

Sachdokumentation:

Signatur: DS 2563

Permalink: [www.sachdokumentation.ch/bestand/ds/2563](http://www.sachdokumentation.ch/bestand/ds/2563)



### Nutzungsbestimmungen

Dieses elektronische Dokument wird vom Schweizerischen Sozialarchiv zur Verfügung gestellt. Es kann in der angebotenen Form für den Eigengebrauch reproduziert und genutzt werden (private Verwendung, inkl. Lehre und Forschung). Für das Einhalten der urheberrechtlichen Bestimmungen ist der/die Nutzer/in verantwortlich. Jede Verwendung muss mit einem Quellennachweis versehen sein.

### Zitierweise für graue Literatur

Elektronische Broschüren und Flugschriften (DS) aus den Dossiers der Sachdokumentation des Sozialarchivs werden gemäss den üblichen Zitierrichtlinien für wissenschaftliche Literatur wenn möglich einzeln zitiert. Es ist jedoch sinnvoll, die verwendeten thematischen Dossiers ebenfalls zu zitieren. Anzugeben sind demnach die Signatur des einzelnen Dokuments sowie das zugehörige Dossier.

May 2020

foraus-Policy Brief

Programme Europe, Programme Migration

# Schengen back on the road

Reopening Schengen's internal borders in times of COVID-19

Marta Calsina

Julie Cantalou

Niculin Detreköy

Moritz Fegert

Lukas Hupfer

Cécile Rivière

# Authors

## **Marta Calsina**

Marta is currently completing a Masters degree in International Management at ISCTE University in Lisbon. She graduated in Applied Languages at the Pompeu Fabra University in Barcelona and holds a postgraduate certificate in Legal Translation. Marta has worked as a Sworn Translator for the Andorran Government, as well as in several countries in Europe.

## **Julie Cantalou**

Julie is Vice President of foraus. She leads the international engagement of foraus and has a keen interest in European affairs and EU-Switzerland relations. She studied political science at the University of Geneva and has worked in several EU member states, among which as policy analyst in Brussels. Currently, Julie manages strategic processes and projects in the Office of the President at ETH Zürich.

## **Niculin Detreköy**

Niculin is in the process of graduating in European Global Studies at the University of Basel. He spent a semester abroad at the ADA University in Azerbaijan researching autocratic regimes during economic crises. He gained working experience as an intern in the Delegation of the EU to Switzerland. Niculin holds a masters in history and physics from the University of Basel and joined foraus as a member in 2019.

## **Moritz Fegert**

Moritz is currently managing foraus' project on international digital health and joined the organisation in 2019. He has an academic background in International Relations (University of Geneva) and European Studies (Leiden University). Before joining foraus, Moritz had been working on different political topics from the perspective of international organisations (WTO), Swiss diplomacy (Swiss Mission to the EU) and industry advocacy.

**Lukas Hupfer**

Following his studies at the University of Bern, Sorbonne Paris-IV and SciencesPo Paris, Lukas worked in Bern and Hebron for the Swiss Federal Department of Foreign Affairs. After five years of diplomatic service, he was appointed director of foraus in April 2018. Lukas has been a member of foraus since 2011, including his contribution as regional coordinator for foraus-Bern in 2015/16.

**Cécile Rivière**

Cécile holds a master in International Relations from the Graduate Institute Geneva. She joined foraus as a member in 2019. She has worked as a Public Policy Analyst and Project Manager in both the public and private sectors. She currently works at Interpharma, the association of Switzerland's research-based pharmaceutical industry. Views expressed here are her own.

# Content

## Executive Summary

<b>1</b>	<b>What is the problem and where do we stand?</b>	<b>9</b>
<b>2</b>	<b>Policymaking in the dark</b>	<b>13</b>
2.1	Policy dilemmas	13
2.2	Policymaking in times of uncertainty	14
2.3	Navigating dilemmas and uncertainties	14
<b>3</b>	<b>A roadmap towards lifting travel restrictions and border controls</b>	<b>16</b>
3.1	Overarching criteria for the roadmap	17
3.2	The necessity to align on common standards	19
3.3	Establishing <i>zones of trust</i>	19
3.4	Transition period with four milestones	20
3.5	Criteria to evaluate accompanying measures	22
3.6	Schengen needs a reform	26
<b>4</b>	<b>Conclusion</b>	<b>27</b>
	<b>Endnotes</b>	<b>29</b>

# Executive Summary

English Since the end of January 2020 and the first cases of COVID-19 in Europe, the Schengen member states have been operating in a rapidly changing environment. In an attempt to limit the spread of the epidemic, they have introduced temporary border controls and travel restrictions within the Schengen area with little to no coordination. The economic, social and political costs of these unilateral measures are putting a heavy strain on the Schengen system and its member states. The absence of a joint response could have a long-lasting impact on the Schengen project and, more generally, on European integration.

As the spread of COVID-19 has slowed down in many European regions, the Schengen member states should step up coordination and their efforts for a gradual lifting of the containment measures and controls at their internal borders. While keeping control over the epidemic, we recommend that the Schengen member states (1) set common criteria for a gradual, timely and safe lifting of travel restrictions and border controls; (2) coordinate the introduction of accompanying measures and carefully evaluate the possible impact of these measures according to common criteria; and (3) ensure the proportionality of COVID-19 related border controls by conducting thematic evaluations under the Schengen Evaluation and Monitoring Mechanism and by building on the current crisis to reform the Schengen Borders Code.

Our roadmap for the implementation of these recommendations offers a step by step approach to create trust across borders and to help lift border restrictions and controls incrementally during the transition period. We list eight criteria that governments should take into account to conduct an impact assessment of possible measures that might accompany the relaxation of the travel restrictions and border controls, among which are proportionality, non-discrimination, trust, and privacy and data protection. We also set an intermediate goal with the creation of *zones of trust* so that border regions or countries with similar levels of control over the epidemic and of immunity apply the same measures.

Finally, we propose that lessons learned before and during the epidemic feed into the ongoing reform discussions of the Schengen Borders Code to make Schengen more resistant to future challenges. The European Commission should not put its ideas on the shelf for too

long and the negotiations should be reopened no later than by the end of this year.

Switzerland, as a highly integrated economy in the heart of Europe, should take a proactive role in these discussions and the overall coordination efforts recommended in this policy brief.

