

edited by

Antonio Lavieri
Alessandra Pera

Pandemia
in Translation

*A Comparative
Understanding of
European Social Values*

Mucchi Editore

0 - Quaderni della Società Italiana di Traduttologia



0 - Quaderni della **Società Italiana di Traduttologia**

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With the support of the
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Pandemia in Translation is a publication produced with the financial support of the European Commission as part of the project “Pandemic in translation. Experiencing an Intercultural Understanding of European Pandemic”, FORTHEM, Experiencing Europe Lab – DEMS, University of Palermo.

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ISBN 978-88-7000-910-1



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Impaginazione e progetto grafico di copertina STEM Mucchi Editore (MO)

I edizione, pubblicata in Modena nel dicembre 2021

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Unilateral responses to Covid-19 and freedom of movement in the European Union. “Only cooperation will save us”

Abstract: When the COVID-19 pandemic broke out, the European Union’s institutions had to deal with the threat the epidemic posed to the spirit of fraternal cooperation among Member States, which is one of our core values and principles. Citizens of the European Union have witnessed unilateral closures and nationalization of medical supplies, which are drastically different from what they are accustomed to. In reaction to the Member States’ isolated actions, European institutions reintroduced the spirit of cooperation, strengthening coordination among Member States and established an emergency European fund to aid the continent’s recovery.

In light of this shift in perspective, I propose to compare the responses of several European Member States to internal border closures and restrictions on freedom of movement im-

posed by the Treaty of the European Union at the start of the pandemic. I shall also discuss the scope of European collaboration in the fight against the pandemic, as well as its implications for freedom of movement.

Keywords: COVID-19; national response; unilateral closures; Schengen space; freedom of movement.

1. Introduction

If there is one thing that defines the process of European integration, it is the freedom of movement in all of its ramifications (movement of capital, people, and workers) that has been incorporated into the *Acquis Communautaire* since the founding of the first Community.¹ This freedom is critical to the functioning of the single market, but it requires smooth cooperation policies among Member States in a variety of sectors to be effective.

¹ The European Coal and Steel Community was established with the Treaty of Paris on April 18, available at: <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:11951K/TXT&from=EN>. Last visited: 14/07/2021.

The pandemic of COVID-19 posed a significant challenge to this coordination. Initially, each Member State attempted to respond on its own, undermining the spirit of mutual solidarity among Member States through unilateral closures of internal borders and nationalisation of medical supply. However, after a brief period of “panic”, the EU reacted by encouraging cooperation among its members and establishing an emergency fund for the recovery of the continent and its neighbours.

This chapter will examine how European Member States, with the Kingdom of Spain as the primary example², addressed movement restrictions within and outside the EU, and to what extent European cooperation was able to combat the pandemic and its consequences.

² For a general view of the restrictions introduced in Spain, see: L. Ortiz, M.L., “Restrictions on freedom of movement and residence in the European Union due to Covid-19”, *Journal of Modern Science*, 45, 2020, 2, pp. 105-120.

2. *The spread of the pandemic throughout the EU and the introduction of the first restrictions*

On December 31, 2019, the World Health Organization (WHO) was informed of cases of pneumonia of unknown cause in Wuhan City, China. At that time, nothing was known about this new type of coronavirus. On January 7, 2020, the Chinese authorities identified it as the cause of those cases of pneumonia, baptizing it “COVID-19 virus”³.

The situation escalated rapidly⁴, and on January 30, 2020, WHO Director General, Dr. Tedros Adhanom Ghebreyesus, declared the level of “public health emergency of international concern” (PHEIC)⁵. Of

³ Visit WHO website at: <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19>. Last visited: 06/07/2021.

⁴ For a timeline of events, visit: <https://www.who.int/news/item/29-06-2020-covidtimeline>. Last visited: 06/07/2021.

