 25 and 27 SBC for a small period until 14 June, and this according the same modalities as described in my previous notifications."</p>	<p>All Belgian internal borders (<i>prolongation</i>)</p> <p>Lifting of all Belgian internal border controls as of 15.06.2020</p>
Czech Republic				
14.03.2020 – 18.03.2020 5 days	12.03.2020 6790/20 Art. 28 SBC	COVID-19	<p>"Respective Czech authorities have concluded that it is necessary to reintroduce internal border control in reaction to spread of COVID-19 disease caused by a novel coronavirus SARS-CoV-2. Therefore, the Government of the Czech Republic have decided to temporarily reintroduce border control at the internal borders in accordance with Article 28 of the Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), from 14th March 2020 0:00 until 18th March 2020 23:59.</p> <p>The checks will be carried out along all selected sections of the internal borders, in a flexible manner, proportionate to the current threat and</p>	<p>Czech internal land borders with Germany and Austria (new)</p> <p>Czech internal air borders (new)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>situation development. Further information, including with regard to authorised crossing points at internal borders are specified in the annex to this letter. The scope and intensity of border control will be limited to necessary steps to ensure public policy and internal security and to minimize any inconvenience to the public.</p> <p>For further information I would like to refer to the website of the Czech Ministry of the Interior, www.mvcr.cz.</p> <p>[...]</p> <p>On 12 March 2020, the Czech government decided to reintroduce controls at the internal borders of the Czech Republic in response to an imminent threat to public order and internal security caused by the spread of COVID-19.</p> <ul style="list-style-type: none"> • The measure concerns the land borders with the Federal Republic of Germany and the Republic of Austria and the air borders, and takes place from 14 March 2020 0:00 to 18 March 2020 23:59 with the possibility of extension. • The internal borders with Austria and Germany can only be crossed at designated crossing points without any time limit. Persons, who demonstrably cross internal borders on a regular basis, in particular cross-border / commuting workers, may also cross at other crossing points listed below from 5:00 to 23:00. • The above-mentioned obligation does not apply to selected categories of persons for whom the restriction on the crossing of internal borders would be disproportionate and in some cases would be contrary to the public interest. These include, for example, an integrated rescue system, people in the event of an unforeseen emergency, freight transport, etc. <p>The intensity and targeting of controls have been selected to minimize the flow of cross-border traffic.”</p>	
19.03.2020 – 04.04.2020	16.03.2020 6790/1/20 REV 1	COVID-19	“In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities. With this	Czech internal air borders & land borders with

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
17 days	Art. 28 SBC		<p>in mind, the need to reintroduce border control at the internal land borders of the Czech Republic with Germany, Austria and on all internal flights in accordance with Article 28(1) of the Schengen Borders Code with the effect from 14th March 2020 00:00 was identified as part of the necessary measures.</p> <p>In view of the persistent serious threat to public policy and internal security of the Czech Republic arising from the unfavorable development of the epidemiological situation, the Government of the Czech Republic decided, in accordance with Article 28(3) of the Schengen Borders Code, to prolong the temporary reintroduction of border control at internal borders until 4th April 2020 23:59.</p> <p>[...]</p> <ul style="list-style-type: none"> • The measure concerns the land borders with Germany and Austria and the air borders, and is in force until 4th April 2020 23:59 with the possibility of extension. [...] • The above-mentioned obligation does not apply to selected categories of persons for whom the restriction on crossing of internal borders would be disproportionate and in some cases would be contrary to the public interest. These include, for example, an integrated rescue system, people in the event of an unforeseen emergency, freight transport, etc.” 	Germany and Austria (prolongation)
05.04.2020 – 24.04.2020 20 days	01.04.2020 7185/20 Art. 28 SBC	COVID-19	<p>“In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities. With this in mind, the need to reintroduce border control at the internal land borders of the Czech Republic with Germany, Austria and on all internal flights in accordance with Article 28(1) of the Schengen Borders Code with the effect from 14th March 2020 00:00 was identified as part of the necessary measures.</p> <p>In view of the persistent serious threat to public policy and internal security of the Czech Republic arising from the unfavorable development of the epidemiological situation, the Government of the Czech Republic decided,</p>	Czech internal air borders & land borders with Germany and Austria (prolongation)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>in accordance with Article 28(3) of the Schengen Borders Code, to prolong the temporary reintroduction of border control at internal borders until 24th April 2020 23:59.</p> <p>[...]</p> <ul style="list-style-type: none"> • Temporary reintroduction of border control concerning the land borders with Germany and Austria and the air borders is extended until 24th April 2020 23:59 with the possibility of further extension. [...] • The above-mentioned obligation does not apply to selected categories of persons for whom the restriction on crossing of internal borders would be disproportionate and in some cases would be contrary to the public interest. These include, for example, an integrated rescue system, people in the event of an unforeseen emergency, freight transport, etc.” 	
<p>25.04.2020 – 14.05.2020</p> <p>20 days</p>	<p>23.04.2020</p> <p>7514/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities. With this in mind, the need to reintroduce border control at the internal land borders of the Czech Republic with Germany, Austria and on all internal flights in accordance with Article 28(1) of the Schengen Borders Code with the effect from 14th March 2020 00:00 was identified as part of the necessary measures.</p> <p>In view of the persistent serious threat to public policy and internal security of the Czech Republic arising from the unfavorable development of the epidemiological situation, the Government of the Czech Republic decided, in accordance with Article 28(3) of the Schengen Borders Code, to prolong the temporary reintroduction of border control at internal borders for another 20 days, i.e. until 14th May 2020 23:59.</p> <p>[...]</p> <ul style="list-style-type: none"> • The measure concerns the land borders with Germany and Austria and the air borders, and is in force until 14th May 2020 23:59 with the possibility of prolongation. [...] 	<p>Czech internal air borders & land borders with Germany and Austria (prolongation)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<ul style="list-style-type: none"> The above-mentioned obligation does not apply to selected categories of persons for whom the restriction on crossing of internal borders would be disproportionate and in some cases would be contrary to the public interest. These include, for example, an integrated rescue system, people in the event of an unforeseen emergency, freight transport, etc." 	
<p>15.05.2020 – 13.06.2020</p> <p>1 month</p>	<p>04.05.2020</p> <p>7752/20</p> <p>Art. 25 SBC</p>	<p>COVID-19</p>	<p>"In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities in March this year. With this in mind, the need to reintroduce border control at the internal land borders of the Czech Republic with Germany, Austria and on all internal flights in accordance with Article 28 (1) of the Schengen Borders Code with the effect from 14th March 2020 00:00 was identified as part of the necessary measures. In accordance with Article 28 (3) of the Schengen Borders Code, the temporary reintroduction of the border control at the internal borders of the Czech Republic was extended until 14th May 2020 23:59.</p> <p>Given the persistent serious threat to public policy during the implementation of the release measures following the development of the epidemiological situation in connection with the spread of COVID-19 in the Czech Republic, the Government decided to temporary reintroduce border control at internal borders in accordance with Article 25 (1) of the Schengen Borders Code for a period of 30 days, i.e. until 13th June 2020 23:59. The aim of this measure is to prevent public nuisance due to the uncontrolled cross-border movement of persons subject to restrictions imposed by the Government or the Ministry of Health in connection with addressing the epidemiological situation.</p> <p>Checks will continue to be carried out along the entire length of the listed sections of the internal borders. These checks will focus in particular on compliance with restrictions on the cross-border movement of persons set by the Government and the Ministry of Health. More information, including with regard to authorised crossing points at internal borders, is specified in the Annex to this letter. The scope and intensity of internal border control</p>	<p>Czech internal air borders & land borders with Germany and Austria (<i>prolongation</i>)</p> <p>Lifting of internal border controls at internal land borders with Germany and Austria as from 05.06.2020 (<i>see 8633/20 below</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			will be limited to what is necessary to ensure public policy and internal security and to minimize any inconvenience to the public."	
14.06.2020 – 30.06.2020 17 days	05.06.2020 8633/20 Art. 25 SBC	COVID-19	<p>"In connection with the spread of COVID-19 caused by the new coronavirus SARS-CoV-2, a serious threat to public order and internal security of the Czech Republic has been identified by the competent authorities in March this year. With this in mind, the need to reintroduce border control at the internal land borders of the Czech Republic with Germany, Austria and on all internal flights in accordance with Article 28 (1) of the Schengen Borders Code with the effect from 14th March 2020 00:00 was identified as part of the necessary measures. In accordance with Article 28 (3) and then Article 25 (1) of the Schengen Borders Code, the temporary reintroduction of the border control at the internal borders of the Czech Republic was extended until 13th June 2020 23:59.</p> <p>Given the persistent serious threat to public policy during the implementation of the release measures following the development of the epidemiological situation in connection with the spread of COVID-19 in the Czech Republic, the Government decided on 5th June 2020 to prolong the temporary reintroduce border control at internal air borders of the Czech Republic in accordance with Article 25 (3) of the Schengen Borders Code until 30th June 2020 23:59. Following the positive epidemiological situation in the Czech Republic, Austria and Germany and with regard to mutual cooperation with other EU/Schengen Member States, the temporary reintroduction of border control at internal land borders of the Czech Republic with Germany and Austria was abolished with the effect from 5th June 2020 12:00.</p> <p>The Police of the Czech Republic will carry out inspections on internal flights in a flexible manner commensurate with the current threat, depending on the development of the situation. These checks will focus in particular on compliance with restrictions on the cross-border movement of persons set by the Ministry of Health."</p>	Czech internal air borders (prolongation) <i>Lifting</i> of internal border controls at internal land borders with Germany and Austria as from 05.06.2020

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
Denmark				
12.11.2019 – 11.05.2020 <i>6 months</i>	10.10.2019 13009/19 Art. 25 and 27 SBC	Terrorism and organised crime	<p>“Please be informed that the Danish Government, in accordance with the provisions in Article 25 and 27 of Regulation (EU) 2016/399 of 9 March 2016 (Schengen Borders Coded), has decided to temporarily reintroduce border controls at the internal borders. The reintroduction of border controls at the Danish internal borders will be carried out for 6 months as from 12 November 2019.</p> <p>The border control may extend to all internal borders, including land-, sea- and air borders, whereby the specific border sections and border crossing points are determined by the Danish National Police. The border control will initially focus on the Danish-German land border, the Danish-Swedish land border (Øresundsforbindelsen) and the Danish ports with ferry connection to Germany and Sweden.</p> <p>The persistent and significant threat to our public order and internal security caused by militant Islamists who are able to exploit the free mobility within the Schengen area continues to be a grave concern for the Danish Government. [...]</p> <p>Furthermore, the threat from organised criminals in Sweden towards Denmark raises serious concerns. [...]</p> <p>Against this backdrop and after careful consideration, the Danish Government considers the temporary internal border controls as a necessary and effective measure to address these threats to the public order and internal security.”</p>	All Danish internal borders, with initial focus on internal land borders and ferry connections with Germany and Sweden <i>(prolongation)</i> ³⁴⁸
	13.03.2020 6846/20 [same legal basis]	COVID-19 (as of 14.03.2020)	<p>“In light of the current situation with COVID-19, please be informed that the temporary border controls will be extended at all Danish internal borders as from 14 March 2020. As such, the controls will be carried out at all internal borders, including land-, sea- and air borders, in order to prevent the spread of COVID-19 in Denmark.</p>	All Danish internal borders as from 14.03.2020 <i>(extension of scope of application)</i>

³⁴⁸ The Danish Notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the legal basis, period of ‘temporary internal border controls’, the grounds therefor, and the scope of application thereof, is identical to the preceding Danish notification of 12 April 2019 (8598/19), this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The serious and immediate threat caused by the COVID-19 outbreak is a grave concern for the Danish Government and is handled with the utmost caution. The Danish Government considers the extension [<i>sic</i>] of the internal border control as a necessary and effective measure to address this threat.”</p>	
<p>12.05.2020 – 11.11.2020 <i>6 months</i></p>	<p>08.04.2020 7272/20 Art. 25 and 27 SBC</p>	<p>Terrorism and organised crime COVID-19</p>	<p>“Please be informed that the Danish Government [...] has decided to temporarily reintroduce border controls at the internal borders. The reintroduction of border control at the Danish internal borders will be carried out for 6 months as from 12 May 2020.</p> <p>The border control may extend to all internal borders, including land-, sea- and air borders, whereby the specific border sections and border crossing points are determined by the Danish National Police.</p> <p>The persistent and significant threat to our public order and internal security caused by militant Islamists and organized criminals who are able to exploit the free mobility within the Schengen area continues to be of grave concern for the Danish government. Furthermore the COVID-19 outbreak remains a serious and unprecedented threat to us all and the Danish Government is handling the current situation with the utmost caution.</p> <p>Against this backdrop and after careful consideration, the Danish Government considers the temporary internal border controls as a necessary and effective measure to address these threats to public order and internal security.</p> <p>In light of the current situation and to limit the spread of COVID-19, please be informed that the temporary border controls will continue to be carried out at all internal borders, including land-, sea- and air borders, for as long as it is necessary to address the threat from the spread of the COVID-19.</p>	<p>All Danish internal borders <i>(prolongation)</i>³⁴⁹</p>

³⁴⁹ The Danish Notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the legal basis, period of ‘temporary internal border controls’, the grounds therefor, and the scope of application thereof, is identical to the preceding Danish notification of 10 October 2019 (as amended by the notification of 13 March 2020), this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>[...]</p> <p>Accordingly, Denmark expects to lift the COVID-19 related travel restrictions at all internal and external borders as soon as the situation allows it and then focus the internal border controls on the Danish-German land border, the Danish-Swedish land border (Øresundsforbindelsen) and the Danish ports with ferry connection to Germany and Sweden."</p>	
Estonia				
<p>17.03.2020 – 26.03.2020</p> <p>10 days</p>	<p>16.03.2020</p> <p>6860/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"I inform you that on 12 March 2020 the Government of Estonia declared emergency situation on the whole territory of Estonia with the aim to protect the health and lives of the Estonian citizens and to prevent and control the consequences of the mass epidemic caused by the spread of Coronavirus COVID-19 to the lives, health and property of Estonian citizens. Since the spread of COVID-19 poses a significant threat to the health of the Estonian people, in addition to the measures implemented already by the declaration of the emergency situation,</p> <p>Estonia reintroduces border control at the internal borders on the basis of Article 28 of the Regulation (EU) 2016/399, on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).</p> <p>The reintroduction of border control at Estonian land, air and sea borders is effective from 00:00, 17 March 2020.</p> <p>Starting from the above mentioned date temporary border crossing points through which it is possible to cross internal borders are listed in an annex to this letter. It is allowed to cross the internal border only at border crossing points listed in the annex.</p> <p>The aim of the implemented measures is to control and prevent the more extensive spread of Coronavirus which poses threat to public health and to ensure public order on the territory of the state. We confirm that the scope and intensity of the intended border control measures do not exceed those which the present security needs require for the protection of public health and public order."</p>	<p>All internal Estonian borders (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
27.03.2020 – 15.04.2020 20 days	25.03.2020 7025/20 Art. 28 SBC	COVID-19	<p>“Since the spread of COVID-19 still poses a significant threat to the health of the Estonian people, Estonia has decided [...] to prolong the temporary reintroduction of border control at internal borders for additional 20 days until 15th April 2020 23:59.</p> <p>The list of temporary border crossing points through which it is possible to cross internal borders remains the same as noted in previous notification.</p> <p>The aim of the measure is to control and prevent the more extensive spread of Coronavirus which poses threat to public health and to ensure public order on the territory of the state.”</p>	All Estonian internal borders (prolongation)
16.04.2020 – 01.05.2020 16 days	15.04.2020 7350/20 Art. 28 SBC	COVID-19	<p>“Although the number of detected cases of coronavirus remains relatively stable in Estonia at the moment, the overall epidemiological situation in Estonia as well in Europe continues to be critical. To prevent the spread of the virus, all nationwide measures and limitations, which have been taken to deal with the emergency situation remain in place. Therefore, Estonia [...] has decided to prolong the temporary reintroduction of border control at the Republic’s internal borders for additional 16 days until 1 May 2020 23:59.</p> <p>The list of temporary border crossing points through which it is possible to cross internal borders remains the same as indicated in our notification from 17 March 2020. The movement of persons wishing to return to their countries of residence, for the purpose of frontier work and transport of goods is not impeded and where possible, facilitated.</p> <p>We assure you that border control is carried out to the extent strictly necessary to prevent further spread of COVID-19 and to ensure public order on the territory of the Republic.”</p>	All Estonian internal borders (prolongation)
02.05.2020 – 17.05.2020 16 days	27.04.2020 7605/20 Art. 28 SBC	COVID-19	<p>“Despite the first positive signs about the slowdown of the spread of Covid-19, I am hereby notifying you that Estonia [...] has decided to prolong the temporary reintroduction of border controls at the Republic’s internal borders for additional 16 days, until 17 May 2020 23:59.</p> <p>The movement of persons wishing to return to their countries of residence, for the purpose of frontier work and transport of goods is not hindered and</p>	All Estonian internal borders (prolongation)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			is facilitated, where possible. The temporary border control is carried out to the extent strictly necessary to prevent the further spread of Covid-19 and to ensure public order on the territory of the Republic."	
18.05.2020 – 16.06.2020 30 days	15.05.2020 8056/20 Art. 25 and 27 SBC	COVID-19	<p>"As the current epidemiological situation in Europe and worldwide remains fragile, Estonia considers the temporary reintroduction of border controls as essential, proportionate and adequate measure for the protection of public health.</p> <p>Hereby I am informing you that Estonia reintroduces border control at internal air and sea borders based on Articles 25 (1) and 27 of the Regulation (EU) 2016/399 (Schengen Borders Code). The reintroduction commencing on 18 May 2020 at 00:00 will be in place for 30 days and last until 23:59 on 16 June 2020. The list of border crossing points, through which it is permitted to enter or leave Estonia, is added.</p> <p>The movement of persons wishing to return to their countries of residence, for the purpose of frontier work and transport of goods is not hindered and is facilitated, where possible. The temporary border control is carried out to the extent strictly necessary to prevent the further spread of Covid-19 and to ensure public order on the territory of the Republic.</p> <p>We assure that all the measures taken to limit the spread of the pandemic are carefully considered. Decisions to lift the measures are based on thorough analysis of the overall situation as well as the epidemiological circumstances in Europe and worldwide and with close cooperation with neighbouring countries."</p>	<p>All Estonian internal air and sea borders (prolongation)³⁵⁰</p> <p>Lifting of internal border controls at Estonian land borders (with Latvia)</p>
Finland				
19.03.2020 – 13.04.2020 26 days	17.03.2020 6906/20	COVID-19	"Finnish Government has today decided on several measures, that aim to slow down spread of corona-virus pandemic, protect our citizens and ensures the functioning of our society and economics. Restrictions to non-essential travel are central part of these measures agreed today. Limitations	All Finnish internal borders (new)