The recommendations in this paper are the result of a collaborative, crowd-sourcing process. The authors participated in the #VersusVirus Hackathon from 3 to 5 April and the paper was finalised on April 29th. ●



Deutsch Seit der ersten Ansteckung mit COVID-19 in Europa Ende Januar 2020, sind die Schengen-Staaten mit grossen Herausforderungen konfrontiert. Als Massnahme gegen die Ausbreitung der Epidemie haben viele Staaten im Alleingang vorübergehende Grenzkontrollen und Reisebeschränkungen eingeführt. Die wirtschaftlichen, sozialen und politischen Kosten dieser unilateralen Massnahmen sind sowohl für das Schengen-System als auch für die Mitgliedstaaten erheblich. Es braucht nun eine gemeinsame Antwort, um den Schaden für Schengen und die europäische Integration zu begrenzen.

Die Verbreitung von COVID-19 hat sich in vielen Teilen Europas während den letzten Tagen verlangsamt, weshalb die Schengen-Staaten nun gemeinsam eine schrittweise und koordinierte Lockerung der Massnahmen und Kontrollen an den Binnengrenzen angehen müssen, ohne dabei die Kontrolle über die epidemiologische Entwicklung zu vernachlässigen. Konkret empfehlen wir: (1) die Festlegung gemeinsamer Kriterien für eine schrittweise, rechtzeitige und sichere Aufhebung von Reisebeschränkungen und Grenzkontrollen; (2) eine Begleitung der Lockerung durch Massnahmen, die koordiniert erfolgen und deren möglichen Auswirkungen sorgfältig entlang gemeinsam definierter Kriterien evaluiert werden; und (3) die Durchführung sogenannter thematischer Evaluierungen unter dem Schengen Evaluierungs- und Überwachungsmechanismus sowie eine zeitnahe Reform des Schengener Grenzkodex, um die Verhältnismässigkeit der unter COVID-19 eingeführten Grenzkontrollen zu garantieren.

Zur Umsetzung dieser Empfehlungen präsentieren wir für die Übergangszeit eine Roadmap, welche mit einem schrittweisen Vorgehen die Lockerungen an den Grenzen fasilitieren und dabei neues Vertrauen zwischen den Staaten schaffen soll. Bei der Evaluation der Begleitmassnahmen sollen sich die Regierungen nach acht Kriterien, darunter Nichtdiskriminierung, Vertrauen, Datenschutz und Privatsphäre, richten. Zudem soll die Schaffung sogenannter *Vertrauenszonen* die Grenzlockerungen in Grenzregionen oder Ländern mit einem ähnlichen Mass an Immunität und Kontrolle über die Epidemie erleichtern.

Damit das Schengen-System für zukünftige Herausforderungen besser gewappnet ist, sollte die Europäische Kommission bis Ende Jahr den Reformprozess zum Schengener Grenzkodex neu anstossen.

Die Erkenntnisse aus der Bekämpfung der Epidemie sollten dabei fortlaufend in die Diskussionen einfließen.

Als stark vernetzte Wirtschaft im Herzen Europas empfehlen wir schliesslich der Schweiz, eine proaktive Rolle in den Diskussionen und Koordinationsbemühungen einzunehmen.

Die Empfehlungen dieses Policy Briefs entstanden aus einem kollaborativen Crowdthinking, das mit der Teilnahme der AutorInnen am #VersusVirus Hackathon vom 3. bis 5. April 2020 startete und am 29. April abgeschlossen wurde. ●

Français Depuis la fin janvier 2020 et les premiers cas de COVID-19 en Europe, les États membres de l'espace Schengen évoluent dans un environnement qui change rapidement. Pour tenter de limiter la propagation de l'épidémie, ils ont mis en place, avec peu ou pas de coordination, des contrôles aux frontières et des restrictions de voyage temporaires au sein de l'espace Schengen. Les coûts économiques, sociaux et politiques de ces mesures unilatérales pèsent lourdement sur le système Schengen et ses États membres. L'absence d'une réponse commune pourrait avoir un impact profond sur le projet de Schengen et sur l'intégration européenne en général.

Alors que la propagation du COVID-19 s'est ralentie dans de nombreuses régions européennes, les États membres de Schengen devraient intensifier la coordination et leurs efforts pour une levée progressive des restrictions de voyage et des contrôles aux frontières intérieures. Nous recommandons que les États membres de Schengen, tout en gardant le contrôle de l'épidémie, (1) fixent des critères communs pour une levée progressive, rapide et sûre des restrictions de voyage et des contrôles aux frontières ; (2) coordonnent l'introduction de mesures d'accompagnement et évaluent soigneusement l'impact possible de ces dernières selon des critères communs ; et (3) assurent la proportionnalité des contrôles aux frontières liés au COVID-19 en menant des évaluations thématiques dans le cadre du mécanisme d'évaluation et de contrôle de Schengen et de suivi de Schengen et en s'appuyant sur la crise actuelle pour réformer le code frontières Schengen.

Notre feuille de route pour la mise en œuvre de ces recommandations propose une approche graduelle pour créer la confiance par-delà les frontières et aider à lever progressivement les restrictions et les contrôles aux frontières pendant la période de transition. Nous indiquons huit critères que les gouvernements devraient prendre en compte pour évaluer l'impact de possible mesures d'accompagnement de l'assouplissement des restrictions de voyage et des contrôles aux frontières – par exemple la proportionnalité, la non-discrimination, la confiance et la protection de la vie privée et des données. Nous fixons également un objectif intermédiaire avec la création de zones de confiance permettant à des régions frontalières ou des pays ayant un niveau similaire de contrôle sur l'épidémie et d'immunité d'appliquer les mêmes mesures.

Nous proposons que les enseignements tirés avant et pendant l'épidémie alimentent les discussions en cours sur la réforme du code frontières Schengen pour rendre Schengen plus résistant aux défis futurs. La Commission européenne ne devrait pas mettre ses idées en veilleuse trop longtemps et les négociations devraient être rouvertes au plus tard à la fin de l'année.

La Suisse, une économie hautement intégrée au cœur de l'Europe, devrait jouer un rôle proactif dans ces discussions et dans les efforts de coordination recommandés dans ce policy brief.

Les recommandations ici formulées sont le résultat d'un processus collaboratif et participatif. Les auteur·e·s ont pris part au Hackathon #VersusVirus du 3 au 5 avril et ce document a été finalisé le 29 avril 2020. ●

# 1. What is the problem and where do we stand?

“If there is not a united policy, this mechanism will not work, it will collapse, and it will [...] undoubtedly be the end of Schengen, the return of national borders.”  
- François Hollande<sup>1</sup>

The current quasi-suspension of Schengen might dwarf François Hollande’s warning during the refugee crisis in 2015. Since early 2020, political decision-makers have faced an epidemic without having efficient medical treatments or medicines, lacking protective equipment and tests, and a vaccine is still months or years out.