⁵ According to WHO documentation, since the introduction of PHEIC regulation in 2009, the declaration had only been issued on five other occasions: the 2009 H1N1 pandemic, the 2014 Polio declaration, the 2014 outbreak of Ebola in Western Africa, the 2015-16 Zika virus epidemic, and the 2018-20 Kivu Ebola epidemic.

course, this declaration did not stop the virus from spreading, and a pandemic state of emergency was declared in early March 2020,⁶ with the European region becoming the epicentre of the health crisis⁷.

The first WHO recommendations of January 10, 2020, concerning international travel and entry control to States, did not call for any restrictions with the affected area of China⁸. However, by January 20, WHO changed these recommendations, endorsing “measures to limit the risk of exportation or importation of the disease [...] without unnecessary restrictions of international traffic”, demanding the adoption of other measures such as temperature control and data collection, and urging the States to collaborate and share the results of their analysis of

the matter⁹. The first case in the European region was isolated in France on January 25, 2020¹⁰.

On February 11, 2020, in view of the actions taken by many States, WHO once again updated its recommendations, allowing the viability of “travel measures that significantly interfere with international traffic for more than 24 hours” for the sake of public health, while at the same time reminding the States that, “in accordance with their obligations under the Article 43 of the International Health Regulations (2005), States Parties must inform WHO about additional health measures that significantly interfere with international traffic”¹¹.

⁶ The WHO Director General issued the “pandemic” declaration on March 11, 2020.

⁷ As reported by WHO, in mid-March 2020, 40% of global cases were confirmed in the European region, which at the end of April displayed 63% of global mortality rate due to COVID-19.

⁸ <https://www.who.int/news-room/articles-detail/who-advice-for-international-travel-and-trade-in-relation-to-the-outbreak-of-pneumonia-caused-by-a-new-coronavirus-in-china/>.

⁹ <https://www.who.int/news-room/articles-detail/updated-who-advice-for-international-traffic-in-relation-to-the-outbreak-of-the-novel-coronavirus-2019-ncov-24-jan/>.

¹⁰ For more information, visit: <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/01/2019-ncov-outbreak-first-cases-confirmed-in-europe>. Last visited: 07/07/2021. In fact, it is suspected that the virus was already circulating on European territory before that date.

¹¹ <https://www.who.int/news-room/articles-detail/key-considerations-for-repatriation-and-quaran>

The situation, however, continued to escalate, with more and more States introducing travel restrictions. On February 27, 2020, WHO reported that “since WHO declaration of a public health emergency of international concern in relation to COVID-19, and as of February 27, 38 countries have reported to WHO additional health measures that significantly interfere with international traffic in relation to travel to and from China or other countries, ranging from denial of entry of passengers, visa restrictions or quarantine for returning travelers”¹². A situation that continues to this day.

On the European continent, 26 States have implemented the Schengen Agreement¹³ that provides for the gradual appli-

tine-of-travellers-in-relation-to-the-outbreak-of-novel-coronavirus-2019-ncov.

¹² <https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak>.

¹³ Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany, and the French Republic on the gradual abolition of checks at their common borders, of June 4, 1985 (available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A42000A0922%2801%29>), and Convention Implementing the Schengen Agreement of

cation of the freedom to cross internal borders for all Member States nationals and the free movement of goods and services. And since the freedom of movement in the EU context intrinsically linked to this space, its limitations have to meet the requirements established by European regulations¹⁴ as well as by the Schengen Acquis.

June 14, 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, of June 19, 1990 (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A42000A0922%2802%29>). On May 1, 1999, with the coming into force of the Schengen Protocol to the Treaty of Amsterdam of October 2, 1997, the EU assumed responsibility for large parts of the Schengen Acquis (that is, the Schengen Agreement and associated body of regulations) and its further development. The information regarding the Area can be found at https://ec.europa.eu/home-affairs/what-we-do/policies/schengen-borders-and-visa_en. Last visited: 14/07/2021.

