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COMMISSION RECOMMENDATION

of 22.12.2020

**on a coordinated approach to travel and transport in response to the SARS-COV-2
variant observed in the United Kingdom**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) On 13 October 2020, the Council adopted Recommendation 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic¹.
- (2) The objective of Recommendation 2020/1475 is to ensure increased coordination among Member States in view of the adoption of measures, at national level, that restrict free movement on grounds of public health. That Recommendation provides the necessary framework coordinating the adoption of specific measures to contain the spread of COVID-19, which must be proportionate and non-discriminatory. For example, it provides for which measures could be applied to travellers arriving from a high-risk area and the necessary exceptions from any such measures. Furthermore, it requires the provision of timely and up-to-date information to the general public on newly introduced measures.
- (3) Recommendation 2020/1475 is addressed to all Member States. During the transition period, provided for in Article 126 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community², and pursuant to Article 127 of that Agreement, Union law, including Recommendation 2020/1475 continues to apply to the United Kingdom. During the transition period, UK nationals are to be considered as EU citizens and UK residents are to be considered as Union residents, in particular for the purpose of benefiting from the freedom of movement under Union law and for the purpose of that Recommendation.
- (4) In 2020 the Commission adopted a number of guidance documents on Green Lanes, including its Communication of 28 October 2020 upgrading the concept of Green Lanes to cover not only road but also rail, waterborne freight and air cargo, to ensure that essential supply chains continue to function and to avoid any disruption of freight and logistics in the EU in the second wave of the pandemic.
- (5) On 30 June 2020, the Council adopted a Recommendation 2020/912 on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction³. In that Recommendation, the Council adopted a common approach with

¹ OJ L 337/3 of 14.10.2020

² OJ L 29, 31.1.2020, p. 7–187

³ OJ L 208 I/1 of 1.07.2020

regard to the temporary restriction of non-essential travel to the EU as agreed by the Heads of State or Government of the EU on 17 March 2020 and the gradual lifting of such restriction.

- (6) Recommendation 2020/912 has two Annexes: Annex I listing the third countries whose residents should not be affected by temporary external borders restriction on non-essential travel to the EU, and Annex II listing specific categories of travellers with an essential function or need.
- (7) Following the expiry of the transition period provided for in Article 126 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community⁴, the United Kingdom shall be considered as a third country for the purpose of Recommendation 2020/912. Unless a decision is taken to include the United Kingdom on the list of third countries in Annex I to that Recommendation or unless otherwise agreed between the European Union and the United Kingdom beforehand, non-essential travel from the United Kingdom to the European Union will not be possible as of 1 January 2021. At the same time, EU citizens residing in the United Kingdom should continue to benefit from the rules and safeguards provided for in point 5(a) of Council Recommendation 2020/912 after 1 January 2021.
- (8) Over the last few weeks, the United Kingdom has faced a rapid increase in COVID-19 cases in South-East England, leading to enhanced epidemiological and virological investigations. Analysis of viral genome sequence data identified a large proportion of cases belonged to a new variant of SARS-CoV-2, defined by multiple spike protein mutations present as well as mutations in other genomic regions. While it is known and expected that viruses constantly change through mutation leading to the emergence of new variants, preliminary analysis in the UK suggests that this variant is significantly more transmissible than previously circulating variants, with an estimated increased transmissibility of up to 70%. There is no indication at this point of increased disease severity associated with the new variant.
- (9) This new variant has emerged at a time of the year when there has traditionally been increased family and social contacts. In response to these developments, on 19 December 2020, the government of the United Kingdom announced tougher restrictions for large parts of South East England, including advice that people should not travel into or out of those areas, and that people in those areas should not travel abroad, apart from limited exceptions.
- (10) A few cases with the new variant have to date been reported by Belgium, Denmark, Italy, and the Netherlands. Other countries that have reported such cases include Iceland and Australia. While, it is likely that the variant is already circulating in other EU Member States, further epidemiological and virological research is needed to determine the current spread of this strain within the EU.
- (11) In light of the risk of further importing this variant, with consequences in terms of higher numbers of cases and hence of hospitalisations, Member States have taken temporary precautionary measures in relation to travel from the United Kingdom, pending a common approach. Where a Member State, in the specific context of the situation between the EU and the UK and in the coming days, requires rapid antigen tests for transport workers, this should not lead to transport disruptions. Within the EU, the Green Lanes approach will remain of fundamental importance.

⁴ See footnote 2.

- (12) At the meeting of the Integrated Political Crisis Response (IPCR) of 21 December 2020, many Member States called for a coordinated approach.

RECOMMENDS that:

1. Until the end of the transition period provided for in Article 126 of the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, namely 31 December 2020, Member States should continue applying the principles and mechanisms set out in Council Recommendation 2020/1475 when adopting measures restricting free movement from the United Kingdom to the European Union.

According to point 17 of Council Recommendation 2020/1475, Member States should in principle not refuse the entry of persons travelling from other Member States or, during the transition period, the United Kingdom.

2. In particular, all Member States should implement points 19 to 21 of Recommendation 2020/1475 concerning the common framework on possible measures for travellers coming from higher-risk areas. Member States should in the light of the precautionary principle discourage all non-essential travel to and from the United Kingdom until further notice. However, in line with Council Recommendation 2020/1475, the following groups should be exempted from further temporary restriction, provided that they undergo a RT-PCR test or, alternatively, a rapid antigen test within 72 hours prior to departure, or respect 10 days of quarantine and undergo a RT-PCR test on day 10 with a negative result:

- (a) Union citizens within the meaning of Article 20(1) TFEU and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, travelling to their Member State or country of nationality;
- (b) Union citizens within the meaning of Article 20(1) TFEU, third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, and UK nationals, travelling to their Member State or country of residence;
- (c) third-country nationals who are long-term residents under the Long-term Residence Directive, persons deriving their right to reside from other EU Directives, national law or who hold national long-term visas, travelling to their Member State of residence;
- (d) the family members of the persons referred to under points (a) to (c).