Aiming to curb the spread of the virus and to protect their citizens, governments across Europe unilaterally introduced travel restrictions and border controls in mid-March (see figure 1), leading to a patchwork of travel restrictions and accompanying measures at border crossings.<sup>2</sup>

While travel restrictions may have been an effective way to delay the spread of the virus, they lose effectiveness over time. Therefore, the WHO continues to advise against travel restrictions.<sup>3</sup> According

to these recommendations, the benefits of travel restrictions do not outweigh the economic and social effects of these restrictions.<sup>4</sup>

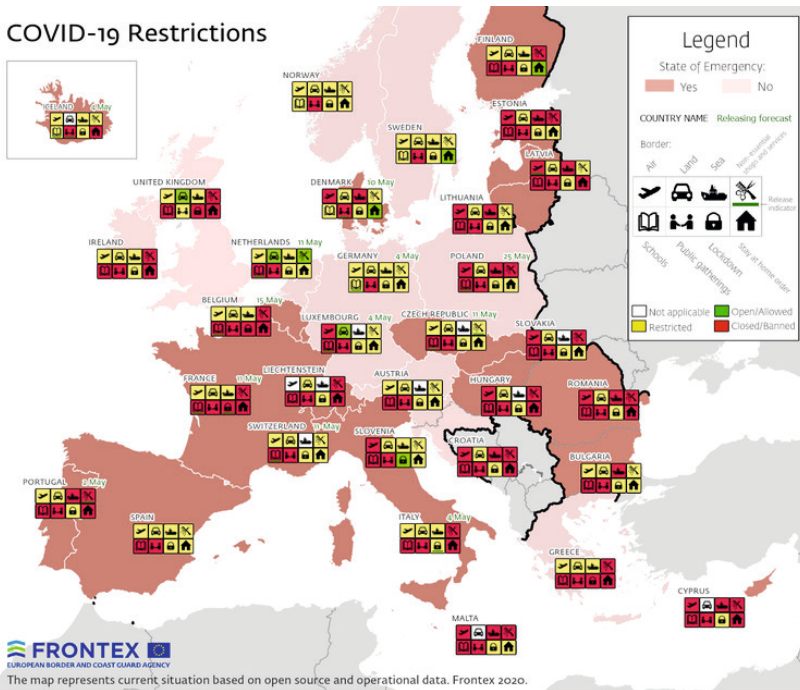


Figure 1: Overview of COVID-19 restrictions at borders (as of 27 April 2020).<sup>5</sup>

Travel restrictions and border controls have severe consequences:

- **Economic consequences:** a 2016 study commissioned by the European Parliament estimated that border controls generate direct and immediate costs of between 10 and 23 billion € annually, and threaten the integrity of Schengen.<sup>6</sup> The restrictions to fight COVID-19 go further by including travel restrictions. It is therefore safe to assume that the costs are higher than estimated in the study.
- **Social consequences:** families are being separated and cross-border communities divided. Scholars are also pointing out that the COVID-19 epidemic is increasing xenophobia and exclusion worldwide.<sup>7</sup>

- **Political consequences:** restrictions at borders for people and goods, such as the delay, retention and even confiscation of medical goods in transit through European countries, have seriously damaged trust among countries.<sup>8</sup> Lack of action in response to pleas from political leaders in certain EU member states at the beginning of the crisis may negatively impact European integration.

Increased coordination and mutual assistance in the fight against the virus over the past weeks cannot hide the fact that the loss of confidence among European countries persists. This has significant knock-on effects on future cooperation.

In sum, the current crisis is the biggest test for the Schengen system since its onset and could have a long-lasting political impact on the Schengen project and, more generally, on European integration.

#### Box 1

##### Schengen in a nutshell

The Schengen Area is an area comprising 26 European countries that have abolished internal border controls, harmonised external border controls and introduced a common visa policy. Schengen countries have also strengthened police and judicial cooperation, and established the Schengen Information System (SIS).

The 26 Schengen member states are:

- 22 EU member states: all EU member states except Bulgaria, Croatia, Cyprus, Romania and Ireland.
- The four EFTA member states: Iceland, Liechtenstein, Norway, and Switzerland have signed agreements in association with the Schengen Agreement.

- European microstates: Monaco, San Marino, and Vatican City are de facto part of the Schengen Area.

The Schengen Agreement should not be confused with the free movement of persons. The free movement of persons is a fundamental right guaranteed to EU citizens. It enables every EU citizen to travel, work and live in another EU country. Schengen cooperation enhances this freedom by enabling citizens to cross internal borders without being subjected to border checks.<sup>18</sup>

Where do we stand at the moment? Certain Schengen member states have started to implement exit strategies at the domestic level. Promising data indicates that they have been able to flatten the curve. The need for a coordinated approach to lifting confinement measures was highlighted by the European Commission's joint roadmap towards lifting COVID-19 containment measures.<sup>9</sup> However, to date, no detailed guidance on the lifting of travel restrictions and border controls has been provided. ●

## Box 2

### Temporary border controls and the reform of the Schengen Borders Code<sup>21</sup>

The Schengen Borders Code allows Schengen member states to carry out temporary passport or identity card controls at internal borders within the Schengen area, in the event of (1) a foreseeable threat, (2) an immediate threat to public policy or internal security or (3) if there are persistent serious deficiencies relating to external border control.<sup>19</sup> They must remain a measure of last resort and must respect the principle of proportionality. The scope and duration of such measures is limited in time. The European Commission may issue an opinion with regard to the necessity and proportionality of the measure but cannot veto the decisions of member states.

Since 2006, internal border controls have been reintroduced on 145 instances. Two thirds of these have occurred since 2015 in an attempt to address migratory pressures and terrorist threats.<sup>20</sup> This surge in internal border controls reveals shortcomings of Schengen and the need for reforms. This was recognised by the EU institutions.

In 2017, negotiations on the reform of the rules applicable to the temporary reintroduction of checks at internal borders started. While the European Commission presented its proposal in September 2017, progress has been sluggish. Concrete elements of the Commission's reform proposal with regards to controls at the internal borders are:

- Increasing the time limit for temporary checks at internal borders.
- Increasing the length of prolongation periods for checks at internal borders.
- Introducing further procedural safeguards (e.g. an obligation to conduct 'assessments') to ensure that the use of internal border checks remains exceptional and proportionate, thus encouraging Schengen countries to use police checks and cooperation instead of internal border controls.