¹⁴ In particular, the Treaty of the European Union (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, December 13, 2007) and the Free movement Directive (Directive 2004/38/EC) of the European Parliament and of the Council of April, 29, 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/

Owing to public policy or national security, the Schengen Agreement provides for the possibility of communicating and reintroducing temporary border controls in internal areas¹⁵. In addition to that, the EU has already two different legal tools in place to deal with cross-border threats to public health: Decision No. 1082/2013/EU on serious cross-border threats to health¹⁶, and Decision No. 1313/2013/EU on a Union Civil Protection Mechanism (UCPM) in the field of health emergencies¹⁷. These two tools emphasize that,

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).

¹⁵ Art. 2.2 of the Convention Implementing the Schengen Agreement.

¹⁶ Decision No 1082/2013/EU of the European Parliament and of the Council, of October 22, 2013, on serious cross-border threats to health and repealing Decision No 2119/98/EC. OJ L 293/1, of November 5, 2013 (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D1082>). Last visited: 12/07/2021.

¹⁷ Decision No 1313/2013/EU of the European Parliament and of the Council, of 17 December 2013 on a Union Civil Protection Mechanism. OJ L347/924, of 20 December 2013 (available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:347:0924:0947:EN:PDF>). Last visited: 13/07/2021.

while State Members bear primary responsibility for managing public health crises on a national level, uncoordinated measures may harm not only the interests of other State Members, but also those of the Union as a whole. The EU's coordinated response has to be given with the main goal of "seeking to ensure, inter alia, that measures taken at national level are proportionate and limited to public health risks related to serious crossborder threats to health, and do not conflict with obligations and rights laid down in the TFEU such as those related to the restrictions on travel and trade"¹⁸.

But this predicament was new to the Continent and, faced with the disturbing numbers of the pandemic and the rush to take a public stand, the governments of Member States began taking decisions autonomously. The Italian government decreed the isolation of several municipalities¹⁹, a provision that was later expand-

¹⁸ See note 12, par. 21 (adapted text).

¹⁹ Decreto-Legge 23 febbraio 2020, n. 6 Misure urgenti in materia di contenimento e gestione dell'emergenza epidemiologica da COVID-19 (20G00020) (GU Serie Generale n.45 del 23-02-2020). (Available at: <https://>

ed to the whole national territory²⁰. At the beginning of March 2020, France ordered the closure of all internal borders²¹, Austria closed its land border with Italy, and the rest of the European countries followed suit. Many other States started introducing various restrictions to the freedom of movement on their national territory. On March 14, Spain declared a “state of alarm”²² that not only contained pro-

www.gazzettaufficiale.it/eli/id/2020/02/23/20G00020/sg). Last visited: 15/07/2021.

²⁰ Decreto-Legge 9 marzo 2020, n. 14 Disposizioni urgenti per il potenziamento del Servizio sanitario nazionale in relazione all'emergenza COVID-19 (20G00030) (GU Serie Generale n.62 del 09-03-2020). Available at: <https://www.gazzettaufficiale.it/eli/id/2020/03/09/20G00030/sg>). Last visited: 15/07/2021.

²¹ The complete list of Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 and 28ff. of the Schengen Borders Code is available at: https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control.pdf. Last visited: 15/07/2021.

²² Real Decreto 463/2020, de 14 de marzo, por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19 (RD 463/2020). BOE, Núm. 67, de 14 de marzo de 2020. About the RD and its legality in relation to ECHR regulations, see: J. Bonet Pérez, “El estado de alarma en

visions limiting the freedom of circulation,²³ but also adopted measures to ensure the supply of goods and services to grant public health, allowing local authorities “the government decided to intervene and temporarily occupy industries, factories, laboratories, farms or premises of any kind, including health centres, services and private health facilities, as well as those (services) working in the pharmaceutical sector”²⁴.

