



ETUC comments on the Commission Communication on a phased and coordinated approach for restoring freedom of movement

On 13 May 2020, the European Commission issued a [Communication](#) on a phased and coordinated approach for restoring freedom of movement and lifting internal border controls. This guidance document is complemented by specific [Guidelines](#) on the progressive restoration of transport services and connectivity. These two documents build on the previous recommendations issued by the Commission regarding the [free movement of workers during COVID-19](#) on 30 March and the [Green Lanes](#) for the purpose of facilitating transports on 23 March.

The 13 May Communication invites Member States to engage in a process of gradually reopening unrestricted cross-border movement within the EU, as the public health situation improves. It complements the [Joint Roadmap](#) towards lifting COVID-19 containment measures published on 15 April 2020 by the President of the European Commission together with the President of the European Council.

The Communication recognises that the necessary measures implemented to protect public health, come at a high economic and social price. It restricts the free movement of workers, citizens and services across borders, distorts the smooth operation of supply chains and has even resulted in the stand-still of certain sectors. Re-opening cross-border movement is one of the preconditions for restoring activities in sectors such as tourism and transport. The Commission therefore proposes a common approach to lifting border restrictions with due regard to how the epidemiological situation evolves.

It is positive that the Communication highlights the need for a coordinated, non-discriminatory and proportionate approach of mutual trust between Member States to de-escalating the COVID-19 measures. The gradual removal of restrictions to free movement and reopening of borders should give priority to cross-border workers and should avoid any discrimination against EU mobile workers. Smooth transit should equally be ensured for professional reasons. Restrictions must be effective and proportionate and should not go beyond what is necessary to contain the pandemic and protect public health. Blanket restrictions to free movement should be balanced with economic and social considerations, for the purpose of introducing more targeted measures complemented by protective requirements, where the health of citizens is the paramount consideration. Any envisaged remaining restrictions should only be based on public health considerations and should be proportionate and non-discriminatory.

The European Trade Union Confederation reiterates the views expressed in the [ETUC comments](#) on the 30 March Commission Guidelines on free movement. The health, safety and equal treatment of cross-border workers must be the overarching principles for the purpose of restoring the freedom of movement. As set out by these Guidelines, Member States should allow not only workers in critical occupations to cross the borders to access their workplace, but any cross-border workers in sectors where activities are allowed to continue or resume in the host Member State. This is crucial for ensuring equal treatment between local and cross-border workers. Similarly, health screenings should only be carried out under the same conditions as for locals exercising the same occupations, and be limited to what is strictly necessary with due regard to fundamental rights of workers and their freedom of movement.

However, the approach rolled out by the Commission in its 13 May Communication tends to focus only on protecting the provision of safe services for citizens rather than also ensuring safe conditions for the free movement of workers. The Communication recognises the need to allow workers, in particular transport, frontier, posted and seasonal workers as well as service providers, to cross borders and have unhindered access to their place of work. Nevertheless, the Communication falls short of effectively addressing the concerns of such cross-border workers. The fact that the Commission underlines the importance of Member States communicating to employers the necessity to provide for adequate health and safety protection is not enough. Workers must be empowered with the necessary information and tools to protect themselves and others from further propagation of the COVID-19 virus.

The Communication identifies the need for social distancing as well as additional safeguards and access to personal protective equipment when social distancing is not possible. Still, the Commission fails to recognise the pressing need for effective enforcement of such measures among posted and seasonal workers working and living closely together under often poor conditions without proper access to information, protection and sanitary facilities or with working conditions difficult to reconcile with COVID-19 protective measures. For the purpose of reducing the risks of travel, the Communication also identifies the need for containment measures regarding accommodation. However, this concern is limited to consumers in the tourism and transport sectors, without any reference to the urgent need to guarantee posted and seasonal workers access to decent and safe accommodation.

Regarding concerns of social protection for cross-border workers, the Commission refers to the need to swiftly conclude the ongoing revision of the 883/2004 Regulation on Social Security Coordination instead of insisting on the enforcement of the Regulation. The Regulation must be consistently applied in all Member States to ensure legal certainty for cross-border workers. However, the COVID-19 outbreak also sheds light on gaps in the social security coordination against the background of quarantine measures and closed borders, in particular with regard to the situation of frontier workers in their Member State of residence. Such gaps must be effectively closed in the revision of the 883/2004 Regulation.

When it comes to the rights and protection of cross-border workers, the 13 May Communication on restoring freedom of movement to a large extent merely refers back to the 30 March Commission Guidelines on free movement during COVID-19. As outlined in the previous [ETUC comments](#), those Guidelines equally fall short of sufficiently addressing crucial issues for cross-border workers linked to health and safety, taxation, social security, sick pay, access to decent accommodation, sanitary facilities and health care as well as the protection of third-country national mobile workers in the EU.

The guiding principles for the gradual lifting of border restrictions should be the health and safety of all workers, respect for all working conditions in force as well as their effective enforcement, the respect for fundamental rights, including equal treatment between local and cross-border workers, while at the same time recognising the particularly vulnerable situation of cross-border workers in view of the COVID-19 outbreak and its aftermath.