## 2. Policymaking in the dark

Defining the best process, pace and criteria to lift border controls and travel restrictions is not easy.

The current crisis poses significant challenges: the epidemic is far from over, treatment methods are still being developed and a vaccine is not yet in sight. Therefore, the virus will continue to spread and European healthcare systems will remain under pressure for months to come. Policymakers also face dilemmas of competing obligations and they are taking decisions in an environment of uncertainty.

### 2.1 Policy dilemmas

While states have a duty to prevent, treat and control epidemic diseases<sup>10</sup>, many measures that have been put in place infringe on citizens' rights and freedoms, such as the freedom of assembly or the freedom of movement, both domestically and across the Schengen area.<sup>11</sup> Some regulations could potentially discriminate against

certain groups of the population (on the basis of age or health profile) or undermine the right to privacy. Further dilemmas arise from the fact that public health situations do not fully align across countries. However, they do affect each other, meaning that measures taken in one country could have a spillover effect on the whole Schengen area. Thus, coordination and trust are essential. This paper acknowledges that there are no easy solutions to solve these dilemmas.

## 2.2 Policymaking in times of uncertainty

Policymaking is characterised by uncertainty and complexity. This has never been as true as during a health crisis such as the COVID-19 epidemic. Scientists have been pointing out the significant uncertainties surrounding the epidemic. These range from basic facts about the virus (how quickly does it mutate? are you immune once you have had it?), the development of the epidemic (how many undetected cases are there? what is the fatality rate?), to the reliability of testing and predictions, and finally, to the impact of certain policies. No country knows the total number of people that have been infected by COVID-19, nor when an effective and safe vaccine will become available. At the same time, we know that we cannot wait for all the facts and comprehensive data to be available before taking tough decisions.

## 2.3 Navigating dilemmas and uncertainties

Five strategies can help navigate uncertainty and dilemmas: science, dialogue and transparency, precaution, relying on proven methods and international collaboration:

- **Scientific advice** is crucial in understanding the epidemic and identifying adequate measures. Scientific task forces and similar initiatives can go a long way in identifying the newest data and science about the virus and translating it for policymakers.
- **Dialogue and transparency.** Policymakers should clearly communicate how they weigh between conflicting rights and duties. Any restrictive measure or regulation should also be temporary and strictly limited to reach clear goals with regard to the epidemic.

- **Precautionary principle.** This strategy allows for approaching issues when data or scientific knowledge is lacking. It assumes that the risk remains present until proven otherwise. Therefore, lifting of travel restrictions should be carried out gradually, allowing for an analysis of the effects of new measures before moving to the next stage.
- **Do not reinvent the wheel.** Methods that have proven to be useful in tackling other infectious diseases such as SARS, Ebola, Influenza or Tuberculosis can be drawn upon to develop measures to address COVID-19.
- **International collaboration.** Because of the loss of trust caused by nationalist policies, states should work towards close coordination and confidence-building measures while reopening their borders. ●

# 3. A roadmap towards lifting travel restrictions and border controls

Cooperation is key in rebuilding trust and reopening borders.

The Schengen cooperation has brought Europeans more freedom and security. The heavy economic, social and political costs caused by the current extensive travel restrictions and border controls have severe consequences on these achievements. As the spread of COVID-19 has slowed down in many regions, the Schengen member states should thus step up their coordination and efforts for a gradual lifting of the travel restrictions and controls at their internal borders. In order to do so, we recommend that the Schengen member states jointly act on three levels:

1. set common criteria for a gradual, timely and safe lifting of travel restrictions and border controls;
2. coordinate the introduction of accompanying measures and carefully evaluate the possible impact of these measures according to common criteria;

3. ensure the proportionality of COVID-19 related border controls by conducting thematic evaluations under the Schengen Evaluation and Monitoring Mechanism and by building on the current crisis to reform the Schengen Borders Code.

As the timing of the relaxation of the travel restrictions and border controls is crucial, we present a roadmap based on four milestones for the implementation of our three recommendations.

Our roadmap offers a step by step approach to create trust across borders and to help lift border restrictions and controls incrementally during the transition period. Commonly agreed standards should guide Schengen countries in reciprocally reintroducing cross-border mobility. This is, however, not a necessarily linear process and might involve the reintroduction of stricter border controls as further waves of infection could take place in a given country.

The Schengen member states should step up their coordination and efforts for a gradual lifting of the travel restrictions and controls at their internal borders.

### 3.1 Overarching criteria for the roadmap

We propose a set of criteria to help governments coordinate the gradual reduction of travel restrictions and border controls at internal Schengen borders. Based on these criteria we cluster the roadmap in four milestones.

Governments should pay attention to the *level of control over the epidemic* (LC) and the *level of immunity* (LI). The LC should be assessed according to the following criteria which are in line with recent recommendations by the European Commission and WHO: epidemiologic criteria (e.g. basic reproduction number  $R_0$ ); monitoring capacity (e.g. testing capacity per capita); and the available healthcare system capacity (e.g. number of available free beds in intensive care and number of respiratory machines available per capita). The LC is defined as *sufficient, good or high*:

- **Sufficient** - level at which testing certain samples of the population provides some knowledge on the spread of the virus in a given country. Enough healthcare resources are available and technical solutions increase tracing capabilities. The healthcare system has control over the situation, but an increase in new cases could put it under strong pressure.
- **Good** - level where mass testing allows for a more accurate assessment of the spread of the virus within the population. The majority of the transmission chains are traceable and the healthcare system has sufficient capacity to deal with a potential rise in new infections.
- **High** - the basic reproduction number  $R_0$  is low enough so that nearly all new cases can be identified, traced and people who have been in contact can be isolated.

The level of control is closely linked to the scientific evidence about the virus. As the evidence evolves and we get a better understanding of the virus, governments can implement more targeted responses and identify the most effective measures in fighting the crisis.

The level of immunity (LI) corresponds to the level of immunity within a country's population reached due to people being exposed to COVID-19 or through vaccination. It is defined as *low*, *medium* or *high*:

- **Low** - current situation, the immunity level plays a neglectable role in decreasing the transmission rate;
- **Medium** - the immunity level reached leads to a decrease in the transmission rates;
- **High** - herd immunity is reached in the population.