As national governments appeared to be fighting alone, EU institutions began to address the need for a unified response to the virus in all areas where unity and coordination were possible. And, as of to-

España y la cláusula derogatoria del Convenio Europeo para la Protección de los Derechos Humanos y las Libertades Fundamentales”, *Revista de Derecho Comunitario Europeo* (2020), 67, pp. 873-919. As late as July 14, 2021, the Constitutional Court of Spain declared the unconstitutionality of the restrictions to the freedom of circulation under the RD 463/2020. See: https://www.tribunalconstitucional.es/NotasDePrensaDocumentos/NP_2021_072/NOTA%20INFORMATIVA%20N%C2%BA%2072-2021.pdf.

²³ Art. 7 RD 463/2020. This is one of the provisions affected by the July 14 constitutional ruling mentioned above.

²⁴ *Ibidem*, art. 13 b).

day, the return to such a cooperative paradigm has yielded the best results in dealing with the COVID-19 crisis.

3. *The EU's response: guidelines and some common understanding*

However, as the early response to restraining the spread of the COVID-19 pandemic has shown, limited coordinated action undertaken in countries which included curtailing travel and closing borders, negatively impacted the globalised world. As the United Nations System has declared “(b)y this action all transport operations have been affected which has led to disruption of supply chains and trade flows. As a result, the delivery and availability of essential products such as food or medicines became a common challenge undermining countries capacity to respond to COVID-19 and begin to sustainably recover”²⁵.

²⁵ Joint Statement by UN system entities on the Contribution of international trade and supply chains to a sustainable socio-economic recovery in COVID-19 times, September 16, 2020.

The EU managed to mobilise early²⁶ as the Croatian presidency activated the EU's integrated political crisis response mechanism (IPCR) in “information sharing mode” on January 28, 2020, which changed to “full mode” on March 2. On such basis, the first coordinated action was taken on January 31 and February 2, 2020, namely the return of the European nationals kept in Wuhan City, orchestrated in accordance with the activation of the EU civil protection mechanism²⁷.

On February 13, a meeting of the European Council was organised. The Conclusions of the Council called for continued and increased cooperation at the European level, stating that “the EU and its Member States should continue to act decisively in coordination to tackle the threat caused by COVID-19 and to prevent further transmission of the 2019-nCoV virus”. Member States were re-

²⁶ <https://www.consilium.europa.eu/en/policies/coronavirus/timeline/>.

²⁷ <https://www.diplomatie.gouv.fr/fr/le-ministere-et-son-reseau/actualites-du-ministere/informations-coronavirus-covid-19/coronavirus-declarations-et-communiqués/article/coronavirus-2019-ncov-operations-de-retour-par-voie-aerienne-directe-organisees>.

minded that “the EU and its Member States coordinate and cooperate closely in the field of health security, by implementing planning and response measures and preparedness planning, as well as by addressing activities concerning business continuity planning”²⁸, following the procedures and regulations set out in Decision No 1082/2013/EU and Decision No 1313/2013/EU.

In the Conclusions, the Council urged Member States not only to act together, and cooperate with the European institutions, but also to “take the necessary and appropriate measures to ensure the protection of public health taking into account the particular attention to be paid to all forms of international travel [...] and to develop close and enhanced coordination between Member States to ensure effectiveness of all measures, including, if necessary, measures regarding travel, while safeguarding the free movement within the EU, to ensure optimal protection

²⁸ Council Conclusions on COVID-19, adopted by the Council at its 3751st meeting held on February 13, 2020, Council Conclusions on COVID-19, 6038/20, Brussels, February 13, 2020.

of public health and increase the general public’s awareness of COVID-2019”²⁹.

On March 16, 2020, the European Commission issued a set of Guidelines for border management,³⁰ emphasising the need to establish an integrated approach to an effective border management to protect health while preserving the integrity of the Single Market. In application of these Guidelines, State Members were call to:

- Prioritise emergency transport services within the transport system.
- Guarantee an unobstructed transportation system of goods, in particular essential goods (e.g., food supplies, livestock, vital medical and protective equipment and supplies).
- Enable professional travel to ensure transport of goods and services, facilitating the movement for transport workers, across internal and external borders.