3. Travellers with an essential function or need as defined in point 19 of Council Recommendation 2020/1475, with the exception of transport workers, should be required to undergo a RT-PCR test, or, alternatively, a rapid antigen test within 72 hours prior to departure, but should not be required to undergo quarantine while exercising this essential function.

4. Transit of passengers, especially for those undertaking essential travel, should be facilitated without quarantine. In case a negative RT-PCR test result is required for transit, travellers should be informed of this requirement before they start their journey or be offered testing during their layover without undue delay.

5. Given the need to ensure transport of persons coming under the categories referred to above, the prohibition of transport services, such as flight or train bans, should be discontinued⁵.
6. Transport staff including truck and train drivers, inland waterways crews and aircrew should be exempted from any travel ban across any border. Similarly, travel and transit of seafarers should be facilitated. Transport staff and seafarers should be exempted from testing and quarantine requirements when they are travelling across a border to and from a vessel, vehicle, or aircraft, although they should respect the general protection and distancing measures that are applied locally. Where a Member State, in the specific context of the situation between the EU and the UK and in the coming days, requires rapid antigen tests for transport workers, this should not lead to transport disruptions. Finally, connectivity for essential travel, including the return home of nationals and residents, should be upheld while respecting the relevant precautionary measures.
7. Cargo flows also need to continue uninterrupted, in accordance with the Green Lanes and the Air Cargo Communication⁶, not least to ensure the timely distribution of COVID-19 vaccines and ancillary supplies, for example.
8. Any new measures taken by the Member States in view of the United Kingdom should state explicitly that they expire at the end of the transition period, i.e. on 31 December 2020.
9. Member States should ensure timely, up-to-date and comprehensive information to the general public via all available communication channels.
10. The public health authorities and laboratories of the Member States should, in full respect of fundamental rights:
 - (a) Increase sequencing efforts and analyse virus isolates in a timely manner to swiftly identify cases of the new variant, in particular, virus isolates from cases involving persons who have recently visited or have a link to countries where the variant is present is relevant;
 - (b) Immediately identify cases involving persons who travelled to or from the UK in the past 14 days in order to test by RT-PCR, isolate, and be subjected to enhanced contact tracing. Virus isolates from such cases should be sequenced in a timely manner to identify cases of the new variant.
 - (c) Immediately identify cases involving persons that are close contacts of a confirmed case of the new variant or with a travel history to the UK in order to test, isolate and follow up their contacts and to stop the spread of the new variant. Virus isolates from such cases should be sequenced in a timely manner to identify cases of the new variant.
11. As of 1 January 2021, Member States will apply Recommendation 2020/912 on the temporary restriction on non-essential travel to the EU and the possible lifting of such restriction⁷ with regard to the nationals of the United Kingdom and other third country nationals residing in the United Kingdom who have been benefiting from the

⁵ It is recalled that, in any event, Regulation (EC) No 1008/2008 limit very strictly the possibility for Member States to ban flights, cf. Article 21, as well as Article 21a (applicable until 31 December 2020).

⁶ Communication from the European Commission – Guidelines: Facilitating Air Cargo Operations during COVID-19 outbreak, C/2020/2010. OJ C 100I, 27.3.2020, p. 1–4.

⁷ See footnote 3

right of free movement under Union law until the end of the transition period. This means that only essential travel may take place from the United Kingdom to the Schengen area as long as the United Kingdom is not placed on the list in Annex I of that Recommendation.

12. In accordance with point 5 of Recommendation 2020/912, the following categories of persons should be exempted from the travel restriction, independent of the purpose of travel, under the condition that they undergo a RT-PCR test or, alternatively, a rapid antigen test within 72 hours prior to departure, or respect 10 days of quarantine and undergo a RT-PCR test on day 10 with a negative result:
 - (a) Union citizens within the meaning of Article 20(1) TFEU and third-country nationals who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens, as well as their respective family members;
 - (b) third-country nationals who are long-term residents under the Long-term Residence Directive⁸, persons deriving their right to reside from other EU Directives or national law or who hold national long-term visas, as well as their respective family members. This should also cover persons deriving their right to reside in the EU from the Withdrawal Agreement.
13. UK nationals who are not legally resident in the EU are not covered by the exemption of point 5(b) of Council Recommendation 2020/912 as of 1 January 2021. This means that UK nationals who are not protected by the Withdrawal Agreement and are also not legally resident in the Union nor members of the family of Union citizens cannot rely on point 5(b) of Council Recommendation 2020/912. However, such UK nationals may nevertheless be covered by the exception on essential travel (essential function or need) such as set out in Annex II to Council Recommendation 2020/912.
14. Member States and Schengen Associated Countries should take all measures in a coordinated and coherent manner and inform the Commission and the other Member States of any measures they have taken as soon as possible. They should communicate any future measures before their entry into force. Air service restrictions must be notified in accordance with Articles 21 and 21a of Regulation 1008/2008.

Done at Brussels, 22.12.2020

For the Commission

[...]

Member of the Commission

⁸ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.1.2004, p. 44).