The immunity level enables the assessment of certain accompanying measures and potential health checks at borders. However, it is too early to know how long the protective immune response against COVID-19 will last.<sup>12</sup> We therefore acknowledge that the assessment of potential measures based on immunity is difficult if not impossible at the moment.

### 3.2 The necessity to align on common standards

At borders, two different situations and regimes meet. Two neighboring countries can have very distinct containment measures in place and the propagation of COVID-19 may differ. In order to assess the situations in two or more countries and then to compare them across borders, the Schengen member states need to align their standards. The above-defined LC & LI should be based on such standards and methods.

Two neighboring countries can have very distinct containment measures in place and the propagation of COVID-19 may differ.

More precisely, Schengen countries should rely on the work already done by the European Centre for Disease Prevention and Control (ECDC). The ECDC works in close cooperation with the WHO and, for instance, issued recommendations with regard to COVID-19 tests.<sup>13</sup> It also collects the number of COVID-19 cases and deaths based on reports from health authorities worldwide. While counting methods are still heterogeneous amongst countries, harmonisation efforts are ongoing and should be encouraged. The ECDC applies systematic processes and helps to monitor and interpret the dynamics of the COVID-19 epidemic. The data is transparent, public and from trustable sources.

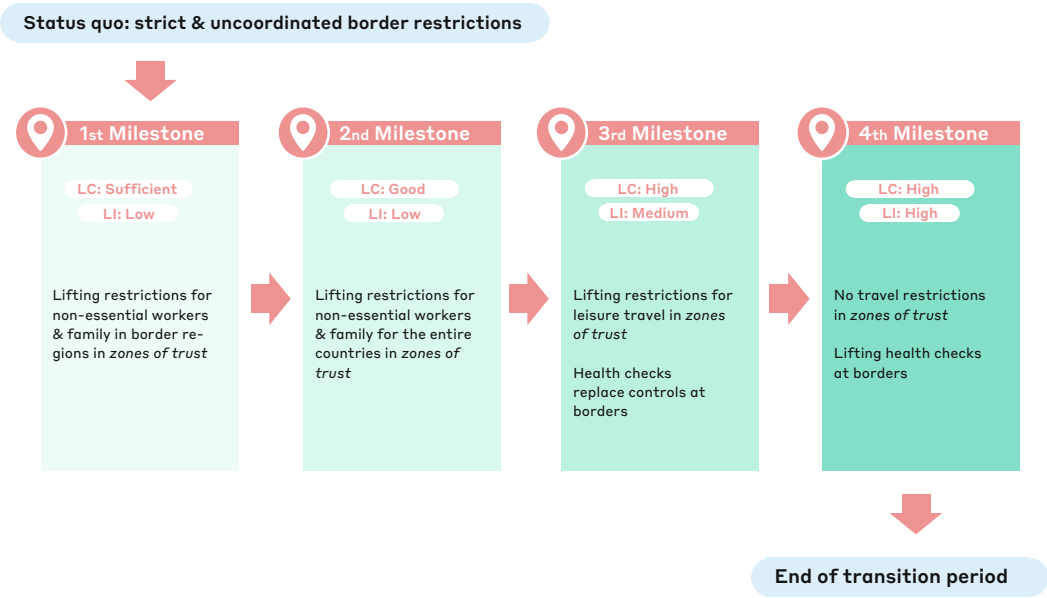
### 3.3 Establishing zones of trust

We propose that the gradual lifting of internal border controls and travel restrictions is implemented between regions, and later on between countries, when they reach the *milestones* described further below. These milestones are based on the LC and the LI levels. If, for instance, two regions or countries reach the same *milestone*, certain travel restrictions should be lifted and supporting measures be introduced to allow for an increase in cross-border mobility. The intermediate goal is to create *zones of trust* so that border regions or countries which are on the same milestone apply the same

border control measures. If two border regions or countries do not fulfill the same milestone conditions, the border control measures recommended would be the ones applying to the region or country being on the lower milestone. As soon as the virus does not pose a threat to the Schengen area anymore, the transition period ends. *Zones of trust* could also include third countries which fulfil the same criteria as defined above.

3.4 Transition period with four milestones

Our roadmap comprises four milestones to address the levels of control and immunity defined earlier in this chapter. A brief description of the milestones is provided below. At each milestone we recommend the assessment and qualification of accompanying measures.



LC	Level of control over the epidemic
LI	Level of Immunity

Figure 2: Roadmap with milestones



**Milestone 1:** Upon reaching a *sufficient* LC over the epidemic in two neighboring regions, we suggest that these regions form a *zone of trust*. This would allow for the lifting of travel restrictions in these border regions for family members and non-essential workers (as opposed to essential workers such as health professionals or scientists in health-related industries, who could already cross borders before milestone 1).<sup>14</sup> Meanwhile, all categories of persons should be discouraged from unnecessary travel.

What could this mean in practice? As Switzerland and Austria are about to reach this milestone or have already reached it, a person living in St. Gallen could, for example, visit his or her relatives in the region of Vorarlberg.

**Milestone 2:** When countries reach a *good* LC, the travel restrictions for family members, essential and non-essential workers should be lifted for the entire countries in the *zone(s) of trust*. However, given that a certain level of uncertainty regarding LC remains and the immunity level is still low, all categories of persons should continue to be discouraged from unnecessary travel.

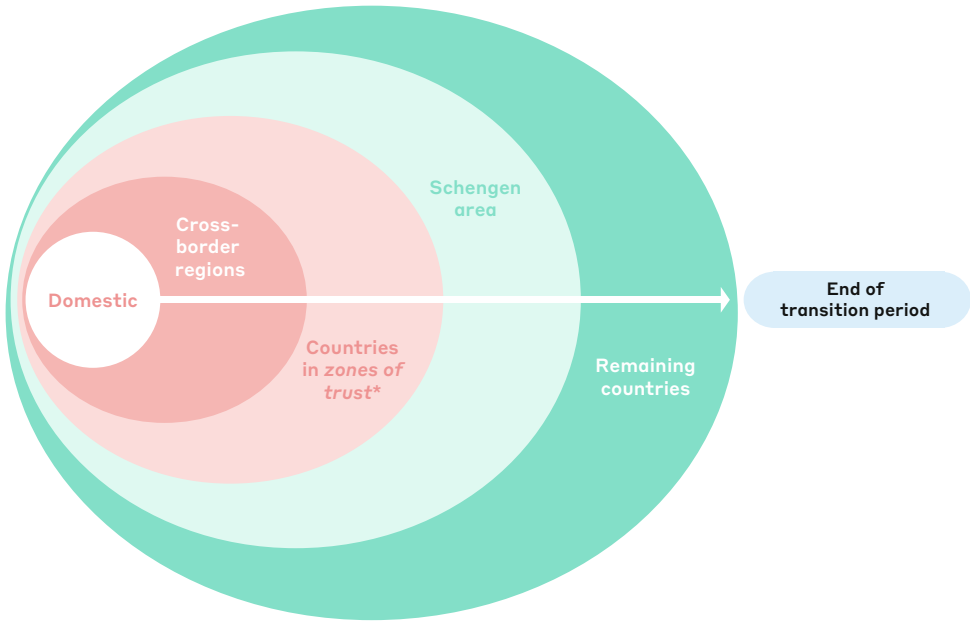
What could this mean in practice? A person working for a Swiss startup in Neuchâtel would be able to meet a potential new client in Berlin if necessary.