²⁹ *Ibidem*, Par. 15 a) and b).

³⁰ Guidelines for border management measures to protect health and ensure the availability of goods and essential services, 2020/C 86 I/01, OJ C86 I/01, of 16 March 2020. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020XC0316%2803%29>. Last visited: 15/07/2021.

Under these Guidelines, restrictions to transportation of goods could be imposed but only under certain conditions, so to assure their proportionality³¹. In a similar fashion, the World Trade Organization (WTO) received communication of the trade and trade-related measures taken at the EU level³².

The Guidelines established a series of rules applicable to external and internal borders. For external borders, they called for systematic checks at border-crossing points of all persons, EU, and non-EU nationals, allowing member States to refuse entry of non-residents of third country nationals, but respecting in any case the rules of proportionality and non-discrimination³³. For internal borders, the Union allowed the reintroduction of temporary border controls justified for reasons of public policy or internal security, noti-

fying such restrictions in accordance with the Schengen Borders Code and complying with the rules of proportionality and non-discrimination, as well as with the Free Movement Directive³⁴. The Guidelines highlighted that any Member State should not deny entry to EU citizens or third-country nationals residing on its territory and should facilitate transit of other EU citizens and residents that are returning home. Member States could, 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. This call was particular for neighbouring Member States, remembering the Union that they should closely cooperate and coordinate at EU level to ensure the effectiveness and proportionality of the measures taken³⁵.

The Guidelines were quickly implemented, but the restrictions were inter-

³¹ The restrictions permitted under the Guidelines should, in any case be: a) transparent; b) duly motivated by science-based conclusions supported by the WHO and the ECDC; c) proportionate; d) relevant and mode specific; and e) non-discriminatory by any ground.

³² See https://www.wto.org/english/tratop_e/covid19_e/covid_measures_e.pdf. Last visited: 14/07/2021

³³ Op. cit., note 29, par. 14-17.

³⁴ Op. cit., note 13.

³⁵ Op. cit., note 29, par. 18-25.

preted differently by each Member State. As a result, citizens perceived a lack of coordination, as some States reintroduced internal borders and prohibited flights from certain European countries, while others preferred to prohibit all non-essential travel outside their borders.³⁶ The Commission issued another set of Recommendations applicable to the free movement of workers³⁷, but the prevailing feeling among EU citizens was a sense of lack of coordination.

The Union kept encouraging teamwork among its members. After the April 2020 Declaration, the President of the European Commission together with the President of the European Council, issued

a Joint European Roadmap towards lifting COVID-19 containment measures³⁸. In May, the Commission released a Communication entitled “Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls – COVID-19”³⁹, the main purpose of which was to invite the Member States to engage in the re-opening of unrestricted cross-border movement within the Union.

The coordinated reopening had to take into account the following issues: (1) epidemiological criteria; (2) health system capacity; and (3) appropriate monitoring capacity. During the months of June and July 2020, much effort was spent to pro-

³⁶ For an overview of the measures implemented by Member States until May 2020, visit https://webcache.googleusercontent.com/search?q=cache:Hnd_8O9Z0SM-J:https://www.sepe.es/gl/SiteSepe/contenidos/personas/encontrar_empleo/encontrar_empleo_europa/pdf/2020/mayo/Overview_table_COVID-19_measures_MS.pdf+%26amp;cd=6&chl=es&ct=clnk&gl=es.

³⁷ Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak (2020/C 102 I/03). OJ C I 102/12, of March 30, 2020 (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020XC0330%2803%29>). Last visited: 15/07/2021.

³⁸ Joint European Roadmap towards lifting COVID-19 containment measures 2020/C 126/01. OJ C 126/1, of April 17, 2020 (available at: <https://op.europa.eu/es/publication-detail/-/publication/14188cd6-809f-11ea-bf12-01aa75ed71a1/language-en>). Last visited: 17/7/2021.