³⁵⁰ The Estonian Notification is worded as a "new" situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the 'temporary reintroduction of internal border controls' and the scope of application thereof is identical to the preceding Estonian notification of 27 April 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
	Art. 25 and 27 SBC		<p>concern both Schengen external and internal borders as well as all modes of transport.</p> <p>Finland will temporarily reintroduce controls at all internal borders on the basis of article 25 and 27 of the Regulation (EU) 2017/399 [sic], on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).</p> <p>According to the decisions made today, controls will be introduced 19.3.2020 at 00.00 hours Finnish time and controls will end 13.4.2020 at 24.00 Finnish time. At the same time, we will limit the use of border crossing points. Open border crossing points in road traffic and at sea borders as well as airports and their limitations are annex to this letter."</p>	
14.04.2020 – 13.05.2020 <i>1 month</i>	07.04.2020 7230/20 Art. 25 and 27 SBC	COVID-19	<p>"Finland has made a notification on 17.3.2020 regarding the restriction of non-essential travel on both Schengen external and internal borders. In addition, on 27.3.2020 we informed you about a change in border crossing points in Åland.</p> <p>Since the coronavirus pandemic still poses a threat to our citizens and to the functioning of our society and economics, the Finnish government has decided to continue temporary control at internal borders for the period of 14.4.-13.5.2020 on the basis of article 25 and article 27 of the Regulation (EU) 2016/399, on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)."</p>	All Finnish internal borders (<i>prolongation</i>)
14.05.2020 – 14.06.2020 <i>1 month</i>	08.05.2020 7831/20 Art. 25 and 27 SBC	COVID-19	<p>"Since the coronavirus pandemic still poses a threat to our citizens and to the functioning of our society and economics, the Finnish government has decided to continue temporary control at internal borders for the period of 14.5.-14.6.2020 on the basis of article 25 and article 27 of the Regulation (EU) 2016/399, on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code)."</p>	All Finnish internal borders (<i>prolongation</i>)
15.06.2020 – 14.07.2020 <i>1 month</i>	12.06.2020 8842/20 Art. 25 and 27 SBC	COVID-19	<p>"I would like to inform you that since the coronavirus pandemic still poses a threat to our citizens and to the functioning of our society and economics, the Finnish government has decided to prolong the temporary border control at the internal borders for the period of 15.6.-14.7.2020 on the basis of article 25 and article 27 of the Regulation (EU) 2016/399, on a Union Code</p>	All Finnish internal borders (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>on the rules governing the movement of persons across borders (Schengen Borders Code).</p> <p>According to the phased and gradual approach, as of 15 June 2020 the controls will be lifted at land, sea and air borders with Norway, Denmark, Iceland, Estonia, Latvia and Lithuania."</p>	<p>Lifting of internal border controls at internal borders with Norway, Denmark, Iceland, Estonia, Latvia, and Lithuania as from 15.06.2020 (all other Finnish internal border controls remain in place)</p>
<p>13.07.2020 – 11.08.2020</p> <p>30 days</p>	<p>10.07.2020</p> <p>9570/20</p> <p>[SBC legal basis not specified]</p>	<p>COVID-19</p>	<p>"Finnish Government made 17.3.2020 a decision to reintroduce controls at the internal borders. Simultaneously Government decided to temporarily close certain border crossing points and limit traffic. These decisions have been prolonged with decisions made 7.4.2020, 7.5.2020 and 12.6.2020. Changes concerning border crossing points have been introduced 24.3.2020 and 20.5.2020. Controls have been partially lifted with decisions made 7.5.2020 and 12.6.2020.</p> <p>Finnish Government made today, based on epidemiological evaluation, a decision to prolong controls until 11.8.2020 at the internal borders between Finland and Spain, Luxembourg, Portugal, Poland, France Sweden and Czech Republic, with the exception of leisure boats. In addition, with the aforementioned limitations, Ports of Eckerö and Hanko are opened for passenger traffic and Cost Guard Stations of Ahvenanmaa, Hanko and Helsinki are added to the list of open air border crossing points for seaplanes. These changes enter into force 13.7.2020."</p>	<p>Finnish internal borders with Czech Republic, France, Luxembourg, Poland, Portugal, Spain, and Sweden (<i>prolongation</i>)</p> <p>Lifting of all border controls at all other Finnish internal borders as from 13.07.2020</p>
<p>27.07.2020 – 25.08.2020</p> <p>30 days</p>	<p>23.07.2020</p> <p>9894/20</p> <p>[SBC legal basis not specified]</p>	<p>COVID-19</p>	<p>"Finnish Government made 17.3.2020 a decision to reintroduce controls at the internal borders, Simultaneously Government decided to temporarily close certain border crossing points and limit traffic. These decisions have been prolonged with decisions made 7.4.2020, 7.5.2020, 12.6.2020 and 10.7.2020.</p>	<p>Finnish internal borders with Czech Republic, France, Luxembourg, Poland, Portugal, Spain, and Sweden (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>Finnish Government made today, based on epidemiological evaluation, a decision to prolong controls at the internal borders between Finland and Spain, Luxembourg, Portugal, Poland, France, Sweden, and Czech Republic, with the exception of leisure boats. Additionally Finnish Government made today a decision to reintroduce controls at the internal borders between Finland and Austria, Slovenia and Switzerland, with the exception of leisure boats.</p> <p>In addition, all ports are open for passenger traffic."</p>	<p>Finnish internal borders with Austria, Slovenia, and Switzerland (<i>new</i>)</p>
<p>10.08.2020 – 08.09.2020</p> <p>30 days</p>	<p>06.08.2020</p> <p>10148/20</p> <p>[SBC legal basis not specified]</p>	<p>COVID-19</p>	<p>"The Finnish Government made 17.3.2020 a decision to reintroduce controls at the internal borders. Simultaneously Government decided to temporarily close certain border crossing points and limit traffic. These decisions have been prolonged with decisions made 7.4.2020, 7.5.2020, 12.6.2020, 10.7.2020 and 23.7.2020.</p> <p>The Finnish Government made today, based on epidemiological evaluation, a decision to prolong controls at the internal borders until 8 September 2020.</p> <p>The border controls will continue between Finland and Spain, Austria, Luxembourg, Portugal, Poland, France, Sweden, Slovenia, Switzerland and Czech Republic, with the exception of leisure boats. Additionally, the Finnish Government made today a decision to reintroduce controls at the internal borders between Finland and the Netherlands and Belgium, with the exception of leisure boats."</p>	<p>Finnish internal borders with Austria, Czech Republic, France, Luxembourg, Poland, Portugal, Slovenia, Spain, Sweden, and Switzerland (<i>prolongation</i>)</p> <p>Finnish internal borders with Belgium and the Netherlands (<i>new</i>)</p>
<p>24.08.2020 – 18.09.2020</p> <p>26 days</p>	<p>20.08.2020</p> <p>10179/20</p> <p>[SBC legal basis not specified]</p>	<p>COVID-19</p>	<p>"The Finnish Government made 17.3.2020 a decision to reintroduce controls at the internal borders. Simultaneously Government decided to temporarily close certain border crossing points and limit traffic. These decisions have been prolonged with decisions made 7.4.2020, 7.5.2020, 12.6.2020, 10.7.2020, 23.7.2020 and 6.8.2020.</p> <p>The Finnish Government made today, based on epidemiological evaluation, a decision to prolong controls at the internal borders until 18 September 2020.</p>	<p>Finnish internal borders with Austria, Belgium, Czech Republic, France, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, Spain, Sweden, and</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The border controls will continue between Finland and Netherland, Belgium, Spain, Austria, Luxembourg, Portugal, Poland, France, Sweden, Slovenia, Switzerland and Czech Republic, with the exception of leisure boats. Additionally, the Finnish Government made today a decision to reintroduce controls at the internal borders between Finland and Iceland, Greece, Malta, Norway, Germany and Denmark, with the exception of leisure boats.</p> <p>Open border crossing points for cargo and passenger traffic at the Finnish-Norwegian land borders are Karigasniemi, Kilpisjärvi, Kivilompolo, Nuorgam, Näätämö and Utsjoki."</p>	<p>Switzerland (<i>prolongation</i>)</p> <p>Finnish internal borders with Denmark, Germany, Greece, Iceland, Malta, and Norway (<i>new</i>)</p>
France				
<p>01.11.2019 – 30.04.2020</p> <p><i>6 months</i></p>	<p>03.10.2020</p> <p>12867/19</p> <p>Art. 25 and 27 SBC</p>	<p>Terrorism and organised crime</p> <p>Secondary movement</p> <p>High-profile event</p> <p>COVID-19 (as from March 2020)³⁵¹</p>	<p>"Although the number of attacks and plots fell in the first half of 2019, the threat of jihadist terrorism in France remains high.</p> <p>In recent months, violent attacks have been committed by radicalised individuals: since the beginning of 2019, five planned terrorist attacks have been thwarted by the intelligence services, bringing the total number of foiled plots to 59.</p> <p>[...]</p> <p>Moreover, international developments suggest that the terrorist threat is unlikely to decrease in the coming months. In spite of the loss of territory by the 'caliphate' since March 2019 and the fall of Baghouz, the threat of terrorism in Europe remains very high due to the risk of return of foreign fighters, which may increase in the coming months. According to the United Nations Security Council Committee on 'Islamic State', the Idlib region still contains 'the greatest concentration of terrorist elements anywhere in the Levant and Iraq', and available estimates place around 10</p>	<p>All French internal borders (<i>prolongation</i>)³⁵²</p>

³⁵¹ Reference to the additional ground for applying temporary internal border controls at the French internal borders can be found in the French notification of 31 March 2020 (which also refers to a notification to the European Commission of 23 March 2020).

³⁵² Formally, the prolongation of temporary border controls at the French internal land borders only concerns land borders with Germany, Belgium, Spain, Luxembourg, Switzerland and Italy. However, as the only other French internal land borders are with Andorra (which is not part of Schengen) and Monaco (which is an enclave within France and has open borders with France), this Annex shall list the French scope of the internal border controls as covering all internal French land borders.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>000 terrorists in the area, including up to 400 French nationals and 4 300 European citizens, who absolutely must be intercepted if they attempt to enter French territory.</p> <p>Moreover, according to the latest report presented to the United Nations Security Council on this issue, the ability of 'Islamic State' to lead and facilitate complex international attacks could be restored before the end of 2019. Repeated calls by self-proclaimed 'caliph' Abu Bakr al-Baghdadi to specifically target France further increase the risk of an attack on our territory.</p> <p>This situation has prompted fears that further attacks on French soil are in preparation, particularly as these terrorist groups have a tendency to target high-profile, symbolically important events. [...]</p> <p>At a time when the threat of terrorism remains high, controlling cross-border movement is essential for maintaining public order and the security of our territory.</p> <p>In addition to the terrorist threat, the large amount of secondary movement observed within the Schengen area may lead to local disruption of public order and is a growing cause for concern for the French authorities. The proliferation of migrant settlements has disrupted public order, particularly in Paris, Nantes, Strasbourg and the Hauts de France region, despite recent dismantling operations.</p> <p>Such situations can become breeding grounds for criminal networks (drugs, pimping, human trafficking, etc.) and give rise to local tensions or even violence involving residents."</p>	
<p>01.05.2020 – 31.10.2020</p> <p>6 months</p>	<p>31.03.2020</p> <p>7138/20 INIT (and 7138/1/20 REV 1, 01.04.2020)</p> <p>Art. 25 and 27 SBC</p>	<p>COVID-19</p> <p>Terrorism (and risk of terrorism related to COVID-19)</p>	<p>"Since the beginning of 2020, the situation as regards the coronavirus pandemic has grown steadily worse in France and throughout Europe. This has led the French authorities to take the necessary measures to combat the spread of the virus, starting on 17 March. Accordingly, among the measures taken at national level and in order to limit movements throughout the country, it was decided that the entire French population would be confined to home until further notice and that non-essential shops would be closed, with specific exceptions.</p>	<p>All French internal borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>To supplement these measures [...] entry into French territory is now strictly limited to persons entitled to freedom of movement and third-country nationals with a legitimate reason to travel (cross-border workers, persons returning to their home or family, healthcare professionals travelling to fight the epidemic, those transporting goods).</p> <p>France is applying these restrictions, which may result in refusals of entry, as part of the controls at the internal borders prolonged from 1 November 2019 to 30 April 2020 under Articles 25 and 27 of the Schengen Borders Code.</p> <p>[...]</p> <p>To date and despite these emergency measures, the development of the international health situation, in France and in neighbouring countries, indicates that the risks associated with international movements of persons will persist in the months ahead.</p> <p>Consequently, the threat to public order and public health in Europe is very great, and all available means should be used to limit the spread of the virus. The controls at the internal borders being carried out by most countries in the Schengen area contribute effectively to achieving this objective. In this context, controls on cross-border movements are essential for preserving public order and public health in our territory.</p> <p>In parallel, the terrorist threat remains high, as was shown by the attack carried out at the Police Prefecture in Paris on 3 October 2019, and also by the attempted attacks which have been foiled since the beginning of 2020. The vulnerability of States whose security forces are heavily involved in combating the spread of the COVID-19 pandemic is conducive to new terrorist plots.</p> <p>[...] This decision has been taken following an evaluation of the necessity and proportionality of the controls in relation to the threat to public order, using up-to-date risk assessments."</p>	

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
Germany				
16.03.2020 – 25.03.2020 <i>10 days</i>	15.03.2020 6851/20 Art. 28 SBC	COVID-19	<p>“The rapid spread of the coronavirus (SARS-CoV-2) in many European countries is alarming. It will lead to disruptions in all European countries and societies and demand considerable efforts from all of us over the coming months.</p> <p>In view of the rapid increase in infections, our common goal must be to identify as early as possible persons who have travelled from high-risk areas and persons showing signs of infection, and then to prevent the spread of the infection as much as possible by imposing medical measures. This is also intended to slow the spread of the coronavirus (SARS-CoV-2).</p> <p>In Germany, we have already taken numerous national measures in various areas, in line with the International Health Regulations and the Protection against Infection Act (Infektionsschutzgesetz). Further steps are sure to follow.</p> <p>Despite the great importance of border-free travel within the Schengen area, I am convinced that the temporary reintroduction of internal border control at our internal borders is necessary, as an additional measure to stem and slow the spread of the virus.</p> <p>In view of this, I have decided to make use of the option to temporarily reintroduce border control at the internal borders in accordance with Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code) at the land borders with Denmark, Luxembourg, France, Switzerland and Austria, effective from 16 March 2020 at 08:00, for an initial period of 10 days. The Federal Republic of Germany reserves the right to determine border-crossing points for border checks.</p> <p>The flow of goods across borders should remain largely unimpeded. The same applies to cross-border commuters until 17 March 2020 without proof that they have a job in another country. Thereafter, they should provide proof of such a job in order to be able to cross the border. Other unnecessary trips into and out of high-risk areas will no longer be permitted.</p>	German internal land borders with Austria, Denmark, France, Luxembourg, and Switzerland (<i>new</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>In order to protect public health, persons suspected of infection with the coronavirus may be refused entry, on a case-by-case basis. To avoid the uncontrolled spread of the coronavirus, such persons would be transferred to the responsible authorities of the neighbouring county in an orderly manner.</p> <p>[...]</p> <p>Please rest assured that border controls will only be carried out to the extent necessary, and that border authorities will work particularly closely with the regional health authorities in the German border areas and with their foreign partner authorities."</p>	
<p>19.03.2020 – 28.03.2020</p> <p><i>10 days</i></p>	<p>19.03.2020</p> <p>6851/20 ADD 1</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"In view of the continuing rapid spread of the coronavirus (SARS-CoV-2) in many European countries, and further to my letter of 15 March 2020, I find myself obliged to extend the temporary reintroduction of internal border control to include the air borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, as well as the sea borders with Denmark, effective from 19 March 2020. Border control at these internal borders is being reintroduced for the reasons set out in the aforementioned letter [...] for an initial period of ten days.</p> <p>The European Commission's "COVID-19 Guidelines for border management measures to protect health and ensure the availability of goods and essential services" [C(2020) 1753 final], dated 16 March 2020, will be taken into account in this measure.</p> <p>With regard to temporary border control at the land borders with Denmark, Luxembourg, France, Switzerland and Austria, from 20 March 2020 it will only be permissible to cross the border at the border crossings specified in the attached list. [...] Given the dynamic nature of developments, the Federal Ministry of the Interior, Building and Community reserves the right to make changes to this list of border crossings. 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."</p>	<p>German internal air borders with Austria, Denmark, France, Italy, Luxembourg, Spain, and Switzerland (<i>new</i>)</p> <p>German internal sea borders with Denmark (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
26.03.2020 – 14.04.2020 <i>20 days</i>	25.03.2020 7033/20 Art. 28 SBC	COVID-19	<p>“In view of the continuing rapid spread of the coronavirus (SARS-CoV-2) in many European countries, and further to my letters of 15 and 19 March 2020, I find myself obliged to extend the temporary border control at internal land and air borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, as well as the sea border with Denmark, effective from 26 March 2020 for an initial period of 20 days [...].</p> <p>Border control at the borders with the states listed above is hereby extended for the reasons set out in the aforementioned letters. These reasons remain unchanged.”</p>	<p>German internal land and air borders with Austria, Denmark, France, Luxembourg, and Switzerland <i>(prolongation)</i></p> <p>German internal air borders with Italy and Spain <i>(prolongation)</i></p> <p>German internal sea borders with Denmark <i>(prolongation)</i></p>
15.04.2020 – 04.05.2020 <i>20 days</i>	14.04.2020 7340/20 ³⁵³ Art. 28 SBC	COVID-19	<p>“We have put in place several measures at European and national level to slow the spread of the coronavirus (SARS-CoV-2). In Germany and Europe, however, we are still a long way from having succeeded in containing the spread of the virus, and therefore we need to continue with our efforts at all levels.</p> <p>Against this background, I welcome the fact that the European Commission, in its Communication of 8 April (COM (2020) 148 final), invited the Schengen States and the Schengen Associated States to prolong the application of the travel restriction on non-essential travel from third countries into the EU+ area by another 30 days, to 15 May 2020. I share the European Commission’s opinion that we need more time to fight the pandemic effectively and lastingly.</p> <p>In view of this, and further to my letters of 15, 19 and 25 March 2020, I find myself obliged to extend the temporary border control at internal land and</p>	<p>German internal land and air borders with Austria, Denmark, France, Luxembourg, and Switzerland <i>(prolongation)</i></p> <p>German internal air borders with Italy and Spain <i>(prolongation)</i></p> <p>German internal sea borders with</p>