**Milestone 3:** Upon achieving a *high* LC, we recommend the weakening of the travel restrictions for leisure activities such as tourism and cross-border shopping. Health checks at borders, replacing border controls, might stay in place due to the *medium* LI.

What could this mean in practice? A family from Locarno could rent a holiday home in the Netherlands to enjoy their holidays.

**Milestone 4:** At this point, a *high* LC and *high* LI allow for a complete lifting of the internal travel restrictions and health checks at borders introduced due to COVID-19, within the *zone(s) of trust*, and later on in the entire Schengen area.

What could this mean in practice? The long planned Erasmus get-together in Barcelona between friends from all over Europe can take place.



\*Zones of trust can also include non-Schengen states

Figure 3: Gradual lifting of travel restrictions

### 3.5 Criteria to evaluate accompanying measures

It is not only important to agree on common criteria but also on common measures, which should accompany the gradual lifting of border controls and travel restrictions. There are currently multiple measures related to testing, tracing, controlling and immunization against COVID-19 being implemented or considered by governments (this list is not exhaustive):

*Directly related to cross-border mobility:*

- Checks at the border: recent medical certificate of a negative COVID-19 test (PCR);
- Simple health checks at the border: screening for symptoms of upper respiratory tract infection;
- In-depth health checks at the border: serological tests.

*Not directly related to cross-border mobility:*

- Quarantine for suspected and infected cases;
- Informing travelers and issuing recommendations such as regions to avoid, social distancing or self-isolation measures to follow;
- Wearing masks or other protective equipment while travelling;
- Contact tracing (through mobile apps or bracelets);
- Immunity pass (either for specialists or general population);
- Mass testing of population (serological tests);
- Vaccination campaign.

We argue that measures put in place in the context of cross-border mobility need to be evaluated carefully. For each measure, governments should conduct an impact assessment according to the eight criteria detailed below:

**Geographical scope and duration:** Accompanying measures can be taken within one country, at the border itself or at international level. Furthermore, not all measures are suitable for the entire transition period or all milestones.

**Proportionality:** Proportionality requires that restrictions to individual liberty and measures taken to protect the public from harm should not exceed what is necessary to address the actual level of risk to or critical needs of the community.<sup>15</sup>

**Non-discrimination:** Public health policies need to avoid discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as disability, age, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation, or to be very limited both in scope and duration.

**Privacy and data protection:** The measures taken to fight against the epidemic should not hinder the right to privacy and the protection of personal data. Citizens must be able to give their consent and to be informed about the data that is being collected, by whom, for which purpose, how long the data will be retained for, and how they could be

affected. The purpose of the data collection should be clearly defined and connected to the fight against the COVID-19 epidemic. Security of the private data must be ensured at any stage.

**Unintended consequences:** Any policy introduced to fight the virus needs to assess if it might create false incentives or other unintended consequences. Very harsh public health policies have been known to have unintended, negative consequences that undo the positive effects of the policy or leave people worse off than they were before.

**Reliability and effectiveness:** Measures chosen by states should be assessed with regards to their reliability and effectiveness in a given context (e.g. level of immunity, scientific agreement on testing methods, etc.). For instance, in the case of tests, they must be considered reliable by mutually recognised national, regional or international bodies.

**Trust:** Measures to fight COVID-19 should be trustworthy. By being trustworthy as such, measures also contribute to rebuilding trust. We define trustworthiness based on the following elements: competence, reliability, honesty.<sup>16</sup>

**Feasibility:** It is essential that a reality check is done when considering potential measures to fight the spread of the virus. Feasibility is measured by analysing the resources and changes needed to implement a given measure (e.g. cost, administrative burden, etc.). The political support for a given measure is also taken into account in our assessment.

**Box 3****Applying our roadmap in the Swiss context***Switzerland under lockdown*

As a highly integrated economy in the heart of Europe, Switzerland greatly benefits from the Schengen system. A 2017 study estimated that the reintroduction of border controls within the Schengen area could cost Switzerland between 4.7 and 10.7 billion CHF annually.<sup>22</sup> The current travel bans could have an even deeper impact. For instance, tourism alone was estimated to have generated 19.3 billion CHF in 2018.<sup>23</sup>

Essential and non-essential cross-border workers are still permitted to commute for work purposes.<sup>24</sup> Close family members enjoy limited rights such as care-taking of family members and visiting rights for children with separated parents.<sup>25</sup> Switzerland has not put health checks in place at the border. Even so, inbound Swiss residents and citizens with symptoms are asked to quarantine themselves.

In April, the Federal Council adopted a phased and sector-specific easing of the measures within Switzerland.<sup>26</sup> At the borders, controls will remain in place while certain restrictions on entry will be gradually but slowly relaxed. From 11 May on, family reunifications for family members of Swiss citizens and EU residents as well as certain cross-border services will for example be allowed. These developments take place in consultation with the neighboring countries.

*Reconnecting Switzerland*

The first priority should be to reconnect cross-border communities whilst carefully considering the local conditions. The administrative districts Freiburg and Tübingen, as well as the federal states Vorarlberg and Tirol are all about to reach or have reached the thresholds of milestone 1. Germany, Austria and Switzerland could thus lift travel restrictions for workers and service providers, as well as family reunions, in the border regions. Building on Austria's experience in health checks at the border,<sup>27</sup> comparable measures could be introduced for these new groups of travelers. Specifically, the situations in the départements Ain, Haute-Savoie and Haut-Rhin, and the regions Piedmont and Lombardy should be closely monitored to achieve a coordinated lifting of measures as the situation and knowledge improve.