³⁹ Communication from the Commission: Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls – COVID-19 (2020/C 169/03). OJ C 169/30, of May 15, 2020 (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020XC0515%2805%29>). Last visited: 18/7/2021.

vide citizens with a clear picture of the situation, and on June 15, 2020, the European Commission launched the Re-Open EU initiative to offer EU travellers updated information on border regulations, transport, travel restrictions, and public health and safety measures tips for the individual Member States⁴⁰.

The final phase of general lifting of restrictions and controls at internal borders had not yet been enacted by the first “pandemic summer” of 2020. Once again, EU Member States reinforced internal border closures and restrictions on freedom of movement on their national territories. As the Civil Liberties Committee Chair and rapporteur Juan Fernando López Aguilar affirms: “While it is good news that more and more internal border restrictions are being lifted, the way in which it has been done leaves a lot to be desired. Without the return to a fully functional Schengen Area, we are still missing an essential stepping-stone on our way to recovery. A complete return to free movement, no discrimination, mutual trust and solidari-

ty are of utmost importance and core values of the EU”⁴¹.

On October 13, 2020, EU Member States adopted a Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic⁴². The Recommendation was updated on February 1⁴³ and June 14 2021⁴⁴, following changes in

⁴¹ European Union Agency for Fundamental Rights, “The Coronavirus Pandemic and Fundamental Rights: a Year in Review”, 2021, 44 p. (available at: <https://op.europa.eu/en/publication-detail/-/publication/c203efef-c995-11eb-84ce-01aa75ed71a1>). Last visited: 18/07/2021.

⁴² Council Recommendation (EU) 2020/1475, of October 13, 2020, on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic (Text with EEA relevance). OJ L 337/3, of October 14, 2020 (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32020H1475>). Last visited: 12/07/2021.

⁴³ Council Recommendation (EU) 2021/119 amending Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic. OJ L 361, of February 2, 2021 (available at: <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:32021H0119>). Last visited: 17/07/2021.

⁴⁴ Council Recommendation (EU) 2021/961 of June 14, 2021 amending Recommendation (EU) 2020/1475 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic.

⁴⁰ See <https://reopen.europa.eu/en>. Last visited: 17/07/2021.

the epidemiological status in the various countries and considering the vaccination campaign started in January 2021.

The October Recommendation (Council Recommendation 2020/1475) acknowledged that “unilateral measures in this area have the potential to cause significant disruptions as businesses and citizens are confronted with a wide array of diverging and rapidly changing measures”, and defended the need to ensure increased coordination between States to provide that the restrictions introduced were limited to those strictly necessary and were not discriminatory.

In order to achieve the sought-after coordination, the EU decided to outline a set of general principles and common criteria that would inform States willing to reintroduce limitations to the freedom of movement in their territories. As established in the Council’s Recommendation, this decision remains the responsibility of the Member States, which must nonetheless comply with Union law.

Five were the general principles concerning the limitation of movement⁴⁵:

- (i) The principle of protection of public health in accordance with the general principles of Union law, in particular proportionality and non-discrimination.
- (ii) The principle of regular assessment of the epidemiological situation.
- (iii) The obligation on Member States to always admit their own nationals and Union citizens and their family members resident in their territory.
- (iv) The obligation on Member States to pay particular attention to the specificities of cross-border regions, outermost regions, exclaves and geographically isolated areas and the need to cooperate at local and regional level.
- (v) The obligation on Member States to regularly exchange information on the matters covered by the October Recommendation.

OJ L 213 I/1, of June 16, 2021 (available at: <https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=CELEX:32021H0961>). Last visited: 12/07/2021.

⁴⁵ See document cited at fn. 42, pars. 1-7.