³⁵³ The German Notification of 14 April 2020 also contains a notification on (the prolongation of) the temporary internal border controls at the German land borders with Austria related to migration and the situation at the external border as from 12 May 2020 for a period of 6 months. As this notification/temporary internal border control does not relate to COVID-19, it has not been included in the Annex.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>air borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, as well as the sea border with Denmark, effective from 15 April 2020 for an additional period of 20 days, in accordance with Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code). I also refer to the reasons set out in the aforementioned letters. It remains of utmost importance to ensure that goods can move largely unimpeded across borders."</p>	<p>Denmark <i>(prolongation)</i></p>
<p>05.05.2020 – 15.05.2020 <i>10 days</i></p>	<p>04.05.2020 7736/20 Art. 28 SBC</p>	<p>COVID-19</p>	<p>"After several extensions, the checks at the internal borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, which were temporarily introduced on 16 March 2020 on the basis of Article 28 of Regulation (EU) 2016/399 and later expanded to include the air and sea borders, remain in effect until 4 May 2020.</p> <p>[...]</p> <p>Internal border control naturally implies restrictions in cross-border traffic, public life and social contacts. However, restrictions are necessary to break the chains of infection and to effectively contain the rapid spread of the coronavirus SARS-CoV-2. It is important that they are proportionate and justifiable. Therefore, we also take into account the interests of neighbouring countries, the federal states concerned and border regions (in particular concerning exemptions from entry restrictions and the selection of approved border crossing points) as far as possible.</p> <p>After renewed careful consideration of the situation – figures on the spread of the coronavirus SARS-CoV-2 are volatile and national restrictions on public life and social contacts still apply, as do the corresponding measures in our neighbouring countries – I take the view that internal border control must be extended beyond 4 May 2020, for the time being until 15 May 2020. This is in line with the EU's recommended restrictions on entry from third countries, which also apply until 15 May 2020.</p> <p>Whether and to what extent temporary internal border checks will be needed on the basis of Article 25 of the Schengen Borders Code beyond 15 May 2020 will depend on how the situation evolves and which measures are taken in Germany and abroad. I therefore reserve the right to decide on temporary internal border checks in keeping with the situation, taking into</p>	<p>German internal land and air borders with Austria, Denmark, France, Luxembourg, and Switzerland <i>(prolongation)</i></p> <p>German internal air borders with Italy and Spain <i>(prolongation)</i></p> <p>German internal sea borders with Denmark <i>(prolongation)</i></p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>account possible future EU recommendations for restricting entry from third countries and the worldwide travel warning of the Federal Foreign Office for non-essential tourist travel (applicable until 14 June 2020).</p> <p>[...]</p> <p>In Germany and Europe, we still have not succeeded in permanently containing the spread of the coronavirus SARS-CoV-2, and therefore we need to continue our efforts at all levels. With this in mind, and further to my letters of 15, 19 and 25 March 2020 and of 14 April 2020, I have decided to extend temporary border control effective from 5 May 2020 until 15 May 2020, in accordance with Article 28 of the Schengen Borders Code. I also refer to the reasons set out in the aforementioned letters.”</p>	
<p>16.05.2020 – 15.06.2020</p> <p>1 month</p>	<p>15.05.2020</p> <p>8055/20</p> <p>Art. 25 and 27 SBC</p>	<p>COVID-19</p>	<p>“The checks at the internal borders with Austria, Switzerland, France, Luxembourg, Denmark, Italy and Spain, which were temporarily reintroduced on 16 March 2020 on the basis of Article 28 of Regulation (EU) 2016/399 and later expanded, have helped break the chains of infection and contain the spread of the coronavirus SARS-CoV-2.</p> <p>In the Federal Republic of Germany, the spread of the coronavirus SARS-CoV-2 has so far been successfully slowed down by implementing many national restrictions on public life and social contacts. A great deal has been achieved in Europe and around the world to contain the spread of SARS-CoV-2, too.</p> <p>The downward trend in the number of COVID-19 cases made it possible to agree on 6 May 2020 to take cautious steps towards returning to normal life in Germany.</p> <p>Our neighbouring countries and other European partners are considering relaxing or have already started to relax restrictions to varying degrees as well.</p> <p>But this epidemiological trend is still fragile. The next gradual steps must therefore continue to be guided by the objective of containing the pandemic. Moreover, we have the obligation to do everything possible to overcome the pandemic once and for all.</p>	<p>German internal land and air borders with Austria, Denmark, France, and Switzerland (prolongation)</p> <p>Lifting of border controls at the German internal land and air borders with Luxembourg from 16.05.2020</p> <p>German internal air borders with Italy and Spain (prolongation)</p> <p>German internal sea borders with Denmark (prolongation)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>After careful consideration, and in consultation with the neighbouring countries concerned, effective 16 May 2020, we will continue the temporary checks at the borders with Austria, Switzerland, France, Denmark, Italy and Spain until 15 June 2020 under a new set of legal provisions. This decision is based on Articles 25 and 27 of the Schengen Borders Code and affects the same time period as the renewed recommendation of the European Commission of 8 May 2020 to continue restricting entry from non-EU countries and the worldwide travel warning of the Federal Foreign Office for non-essential tourist travel (currently applicable until 14 June 2020). I also refer to my previous letters of 15, 19 and 25 March 2020 as well as of 14 April 2020 and 4 May 2020, setting out the reasons for border checks and announcing their extension based on Articles 25 and 27 of the Schengen Borders Code. Given positive developments in the epidemiological situation, the temporary checks at the border with Luxembourg will end on 15 May 2020 in consultation with Luxembourg.</p> <p>Considering the positive trend, we can adjust our approach to checks at the borders with our neighbouring countries (Austria, Switzerland, France and Denmark). We will reopen all cross-border traffic routes as quickly as possible. In addition, from 16 May 2020 the Federal Police will no longer conduct systematic checks at the land and air borders with these countries, but will only carry out flexible random checks. Further, pragmatic solutions for any additional exceptions to the travel restrictions and any easing of checks at the borders (in particular for family-related and personal reasons) will be discussed with the neighbouring countries in various formats.</p> <p>We seek to end all border checks – introduced due to the spread of the coronavirus SARS-CoV-2 – on 15 June 2020, if the development of the pandemic allows it.”</p>	
<p>16.06.2020 – 21.06.2020</p> <p>6 days</p>	<p>15.06.2020</p> <p>8867/20</p> <p>Art. 25 and 27 SBC</p>	<p>COVID-19</p>	<p>“The downward trend in the number of COVID-19 cases has continued and made it possible to take further steps towards returning to normal life in Germany and Europe.</p> <p>The decrease in the infection rate has made it possible and reasonable to adjust our approach to checks at the borders with Austria, Switzerland, France, Denmark, Italy and Spain, also owing to the fact that similar steps</p>	<p>German air borders with Spain (<i>prolongation</i>)</p> <p>Lifting of internal border controls at German internal</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>have, to varying degrees, been taken in these states. The Federal Government therefore decided to end coronavirus-related temporary checks at the borders with Austria, Switzerland, France, Denmark and Italy at midnight on 15 June 2020 and to continue checks for passengers arriving by air from Spain until 21 June 2020, in line with the time period Spain envisages for internal border controls.</p> <p>Based on the reasons stated in my letters of 15, 19 and 25 March 2020, 14 April 2020 and 4 and 15 May 2020, I therefore decided to order that passengers arriving from Spain by air be checked, effective 16 to 21 June 2020, in accordance with Articles 25 and 27 of Regulation (EU) 2016/399 (Schengen Borders Code). After that, passengers arriving from Spain by air will no longer be checked."</p>	<p>land and air borders Austria, Denmark, France and Switzerland, internal air borders with Italy, and internal sea borders with Denmark</p> <p>Lifting of German internal air borders with Spain from 21.06.2020</p>
Hungary				
<p>12.03.2020 – 21.03.2020</p> <p>10 days</p>	<p>12.03.2020</p> <p>6788/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"I hereby inform you that the Government of Hungary has declared a state of emergency throughout the territory of Hungary in order to protect the health and lives of the Hungarian citizens and to prevent the consequences of the mass epidemic threatening the life and property security of our citizens.</p> <p>Since the novel coronavirus disease (COVID-19) poses a significant threat to Hungarian public health [...] Hungary will reintroduce border controls at the internal borders between Hungary and the Republic of Slovenia and between Hungary and the Republic of Austria for the period of 10 days.</p> <p>The decision will enter into force on 12th March 2020. The scope and intensity of the planned border controls will not exceed what is required by the current security needs.</p> <p>[...]</p> <p>In addition to introducing the above listed measures, the entry of persons, regardless of their nationality, arriving from the countries most affected by the infection, namely the Republic of Italy [...] to the territory of Hungary will be refused at all border crossing points."</p>	<p>Hungarian internal land borders with Austria and Slovenia (new)</p> <p>Extended to Hungarian internal land borders with Slovakia and all Hungarian internal air borders from 17.03.2020 (new) (6926/20)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
22.03.2020 – 10.04.2020 <i>20 days</i>	18.03.2020 6926/20 Art. 28 SBC	COVID-19	<p>“Referencing my letter of 12th March 2020 concerning the decision of the Government of Hungary on declaring a state of emergency throughout the territory of Hungary in order to protect the health and lives of the Hungarian citizens and to prevent the consequences of the mass epidemic threatening the life and property security of our citizens, as well as its decision [...] to reintroduce border controls at the internal borders between Hungary and the Republic of Slovenia, and between Hungary and the Republic of Austria for the period of 10 days, I would like to hereby inform you that as of 17th March 2020, Hungary has reintroduced border controls at the internal borders between Hungary and the Republic of Slovakia and at all of the Schengen internal air borders as well.</p> <p>We would also like to inform you that starting from 22th March 2020 with regard to Article 28 (3) of the Schengen Borders Code, Hungary will extend the reintroduced border control measures at the land and air borders by 20 days. Maintaining border controls at our internal borders is crucial to protecting the health and lives of the Hungarian citizens and to preventing the consequences of the mass epidemic threatening the life and property security of our citizens.”</p>	All Hungarian internal land and air borders <i>(prolongation)</i> ³⁵⁴
11.04.2020 – 30.04.2020 <i>20 days</i>	09.04.2020 7288/20 Art. 28 SBC	COVID-19	<p>“I would like to inform you that in accordance with Article 28 (3) of the Schengen Borders Code Hungary will extend reintroduced border control measures at the all internal land and air border sections for another 20 days from 11 April 2020. The maintenance of internal controls is still necessary in order to eliminate the consequences of a human epidemic causing a mass illness that endangers the safety of life and property, and to protect the health and life of Hungarian citizens.”</p>	All Hungarian internal land and air borders <i>(prolongation)</i>
01.05.2020 – 10.05.2020 <i>10 days</i>	28.04.2020 7639/20 Art. 28 SBC	COVID-19	<p>“I would like to inform you that in accordance with Article 28 (3) of the Schengen Borders Code Hungary will extend reintroduced border control measures at the all internal land and air border sections for another 10 days from 1 May 2020. The maintenance of internal controls is still necessary in order to eliminate the consequences of a human epidemic causing a mass</p>	All Hungarian internal land and air borders <i>(prolongation)</i>

³⁵⁴ The Hungarian Notification of 18 March 2020 referencing the internal border controls at the Hungarian internal land borders with Austria and Slovenia, and extended to the internal land border with Slovakia, effectively results in internal border controls at Hungarian internal land borders with all Schengen (member) States bordering Hungary. The Annex will therefore refer to “all Hungarian internal land borders”.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			illness that endangers the safety of life and property, and to protect the health and life of Hungarian citizens."	
12.05.2020 – 11.11.2020 <i>6 months</i> [all temporary internal border controls lifted from 30.06.2020; 9287/20]	11.05.2020 7943/20 Art. 25 SBC 8771/20 (10.06.2020) & 9287/20 (25.06.2020)	COVID-19	<p>"I would like to inform you that in accordance with Article 25 (1) of the Schengen Borders Code Hungary will extend reintroduced border control measures at the all [<i>sic</i>] internal and air border sections for another 6 months from 12 May 2020. The maintenance of internal controls is still necessary in order to eliminate the consequences of a human epidemic causing a mass illness that endangers the safety of life and property, and to protect the health and life of Hungarian citizens." (7943/20)</p> <p>"I would like to inform you that the decision aiming to prevent the consequences of the mass epidemic (COVID-19), in accordance with Article 28 (1) and Article 25 (1) of the Schengen Borders Code to reintroduce border controls at the internal borders between Hungary and the Republic of Slovakia and between Hungary and the Republic of Austria has been lifted on 5th June 2020. The decision to reintroduce border controls between Hungary and the Republic of Slovenia has been lifted on 8th June 2020." (8771/20)</p> <p>"I would like to inform you that the decision aiming to prevent the consequences of the mass epidemic (COVID-19), in accordance with Article 28 (l) and Article 25 (1) of the Schengen Borders Code to reintroduce border controls at the internal air borders has been lifted on 30th June 2020." (9287/20)</p>	<p>All Hungarian internal land and air borders (<i>prolongation</i>)</p> <p>Lifting of border controls at Hungarian internal land borders with Austria and Slovakia from 05.06.2020, and at internal land borders with Slovenia from 08.06.2020 (8871/20)</p> <p>Lifting of border controls at Hungarian internal air borders from 30.06.2020 (9287/20)</p>
Iceland				
24.04.2020 – 03.05.2020 <i>10 days</i>	21.04.2020 7505/20 Art. 28 SBC	COVID-19	"The number of new Covid-19 virus infections in Iceland has declined rapidly over the last two weeks as measures taken to halt the spread of the virus seem to have been effective. Estimates and statistics indicate that the peak of the epidemic has been reached and that it is currently on a downward trajectory. The Icelandic government is determined to apply all measures to limit the potential of any possible reinfections in society	All Icelandic internal (air and sea) borders (<i>new</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>resulting in a second wave of the epidemic. An integral part of any such measures is to require all persons to quarantine upon arrival in the country.</p> <p>On 24 April, a new regulation was introduced in Iceland in order to combat the further spread of Covid-19. The regulation, which is based on recommendations from the Icelandic Chief Epidemiologist, stipulates that all persons entering the country must quarantine for 14 days upon arrival.</p> <p>A previous regulation on the matter required only persons residing in Iceland to quarantine for a corresponding number of days. In order to monitor and enforce the quarantine, all persons traveling to Iceland will have to fill out a Public Health Passenger Locator Form (PLC) and present it to a border guard upon arrival. Hence, a temporary reintroduction of border controls at the internal border is a prerequisite for the effective enforcement of the mandated quarantine.</p> <p>For Icelandic authorities to be able to enforce the regulation on quarantine for all travelers to Iceland and to combat further spread of the virus, it is imperative to reintroduce border controls at all internal borders in Iceland (air and sea borders). The temporary reintroduction of internal border control in Iceland is unavoidable at this time, based on a risk assessment by the National Commissioner of the Icelandic Police."</p>	
<p>04.05.2020 – 14.05.2020</p> <p>11 days</p>	<p>30.04.2020</p> <p>7724/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"Active Covid-19 infections have continued to decline in the last week, with only a few new cases being confirmed. Hence, the Icelandic government [<i>sic</i>] still considers it necessary to apply all relevant measures to limit the potential of any possible reinfections in society resulting in a second wave of the epidemic.</p> <p>For Icelandic authorities to continue to be able to enforce existing regulation on quarantine for all travelers to Iceland and to combat further spread of the virus, it is deemed necessary to prolong border controls at all internal borders in Iceland (air and sea borders). The temporary reintroduction of internal border control in Iceland is unavoidable at this time, based on a risk assessment by the National Commissioner of the Icelandic Police."</p>	<p>All Icelandic internal (air and sea) borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
15.05.2020 – 03.06.2020 <i>20 days</i>	14.05.2020 8050/20 Art. 28 SBC	COVID-19	“As other member states Iceland has slowly started to ease its restrictions and therefore thinks it is necessary to prolong border controls at all internal borders in Iceland (air and sea borders). The prolongation is based on a risk assessment by the National Commissioner of the Icelandic Police and recommendations from the Icelandic Chief Epidemiologists on the ongoing need for mandated quarantine upon arrival.”	All Icelandic internal (air and sea) borders (<i>prolongation</i>)
04.06.2020 – 15.06.2020 <i>12 days</i>	03.06.2020 8616/20 Art. 28 SBC	COVID-19	“As other member states Iceland has slowly started to ease its restrictions and therefore thinks it is still necessary to prolong border controls at all internal borders in Iceland (air and sea borders). The prolongation is based on a risk assessment by the National Commissioner of the Icelandic Police and recommendations from the Icelandic Chief Epidemiologists on the ongoing need for mandated quarantine upon arrival.”	All Icelandic internal (air and sea) borders (<i>prolongation</i>)
16.06.2020 – 22.06.2020 <i>7 days</i>	12.06.2020 8845/20 Art. 28 SBC	COVID-19	“As other member states Iceland has slowly started to ease its restrictions and therefore thinks it is still necessary to prolong border controls at all internal borders in Iceland (air and sea borders). The prolongation is based on a risk assessment by the National Commissioner of the Icelandic Police and recommendations from the Icelandic Chief Epidemiologists on the ongoing need for mandated quarantine upon arrival. The prolongation is also necessary for the implementation of a Covid-19 screening mechanism intended for all travellers entering the country from 15 June.”	All Icelandic internal (air and sea) borders (<i>prolongation</i>)
Lithuania				
14.03.2020 – 24.03.2020 <i>10 days</i>	14.03.2020 6848/20 Art. 28 SBC	COVID-19	“Please be informed that the Government of Republic [<i>sic</i>] of Lithuania has decided to temporarily reintroduce border control at all internal land-, sea- and air borders in accordance with Article 28 of the Regulation (EU) 2016/3999 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Such a decision was taken in reaction to serious and immediate threat caused by the spread of COVID-19. The Government of Lithuania considers the reintroduction of internal border control as a necessary, proportionate and effective measure to address this threat.	All Lithuanian internal borders (<i>new</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The border control will be reintroduced at:</p> <ol style="list-style-type: none"> 1. International airports; 2. Seaport of Klaipėda; 3. The following land border crossing points (BCP): <ul style="list-style-type: none"> • With Republic of Poland: <ul style="list-style-type: none"> - Kalvarijos BCP; - Lazdijų BCP. • With Republic of Latvia: <ul style="list-style-type: none"> - Būtingės BCP; - Skuodo BCP; - Buknaičių BCP; - Kalvių BCP; - Saločių BCP; - Germanišio BCP; - Obelių BCP; - Smėlynės BCP. <p>[...]</p> <p>Please rest assured that the scope and duration of the internal border checks will be limited to what is strictly necessary.”</p>	
<p>24.03.2020 – 13.04.2020</p> <p>20 days</p>	<p>24.03.2020</p> <p>7003/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“This decision was taken in reaction to serious and immediate threat caused by the spread of COVID-19. The Government of the Republic of Lithuania considered the reintroduction of internal border control to be a necessary, proportionate and effective measure to address this threat.</p> <p>Moreover, the Government has announced a quarantine on the entire territory of the Republic of Lithuania for 2 weeks, from March 16th till March 30th (this period will be prolonged as needed). A number of measures and restrictions were adopted in the areas of cross-border and domestic movement, activities of public and private sectors, public life, organisation of work in educational, social service establishments and health care institutions.</p> <p>After thorough examination of the evolving situation and taking into account the increasing number of COVID-19 cases in Lithuania and across Europe, we find that the grounds for internal border control continue to be</p>	<p>All Lithuanian internal borders (<i>prolongation</i>)</p> <p><i>N.B. List of land border crossing points with Poland and Latvia amended</i></p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>valid, making it necessary to prolong internal border control for a period of 20 days in accordance with the paragraph 3 of Article 28 of the Schengen Borders Code.</p> <p>[...]</p> <p>The border control will continue to be carried out at international airports, seaport of Klaipėda and the following land border crossing points (BCP): with Republic of Poland – Kalvarijos BCP, Lazdijų BCP and additionally Mockavos BCP; with Republic of Latvia – Būtingės BCP, Saločių BCP and Smėlynės BCP.”</p>	
<p>13.04.2020 – 27.04.2020</p> <p>14 days</p>	<p>10.04.2020</p> <p>7304/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“After thorough examination of the current situation and taking into account the trends as regards numbers of COVID-19 cases in Lithuania and across Europe, we find that the grounds for internal border control continue to be valid, making it necessary to prolong internal border control for a period of 14 days in accordance with the paragraph 3 of Article 28 of the Schengen Borders Code.”</p>	<p>All Lithuanian internal borders (<i>prolongation</i>)</p>
<p>28.04.2020 – 14.05.2020</p> <p>17 days</p>	<p>24.04.2020</p> <p>7572/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“After thorough examination of the current situation and taking into account the trends as regards numbers of COVID-19 cases in the Republic of Lithuania and across Europe, we find that the grounds for internal border control continue to be valid, making it necessary to prolong internal border control in accordance with the paragraph 3 of Article 28 of the Schengen Borders Code.</p> <p>[...]</p> <p>Please also be informed, that the prolongation of the quarantine regime, which was announced on 16 March 2020 on the entire territory of the Republic of Lithuania, as well as the necessity of internal border control is being reassessed every two weeks. The Republic of Lithuania acknowledges that reintroduction of internal border controls should be a measure of last resort. As it is difficult to assess beforehand whether there will be circumstances giving rise to the need of having further internal border control in place after 14 May 2020, the Government of the Republic of Lithuania has not yet taken a decision on further internal border controls. Where the situation requires, the Government of the Republic of Lithuania</p>	<p>All Lithuanian internal borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			will take a decision on temporary reintroduction of internal border control in accordance with Article 25 of the Schengen Borders Code, based on most recent information and data evidence. Where such a decision is taken, the Republic of Lithuania will inform the European Commission, European Parliament, The Council of the EU, EU Member States and Schengen Associated Countries without delay."	
14.05.2020 – 31.05.2020 <i>18 days</i>	06.05.2020 7784/20 Art. 25 and 27 SBC	COVID-19	<p>"In the last notification of 24 April 2020 on prolongation of internal border control based on Article 28 of Schengen Borders Code, the Republic of Lithuania acknowledged that reintroduction of internal border control should be a measure of last resort and pointed out that at the time of sending the notification it was not yet known and/or possible to objectively assess whether there will be circumstances giving rise to the need of having further internal border control in place beyond 15 May 2020.</p> <p>The prolongation of the quarantine regime, which was announced on 16 March 2020 on the entire territory of the Republic of Lithuania, as well as the necessity and proportionality of internal border control, is being reassessed regularly. After thorough examination of the epidemiological situation based on most recent information and data evidence in the Republic of Lithuania and across Europe, and having taken due account of the European Commission's recommendations set out in Joint European Roadmap towards lifting COVID-19 containment measures, we find that the grounds for internal border control continue to be valid, making it necessary to temporarily reintroduce border control at internal borders in accordance with Article 25 and 27 of the Schengen Borders Code."</p>	All Lithuanian internal borders (<i>prolongation</i>) ³⁵⁵
01.06.2020 – 16.06.2020 <i>16 days</i>	28.05.2020 8469/20 Art. 25 and 27 SBC	COVID-19	"The prolongation of the quarantine regime, which was announced on 16 March 2020 on the entire territory of the Republic of Lithuania, as well as the necessity and proportionality of internal border control, is being reassessed regularly. After thorough examination of the epidemiological situation based on most recent information and data evidence in the Republic of Lithuania, other Baltic States and across Europe, and having	Lithuanian internal air and sea borders, and internal land borders with Poland (<i>prolongation</i>)

