



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

The acting Director-General

Brussels  
JUST.D.3/JS/just.dgdir(2021)1523734

Dear Ambassador,

I am writing to follow up on the letter of 16 February 2021 sent by Commissioners Johansson and Reynders to all Member States on the coordination of COVID-19 travel restrictions<sup>1</sup>.

In the letter, the Commissioners underscored the urgent need for more coherence in the approaches taken by Member States on this matter. As far as restrictions on movement within the EU are concerned, this coherence is best ensured through a consistent implementation of the framework established by Council Recommendation (EU) 2020/1475<sup>2</sup>, as amended by the Council on 1 February 2021<sup>3</sup> (the 'Council Recommendation'). The Council Recommendation allows Member States the necessary flexibility to take the measures deemed necessary taking into account the specific epidemiological situation and national strategies. At the same time, it aims to preserve free movement within the EU, even if subject to restrictions such as testing and quarantine.

In this context, I would like to raise a number of points in relation to the measures introduced by Denmark.

EU citizens who are neither Danish nationals, residents in Denmark or travelling for essential functions or needs (persons travelling for a 'worthy purpose') are currently not permitted to enter Denmark<sup>4</sup>. This entry ban applies for an indefinite period.

Bans on non-essential travel to and from a Member State restrict EU citizens' fundamental right of free movement as provided in Article 21 of the Treaty on the Functioning of the European Union. Restrictions on the freedom of movement may be justified based on public health grounds. Nevertheless, in order to be compatible with

<sup>1</sup> Our reference: Ares(2021)1293588.

<sup>2</sup> Council Recommendation (EU) 2020/1475 of 13 October 2020 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic, OJ L 337, 14.10.2020, p. 3.

<sup>3</sup> Council Recommendation (EU) 2021/119 of 1 February 2021 amending Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic, OJ L 36I, 2.2.2021, p. 1.

<sup>4</sup> <https://en.coronasmitte.dk/rules-and-regulations/entry-into-denmark>

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Union law, any such measures must be non-discriminatory and comply with the principle of proportionality.

A measure is proportionate when, while appropriate for securing the attainment of the objective pursued, it does not go beyond what is necessary in order to attain it<sup>5</sup>. In the case of the travel ban imposed by Denmark, the Commission considers that less restrictive measures would be available to the authorities to attain the objective of protecting public health. In line with the Council Recommendation, Denmark could apply other measures, such as quarantine or testing requirements, on non-essential travellers arriving from ‘orange’, ‘red’, and, in particular, ‘dark red’ areas.

In view of the above, we invite the Danish authorities to align the national measures taken with the provisions of the Council Recommendation, notably by phasing out the ban on non-essential travel and replacing it by more targeted measures such as quarantine and testing. As noted in the Commissioners’ letter, the best way to increase coherence among Member States is to use the map published weekly by the European Centre for Disease Prevention and Control<sup>6</sup> as the main element for national decision-making processes, combined with additional criteria such as the prevalence of certain variants.

I would be grateful if you could provide me with a reply to this letter within 10 working days.

I would like to assure you that the Commission will continue to work closely with you, in a spirit of sincere cooperation, to address the common challenges posed by the COVID-19 pandemic. Let me also take this opportunity to wish you and those dear to you the best of health during these difficult times.

Yours faithfully,

*Electronically signed*

Salla SAASTAMOINEN

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<sup>5</sup> Judgment of 18 July 2006, *De Cuyper*, C-406/04, EU:C:2006:491, paragraph 42.

<sup>6</sup> <https://www.ecdc.europa.eu/en/covid-19/situation-updates/weekly-maps-coordinated-restriction-free-movement>