The restriction of the freedom of movement was subject to several scientific criteria⁴⁶ allowing for the assessment of the situation in each Member State, and for the classification, by the European Center for Disease Prevention and Control, of the European regions into four different categories: green⁴⁷, orange⁴⁸, red⁴⁹, and grey regions⁵⁰. The Recommendation did not establish restrictions of movement between green regions and to consider other options

⁴⁶ *Ibidem*, par. 8: (i) the “14-day cumulative COVID-19 case notification rate”; (ii) the “test positivity rate”; and (iii) the “testing rate”.

⁴⁷ Areas where the 14-day cumulative COVID-19 case notification rate is less than 25 and the test positivity rate of tests for COVID-19 infection is less than 4%.

⁴⁸ Areas where the 14-day cumulative COVID-19 case notification rate is less than 50 but the test positivity rate of tests for COVID-19 infection is 4% or more, or, if the 14-day cumulative COVID-19 case notification rate ranges from 25 to 150 but the test positivity rate of tests for COVID-19 infection is less than 4%.

⁴⁹ Areas where the 14-day cumulative COVID-19 case notification rate is 50 or more and the test positivity rate of tests for COVID-19 infection is 4% or more, or if the 14-day cumulative COVID-19 case notification rate is more than 150 per-100 000 population.

⁵⁰ Areas where not sufficient information is available to assess the criteria or if the testing rate is 300 or less COVID-19 tests for infection per-100000 population.

(self-quarantine or COVID-19 testing) for people coming from the other regions.

Following the Recommendation, the coordination efforts continued throughout autumn of 2020. Still, the benefits obtained with the vaccination on the one hand, and the spread of the virus new variants on the other, called for updated regulations. As mentioned before, the first update was published on February 1, 2021⁵¹. Council Recommendation (EU) 2021/119 confirmed the limitations on non-essential travel and maintained the travel restrictions for those infected, introducing testing and quarantining for travellers from areas with a higher incidence of the new variants. At the same time, the general reintroduction of internal border controls and blanket travel bans was discouraged. Also, the classification system of regions was updated concerning the red regions⁵², and a

⁵¹ See the document cited at fn. 43.

⁵² For Recommendation (EU) 2021/119, “red regions” would be areas where the 14-day cumulative COVID-19 case notification rate ranged from 50 to 150 and the test positivity rate of tests for COVID-19 infection was 4 % or more, or if the 14-day cumulative COVID-19 case notification rate was more than 150 but less than 500.

new category was added: the “dark red” regions⁵³.

The Council Recommendation was updated a second time in June 2021⁵⁴, after a large share of EU citizens had been vaccinated, and the epidemiological situation had improved worldwide. Recommendation 2021/961 put into context the new set of rules highlighting that the efforts to ensure a coordinated approach should continue ahead of the summer 2021. The rapid implementation of the new EU Digital COVID Certificate⁵⁵ and the vaccination campaign required that an update should address not only the situations at a local level, but also the scientific criteria underlying the new regulations. With regard to the latter, were added two new criteria, which took into account the

vaccination rate and the prevalence of COVID-19 variants in specific areas.

This last Recommendation concerns green⁵⁶, orange⁵⁷, and red regions⁵⁸. With the introduction of new thresholds, the Recommendation established what has been called an “emergency brake” mechanism that allows Member States to require holders of vaccination certificates or recovery certificates for this matter to undergo measures such as test, quarantines, or self-isolation periods when the epidemiological situation in a Member State

⁵³ Areas where the 14-day cumulative COVID-19 case notification rate was 500 or more.

⁵⁴ See the document cited at fn. 44.

⁵⁵ Regulation (EU) 2021/953 of the European Parliament and of the Council of June 14, 2021 on a framework for the issuance, verification, and acceptance of interoperable COVID 19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID 19 pandemic. OJ L 211, of June 14, 2021.