³⁵⁵ The Lithuanian Notification is worded as a "new" situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the 'temporary reintroduction of internal border controls' and the scope of application thereof is identical to the preceding Lithuanian notification of 24 April 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>taken due account of the European Commission's recommendations set out in Joint European Roadmap towards lifting COVID-19 containment measures, we conclude that border control at the internal land border with the Republic of Latvia may be lifted, however, the grounds for internal border control at sea, air borders and land border with the Republic of Poland continue to be valid, making it necessary to prolong border control in accordance with the paragraph 3 of Article 25 Schengen Borders Code.</p> <p>[...]</p> <p>The border control will continue to be carried out at international airports, seaport of Klaipėda and the following land border crossing points (BCP) with Republic of Poland – Kalvarijos BCP, Lazdijų BCP and Šeštokų BCP.</p> <p>The border control at internal land border with the Republic of Latvia will be lifted as of 1 June 2020 00:00.</p>	<p>Lifting of internal border controls at internal land border with Latvia from 1 June 2020</p> <p>Lifting of internal border controls at internal land border with Poland from 12 June 2020 (see below)</p>
<p>16.06.2020 – 17.07.2020</p> <p>1 month</p>	<p>11.06.2020</p> <p>8814/20</p> <p>Art. 25 and 27 SBC</p>	<p>COVID-19</p>	<p>“After thorough examination of the epidemiological situation based on most recent information and data evidence in the Republic of Lithuania, neighbouring States and across Europe, the Government of the Republic of Lithuania decided that border control at the internal land border with the Republic of Poland may be lifted, however, the grounds for internal border control at sea and air borders continue to be valid, making it necessary to prolong border controls in accordance with the paragraph 3 of Article 25 of Schengen Borders Code.</p> <p>[...]</p> <p>The border control will be carried out at international airports and the seaport of Klaipėda.</p> <p>The border control at internal land border with the Republic of Poland will be lifted as of 12 June 2020 00:00.”</p>	<p>Lithuanian internal air and sea borders (<i>prolongation</i>)</p> <p>Lifting of internal border controls at internal land border with Poland from 12 June 2020</p>
<p>17.07.2020 – 15.08.2020</p> <p>30 days</p>	<p>13.07.2020</p> <p>9624/20</p> <p>Art. 25 SBC</p>	<p>COVID-19</p>	<p>“While internal border control at sea and air borders is still in place, Lithuania lifted travel restrictions for citizens and legal residents of all European Economic Area countries, the United Kingdom and Swiss Confederation, if the incidence of COVID-19 in the past 14 days is not exceeding 25 per 100 000 of population. The list of such countries is</p>	<p>Lithuanian internal air and sea borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>updated on a weekly basis. After thorough examination of the epidemiological situation in the Republic of Lithuania and across Europe based on most recent information and data evidence, the Government of the Republic of Lithuania concluded that the grounds for internal border control at sea and air borders continue to be valid, making it necessary to prolong border control at sea and air borders in accordance with the paragraph 3 of Article 25 of Schengen Borders Code.</p> <p>The prolongation of border control at sea and air borders will take effect from 17 July 2020 00:00 and will last until 15 August 2020 24:00.</p> <p>The border control will be carried out at international airports and the seaport of Klaipėda.</p> <p>Please rest assured that the scope and duration of the internal border control will be limited to what is strictly necessary. If the epidemiological situation allows, the border control at sea and air borders will be lifted earlier than the foreseen deadline of 15 August 2020. The Republic of Lithuania will continue to carefully monitor and assess the development of the situation, as well as the impact and proportionality of the measures taken."</p>	
<p>16.08.2020 – 14.09.2020 <i>30 days</i></p>	<p>13.08.2020 10139/20 Art. 25 SBC</p>	<p>COVID-19</p>	<p>"I would like to inform you, that after thorough examination of the epidemiological situation in the Republic of Lithuania and across Europe based on most recent information and data evidence, the Government of the Republic of Lithuania concluded that the grounds for internal border control at sea and air borders continue to be valid, making it necessary to prolong border control at sea and air borders in accordance with the paragraph 3 of Article 25 of Schengen Borders Code.</p> <p>The prolongation of border control at sea and air borders will take effect from 16 August 2020 00:00 and will last until 14 September 2020 18:00.</p> <p>The border control will be carried out at international airports and the seaport of Klaipėda.</p> <p>Let me assure you, that the scope and duration of internal border control will be limited to what is strictly necessary. The Republic of Lithuania will</p>	<p>Lithuanian internal air and sea borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			continue to carefully monitor and assess the development of the situation, as well as the impact and proportionality of the measures taken.”	
Norway				
16.03.2020 – 25.03.2020 <i>10 days</i>	15.03.2020 6850/20 Art. 28 SBC	COVID-19	<p>“The number of covid-19 virus infections in Norway continues to increase, with a clear cross border element. Although the Norwegian national health authorities have introduced several measures to contain the virus and prevent further spread, all possible measures must be taken into consideration in order to slow down the spreading of the virus, ensure the capacity of our medical facilities and protect the most vulnerable.</p> <p>The Norwegian authorities now views the continued spread of the covid-19 as constituting a serious threat to public policy and internal security. In light of this, I have decided to immediate reintroduce internal border controls at all internal borders (land-, sea- and airborders) for 10 days from 16th March 2020 08:00, pursuant to article 28 of the Regulation (EU) 2016/399 on the rules governing the movements of persons across borders (Schengen Borders Code).</p> <p>The temporary reintroduction of internal border control is an exceptional measure of last resort. As such, the carrying out of internal border controls will be limited, both operationally and geographically to what is considered strictly necessary to avert the threat to our public policy and internal security. In order to make controls at the internal border effective and at the same time as efficient as possible, a certain channeling to larger border crossing posts may be necessary, but has so far not been decided. In order to combat the spread of covid-19 it is unavoidable that the free movement of persons and the internal market will be temporarily negatively affected”</p>	All Norwegian internal borders (<i>new</i>)
26.03.2020 – 14.04.2020 <i>20 days</i>	25.03.2020 7013/20 Art. 28 SBC	COVID-19	<p>“Although unprecedented measures have been introduced to reduce and prevent the further spread of the covid-19 virus infections, the number of infected persons in Norway continues to increase.</p> <p>In my letter of March 15th, I informed you that Norway would temporarily reintroduce internal border controls at all internal borders (land, sea and air) for 10 days, effective from March 16th at 08:00, pursuant to article 28 [SBC].</p>	All Norwegian internal borders (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The accelerating spread of the covid-19 virus throughout Europe and in Norway continues to constitute a threat to our public policy and internal security. In accordance with the Schengen Borders Code article 28, I have therefore decided to prolong the temporary internal border controls at all Norwegian borders for a further 20 days, starting from March 26th this year at 08:00.</p> <p>Norway recognizes that the temporary reintroduction of internal border control is an exceptional measure of last resort. As such, the carrying out of internal border controls will be limited, both operationally and geographically, to what is considered strictly necessary to avert the threat to our public policy and internal security. In order to make the controls at the internal borders effective, while as efficient as possible, a certain channelling of traffic flows to larger border crossing points may be necessary, but has so far not been decided.</p> <p>The internal border controls will of course be implemented in light of the Commission guidelines for border management measures to protect health and ensure the availability of goods and essential service."</p>	
<p>15.04.2020 – 04.05.2020</p> <p>20 days</p>	<p>14.04.2020</p> <p>7285/20³⁵⁶</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"In order to combat the further spread of the Covid-19 virus infections, Norway reintroduced internal border controls at all internal borders (land, sea and air borders) for 10 days on the 16th of March this year, pursuant to article 28 [SBC]. The measure was prolonged for 20 days from the 26th of March.</p> <p>National statistical information indicates that the unprecedented measures taken to reduce and prevent the further spread of the Covid-19 virus infections are having a positive effect. However, there are still new cases of infection reported, which means that the time has yet not come to reduce our efforts. In light of this, I would kindly like to inform you that Norway pursuant to the Schengen Borders Code article 28 will prolong the internal border controls for another 20 days effective as of 15th of April at 08.00. A</p>	<p>All Norwegian internal borders (<i>prolongation</i>)</p>

³⁵⁶ The Norwegian notification under the Schengen Borders Code of 14 April 2020 (7285/20) contains notifications of three 'sets of temporary internal border controls'. As only two of these 'sets' pertain to COVID-19 (with the third 'prolongation' concerning internal border controls related to terrorist threats and secondary movements), only the two relevant 'notifications' will be covered in this Annex.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			decision on prolongation for a final period of 10 days as provided for under the article 28 will be taken at a later time.”	
05.05.2020 – 16.05.2020 <i>11 days</i>	29.04.2020 7679/20 Art. 28 SBC	COVID-19	<p>“In order to combat the further spread of the Covid-19 virus infections, Norway reintroduced internal border controls at all internal borders (land, sea and air borders) for 10 days on the 16th of March this year, pursuant to article 28 [SBC]. The measure was prolonged for 20 days from the 26th of March, and for a further 20 days from the 15th of April.</p> <p>National statistical information indicates that the unprecedented measures taken to reduce and prevent the further spread of the Covid-19 virus infections are having a positive effect. However, the continued spread still constitutes a threat to our public policy and internal security. In light of this, I would kindly like to inform you that Norway, pursuant to the Schengen Borders Code article 28, will prolong the internal border controls at all internal borders (land, sea and air borders) for another 11 days until 16th of May at 08.00.</p> <p>Norway recognizes that the temporary reintroduction of internal border controls is an exceptional measure of last resort. As such, the carrying out of internal border controls will be limited, both operationally and geographically, to what is considered strictly necessary to avert the threat to our public policy and internal security. In order to make the controls at the internal borders effective, while as efficient as possible, a certain channeling of traffic flows to larger border crossing points may be necessary, but has so far not been decided.</p> <p>The internal border controls will be implemented in light of the Commission guidelines for border management measures to protect health and ensure the availability of goods and essential services.”</p>	All Norwegian internal borders <i>(prolongation)</i>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
15.05.2020 – 13.08.2020 90 days	14.04.2020 7285/20 ³⁵⁶ Art. 25 and 27 SBC	COVID-19	“It is at this stage not possible to predict with any certainty how the spread of the covid-19 virus infections will develop in Norway or in the EU over the coming months. The current estimate of the Norwegian Institute of Public Health is that the epidemic will reach its peak in Norway between May and October this year. Thus, it can reasonably be assumed that several of the current measures taken to contain and combat the infections will have to be kept in place over time. In light of this the Norwegian government has decided to reintroduce internal border controls at all borders (land, sea and air borders) for 90 days from 15 th of May at 08.00, in light with the Schengen Borders Code articles 25 and 27, in order to combat the further spread of the virus infections.”	All Norwegian internal borders (<i>prolongation</i>) ³⁵⁷
14.08.2020 – 12.09.2020 30 days	12.08.2020 10138/20 Art. 25 and 27 SBC	COVID-19	<p>“In order to combat the further spread of the Covid-19 virus infections, Norway reintroduced internal border controls at all internal borders (land, sea and air borders) on the 16th of March this year, pursuant to article 28 [SBC]. The measure was prolonged in accordance with article 28 until the 15th of May.</p> <p>In my letter of 14th of April this year, I expressed the view of the Norwegian authorities that it would be reasonable to assume that several of the measures adopted to contain and combat the infections would have to be kept in place over time. As a consequent, in order to combat the further spread of the virus infections, the Norwegian government decided to reintroduce internal border controls at all internal borders (land, sea and air borders) for 90 days from the 15th of May, pursuant to the Schengen Borders Code articles 25 and 27.</p> <p>The unprecedented measures taken to reduce and prevent the further spread of the Covid-19 virus infections have made it possible to move towards a return to the unrestricted free movement of persons on the territory of the Schengen Member States. Norway have supported a coordinated, phased approach in order to achieve this goal. Since the 15th</p>	All Norwegian internal borders (<i>prolongation</i>)

³⁵⁷ The Norwegian notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the ‘temporary reintroduction of internal border controls’ and the scope of application thereof is identical to the (preceding) Norwegian notification of 25 March and 14 April 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>of July, it has been possible for residents of most of the Schengen area/EEA to enter Norway without being required to quarantine. For residents of countries within the Schengen/EEA with a higher than acceptable level of infection, entry into Norway can still be done, but on the condition of documenting where they will stay during the first 10 days of their stay in Norway, in order to meet the quarantine requirements. Travelers without such documentation will be refused entry. The list of countries with a higher than acceptable level of infection is regularly reassessed. In our view, this strikes a balance between restoring the integrity of the Schengen area and protecting the lives and health of our citizens.</p> <p>It is the view of the Norwegian government that, as long as travel restrictions into Norway still apply for groups of residents of certain Schengen/EEA-countries, controls at the Norwegian internal borders must be maintained. In light of this, the Norwegian government have decided to prolong the internal border controls at all borders (land, sea and air borders) for 30 days from 14th of August at 08.00, pursuant to the Schengen Borders Code article 25, paragraph 3, and article 27, in order to combat the further spread of the virus infections.</p> <p>The temporary reintroduction of internal border controls are an exceptional measure of last resort. As such, the carrying out of internal border controls as a measure to limit the further spread of the COVID-19 virus infections will be limited in scope, both operationally and geographically, to what is considered strictly necessary to prevent the possible threats to internal security and public policy. The controls will be targeted, based on risk assessment and carried out in accordance with the relevant Commission guidelines.”</p>	

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
Poland				
15.03.2020 – 24.03.2020 <i>10 days</i>	13.03.2020 6844/20 (INIT and ADD 1) Art. 28 SBC	COVID-19	<p>“Due to the serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order, in accordance with Article 28(1) and pursuant to Article 27 of the Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), with a view to preventing the spread of the coronavirus and thus the entry to Poland of people who could pose a serious threat to public health, I have made a decision to temporarily reintroduce border control at internal borders.</p> <p>Border control is to be reintroduced for the period from 15 March 2020 to 24 March 2020 at the sections of the Polish border with the Czech Republic, the Slovak Republic, the Federal Republic of Germany, the Republic of Lithuania as well as at sea and air border crossing points.</p> <p>The scope and intensity of border control will be limited to activities necessary to ensure public order and internal security. Border control will be carried out on the basis of risk analysis and in a manner that is flexible in order to accommodate time and location considerations.</p> <p>Crossing the internal border of Poland will be permitted at authorised crossing points, as indicated in the list provided in the Annex.”</p>	<p>All Polish internal land, sea, and air borders (<i>new</i>)³⁵⁸</p> <p><i>N.B. Amended list of authorised border crossing points notified by letter of 20.03.2020 (6844/20 ADD 1).</i></p>
25.03.2020 – 13.04.2020 <i>20 days</i>	24.03.2020 6949/20 Art. 28 SBC	COVID-19	<p>“Due to the serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order, in accordance with Article 28(3) and pursuant to Article 27 [SBC], with a view to preventing the spread of the coronavirus and thus the entry to Poland of people who could pose a serious threat to public health, I have made a decision to extend border control at internal borders.</p>	<p>All Polish internal land, sea, and air borders (<i>prolongation</i>)</p>