As Switzerland, its neighboring countries and other Schengen member states reach milestone 2, the creation of a *zone of trust* should be considered. The lifting of travel restrictions should be extended to all countries incorporated into the *zone of trust*. Air travel should also be included into this process meaning that Schengen countries beyond the neighboring countries should be integrated as well. By actively approaching its neighbors and coordinating the measures and criteria for decisions, Switzerland could serve as a role model in creating trust and opening its borders.

### 3.6 Schengen needs a reform

We propose that lessons learned before and during the epidemic feed into the ongoing reform discussions of the Schengen Borders Code to make Schengen more resistant to future challenges. In fact, one of the main differences in the reform discussions between the Schengen countries, the European Commission and the European Parliament was about possible new criteria for the reintroduction and duration of temporary controls at internal borders. Another round of discussions was due to start this April on the basis of new proposals by the recently elected European Commission.

It goes without saying that the current situation does not allow for an immediate resumption of the discussions. However, the European Commission should not put its ideas on the shelf for too long, and present its proposal this autumn. In addition, the European Commission should adapt its annual evaluation programme under the so-called “Schengen Evaluation and Monitoring Mechanism” in order to closely monitor and assess the proportionality of the border restrictions and controls put in place to tackle COVID-19. Covering all aspects of the Schengen acquis, the Schengen Evaluation and Monitoring Mechanism allows the member states, under the coordination of the European Commission, to ensure the effective and consistent application of the Schengen rules by conducting different forms of evaluations. Besides regular evaluations of individual member states and unannounced on-site visits, the European Commission can conduct “thematic evaluations”<sup>17</sup> across the Schengen area. We specifically recommend the conduction of a thematic evaluation on COVID-19-related controls at the internal Schengen borders no later than the end of this year. ●

## 4. Conclusion

The current epidemic poses an immense threat to public health and has led to much more extensive border closures and controls within the Schengen area than ever before.

Epidemiological experts have stressed that even with the current confinement measures the virus continues circulating and that any level of gradual relaxation of the confinement can lead to an increase in new cases. This will require constant and detailed monitoring as well as the readiness to adjust and introduce new measures if needed.

While many countries have presented exit strategies for domestic restrictions, little has been said about lifting travel restrictions and border controls. The abolition of border controls and cooperation among Schengen members constitute the essence of the Schengen Agreement. Both freedom of movement and cooperation have been seriously impacted by the current crisis. Thus, COVID-19 may well be the biggest test for the Schengen system since its onset. In order to avoid a further erosion of Schengen, a common plan to lift border controls and to increase cooperation and trust are urgently needed.

We recommend that governments act on three levels: (1) set common criteria for a gradual, timely and safe lifting of travel restrictions and border controls; (2) coordinate the introduction of accompanying measures and carefully evaluate the possible impact of these measures according to common criteria; (3) ensure the proportionality of COVID-19-related border controls by conducting thematic evaluations under the Schengen Evaluation and Monitoring Mechanism and by building on the current crisis to reform the Schengen Borders Code.

These three recommendations, implemented through our roadmap, will allow for a timely, safe and coordinated lifting of border controls and travel restrictions. They also aim at preventing the Schengen countries from reintroducing unilateral and strict closures in the event of a second wave of COVID-19. In order to restore an efficient and effective Schengen system, it is crucial to regularly and closely monitor the proportionality of COVID-19-related border closures and controls. Thematic evaluations on COVID-19-related border controls and rebooting the discussions on the reform of the Schengen Borders Code, no later than this autumn, are of great importance.

While it is important that countries define the criteria and process through which to lift border controls in common, it is also essential that countries support each other in reaching the next milestone of our roadmap. This can be achieved through improved cross-border cooperation in healthcare, for example through additional assistance in the treatment of patients or by providing protective equipment. Another mechanism to support individual countries is through multilateral coordination efforts, such as the European Center for Disease Prevention and Control, the EU Health Security Committee, or Gavi - The Vaccine Alliance.

Last but not least, it goes without saying that Switzerland, being a highly integrated economy in the heart of Europe, should take a proactive role in these discussions and the overall coordination efforts recommended in this policy brief. ●



# Endnotes

- 1 François Hollande to the press in early September 2015, *The Telegraph*: UK must not 'shirk duties' on refugees if it wants EU reform support from France, warns Hollande, 7 September 2015, retrieved 27 April 2020, from <https://www.telegraph.co.uk/news/worldnews/francois-hollande/11848899/UK-must-not-shirk-duties-on-refugees-if-it-wants-EU-reform-support-from-France-warns-Hollande.html>.
- 2 For a full list of temporary border controls in the EU and Schengen area refer to: Temporary Reintroduction of Border Control, retrieved 19 April 2020, from [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en).
- 3 Updated WHO recommendations for international traffic in relation to COVID-19 outbreak, 29 February 2020, retrieved 26 April 2020, from <https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak>.
- 4 Ana LP Mateus et al.: Effectiveness of travel restrictions in the rapid containment of human influenza: a systematic review, in *Bulletin of the World Health Organization*, 92(12) (2014), p. 868-880D.
- 5 Retrieved 28 April 2020, from <https://frontex.europa.eu/media-centre/news-release/covid-19-restrictions-4ldY3J>.
- 6 DG IPOL, DG EPRS: Cost of non-Schengen: the impact of border controls within Schengen on the Single Market, requested by the European Parliament's Committee on Internal Market and Consumer Protection (2016).
- 7 Prof. Dr. Steven Vertovec, Director of the Max Planck Institute for the Study of Religious and Ethnic Diversity, has warned against an increase in xenophobia and stigma due to COVID-19, retrieved 26 April 2020, from <https://www.mpg.de/14741396/covid-19-und-ein-stigma-das-bleibt>.
- 8 Parliamentary question by Milan Uhrík to the Commission on the subject: Detention of urgent important medical material between EU Member States, retrieved 24 April 2020, from [https://www.europarl.europa.eu/doceo/document/E-9-2020-001561\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-001561_EN.html).
- 9 European Commission: Joint European Roadmap towards lifting COVID-19 containment measures (2020).
- 10 UN General Assembly: International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, Art. 12(2)(c).
- 11 For a detailed analysis of the impact of confinement measures from a Human Rights perspective, see [humanrights.ch: Menschenrechtliche Konsequenzen der Corona-Krise](https://www.humanrights.ch/de/menschenrechte-schweiz/inneres/analysen/menschenrechte-coronavirus-pandemie), retrieved 19 April 2020, from <https://www.humanrights.ch/de/menschenrechte-schweiz/inneres/analysen/menschenrechte-coronavirus-pandemie>.
- 12 ECDC: Coronavirus disease 2019 (COVID-19) pandemic: increased transmission in the EU/EEA and the UK – seventh update, 25.03.2020, retrieved 28 April 2020, from <https://www.ecdc.europa.eu/sites/default/files/documents/RRA-seventh-update-Outbreak-of-coronavirus-disease-COVID-19.pdf>.
- 13 ECDC recommendations can be viewed under ECDC: An overview of the rapid test situation for COVID-19 diagnosis in the EU/EEA, 01.04.2020, retrieved 28 April 2020, from <https://www.ecdc.europa.eu/sites/default/files/documents/Overview-rapid-test-situation-for-COVID-19-diagnosis-EU-EEA.pdf>.
- 14 For a more detailed definition of essential workers please refer to European Commission: Guidelines concerning the exercise of the free movement of workers during COVID-19 outbreak, 30.03.2020, retrieved 28 April 2020, from [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0330\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0330(03)&from=EN).
- 15 Maxwell Smith, Ross Upshur: Pandemic Disease, Public Health, and Ethics, in *The Oxford Handbook of Public Health Ethics* (2019), retrieved 28 April 2020, from <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780190245191.001.0001/oxfordhb-9780190245191-e-69>.
- 16 Onora O'Neill: Linking Trust to Trustworthiness, in *International Journal of Philosophical Studies*, 26(2) (2018), p. 293-300.
- 17 Cf. Art. 6 1b of COUNCIL REGULATION (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1053&from=EN>.
- 18 For more details on the Schengen Area refer to [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen_en).
- 19 'Regulation (EU) No 1051/2013 of the European Parliament and of the Council of 22 October 2013 amending Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances' (2013) *Official Journal of the European Union* L295/1, Art. 25 & 28-29.