⁵⁶ Areas where the 14-day cumulative COVID-19 case notification rate is less than 50 and the test positivity rate of tests for COVID-19 infection is less than 4 %; or if the 14-day cumulative COVID-19 case notification rate is less than 75 and the test positivity rate of tests for COVID-19 infection is less than 1 %.

⁵⁷ Areas where the 14-day cumulative COVID-19 case notification rate is less than 50 and the test positivity rate of tests for COVID-19 infection is 4 % or more; if the 14-day cumulative COVID-19 case notification rate is 50 or more but less than 75 and the test positivity rate of tests for COVID-19 infection is 1 % or more; or if the 14-day cumulative COVID-19 case notification rate ranges from 75 to 200 and the test positivity rate of tests for COVID-19 infection is less than 4%.

⁵⁸ Areas where the 14-day cumulative COVID-19 case notification rate ranges from 75 to 200 and the test positivity rate of tests for COVID-19 infection is 4 % or more, or if the 14-day cumulative COVID-19 case notification rate is more than 200 but less than 500.

or in a region deteriorates rapidly. Finally, the same Recommendation also invites Member States to refrain from imposing testing and quarantine requirements to holders of vaccination passports.

4. *Conclusions: Solidarity among States remains the key to success*

As of August 2021, all Member States are complying with the set of rules specified in the Recommendation 2021/961, which not only encourages vaccination but also fosters a common approach to risk management and assessment policy during the pandemic⁵⁹. The coordinated approach has instilled more confidence in the European citizens, who have positively valued the implementation in their own countries of the new measures adopted, aimed at restoring the damage suffered during the first months of the pandemic, when European citizens felt like islands in the ocean.

The work done by the European institutions has once again demonstrat-

ed the effectiveness and usefulness of the common approach to crisis management by a Union that has seen its standing as a global player strengthened during the COVID-19 crisis⁶⁰.

If anything has become clearer, it is that each Member State must contribute to the decisions that concern the core of what the Union stands for or one of its most fundamental values. Only in this way the European Union shall remain a Union.

⁵⁹ For more information, visit: <https://www.consilium.europa.eu/en/infographics/covid19-travel-measures-within-the-eu/>

⁶⁰ R.A. Montenegro, “Viral Pandemic in Solidarity: The need for a convention on emergencies and a single UN agency to face disasters”, *GC Human Rights Preparedness*, 28 June 2021, <https://gchumanrights.org/preparedness/article-on/viral-pandemic-in-solidarity-the-need-for-a-convention-on-emergencies-and-a-single-un-agency-to-face-disasters.html>.

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“*Imparare a convivere con la provvisorietà non è una rinuncia, ma una conquista, significa infatti riconoscere alla traduzione una partecipazione profonda e una funzione nell'ambito della vita dell'arte e aprirsi ad una comprensione non pregiudicata di questa attività, la cui centralità è fortemente presente nella coscienza culturale del nostro tempo tanto da configurarsi come un punto di riferimento per il riassetto in atto dei saperi.*”

[Emilio Mattioli]

This volume, resulting from the training and research activities of the “Pandemic in translation” project – Forthem’s *Experiencing Europe* Lab, University of Palermo –, deals with central issues related to COVID-19 pandemic, and aims to contribute to a comparative understanding of European (mainly, but not only) values which are in charge during this contingency. Interdisciplinary in approach, it mobilizes a multicultural and multilingual debate about norms and beliefs, cultural identities and societal values, public policies and emotional communities. Using methodologies drawn from Comparative and International Law to Comparative Literature, from discourse analysis to Translation Studies, this book clarifies the socially constructed nature of the pandemic reality and calls for a redefinition of some long-assumed categories.

The contributions show not just a mixed bag of cutting-edge views and perspectives: the symbolic impact of COVID-19 is critically examined in its multiple trajectories, addressing the new world pandemic as a way of translating (and reconfiguring) cultural difference and social experience.

Among the contents of this volume, the short film *Behind Words: Voices from the Pandemic* (2021).

isbn 978-88-7000-910-1

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