³⁵⁸ The Polish notification refers to temporary reintroduction of internal border controls at *inter alia* the Polish internal land borders with Czech Republic, Slovakia, Germany and Lithuania (as well as Polish internal sea and air borders). As, in effect, this entails internal border controls at Polish internal land borders with all Schengen (member) States bordering Poland, the Annex will refer to “all Polish internal land borders”.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>Border control is to be extended for the period from 25 March 2020 to 13 April 2020 at the sections of the Polish border with the Czech Republic, the Slovak Republic, the Federal Republic of Germany, the Republic of Lithuania as well as at sea and air border crossing points.</p> <p>The scope and intensity of border control will be limited to activities necessary to ensure public order and internal security. Border control will be carried out on the basis of risk analysis and in a manner that is flexible in order to accommodate time and location considerations.</p> <p>Crossing the internal border of Poland will be permitted at authorised crossing points, as indicated in the list provided in the Annex."</p>	
<p>14.04.2020 – 03.05.2020</p> <p>20 days</p>	<p>09.04.2020</p> <p>7290/20</p> <p>Art. 28 SBC</p>	COVID-19	<p>"Due to the serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order, in accordance with Article 28(3) and pursuant to Article 27 [SBC], with a view to preventing the spread of the coronavirus and thus the entry to Poland of people who could pose a serious threat to public health, I have made a decision to extend border control at internal borders.</p> <p>Border control is to be prolonged for the period from 14th April 2020 to 3rd May 2020 at sections of the Polish border with the Czech Republic, the Slovak Republic, the Federal Republic of Germany, the Republic of Lithuania as well as at sea and air border crossing points.</p> <p>The scope and intensity of border control will be limited to activities necessary to ensure public order and internal security. Border controls will be conducted on the basis of risk analysis and in a flexible manner as regards the location and time."</p>	All Polish internal land, sea, and air borders (<i>prolongation</i>)
<p>04.05.2020 – 13.05.2020</p> <p>10 days</p>	<p>24.04.2020</p> <p>7571/20</p> <p>Art. 28 SBC</p>	COVID-19	<p>"In view of the serious threat to public health posed by the SARS-CoV-2 coronavirus (COVID-19) and the need to ensure internal security and public order, I have decided, in accordance with Article 28(3) pursuant to Article 27 [SBC], to prolong the temporary reintroduction of border controls at internal borders in order to counter the spread of the coronavirus and</p>	All Polish internal land, sea, and air borders (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>hence the entry into Poland of persons who may pose a serious threat to public health.</p> <p>Border controls at internal borders will be prolonged from 4 May 2020 to 13 May 2020 at the sections of the national border with the Czech Republic, the Slovak Republic, the Federal Republic of Germany and the Republic of Lithuania, as well as at sea and air border crossing points.</p> <p>The scope and intensity of the border controls will be limited to those measures which are essential in order to ensure public order and internal security. Border controls will be carried out on the basis of a risk analysis, and there will be some flexibility in terms of where and when they take place."</p>	
<p>14.05.2020 – 12.06.2020</p> <p>30 days</p>	<p>09.04.2020</p> <p>7963/20</p> <p>Art. 25 and 27 SBC</p> <p>8822/20 (12.06.2020)</p>	<p>COVID-19</p>	<p>"Due to the persistence of serious threat to public health related to the spread of the SARS-CoV-2 coronavirus (responsible for COVID-19 disease) and the need to ensure internal security and public order, in accordance with Article 25 and pursuant to Article 27 of the Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), with a view to preventing the spread of the coronavirus and thus the entry to Poland of people who could pose a serious threat to public health, I have made a decision to temporary reintroduce border controls at Poland's internal borders.</p> <p>Border control is to be reintroduced for the period from 14th May 2020 to 12th June 2020 at sections of the Polish border with the Czech Republic, the Slovak Republic, the Federal Republic of Germany, the Republic of Lithuania as well as at sea and air border crossing points.</p> <p>The scope and intensity of border control will be limited to activities necessary to ensure public order and internal security. Border controls will be conducted on the basis of risk analysis and in a flexible way as regards the location and time." (7963/20)</p>	<p>All Polish internal land, sea, and air borders (prolongation)³⁵⁹</p> <p>Lifting of border controls at Polish internal land borders with Lithuania from 12.06.2020, and all other Polish internal (land, sea, and air) borders from 13.06.2020 (8822/20)</p>

³⁵⁹ The Polish notification is worded as a "new" situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the 'temporary reintroduction of internal border controls' and the scope of application thereof is identical to the Polish notifications of 9 and 24 April 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>“Due to the stabilisation of the epidemiological situation on the territory of the Republic of Poland and in the neighbouring states, as well as taking account of the European Commission’s recommendations regarding the reintroduction of the freedom of movement within the European Union, I kindly inform you that border controls that were introduced according to the art. 25.1 and 28.1 of the [SBC], at the national border of the Republic of Poland, section of border with:</p> <ul style="list-style-type: none"> • The Republic of Lithuania were ceased on 12 June 2020 (9:00 am); • The Czech Republic, Slovak Republic, Federal Republic of Germany as well as sea and air borders will cease on 13 June 2020. <p>The above decision will allow for crossing the border freely, without the need to undergo border control and will initiate the staged process of reintroducing free movement within the European Union.” (8822/20)</p>	
Portugal				
<p>16.03.2020 – 25.03.2020</p> <p>10 days</p>	<p>17.03.2020</p> <p>6896/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“Due to the increasing number of cases of CODIV 19 [<i>sic</i>] infections at national level, with a progressive extension of its geographical expression, the Portuguese authorities [<i>sic</i>] considered, for public health reasons, necessary to guarantee the internal security through appropriate measures that contain the possible contagion lines, including the reintroduction of controls at the internal border between Portugal and Spain.</p> <p>For this purpose and in addition to other precautionary measures already in place, a resolution of the Council of Ministers (RCMR 200 / XXII /2020) was adopted yesterday, March 16. In this vein, the Portuguese government [<i>sic</i>] have decided to temporarily reintroduce border control at the internal borders [...]</p> <p>The temporary reintroduction of border control applies as of 11 pm of March 16 2020 for an initial period of ten days on the basis of Article 28 of Regulation (EU) 2016/399 (Schengen Borders Code). As the development of the situation is constantly being assessed there is the possibility of this initial period be [<i>sic</i>] extended up to 30 days. This measure has been agreed with Spain.</p>	<p>Portuguese internal borders with Spain (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			This is an exceptional measure of last resort. The Portuguese authorities will take the necessary steps to ensure that the border control activities are carried out in a way to allow smooth process of travellers and will be limited and adapted, both operationally and geographically to what is strictly [sic] necessary to react against the current COVID-19 [sic] threat."	
26.03.2020 – 14.04.2020 20 days	25.03.2020 7067/20 Art. 28 SBC	COVID-19	<p>"Following my letter of 17 March on the temporary reintroduction of border control, and taking into account that the cases of COVID-19 infections at national level are increasing, it was decided to extend for 20 days the control in the internal borders with Spain, reintroduced in at 11PM of 16 March in accordance with article 28 [SBC].</p> <p>This remains an exceptional measure of last resort. As such, the internal border control will be maintained limited and adapted, both operationally and geographically [sic] to what is strictly [sic] necessary to react against the current COVID-19 threat and to protect the health and life of the population, as well the internal security."</p>	Portuguese internal borders with Spain (<i>prolongation</i>)
15.04.2020 – 04.05.2020 20 days	14.04.2020 7321/20 Art. 28 SBC	COVID-19	<p>"Following the letter of 25th of March regarding the temporary reintroduction of border control, and taking into account that cases of COVID-19 infections at the national level are increasing, it was decided to extend for 20 days the control in the internal borders with Spain, reintroduced at 11PM of 16 March in accordance with article 28 [SBC].</p> <p>This remains an exceptional measure of last resort. As such, the internal border control will be maintained limited and adapted, both operationally and geographically, to what is strictly necessary to react against the current COVID-19 threat and to protect the health and life of the population, as well as, the internal security."</p>	Portuguese internal borders with Spain (<i>prolongation</i>)
05.05.2020 – 14.05.2020 10 days	04.05.2020 7747/20 Art. 28 SBC	COVID-19	<p>"Following the letter of 14th of April regarding the temporary reintroduction of border control, and taking into account that cases of COVID-19 infections at the national level are still increasing, it was decided to extend for 10 days the control in the internal borders with Spain, reintroduced at 11PM of 16 March, in accordance with article 28 [SBC].</p> <p>This remains an exceptional measure of last resort. As such, the internal border control will be maintained limited and adapted, both operationally</p>	Portuguese internal borders with Spain (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			and geographically, to what is strictly necessary to react against the current COVID-19 threat and to protect the health and life of the population, as well as, the internal security.”	
15.05.2020 – 15.06.2020 <i>1 month</i>	14.05.2020 8032/20 Art. 25 and 27 SBC	COVID-19	<p>“The Portuguese government is continuously assessing the situation of COVID-19 infections at the national level, as well at EU level.</p> <p>In Portugal positive developments and results are being achieved. We are currently gradually easing some measures. However, COVID-19 continues to pose a persistent and serious threat to the Portuguese population and it’s still not possible to safely predict how the pandemic situation will evolve in the future.</p> <p>In order to avoid, or, at least, minimize the risk of a second wave of infections, the relaxation of the relevant measures within the country requires appropriate steps to be taken at the internal border in order to prevent the spread of corona virus in Portugal.</p> <p>For this reason, the Portuguese government decided, in accordance with articles 25 and 27 [SBC] to reintroduce temporary border control at the internal borders with Spain from 15th May until 15th June included.</p> <p>This remains an exceptional measure of last resort. As such, the internal border control will be maintained limited and adapted, both operationally and geographically, to what is strictly necessary to react against the current COVID-19 threat and to protect the health and life of the population, as well as, the internal security.</p>	Portuguese internal borders with Spain (<i>prolongation</i>) ³⁶⁰
16.06.2020 – 30.06.2020 <i>15 days</i>	12.06.2020 8841/20 Art. 25 and 27 SBC		<p>“The Portuguese government is continuously assessing the situation of COVID-19 infections at the national level, as well at EU level.</p> <p>In Portugal positive developments and results are being achieved. We are currently gradually easing some measures. However, COVID-19 continues</p>	Portuguese internal borders with Spain (<i>prolongation</i>) ³⁶¹

³⁶⁰ The Portuguese notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the ‘temporary reintroduction of internal border controls’ and the scope of application thereof is identical to the (preceding) Portuguese notification of 4 May 2020, this will be considered as a prolongation instead.

³⁶¹ The Portuguese notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the ‘temporary reintroduction of internal border controls’ and the scope of application thereof is identical to the (preceding) Portuguese notification of 14 May 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>to pose a persistent and serious threat to the Portuguese population and it is still not possible to safely predict how the pandemic situation will evolve in the future.</p> <p>In order to avoid, or, at least, minimize the risk of a second wave of infections, the relaxation of the relevant measures within the country requires appropriate steps to be taken at the internal border in order to prevent the spread of corona virus in Portugal.</p> <p>For this reason, the Portuguese government decided, in accordance with articles 25 and 27 [SBC] to reintroduce temporary border control at the internal borders with Spain from 16th until 30th of June included.</p> <p>This remains an exceptional measure of last resort. As such, the internal border control will be maintained limited and adapted, both operationally and geographically, to what is strictly necessary to react against the current COVID-19 threat and to protect the health and life of the population, as well as, the internal security.</p>	
Slovakia				
<p>08.04.2020 – 17.04.2020</p> <p>10 days</p>	<p>07.04.2020</p> <p>7312/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“Dear Colleagues,</p> <p>in the context of the spreading of COVID-19 disease, which is caused by the novel SARS-CoV-2 coronavirus, I wish to inform you that the Government of the Slovak Republic has decided to temporarily reintroduce border controls at all internal borders of the Slovak Republic in accordance with article 28 [SBC]. The temporary reintroduction of internal border controls shall apply from 8 April 2020, 00:00 to 17 April 2020, 24:00.</p> <p>So far, the Slovak Republic has applied healthcare-police measures according to article 23 of the Schengen Borders Code, however, the actual practice has shown that, in order to effectively enforce the restrictions needed to protect public health, it is necessary to temporarily reintroduce internal border controls.</p> <p>The temporary reintroduction of internal border controls will be carried out at all sections of the internal borders of the Slovak Republic in a flexible manner, taking into account the current threats arising from the spread of</p>	<p>All Slovak internal borders (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>COVID-19. The scope and intensity of the controls will be limited to the extent necessary to ensure public order and internal security, with a minimum impact on other public interests, in particular the unhindered movement of goods. Information concerning the border crossing points where the internal borders of the Slovak Republic may be crossed is contained in the Annex to this letter."</p>	
<p>18.04.2020 – 07.05.2020 20 days</p>	<p>15.04.2020 7412/20 Art. 28 SBC</p>	<p>COVID-19</p>	<p>"In connection to the spreading of the COVID-19 disease caused by the new SARS-CoV-2 coronavirus, the Government of the Slovak Republic decided to temporarily reintroduce border controls at all internal borders of the Slovak Republic in accordance with article 28 [SBC] with the effect from 8 April 2020, 00:00.</p> <p>With regard to the development of the current situation related to the spread of COVID-19 disease in the territory of the Slovak Republic, where measures for its elimination or substantial reduction are still required, the Government of the Slovak Republic has decided, in accordance with article 28 of the Schengen Borders Code, to prolong the temporary reintroduction of border controls at all internal borders until 7 May 2020, 24:00."</p>	<p>All Slovak internal borders <i>(prolongation)</i></p>
<p>08.05.2020 – 27.05.2020 20 days</p>	<p>07.05.2020 7907/20 Art. 28 SBC</p>	<p>COVID-19</p>	<p>"In connection to the spreading of the COVID-19 disease caused by the new SARS-CoV-2 coronavirus, the Government of the Slovak Republic decided to temporarily reintroduce border controls at all internal borders of the Slovak Republic in accordance with article 28 [SBC] with the effect from 8 April 2020, 00:00.</p> <p>With regard to the current situation related to the spread of COVID-19 disease in the territory of the Slovak Republic, where measures for its elimination or substantial reduction are still required, the Government of the Slovak Republic has decided, in accordance with article 28 of the Schengen Borders Code, to prolong the temporary reintroduction of border controls at all internal borders until 27 May 2020, 24:00."</p>	<p>All Slovak internal borders <i>(prolongation)</i></p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
28.05.2020 – 26.06.2020 30 days	20.05.2020 8376/20 Art. 25 SBC 8935/20 (12.06.2020)	COVID-19	<p>“In connection to the spreading of the COVID-19 disease caused by the new SARS-CoV-2 coronavirus, the Government of the Slovak Republic decided to temporarily reintroduce border controls at all internal borders of the Slovak Republic in accordance with article 28 [SBC] with the effect from 8 April 2020, 00:00. In accordance with Article 28(3) of the Schengen Borders Code, the temporary reintroduction of the border controls at the internal borders of the Slovak Republic was extended until 27 May 2020. 24.00.</p> <p>With regard to the persistent serious threat to public policy related to the development of the epidemiological situation in connection with the spread of COVID-19 disease, the Government of the Slovak Republic has decided, in accordance with Article 25 (1) of the Schengen Borders Code, to temporarily reintroduce the border controls at internal borders of the Slovak Republic for a period of 30 days, from until 28 May 2020, 00:00 until 26 June 2020, 24:00.</p> <p>[...]</p> <p>We believe that the development of the epidemiological situation in the territory of the Slovak Republic and across Europe will soon enable us to lift the controls at the internal borders of the Slovak Republic.” (8376/20)</p> <p>“It is my pleasure to inform you now, that following the positive epidemiological situation in the Slovak republic, Czech Republic, Austria and Hungary, the Government of the Slovak Republic decided to abolish the temporary border checks at the internal land borders of the Slovak Republic with Czech Republic, Austria and Hungary, effective on 11 June 2020.” (8935/20)</p>	<p>All Slovak internal borders <i>(prolongation)</i>³⁶²</p> <p>Lifting of border controls at Slovak internal land borders with Czech Republic, Austria, and Hungary from 11.06.2020 (8935/20)</p>
Spain				
17.03.2020 – 26.03.2020	16.03.2020 6868/20	COVID-19	<p>“The measures adopted by Spain with the aim of fighting against COVID-19, most especially Royal Decree 463/2020, of March 14th, declaring the state of alarm for the management of the health crisis situation caused by COVID-</p>	All Spanish internal land borders (new)

³⁶² The Slovak notification is worded as a “new” situation calling for the temporary reintroduction of internal border controls under the SBC. In light of the fact that the grounds for the ‘temporary reintroduction of internal border controls’ and the scope of application thereof is identical to the (preceding) Slovak notification of 7 May 2020, this will be considered as a prolongation instead.