**20** List of all border controls: Member States' notifications of the temporary reintroduction of border control at internal borders pursuant to Article 25 and 28 et seq. of the Schengen Borders Code, retrieved 19 April 2020, from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms\\_notifications\\_-\\_reintroduction\\_of\\_border\\_control\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control_en.pdf).

**21** European Parliament: Temporary border controls in the Schengen area (2020), retrieved 19 April 2020, from [https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/649336/EPRS\\_ATA\(2020\)649336\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/649336/EPRS_ATA(2020)649336_EN.pdf).

**22** Three scenarios were calculated depending on level of investment and available capacity for reintroduced border controls, in Ecoplan: Volkswirtschaftliche Auswirkungen eines Wegfalls der Schengen-Assoziierung der Schweiz, im Auftrag der Direktion für europäische Angelegenheiten DEA, des Staatssekretariats für Migration SEM und des Bundesamts für Justiz BJ (2017).

**23** Grünenfelder, P. et al: Fahrplan für den Corona-Exit Für die stufenweise Wiedereröffnung von Wirtschaft und Gesellschaft, avenir suisse (2020), p. 11.

**24** See State Secretariat for Migration: FAQ on refusal of entry, free movement of persons

and suspension of visas (as of 17 April 2020), retrieved 19 April 2020, from <https://www.sem.admin.ch/sem/en/home/aktuell/aktuell/faq-einreiseverweigerung.html>.

**25** See press release by the Federal Council on 16 April 2020: Coronavirus: Einkaufstourismus bleibt verboten, retrieved 19 April 2020, from <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-78807.html>.

**26** See press release by the Federal Council on 16 April 2020: Federal Council to gradually ease measures against the new coronavirus, retrieved 19 April 2020, from <https://www.admin.ch/gov/en/start/dokumentation/media-releases.msg-id-78818.html>; press release by the Federal Council on 29 April 2020: Coronavirus: Restrictions on entry to be gradually relaxed from 11 May, retrieved 03 May 2020, from <https://www.admin.ch/gov/en/start/dokumentation/media-releases/media-releases-federal-council.msg-id-78940.html>.

**27** See Federal Ministry of the Interior: Grenzkontrollmaßnahmen an Österreichs Grenzen, retrieved 24 April 2020, from <https://bmi.gv.at/news.aspx?id=314A5A-707A4547684D55733D>.

**Citation**

Calsina, M., Cantalou, J., Detreköy, N., Fegert, M., Hupfer, L. and Rivière, C. (2020). Schengen back on the road: Reopening Schengen's internal borders in times of COVID-19. Policy Brief. Zürich: foraus – Forum Aussenpolitik.

**Acknowledgement**

The authors are thankful for all the input and comments by Samia Hurst, Tobias Naef, Johan Rochel, Philipp Lutz and Angus Wallace. We would like to thank the #VersusVirus Hackathon organisers for providing a platform to meet and an amazing event, during which the first draft of this paper came to light. Many thanks to all the experts who answered our questions during the writing process. All remaining errors are ours. The team is especially indebted to Darja Schildknecht and Vivien Stringer for their patience, as well as their communication and design skills. Many thanks to the whole foraus office for their support throughout the writing process.

**Disclaimer**

The views and opinions expressed in this policy brief are those of the authors and do not reflect the official position of foraus. Responsibility for the content lies entirely with the authors. All data published in this paper are correct to the best of our knowledge at the time of publication.

[www.foraus.ch](http://www.foraus.ch)

Zürich | foraus – Forum Aussenpolitik | Badenerstrasse 431 | 8003 Zürich  
office@foraus.ch | +41 44 501 68 65

Genève | foraus – Forum de politique étrangère | Avenue de France 23 | 1202 Genève  
bureau\_romandie@foraus.ch

IBAN: CH06 0900 0000 6017 6892 9

# Become part of our network

Through the association's unique grassroots-model, foraus advocates a socio-political future for Switzerland and stands for both a constructive foreign policy and an information-rich dialogue. Do you share this vision? Then come support us and get active! ●

## as a member

A membership in our unique network and a voluntary involvement at foraus is open to everyone. We offer you access to an extraordinary network, fascinating personalities, and the possibility to bring your academic know-how into the public debate.

## as an author

foraus enables you to tackle the challenges in Swiss and international foreign policy and offers you a platform where you are invited to publish your innovative ideas in the form of a policy paper, a short analysis or a blog.

## as a benefactor

Our circle of benefactors, the «Cercle des Donateurs», contributes to the dissemination of the sponsorship, and offers interested personalities the possibility to support and promote foraus.



[foraus.ch /membership](https://foraus.ch/membership)