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
10 days	Art. 28 SBC		<p>19, as well as measures adopted for the same purpose by other European Union Member States and by third countries, entail directly or indirectly serious restrictions on mobility within the territory itself, upon entry or exit.</p> <p>Therefore, it is necessary to enable the possibility of restricting movements of persons who will not be able to continue travel to their programmed destination, either for being incompatible with the measures adopted within the Spanish territory, or because its continuation is not possible in or to other territories, or because of the need to give preference to more urgent movements of people or goods. The purpose is to avoid possible disturbances of public order as a consequence of the interruption of the journey of individuals or groups.</p> <p>For this reason, and in a spirit of coordination with the other EU Member States and neighboring third countries, as permitted by Article 28 of the Schengen Borders Code, Resolution of the Minister of Interior of March 16th reintroducing controls at the internal borders due to COVID-19 has been taken. These controls will be adapted to the situation and evolution of the measures adopted by Spain and by neighboring countries against COVID-19, both in its location and in the applicable restrictions, of which the public will be informed at all times.</p> <p>The temporary reintroduction of controls at internal borders will apply from 00:00. March 17th, to 24:00, March 26th, and will affect:</p> <ul style="list-style-type: none"> • Internal land borders.” 	
27.03.2020 – 11.04.2020 15 days	26.03.2020 7054/20 Art. 28 SBC	COVID-19	<p>“On March 16th Spain decided to reintroduce controls at its internal land borders for a period of 10 days, from March 17th until March 26th, in order to avoid the spreading of COVID-19.</p> <p>The current circumstances in Spain recommend prolonging all preventive measures taken against the spread of the disease, including the state of alarm. A further extension of controls at the internal borders is considered a proportionate measure, coherent with those adapted inside our territory and by other Member States, especially France and Portugal, the two EU Member States neighboring our land borders.</p>	All Spanish internal land borders (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>Therefore, in accordance with art. 28.3 of the Schengen Borders Code, I have issued Resolution of the Minister of Interior of March 25th prolonging controls temporarily reintroduced at the internal borders due to COVID-19, by which border controls at the internal land borders are maintained from 00:00, March 27th, to 24:00, April 11th. The following categories of persons are exempted:</p> <p>[omitted]</p> <p>Please rest assured that the scope and duration of the internal border checks will be limited to what is strictly necessary and that we will continue to carefully monitor and assess [sic] the evolution of the situation, as well as the impact and proportionality of measures taken."</p>	
<p>12.04.2020 – 25.04.2020</p> <p>15 days</p>	<p>10.04.2020</p> <p>7300/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"On March 26th, Spain decided to prolong the reintroduction of controls at its internal land borders for a period of 15 days (after the initial 10 day period) until April 11th in order to avoid the spreading of COVID-19.</p> <p>The current circumstances in Spain recommend, once again, prolonging all preventive measures taken against the spread of the disease, including the state of alarm. These measures have allowed being more effective in the fight against the virus as the spread is advancing at a slower pace. Therefore, a new further extension of controls at the internal borders is considered a proportionate measure, coherent with those adopted inside our territory and by other Member States, especially France and Portugal, the two EU Member States neighboring our internal land borders.</p> <p>Therefore, in accordance with article 28.3 of the Schengen Borders Code, I have issued the Order INT/335/2020 of the Minister of Interior of April 10th prolonging controls temporarily reintroduced at the internal borders due to COVID-19, by which border controls at the internal land borders are maintained from 00:00, April 11th to 00:00, April 26th. [...]"</p>	<p>All Spanish internal land borders (prolongation)</p>
<p>26.04.2020 – 09.05.2020</p> <p>14 days</p>	<p>25.04.2020</p> <p>7640/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"On April 10th Spain decided to prolong the reintroduction of controls at its internal land borders for a period of 15 days until April 25th in order to avoid the spreading of COVID-19.</p>	<p>All Spanish internal land borders (prolongation)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The current circumstances recommend once again prolonging all preventive measures taken against the spread of the disease, including the state of alarm in Spain, which has just been extended until May 9th. These measures have allowed being more effective in the fight against the virus as the spread is advancing at a slower pace. Therefore, a new further extension of controls at the internal borders is considered a proportionate measure, coherent with those adopted inside our territory and by other Member States, especially France and Portugal, the two EU Member States neighboring our land borders.</p> <p>Therefore, in accordance with article 28.3 of the Schengen Borders Code, I have issued the Order INT/368/2020 of the Minister of the Interior of April 24th prolonging controls temporarily reintroduced at the internal borders due to COVID-19, by which controls at the internal land borders are maintained from 00:00, April 26th to 00:00, May 10th. [...]”</p>	
<p>10.05.2020 – 23.05.2020 <i>14 days</i></p>	<p>08.05.2020 7905/20 Art. 25 and 27 SBC</p>	<p>COVID-19</p>	<p>“On March 17th, Spain reintroduced controls at its internal land borders in order to support the measures taken inside its territory by the state of alarm to limit the spreading of COVID-19. These controls have been successively prolonged, the last time until May 9th.</p> <p>The current circumstances recommend once more maintaining restrictive measures on our territory, albeit subject to de-escalation as established in the Transition Plan towards a new normality. Consequently, the state of alarm has been extended until May 23rd, and controls at the internal borders should be prolonged in parallel, as a proportionate measure, coherent with restrictions adopted by other Member States, especially France and Portugal, the two Member States neighboring Spain.</p> <p>On this occasion, articles 25 and 27 of the Schengen Borders Code need to be resorted to, since article 28 would not allow for a long enough period. We have not been able to communicate the reintroduction four weeks in advance, since the situation and the resulting measures are re-evaluated at shorter periods.</p> <p>Therefore, in accordance with articles 25 and 27 of the Schengen Borders Code, I have issued <i>Order INT/XXX/2020 of the Minister of interior of May 9th prolonging controls temporarily reintroduced at the internal land borders due</i></p>	<p>All Spanish internal land borders (<i>prolongation</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<i>to COVID-19, by which controls at the internal land borders are prolonged from 00:00, May 10th until 00:00, May 24th. [...]</i> "	
15.05.2020 – 23.05.2020 <i>9 days</i>	12.05.2020 7970/20 Art. 25 and 27 SBC	COVID-19	<p>"On March 17th, Spain reintroduced controls at its internal land borders in order to support the measures taken inside its territory by the state of alarm to limit the spreading of COVID-19. These controls have been successively prolonged, the last time until May 23rd.</p> <p>However, in the de-escalation process initiated by Spain, the lifting of some restrictions could create a pull effect on movements from other Member States, especially in order to travel to secondary residences in our country. Therefore, it is now considered necessary to reintroduce controls also at internal air and sea borders, similarly to what other fourteen and nine Member States and Schengen Associated Countries respectively have done. This measure is considered proportionate regarding the internal situation, where residents in Spain are still not allowed to travel between provinces, and regarding restrictions in force throughout the Schengen Area.</p> <p>Articles 25 and 27 of the Schengen Borders Code are resorted to, as in the last prolongation of controls at the internal land borders. We have not been able to communicate the reintroduction four weeks in advance, since the situation and the resulting measures are re-evaluated at shorter periods.</p> <p>[...]</p> <p>Therefore, in accordance with articles 25 and 27 of the Schengen Borders Code, I have issued the Order INT/XXX/2020 of the Minister of Interior of May 12th temporarily reintroducing controls at the internal air and sea borders due to COVID-19. Duration comprises from 00:00, May 15th until 00:00, May 24th. [...]"</p>	All Spanish internal air and sea borders (<i>new</i>)
24.05.2020 – 06.06.2020 <i>14 days</i>	23.03.2020 8216/20 Art. 25 and 27 SBC	COVID-19	<p>"On March 17th, Spain reintroduced controls at its internal land borders in order to support the measures taken inside its territory by the state of alarm to limit the spreading of COVID-19. These controls have been successively prolonged, the last time until May 23rd. On May 15th controls at the internal air and sea borders were introduced, also until May 23rd.</p>	All Spanish internal land, air, and sea borders (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>In the de-escalation process initiated by Spain, currently travel between provinces is still not allowed, and the state of alarm will be prolonged until June 6th to support the remaining restrictions. Therefore, it is considered necessary to prolong the controls temporarily reintroduced at the internal air, sea and land borders. This measure is considered proportionate regarding the internal situation and the restrictions in force throughout the Schengen Area, including our closest neighbours, France and Portugal, which also maintain controls at our common land borders.</p> <p>[...]</p> <p>Therefore, in accordance with articles 25 and 27 of the Schengen Borders Code, Order SND/439/2020 of the Minister of Health of May 23th [sic] has been issued prolonging controls at the internal air, sea and land borders due to COVID-19 from 00:00, May 24th, and for the duration of the alert state and any extensions thereof, or until there are circumstances that justify a new ministerial Order.</p> <p>By the aforementioned Ministerial Order, and for the same duration, the existing quarantine of 14 days for all persons entering the Spanish territory is maintained. Cross border workers, transport workers, crew members and health workers are excluded if they have not been in contact with persons diagnosed with COVID-19. [...]"</p>	
<p>07.06.2020 – 20.06.2020</p> <p>14 days</p>	<p>06.06.2020</p> <p>8678/20</p> <p>[no SBC legal basis specified]</p>	<p>COVID-19</p>	<p>"On March 17th, Spain reintroduced controls at its internal land borders in order to support the measures taken inside its territory by the state of alarm to limit the spreading of COVID-19. On May 15th, controls at the internal air and sea borders were also reintroduced. These controls have been successively prolonged until 00:00, June 7th, linked to the duration of the state of alarm by Order SND/439/2020 of the Minister of Health, of May 23th [sic].</p> <p>In the de-escalation process initiated by Spain, free travel between provinces is still not allowed, and the state of alarm will be prolonged until 00:00, June 21st, to support the remaining restrictions. Therefore, controls temporarily reintroduced at the internal air, sea and land borders are automatically prolonged until that date. This measure is considered proportionate regarding the internal situation and the restrictions in force</p>	<p>All Spanish internal land, air, and sea borders (prolongation)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>throughout the Schengen Area, including our closest neighbours, France and Portugal, which, at this point in time, also maintain controls at our common land borders.</p> <p>[...]</p> <p>By the same procedure, and for the same duration, the existing quarantine of 14 days for all persons entering the Spanish territory is maintained. Cross border workers, transport workers, crew members and health workers are excluded if they have not been in contact with persons diagnosed with COVID-19.[...]"</p>	
<p>21.06.2020 – 30.06.2020</p> <p>10 days</p>	<p>21.06.2020</p> <p>9042/20</p> <p>Art. 25 and 27 SBC</p>	<p>COVID-19</p>	<p>"On March 17th, Spain reintroduced controls at its internal land borders in order to support the measures taken inside its territory by the state of alarm to limit the spreading of COVID-19. These controls have been successively prolonged, including air and sea borders at a later stage, the last time until 00:00, June 21st, linked to the duration of the state of alarm by Order SND/439/2020 of the Minister of Health, of May 23rd.</p> <p>The state of alarm has not been prolonged and movement restrictions inside the Spanish territory have ended. Therefore, it is considered coherent to lift controls at the internal borders. They will only be prolonged at the internal borders with Portugal, as bilaterally agreed, until June 30th.</p> <p>[...]</p> <p>Therefore, in accordance with articles 25 and 27 of the Schengen Borders Code, I have issued Order INT/XXX/2020 of the Minister of Interior of June 21st prolonging controls temporarily reintroduced at the internal borders with Portugal due to COVID-19. Duration comprises from 00:00, June 21st, until 24:00, June 30th."</p>	<p>Spanish internal borders with Portugal (<i>prolongation</i>)</p> <p>Lifting of border controls at the Spanish internal air, sea, and land borders (except for Portugal) from 21.06.2020, and internal air, sea, and land borders with Portugal from 01.07.2020.</p>
Switzerland				
<p>13.03.2020 – 22.03.2020</p> <p>10 days</p>	<p>13.03.2020</p> <p>6845/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>"In application of article 28 [SBC], Switzerland has decided to reintroduce border control at the Swiss internal borders with Italy because of the corona virus.</p>	<p>Swiss land border with Italy (new)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>The number of corona virus infections is increasing significantly and at an ever faster rate throughout Europe. In Switzerland, too, the number of cases has increased considerably in recent days. We need to undertake all necessary measures in order to slow down the spreading of the virus, ensure the capacity of the medical facilities and protect the most vulnerable. Italy has so far been the most affected Schengen State, with very serious growth rates of COVID-19 disease. It has undertaken extraordinary measures and declared the country restricted zone. The rapid deterioration of the situation in Italy poses a serious threat to public order and internal security for Switzerland as a neighbouring country and requires immediate action.</p> <p>The Swiss government has therefore ordered, in consultation with the competent Italian authorities, internal border controls at the Swiss internal border with Italy as of 13 March 2020 for an initial period of ten days. The aim of the controls is to allow only persons who have a good reason, in particular professions reasons or are in a situation of extreme necessity, to enter Switzerland. The Swiss authorities will take the necessary steps to ensure that the border control activities are facilitated in a way to allow smooth processing of travelers. Nevertheless, delays may occur at the internal borders with Italy.</p> <p>In order to make controls at the internal border to Italy effective and at the same time as efficient as possible, a certain channelling to larger border crossing points is inevitable. For this reason, the following smaller border crossing points have been closed: <i>[omitted]</i>.</p> <p>With these measures, Switzerland aims to prevent the disease from spreading too rapidly, which would endanger the ability to provide adequate care to the population and protect the most vulnerable people from the virus, while minimizing the impact of the measures on the free movement of persons."</p>	
<p>16.03.2020 – 25.03.2020 <i>10 days</i></p>	<p>16.03.2020 6845/20 ADD 1</p>	<p>COVID-19</p>	<p>"By letter of 13 March, I informed you that Switzerland had reintroduced internal border controls against Italy in light of the threat to public order and internal security posed by the ever more rapidly spreading corona virus.</p>	<p>Swiss internal land borders with France, Germany, and Austria (<i>new</i>)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
	Art. 28 SBC		<p>In the past two days, the situation has dramatically changed: in Switzerland along, the number of infected persons has more than doubled. Austria has reintroduced internal border controls with Switzerland and made entry into the country dependent on health checks, among others. Rail and air traffic with Austria has been largely disrupted or has been completely suspended. Germany and France have also adopted or are preparing far-reaching measures.</p> <p>Switzerland recognises the need to slow down the further spread of the corona virus by all available means, thus ensuring that the health systems of Switzerland and neighbouring countries do not collapse under the burden. Restriction of the free movement of persons in the Schengen area under these circumstances is an unavoidable and necessary measure to guarantee public order and internal security. This view is now shared by many Schengen states.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to reintroduce border controls (in addition to controls already installed at the land border with Italy) at the Swiss internal land borders with France, Germany and Austria as of 16 March 2020 for an initial period of ten days.</p> <p>The aim of the controls is to allow only persons who have a Swiss residence permit, professional reasons or are in a situation of extreme necessity, to enter Switzerland. The Swiss authorities will take the necessary steps to ensure that the border control activities are facilitated in a way to allow smooth processing of travelers. Nevertheless, delays may occur at the internal borders.</p> <p>In order to make controls at the internal borders effective and at the same time as efficient as possible, a certain channelling to larger border crossing points is inevitable. For this reason, smaller border crossing points might be closed depending on operational needs.</p> <p>With these measures, Switzerland aims to prevent the disease from spreading too rapidly, which would endanger the ability to provide adequate care to the population and protect the most vulnerable people from the virus, while minimizing the impact of the measures on the free movement of persons."</p>	

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
18.03.2020 – 27.03.2020 10 days	18.03.2020 6845/20 ADD 2 Art. 28 SBC	COVID-19	<p>By letter of 13 March, I informed you that Switzerland had reintroduced internal border controls against Italy in the light of the threat to public order and internal security posed by the ever more rapidly spreading new corona virus. Only three days, I had to inform you about the reintroduction of internal border controls at the land borders with France, Germany and Austria.</p> <p>The situation in Switzerland and throughout Europe remains critical. To limit the spreading of the virus, we need to limit mobility to the bare essentials – especially in international air transport.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to extend with immediate effect the border controls already introduced at the land borders with Italy, France, Germany and Austria to the air borders with these countries. In view of the dramatic developments in Spain, Switzerland has also decided to introduce border controls on flights from Spain from 18 March, 00:00 hours, for an initial period of ten days.</p> <p>The aim of all these controls is to allow only Swiss nationals as well as persons who have a Swiss residence permit, professional reasons or are in a situation of extreme necessity, to enter Switzerland. The Swiss authorities will take the necessary steps to ensure that the border control activities are facilitated in a way to allow smooth processing of travelers. Nevertheless, delays may occur at the internal borders.</p> <p>In order to make controls at the internal borders effective and at the same time as efficient as possible, a certain channelling to larger border crossing points is inevitable. Therefore, smaller airfields and airports will be closed for incoming flights from Italy, France, Germany, Austria and Spain. The border crossing points at the national airports in Zurich-Kloten, Geneva-Cointrin and Basel-Mulhouse will remain open.[...]"</p>	Swiss internal air borders with Italy, France, Germany, Austria, and Spain (<i>new</i>)
23.03.2020 – 11.04.2020 20 days	20.03.2020 6950/20	COVID-19	"By letters of 13, 16 and 18 March, I informed you about the reintroduction of border control at the land and air borders of Switzerland with Italy, France, Germany, Austria, and the air border with Spain in the light of the	Swiss internal land borders with Italy (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
26.03.2020 – 14.04.2020 <i>20 days</i>	Art. 28 SBC		<p>threat to public order and internal security posed by the spreading of the corona virus.</p> <p>The situation in Switzerland and through Europe remains critical. The number of corona virus infections is increasing significantly also in Switzerland. We still need to undertake all necessary measures in order to slow down the spreading of the virus, ensure the capacity of the medical facilities and protect the most vulnerable.</p> <p>In order to limit the spreading of the virus, we limited the mobility with the already mentioned measures at the land and air borders of Switzerland.</p> <p>In light of the persistence of the threat posed by the virus, these measures need to be extended over the coming weeks in order to serve their purpose. Therefore the border controls implemented by Switzerland must be maintained beyond the initial period of 10 days for 20 more days.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to prolong the border controls already introduced:</p> <ul style="list-style-type: none"> • at the land borders with Italy as of 23 March 00:00, • at the land borders with France, Germany and Austria as of 26 March 00:00, and • at the air borders with Italy, France, Germany, Austria and Spain as of 28 March 00:00, <p>each for 20 days. [...]"</p>	Swiss internal land borders with France, Germany, and Austria (<i>prolongation</i>)
28.03.2020 – 16.04.2020 <i>20 days</i>				Swiss internal air borders with Italy, France, Germany, Austria, and Spain (<i>prolongation</i>)
25.03.2020 – 03.04.2020 <i>10 days</i>	25.03.2020 6950/20 ADD 1 Art. 28 SBC	COVID-19	<p>"By the letters of 13, 16, 18 and 20 March I informed you about the reintroduction and prolongation of border controls at the land and air borders of Switzerland with Italy, France, Germany, Austria and the air border with Spain in light of the threat to public order and internal security posed by the spreading of the corona virus.</p> <p>The situation in Switzerland and throughout Europe remains critical. The number of corona virus infections continue to increase significantly in Switzerland as well as all over Europe. We, thus, need to continue to undertake all necessary measures in order to slow down the spreading of</p>	Swiss internal air border with Schengen States except for Liechtenstein, Italy, France, Germany, Austria, and Spain (<i>new/extension of scope of application</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>the virus, ensure the capacity of the medical facilities and protect the most vulnerable.</p> <p>In light of the persistence of the threat posed by the virus and its ever growing spread, the mentioned measures need to be extended in order to serve their purpose.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to extend the already existing internal border controls to the air borders with all Schengen States except the Principality of Liechtenstein as of 25 March 00:00 for ten days.</p> <p>In order to make controls at the internal borders effective and at the same time as efficient as possible, a channeling of the passenger flights originating from Schengen States to the three large airports of Switzerland, Zurich-Kloten, Geneva-Cointrin and Basel-Mulhouse, is inevitable. For this reason, all other Swiss airports and airfields have to be closed for passenger flights coming from Schengen States. [...]”</p>	
<p>04.04.2020 – 23.04.2020</p> <p>20 days</p>	<p>01.04.2020</p> <p>7173/20</p> <p>Art. 28 SBC</p>	<p>COVID-19</p>	<p>“By the letter of 25 March I informed you about the extension of the temporary reintroduction of the temporary reintroduction of border controls to all internal borders of Switzerland (with the exception of the one to the Principality of Liechtenstein) in the light of the threat to public order and internal security posed by the spreading of the corona virus.</p> <p>The situation in Switzerland and throughout Europe remains critical. The number of corona virus infections continue to increase in Switzerland and over Europe. We, thus, need to continue to undertake all necessary measures in order to slow down the spreading of the virus, ensure the capacity of the medical facilities and protect the most vulnerable. This implies concretely that the border controls implemented by Switzerland must be maintained over the coming weeks.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to prolong the border controls already introduced at the borders with all Schengen-States except the Principality of Liechtenstein (apart from the land and air borders with Austria, France, Germany, Italy and Spain which</p>	<p>Swiss internal air border with Schengen States except for Liechtenstein (apart from land and air borders with Italy, France, Germany, Austria, and Spain) (prolongation)</p>

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			have been prolonged separately) as of 4 April, at 00:00 a.m., for 20 more days. [...]"	
12.04.2020 – 01.05.2020 <i>20 days</i>	08.04.2020 7283/20 Art. 28 SBC	COVID-19	<p>“By several letters in March and April I have informed you about the temporary reintroduction of border controls at the internal borders of Switzerland (with the exception of the one to the Principality of Liechtenstein) and their prolongation because of the persistent threat to public order and internal security posed by the spreading of the corona virus.</p> <p>The situation in Switzerland and throughout Europe remains critical. The number of corona virus infections continues to increase in Switzerland, but also in many countries all over Europe. We, thus, need to continue to undertake all necessary measures in order to slow down the spreading of the virus, ensure the capacity of the medical facilities and protect the most vulnerable. This implies concretely that the border controls implemented by Switzerland must be maintained over the coming weeks.</p> <p>In application of article 28 [SBC], Switzerland has therefore decided to prolong the border controls in place at the land and air borders with all Schengen-States except the Principality of Liechtenstein as of 12 April, at 00:00 a.m., for 20 more days. [...]"</p>	All Swiss internal land and air borders except with Liechtenstein (<i>prolongation</i>)
02.05.2020 – 08.06.2020 <i>38 days</i>	30.04.2020 7723/20 Art. 27 and 28 SBC	COVID-19	<p>“By several letters in March and April I have informed you about the temporary reintroduction of border controls at the internal borders of Switzerland (with the exception of the one to the Principality of Liechtenstein) and their prolongation because of the persistent threat to public order and internal security posed by the spreading of the corona virus.</p> <p>Even if the situation in Switzerland seems to be slowly improving, we must remain vigilant. Switzerland has just started to test a first easing of the national restrictive measures. The maintenance of the controls at the borders is therefore indispensable in order to monitor the situation under this eased regime and to minimize the risk of a resurgence of the contagion rate. Concretely, this means that the border controls introduced by Switzerland must be further maintained.</p>	All Swiss internal land and air borders except with Liechtenstein (<i>prolongation</i>)

Duration	Notification under SBC & legal basis	Grounds for temporary internal border controls	Justification and details	Scope of application
			<p>In application of articles 27 and 28 of Regulation (EU) 2016/399 (Schengen Borders Code), Switzerland has therefore decided to prolong the border controls in place at the land and air borders with all Schengen-States except the Principality of Liechtenstein from 2 May, at 00:00 a.m., to 8 June. [...]”</p>	
<p>09.06.2020 – 15.06.2020 <i>7 days</i></p>	<p>05.06.2020 8651/20 Art. 27 and 28 SBC</p>	<p>COVID-19</p>	<p>“By several letters in March and April I have informed you about the temporary reintroduction of border controls at the internal borders of Switzerland (with the exception of the one to the Principality of Liechtenstein) and their prolongation because of the persistent threat to public order and internal security posed by the spreading of the corona virus.</p> <p>The current epidemiological situation has calmed down considerably compared to the situation in March and April. Therefore, first steps towards normalisation have already been successfully implemented. In line with the EU’s efforts to lift internal border controls as soon as the epidemiological situation allows, Switzerland has already implemented the first easing of entry restrictions in close coordination with its neighbouring countries Germany and Austria, opened border crossings that had previously been closed and moved from systematic to risk based border controls.</p> <p>Nevertheless, the time has not yet come to completely lift border controls. If the epidemiological situation so allows, this step is however already planned to be taken on 15 June 2020 – in parallel with the lifting of border controls by these countries with regard to Switzerland.</p> <p>In the meantime, the special entry requirements and their control at the internal border will continue to be important elements in preventing a renewed flare-up of infections and in isolating any possible cases of infection quickly and successfully. Concretely, this means that the border controls introduced by Switzerland must be further maintained.</p> <p>In application of articles 27 and 28 of Regulation (EU) 2016/399 (Schengen Borders Code), Switzerland has therefore decided to prolong the border controls in place at the land and air borders with all Schengen-States except the Principality of Liechtenstein from 9 June, at 00:00 a.m., to 15 June.”</p>	<p>All Swiss internal land and air borders except with Liechtenstein (<i>prolongation</i>)</p>

ANNEX 2. ENTRY RESTRICTIONS IN THE EU AND SCHENGEN ASSOCIATED COUNTRIES

Annex 2.1. Legislative basis under national law for COVID-19 related restrictive entry measures (updated to 24 August 2020)

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
Austria	Ordinance BGBl. II No. 263/2020 , as amended by BGBl. II Nos. 269/2020 , 283/2020 , 286/2020 , 298/2020 , 316/2020 , 320/2020 , 336/2020 , 354/2020 , 358/2020 , 362/2020 , and 372/2020 (in German) (consolidated text in German)	15.06.2020 – 30.09.2020	COVID-19 page of the Federal Ministry of Health's website (sozialministerium.at)
Belgium	Ministerial Decree of 30 June 2020 containing urgent measures to limit the spread of the coronavirus COVID-19, as amended by Ministerial Decrees of 10 July 2020, 24 July 2020, and 28 July 2020 [consolidated text in Dutch French], as most recently amended by Ministerial Decree of 22 August 2020 [in Dutch French]	01.07.2020 – 31.08.2020	COVID-19 website (info-coronavirus.be)
	Legal basis for mandatory quarantine: <ul style="list-style-type: none"> • Flanders: Decree on Preventative Health Policy, as most recently amended (consolidated text in Dutch); • Wallonia: Walloon Code of Social Action and Health, as most recently amended (consolidated text in French); • Brussels: Ordinance on Preventative Health Policy, as most recently amended (consolidated text in Dutch French); 		
Bulgaria	Order of the Minister of Health of No. No. RD-01-459 of 11.08.2020 on a temporary ban on entry into the territory of the Republic of Bulgaria and determination of persons who are placed under quarantine upon entry into the territory of the country (in Bulgarian)	11.08.2020 – 31.08.2020	COVID-19 website (coronavirus.bg) (in Bulgarian)
	[Previous versions of orders of the Minister of Health can be found on the COVID-19 website of the Government of Bulgaria here (in Bulgarian)]		

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
Croatia	Decision NN 74/2020, 1439 of 30 June 2020, as amended by Decisions NN 80/2020, 1509 , NN 81/2020, 1522 , NN 90/2020, 1752 , and NN 92/2020, 1768 (in Croatian)	01.07.2020 – 31.08.2020	<ul style="list-style-type: none"> • COVID-19 website (koronavirus.hr) • COVID-19 page of the Ministry of the Interior's website
Cyprus	• Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No. 30) of 2020 ;	20.06.2020 – indeterminate date	COVID-19 website (pio.gov.cy/coronavirus)
	• Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No. 31) of 2020 (in Greek);	01.07.2020 – indeterminate date	
Czech Republic	Protective Measure of the Ministry of Health of 24 August 2020, MZDR 20599/2020-25/MIN/KAN (in Czech) Notice from the Ministry of Health of 24 August 2020 issuing a list of countries or parts thereof with a low risk of COVID-19 contagion, MZDR 20599/2020-26/MIN/KAN (in Czech)	25.08.2020 – indeterminate date	COVID-19 website (koronavirus.mzcr.cz)
Denmark			COVID-19 page of the Danish Police's website
Estonia	• Government Order No. 169 of 16 May 2020, Imposition of temporary restrictions on crossing the state border in order to prevent a new outbreak of the coronavirus SARS-CoV-2 causing the COVID-19 disease, RT III, 17.05.2020, 2, as most recently amended by RT III, 06.07.2020, 1 (consolidated English translation);	18.05.2020 – indeterminate date	COVID-19 website (kriis.ee)
	• Government Order No. 172 of 16 May 2020, Restrictions on the freedom of movement and on holding public meetings and public events as necessary for preventing the spread of the COVID-19 disease, RT III, 17.05.2020, 5, as most recently amended by RT III, 31.07.2020, 2 (consolidated English translation);	18.05.2020 – 18.08.2020	
	• Government Order No. 282 of 19 August 2020 , Restrictions on the freedom of movement and on holding public meetings and public events as necessary for preventing the spread of the COVID-19 disease;	19.08.2020 – indeterminate date	

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
Finland	Government Decision SM/2020/21 of 17 March 2020, as most recently amended by Government Decision SM/2020/71 of 20 August 2020 (in Finnish)	24.08.2020 – 18.09.2020	COVID-19 page of the Finnish Institute for Health and Welfare's website (thl.fi)
	Guidelines of the Finnish Border Guard for border traffic during pandemic from 24.8.2020		
France	Decree No.2020-860 of 10 July 2020 prescribing the general measures necessary to deal with the epidemic of covid-19 in the territories emerging from the state of health emergency and in those where it has been extended, as most recently amended by Decree No.2020-1035 of 13 August 2020 (consolidated text in French)	11.07.2020 – indeterminate date	COVID-19 page of the French Government's website (gouvernement.fr/info-coronavirus) (in French)
	Order of July 10, 2020 identifying the areas of circulation of the SARS-CoV-2 virus infection, as most recently amended (consolidated text in French)	11.07.2020 – indeterminate date	
	Act No. 2020-856 of 9 July 2020 organising the exit from the state of health emergency (consolidated text in French)	11.07.2020 – 30.10.2020	
Germany	Ordinance of 6 August 2020 on Compulsory Testing of Persons Entering from Risk Areas	07.08.2020 – indeterminate date	COVID-19 website (zusammengegeneronade)
	Order of 6 August 2020 of the Federal Ministry of Health concerning travel after the determination of an epidemic situation of national significance by the German Bundestag	08.08.2020 – indeterminate date	COVID-19 page of the German Federal Ministry of Health's website (bundesgesundheitsministerium.de) (in German) COVID-19 page of the German Federal Government (bundesregierung.de) COVID-19 FAQ page of the Germany Federal Ministry of the Interior (bmi.bund.de)
Greece	Joint Ministerial Decision No. Δ1α/ΓΠ.οικ.40383/28.6.2020, as amended by decisions No. Δ1α/ΓΠ.οικ.44071/11.7.2020 and No. Δ1α/ΓΠ.οικ.44823/14.7.2020 (texts of	01.07.2020 – 31.08.2020	

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
	legislation in Greek available at https://covid19.gov.gr/nomothesia-gia-ton-covid-19/		COVID-19 website (covid19.gov.gr) (in Greek)
	Joint Ministerial Decision No. Δ1α/Γ.Π.οικ.48292/30.7.2020 (in Greek)	31.07.2020 – 14.08.2020	Travel website of the Greek Government (travel.gov.gr)
	Joint Ministerial Decision No. Δ1α/Γ.Π.οικ.50680/11.8.2020 (in Greek)	15.08.2020 – 31.08.2020	
	Joint Ministerial Decision No. Δ1α/ΓΠ.οικ. 50682/10.08.2020, as amended by Decision No. Δ1α/Γ.Π.οικ.51242/13.08.2020 (in Greek)	11.08.2020 – 31.08.2020	
Hungary	• Government Decree 341/2020 (VII 12), as most recently amended (consolidated text in Hungarian)	15.07.2020 – indeterminate date	COVID-19 page of the Ministry of Foreign Affairs' website (konzulizsolgalat.kormany.hu) (in Hungarian)
	• Communication on the National Chief Medical Officer's decision of 20 August 2020 on the classification of countries based on the current COVID-19 infection status (published in the Official Gazette No.47 of 2020) (in Hungarian)	21.08.2020 – indeterminate date	
Iceland	Regulation No. 800/2020 on quarantine, isolation and testing at the Icelandic border due to COVID-19 (in Icelandic)	19.08.2020 – 15.09.2020	COVID-19 website (covid.is)
	Regulation No. 781/2020 on amendments to the Regulation on cross-border movement, no. 866/2017 (in Icelandic)	10.08.2020 – indeterminate date	
Ireland			COVID-19 travel advice page of the Irish government's website (gov.ie) COVID-19 page of the Department of Foreign Affairs and Trade's website (dfa.ie)
Italy	Decree of the President of the Council of Ministers of 7 August 2020 further implementing provisions of the decree-law of 25 March 2020, n. 19, containing urgent measures to deal with the epidemiological emergency from COVID-19, and the decree-law of 16 May 2020, n. 33, containing further urgent measures to deal with the epidemiological emergency from COVID-19 (in Italian)	09.08.2020 – 07.09.2020	COVID-19 page of the Ministry of Health (salute.gov.it) (in Italian)

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
	Order of the Minister of Health of 12 August 2020 containing further urgent measures on containment and management of the epidemiological emergency from COVID-19 (in Italian)	13.08.2020 – indeterminate date	
Latvia	Regulations of the Cabinet of Ministers No. 360 of 9 June 2020, as most recently amended by regulation No.495 of 11 August 2020 (consolidated English translation)	10.06.2020 – indeterminate date	COVID-19 page of the Latvian Centre for Disease Prevention and Control's website (spkc.gov.lv) (in Latvian) COVID-19 page of the Ministry of Health's website (vm.gov.lv)
Liechtenstein	Regulation No. 2020.206 of 25 June 2020, as most recently amended (consolidated text in German)	26.06.2020 – indeterminate date	–
Lithuania	• Decision of the Minister of Health of 7 August 2020 No.V-1817 , establishing the list of countries; repealed by Decision of the Minister of Health of 17 August 2020 No.V-1849 (in Lithuanian)	10.08.2020 – 17.08.2020	COVID-19 website (koronastop.lrv.lt)
	• Order of the Minister of Health of 15 June 2020 No. V-1463 on approval of the list of countries affected by COVID-19 (coronavirus infection), as most recently amended by Order of 17 August 2020 No. V-1845 (consolidated text in Lithuanian);	17.06.2020 – indeterminate date	
	• Order of the Minister of Health of 12 March 2020 No. V-352 on approval of the rules for the isolation of persons with COVID-19 (coronavirus infection), persons suspected of having COVID-19 (coronavirus infection) and persons who have been in contact at home, another place of residence or premises provided by the municipal administration, as most recently amended (consolidated text in Lithuanian);	14.03.2020 – indeterminate date	
	• Decision of the Minister of Health of 17 July 2020 No. V-1680 on the conditions for the Isolation and testing of aliens from third countries for COVID-19 (coronavirus infection), as most recently amended (consolidated text in Lithuanian);	10.08.2020 – indeterminate date	
	• Resolution of the Government of 26 February 2020, No. 152, on the declaration of a state of emergency, as most recently amended (consolidated text in Lithuanian);	26.02.2020 – indeterminate date	

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
Luxembourg	<ul style="list-style-type: none"> • Act of 20 June 2020 introducing certain temporary measures relating to the application of the amended law of August 29, 2008 on the free movement of persons and immigration (in French) 	25.06.2020 – 31.12.2020	COVID-19 website (www.covid19.lu)
	<ul style="list-style-type: none"> • Grand-Ducal Regulation of 20 June 2020 relating to the duration of the ban and the scope of the exceptions provided for in article 2 of the law of June 20, 2020 introducing certain temporary measures relating to the application of the amended law of August 29, 2008 on the free movement of persons and immigration, as amended by Grand-Ducal Regulations of 1 July 2020, 16 July 2020, 7 August 2020, 14 August 2020, and 21 August 2020 (in French); 	25.06.2020 – 15.09.2020	
Malta	<ul style="list-style-type: none"> • Period of Quarantine Order, 2020 (S.L. 465.13), as most recently amended by L.N. 289 of 2020; 	12.03.2020 – indeterminate date	COVID-19 page of the Ministry of Health’s website (health.gov.mt)
	<ul style="list-style-type: none"> • Travel Ban (Extension to all Countries) Order, 2020 (S.L. 465.26), as most recently amended by L.N. 290 of 2020; 	21.03.2020 – indeterminate date	
Netherlands			COVID-19 page of the Dutch Government (government.nl)
Norway	<ul style="list-style-type: none"> • COVID-19 Regulations (in Norwegian); 	27.03.2020 – indeterminate date	COVID-19 page of the Norwegian government’s website (regjeringen.no)
	<ul style="list-style-type: none"> • Temporary Act on entry restrictions for foreigners for reasons of public health (English translation); 	01.07.2020 – 01.11.2020	
	<ul style="list-style-type: none"> • Regulations relating to entry restrictions for foreign nationals out of concern for public health (consolidated English translation); 	01.07.2020 – indeterminate date	
Poland	Regulation of the Council of Ministers of 7 August 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic, Dz. U. 2020 No. 1356 , as amended by Regulations of 13 August 2020, Dz. U. 2020 No. 1393 , and of 20 August 2020, Dz. U. 2020 No. 1424 (in Polish)	08.07.2020 – indeterminate date	COVID-19 page of the Polish Government’s website (gov.pl)
Portugal	Order No. 8001-A/2020 , extension of measures applicable to air traffic to and from Portugal (in Portuguese)	16.08.2020 – 31.08.2020	COVID-19 website of the Ministry of Health

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
			(covid19.min-saude.pt) (in Portuguese) COVID-19 page of visitportugal.com
Romania	<ul style="list-style-type: none"> Decision No. 553/2020 of 15 July 2020, as most recently amended (consolidated text in Romanian); Measures of 15 July 2020 to reduce the impact of the type of risk (Annex 1 to Decision 553/2020) (consolidated text in Romanian); 	17.03.2020 – 15.08.2020	COVID-19 page of the Government of Romania's website (gov.ro)
	<ul style="list-style-type: none"> Decision No. 36 of 21 July 2020 of the National Committee for Emergency Situations (in Romanian), as amended by Decision No. 40 of 13 August 2020, and read in light of Decisions of the National Committee for Emergency Situations No. 39 of 10 August 2020 and No. 42 of 17 August 2020 (in Romanian); 	21.07.2020 – indeterminate date	
Slovakia	Measure of the Public Health Authority of 3 July 2020, No. OLP/5455/2020, as most recently amended (consolidated English translation)	06.07.2020 – indeterminate date	COVID-19 website (korona.gov.sk) COVID-19 page of the Ministry of Foreign and European Affairs' website (mzv.sk)
Slovenia	Ordinance No. 112/20 of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia (in Slovenian)	20.07-2020 – indeterminate date	COVID-19 page of the National Institute of Public Health's website (nizj.si) COVID-19 page of the Slovenian Police's website (policija.si)
Spain	Order INT/657/2020 of 17 July 2020, as most recently amended (consolidated text in Spanish)	22.07.2020 – 31.08.2020	COVID-19 page of the Ministry of Health's website (mscbs.gob.es) (in Spanish) Spain Travel Health website (spth.gob.es)
	Resolution of 24 July 2020 of the Directorate-General of Public Health, Quality, and Innovation regarding the health controls to be carried out at points of entry in Spain (in Spanish)	30.07.2020 – indeterminate date	

Member State / Schengen Country	Applicable legislation	Applicable period	Official information sources
Sweden	Ordinance (2020:127) on a temporary entry ban to Sweden, as most recently amended by SFS 2020:735 (consolidated text in Swedish) and SFS 2020:741 (in Swedish);	08.06.2020 – indeterminate date	COVID-19 page on Krisinformation.se COVID-19 page on the Swedish Police’s website (polisen.se)
Switzerland	Ordinance 3 on Measures to Combat the Coronavirus (COVID-19) (Covid-19-Verordnung-3) (consolidated text in German)	22.06.2020 – 13.09.2020	COVID-19 page on the Federal Office of Public Health’s website (bag.admin.ch)
	Ordinance on measures to combat the coronavirus (Covid-19) in the field of international passenger traffic (Covid-19-Verordnung Massnahmen im Bereich des internationalen Personenverkehrs) (consolidated text in German)	06.07.2020 – indeterminate date	

Annex 2.2. Essential reasons for which entry of third country nationals is permitted by EU+ countries (updated to 24 August 2020)

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
Austria ³⁶³	Yes, but proof of negative COVID-19 test may be required (§ 2(3)(4))	Yes (§3(1a))	Yes (§ 3(1))	Yes (§ 3(5))	Yes (§ 3(3))	No (may fall under 'compelling reasons' pursuant to §3(4))	Seasonal workers; proof of negative COVID-19 test may be required (§ 2(3)(5))
Belgium ³⁶⁴	Yes, but mandatory quarantine for persons coming from a country or region in the 'red' zone	Yes, but mandatory quarantine for persons coming from a country or region in the 'red' zone	Yes	Yes	Yes, but mandatory quarantine for persons coming from a country or region in the 'red' zone	Yes, but mandatory quarantine for persons coming from a country or region in the 'red' zone	Yes For seasonal workers, students and highly qualified TCN workers: mandatory quarantine for persons coming from a country or region in the 'red' zone
Bulgaria ³⁶⁵	Yes (item 2(b) and (c))	Yes (item 2(i))	Yes (item 2(d))	Transit passenger of EU+ countries and select third countries, and Turkish nationals	No	Yes (item 2(f), "humanitarian reasons"), but proof of negative COVID-	Seasonal workers and students (item 2(h) and k)), but proof of negative

³⁶³ Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection on entry to Austria in connection with the containment of SARS-CoV-2 (BGBl. II No. 263/2020), as most recently amended.

³⁶⁴ See <https://www.info-coronavirus.be/en/fag/> and <https://diplomatie.belgium.be/en>.

³⁶⁵ Order No RD-01-459 of 11.08.2020 for temporary ban on entry into the territory of the Republic of Bulgaria and determination of the persons who are placed under quarantine upon entry on the territory of the country.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
				returning to Turkey (item 3)		19 test may be required	COVID-19 test may be required
Croatia ³⁶⁶	Yes (item 3, para. 1), but mandatory quarantine may apply	Yes (item 3, para. 1), but mandatory quarantine may apply	Yes (item 3, para. 1), but mandatory quarantine may apply	Yes (item 3, para. 1), but mandatory quarantine may apply	Persons traveling for “urgent personal reasons” (item 3, para. 1), but mandatory quarantine applies	No	Persons traveling for “other business reasons”, “another economic interest” or “schooling” (item 3, para 1), but proof of negative COVID-19 test or mandatory quarantine applies
Cyprus ³⁶⁷	Yes (§ 2.8(iii)), but proof of negative COVID-19 test may be required	No	Yes (§ 2.10), but 14-day quarantine <i>prior to entry</i> and in-country testing for COVID-19 may apply	No	Persons entering for the purpose of “family reunification” (§ 2.8 (v)), but proof of negative COVID-19 test may be required	No	No
Czech Republic ³⁶⁸	No	No	Yes (point I.4.g)	Only third-country nationals with residence title in the EU (point I.4.d)	Yes (point I.4.e and I.4.i [“necessary care for close family members who are unable to take care of themselves, the exercise of the right of care or contact	Yes (point I.4.i, “other humanitarian situations”), but mandatory quarantine and in-country testing for COVID-19 may apply	No

³⁶⁶ Decision of the Civil Protection Headquarters on the temporary prohibition of crossing the border of the Republic of Croatia (NN 74/2020, 1439), as most recently amended. See also <https://mup.gov.hr/uzg-covid/english/286212>.

³⁶⁷ Infectious Diseases (Determination of Measures against the Spread of Covid-19 Coronavirus) Decree (No.30) of 2020.

³⁶⁸ Protective Measure of the Ministry of Health of 24 August 2020, MZDR 20599/2020-25/MIN/KAN. See also <https://www.mvcr.cz/mvcren/ViewFile.aspx?docid=22261723>.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
					with a minor"), but mandatory quarantine and in-country testing for COVID-19 may apply		
Denmark ³⁶⁹	Yes	Yes	Yes	Yes ³⁷⁰	Yes	No	Yes
Estonia ³⁷¹	Yes (clause 5) if <i>asymptomatic</i>	Yes (clauses 11, 12, and 12 ³) if <i>asymptomatic</i> , but mandatory quarantine may apply for entry from third country	Yes (clauses 4 and 6) if <i>asymptomatic</i>	Yes (clause 10) if <i>asymptomatic</i>	Entry may be approved if <i>asymptomatic</i> (clause 13, under 1), but mandatory quarantine may apply	No	Yes (clause 12 ³) if <i>asymptomatic</i> , but mandatory quarantine may apply for entry from third country
Finland ³⁷²	Yes	No	Yes	Yes	Yes	Yes	No
France ³⁷³	Yes	Yes	Yes	Yes	Yes	No	No
Germany	Yes	No	Yes	Yes	Yes	Yes	Yes
Greece ³⁷⁴	Yes (Art. 1(4)(a) and (h))	No	Yes (Art. 1(4)(e))	Yes (Art. 1(4)(f))	No	No	Seasonal workers and students (Art. 1(4)(g) and (i))

³⁶⁹ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-resident-in-banned-countries>.

³⁷⁰ See <https://politi.dk/en/coronavirus-in-denmark/travelling-in-or-out-of-denmark/persons-in-transit>.

³⁷¹ Government of the Republic Order No. 169 "Imposition of temporary restrictions on crossing the state border in order to prevent a new outbreak of the coronavirus SARS-CoV-2 causing the COVID-19 disease".

³⁷² Government Decision SM / 2020/71 amending and extending the decision on the restriction of traffic at border crossing points. See also <https://www.raja.fi/current-issues/quidelines-for-border-traffic>.

³⁷³ Cf. Art. 1(l), under 1 and 4 of Act No. 2020-856 of 9 July 2020 organising the exit from the state of health emergency. See also <https://www.interieur.gouv.fr/Actualites/Communiqués/Restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires-aux-frontieres>.

³⁷⁴ Joint Ministerial Decision No. Δ1α/Γ.Π.οικ. 50680/11.8.2020, "Enforcement of the ban on entry into the country of third-country nationals other than the countries of the European Union and the Schengen Agreement to limit the spread of COVID-19 coronavirus for the period from 15.8.2020 to 31.8.2020".

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
Hungary ³⁷⁵	Unclear (may fall under § 7 (2)(b), providing for applying for entry for reason of "business or other work" with in-country testing for COVID-19)	Yes (§ 12), for a maximum period of 24 hours	Yes for personnel in transport of goods (§ 1(3)(a)) Entry may be granted upon request for personnel in transport of persons (§ 7(2)(e)), but is required to submit to in-country testing for COVID-19	Yes (§ 15), but is required to submit to in-country testing for COVID-19	Entry may be granted upon request for "participation in family events (marriage, baptism, funeral)" and "care of a relative" (§ 7(2)(f) and (g)), but is required to submit to in-country testing for COVID-19	No	Entry may be granted upon request for students (§ 7(2)(d)), but is required to submit to in-country testing for COVID-19 Yes for (seasonal) workers in agricultural sector from <i>neighbouring</i> countries (§ 13), but subject to 14-day quarantine (§ 14)
Iceland ³⁷⁶	Yes (Art. 1, para. 6, under b)	No	Yes (Art. 1, para. 6, under c)	Yes (Art. 1, para. 6, under a)	Yes (Art. 1, para. 6, under e)	Yes (Art. 1, para. 6, under d)	Students and highly skilled TCN workers (Art. 1, para. 6, under g and h)
Ireland ³⁷⁷	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Italy ³⁷⁸	Yes (Art. 4(1)(a), "work needs"), unless they have	Yes (Art. 4(1)(a), "work needs"), unless they have	Yes (Art. 4(1)(a), "work needs" and 4(2)(2))	Yes (Art. 4(1)(e), "return to one's domicile, home or	No	Unclear (could potentially fall under	Yes (Art. 4(1)(a), "work needs", and 4(1)(d), "study

³⁷⁵ Government Decree 341/2020 (VII 12), as most recently amended.

³⁷⁶ Regulation No. 781/2020 on amendments to the Regulation on cross-border movement, no. 866/2017.

³⁷⁷ From general information obtained, Ireland did not participate in the introduction and continuation of the EU travel ban.

³⁷⁸ Decree of the President of the Council of Ministers of 7 August 2020 further implementing provisions of the Decree-Law of 25 March 2020, n. 19, containing urgent measures to deal with the emergency epidemiological from COVID-19, and the Decree-Law of 16 May 2020, n. 33, containing further urgent measures to deal with the emergency epidemiological from COVID-19", published in the Official Gazette No. 198 of 8 August 2020.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
	stayed in a country in 'group F' in the last 14 days	stayed in a country in 'group F' in the last 14 days		residence"), unless they have stayed in a country in 'group F' in the last 14 days		"absolute urgency", Art.4(1)(b))	needs"), unless they have stayed in a country in 'group F' in the last 14 days
Latvia ³⁷⁹	No	No	Yes (para 37.3)	Yes (para. 37.1 and 37.2, and 37.4)	No	No	Students (para. 37.9), but 14-day mandatory quarantine may apply Highly qualified TCN workers and seasonal workers (para. 37.6 in conjunction with 59 and its sub-paragraphs)
Liechtenstein ³⁸⁰	(see Switzerland)	(see Switzerland)	(see Switzerland)	(see Switzerland)	(see Switzerland)	(see Switzerland)	(see Switzerland)
Lithuania ³⁸¹	Yes (para. 3.3.8), but may be subject to mandatory quarantine	No	Yes (para. 3.3.7), but may be subject to mandatory quarantine	Yes (para. 3.3.13)	No (may fall under discretionary application under para. 3.3.12)	No (may fall under discretionary application under para. 3.3.12)	No (may fall under discretionary application under para. 3.3.12)
Luxembourg ³⁸²	Yes (Art. 2, under 2), but proof of	Yes (Art. 2, under 3), but proof of	Yes (Art. 2, under 5), but proof of	Yes (Art. 2, under 7), but proof of	Yes (Art. 2, under 8), but proof of	Yes (Art. 2, under 10), but proof of	Yes (Art. 2, under 4, 11 and 12), but proof

³⁷⁹ Regulation of the Cabinet of Ministers No. 360 of 9 June 2020, "Epidemiological Safety Measures for the Containment of the Spread of COVID-19 Infection".

³⁸⁰ Liechtenstein follows, in general, the legal and regulatory framework on COVID-19 measures adopted by Switzerland (see Art. 1(3) of the Covid-19 Regulations of Liechtenstein)

³⁸¹ Resolution of the Government of 26 February 2020 No. 152 on the declaration of a state of emergency, as most recently amended.

³⁸² Grand-Ducal Regulation of 20 June 2020 relating to the duration of the ban and the scope of the exceptions provided for in article 2 of the law of June 20, 2020 introducing certain temporary measures relating to the application of the amended law of August 29, 2008 on the free movement of persons and immigration, as most recently amended.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
	negative COVID-19 test may be required (Art. 2ter)	negative COVID-19 test may be required (Art. 2ter)	negative COVID-19 test may be required (Art. 2ter)	negative COVID-19 test may be required (Art. 2ter)	negative COVID-19 test may be required (Art. 2ter)	negative COVID-19 test may be required (Art. 2ter)	of negative COVID-19 test may be required (Art. 2ter)
Malta ³⁸³	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)	Yes (§ 2, para. 2, under (a) and (b))	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)	No (may fall under discretionary application under § 2, para 2, under (c), and subject to in-country testing and mandatory quarantine)
Netherlands ³⁸⁴	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Norway ³⁸⁵	No; entry may be granted under § 2, para 2, of the Act (see Circular, part 3)	No	Yes (§ 3, under d Regulations)	Yes (§ 3, under b Regulations)	Yes (§ 3, under a, "parent-child contact"; § 3 under q, "family reunification", Regulations) For other imperative family reasons, entry may be granted under § 2, para 2, of	Yes (§ 2, para. 1, under b, Act)	No; entry may be granted under § 2, para 2, of the Act (see Circular, part 3)

³⁸³ Travel Ban (Extension to all Countries) Order, 2020, as most recently amended. See further <https://deputyprimeminister.gov.mt/en/health-promotion/covid-19/Pages/travel.aspx>.

³⁸⁴ See <https://www.rijksoverheid.nl/actueel/nieuws/2020/08/03/het-inreisverbod-voor-nederland-per-5-augustus-2020> and <https://www.nederlandenu.nl/reizen-en-wonen/visa-voor-nederland/qas-voor-inreizen-in-nederland>.

³⁸⁵ Interim Act relating to entry restrictions for foreign nationals out of concern for public health (the Act) and Regulations relating to entry restrictions for foreign nationals out of concern for public health (Regulations). See also Circular G-18/2020 – Revised circular on the entry into force of regulations on entry restrictions for foreigners for reasons of public health, available at <https://www.regjeringen.no/no/dokumenter/g-182020-revidert-rundskriv-om-ikrafttredelse-av-forskrift-om-innreiserestriksjoner-for-utlendinger-av-hensyn-til-folkehelsen/id2723823/>.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
					the Act (see Circular, part 4)		
Poland ³⁸⁶	No	No	Yes	Only for EU+ residents	No	No	Yes, for seasonal workers and students Unclear for highly skilled TCN workers
Portugal ³⁸⁷	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))	Yes (para. 3 and 4(b))
Romania ³⁸⁸	Yes (Art. 2(1)(2)(d))	Yes (Art. 2(1)(2)(k))	Yes (Art. 2(1)(2)(d))	Yes (Art. 2(1)(2)(f))	Yes (Art. 2(1)(2)(g))	Yes (Art. 2(1)(2)(h))	Yes (Art. 2(1)(2)(i), (j) and (k))
Slovakia ³⁸⁹	No	Yes (point 5)	Yes (point 4)	Only for EU+ residents (point 4)	Yes (point 8, "urgent care for their close relatives")	No	Yes, for seasonal workers (point 4)
Slovenia ³⁹⁰	Yes, but mandatory quarantine may apply (cf. Art. 9)	Yes, but prior proof of negative COVID-19 test may be required (cf. Art. 10(1)(1) and (2), Art. 10(2))	Yes, but prior proof of negative COVID-19 test may be required (cf. Art. 10(1)(3) and (5), Art. 10(2))	Yes (cf. Art. 10(1)(6))	Yes, but mandatory quarantine applicable for stays longer than 24 hours (cf. Art. 10(1)(12) to (14))	Yes, but mandatory quarantine may apply (cf. Art. 9)	Yes, but mandatory quarantine may apply (cf. Art. 9)

³⁸⁶ Regulation of the Council of Ministers of August 7, 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic, Dz. U. 2020 No. 1356. See also <https://www.gov.pl/web/coronavirus/travel>.

³⁸⁷ Order No. 7595-A/2020. On essential travels, it refers specifically to essential travel "under the terms referred to in Council Recommendation (EU) 2020/912.

³⁸⁸ Annex 3 to Decision No. 533 of 15 July 2020 on the extension of the alert status on the Romanian territory starting with 17 July 2020, as well as the establishment of the measures applied during it to prevent and combat the effects of the COVID-19 pandemic, "Measures of 15 July 2020 to reduce the impact of the type of risk".

³⁸⁹ Measure of the Public Health Authority of 3 July 2020, No. OLP/5455/2020, as most recently amended. See also <https://www.mzv.sk/web/en/covid-19>.

³⁹⁰ Ordinance of 20 August 2020 imposing and implementing measures to prevent the spread of epidemic COVID-19 at the border crossing points at the external border and inspection posts within the national borders of the Republic of Slovenia. See <https://www.policija.si/eng/newsroom/news-archive/103470-crossing-the-state-border-during-the-coronavirus-epidemic> and <https://www.policija.si/eng/newsroom/news-archive/103455-temporary-restriction-on-non-essential-travel-to-the-eu-means-third-country-nationals-can-enter-slovenia-only-in-urgent-cases>.

Member State / Schengen Country	Healthcare professionals	Frontier workers	Transport personnel	Transit passengers	Imperative family reasons	International protection seekers and other humanitarian reasons	Seasonal workers in agriculture, students and highly qualified TCN workers
Spain ³⁹¹	Yes (Art. 1(1)(c))	No	Yes (Art. 1(1)(c))	Yes (Art. 1(4))	Yes (Art. 1(1)(h))	Yes (Art. 1(1)(i), "documented reasons of force majeure or need, or whose entry is allowed for humanitarian reasons")	Yes, for students and highly qualified TCN workers (Art. 1(1)(f) and (g))
Sweden ³⁹²	Yes (§ 3, para 2, under 1)	Yes (§ 3, para 2, under 2)	Yes (§ 3, para 2, under 4)	Yes (§ 3, para 2, under 7)	Yes (§ 3, para 2, under 8)	Yes (§ 3, para 2, under 10)	Yes (§ 3, para 2, under 3, 11 and 12)
Switzerland ³⁹³	No	Yes (Art. 4(2) and Instructions), but may be subject to mandatory quarantine	Yes (Art. 4(2) and Instructions)	Yes (Art. 4(2) and Instructions)	Yes (Art. 4(2) and Instructions), but may be subject to mandatory quarantine	No	No

³⁹¹ Order INT/657/2020 of 17 July 2020, as most recently amended.

³⁹² Ordinance (2020: 127) on a temporary entry ban to Sweden, as most recently amended.

³⁹³ Covid-19 Regulations 3 and Regulations on Covid-19 measures in the area of international passenger traffic. See also Instructions of 3 August 2020, "Implementation of Ordinance 3 on measures to combat the coronavirus (Ordinance 3 COVID-19) and on the procedure for entering and leaving Switzerland", available at <https://www.sem.admin.ch/sem/en/home/aktuell/aktuell/faq-einreiseverweigerung.html> (in German, French or Italian).

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, assesses the mobility restrictive measures adopted by the EU and its Member States in the fight against COVID-19. It examines the reintroduction of Schengen internal border controls and intra- and extra-EU travel restrictions. It assesses their compatibility with the Schengen Borders Code, including proportionality, non-discrimination, privacy and free movement. The research demonstrates that policy priorities have moved from a logic of containment to one characterized by a policing approach on intra-EU mobility giving priority to the use of police identity/health checks, interoperable databases and the electronic surveillance of every traveller. It concludes that Schengen is not in 'crisis'. Instead there has been an 'EU enforcement and evaluation gap' of Member States compliance with EU rules in areas falling under EU competence.
