

Tourism sector: key aspects of the “de-escalation” phases and the “new normality”

Legal flash.

July 10, 2020



Key aspects

On June 30, 2020, the Council of the European Union adopted a Recommendation on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction (the “[Recommendation](#)”). According to the Recommendation, Member States should gradually lift the temporary travel restrictions at external borders from July 1, 2020, in a coordinated manner with regard to the residents of certain third countries.

In compliance with the Recommendation, Spain has approved [Order INT/595/2020](#), of July 2, modifying the criteria to apply a temporary restriction on non-essential travel from third countries to the European Union and Schengen Associated States on the grounds of public order and public health due to the health crisis caused by COVID-19.

This legal flash summarizes some of the measures that, within the framework of the “new normality,” will affect owners and operators of tourism establishments, specifically:

- Conditions for the arrival of travelers, particularly (i) the reopening of external borders of the Schengen area; (ii) the normalization of the influx of tourists; (iii) subjecting travelers arriving from abroad to entry checks instead of mandatory quarantine; (iv) the recovery of mobility between regions within Spain.
- Rules for reopening and operating tourism establishments during “new normality.”



Reopening of external borders of the Schengen area

Regulations during the state of emergency There is no Europe-wide standard regulating this issue, as border management is an exclusive competence of the Member States. It is a joint decision reached between them. Under the [Recommendation](#), Member States should gradually lift the temporary restrictions on non-essential travel from July 1, 2020.

Following the Recommendation, the Spanish government has approved [Order INT/595/2020](#), which lists the third countries from where travelers may enter into Spain.

Entry into force The Recommendation came into force on July 1, 2020, although its practical effect was subject to the formal approval of the relevant decisions taken in each Member State.

Order INT/595/2020 has been in force since July 4, 2020.

Summary The Recommendation allows Member States to authorize entry of travelers arriving from the following third countries into the Schengen area¹: Algeria, Australia, Canada, Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia, Uruguay and China (subject to confirmation of reciprocity),² as long as the third country in question meets the following epidemiological criteria:

- > It is close to or below the EU average, as it stands on June 15, 2020, of new COVID-19 cases over the last 14 days and per 100,000 inhabitants.
- > The trend of new cases over the same period in comparison to the previous 14 days is stable or decreasing; and the overall response to COVID-19 taking into account available information on aspects such as testing, surveillance, contact tracing, containment, treatment and reporting as well as the reliability of available information and data sources and, if needed, the total average score across all dimensions for International Health Regulations (IHR).

¹ The Schengen area is made up of the Member States, except Ireland, Iceland, Liechtenstein, Norway and Switzerland. Andorra, Monaco, San Marino and the Vatican (Holy See) should also be included in the Schengen area for the purpose of this Recommendation.

² Every two weeks, the Council should review and, as the case may be, update the list of third countries whose residents are allowed to resume non-essential travel to the EU.



Under Order INT/595/2020, Spain has authorized the entry of travelers arriving from the following countries: Australia, Canada, Georgia, Japan, Montenegro, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia, and Uruguay. Moreover, with regard to Algeria, Morocco and China, authorization to enter is expected to be subject to the adoption by each country's authorities of measures of reciprocity for the arrival of travelers coming from Spain.

Influx of tourists by land, air or sea

Regulations during the state of emergency Orders [INT/396/2020](#), of May 8, 2020; [INT/401/2020](#), of May 11, 2020; [TMA/410/2020](#), of May 14, 2020; [SND/439/2020](#), of May 23, 2020; [SND/507/2020](#), of June 6, 2020; and [SND/518/2020](#), of June 11, 2020.

Entry into force From the date the state of emergency was lifted (June 21, 2020).

Summary Spain has lifted the ban on entering the country for tourism reasons³ in the case of travelers arriving from Schengen Member States or Associated States, and third countries with regard to which the external borders of the Schengen area have been reopened.

The obligation to quarantine for 14 days has been replaced with strict health screenings of passengers arriving in Spain (Sixth Additional Provision of Royal Decree-Law 23/2020, of June 23, approving measures on energy and other areas to revive the economy).

Under the [Resolution of June 29, 2020](#), issued by the General Directorate of Public Health, Quality and Innovation, regarding health screenings to be carried out at entry points in Spain, all passengers arriving in Spain by air or sea, regardless of their nationality, must fulfill the following requirements:

³ Owing to the state of emergency, severe restrictions were imposed on the entry of individuals into Spanish territory, limiting entry to cases involving certain subjective circumstances. Currently, in the case of travelers arriving from countries outside the Schengen area and countries no longer subject to the general ban on entering Spanish territory, entry restrictions still apply, except to the following categories of travelers: (i) holders of a long-stay visa issued by a Member State or a Schengen Associated State; (ii) crossborder workers; (iii) health care professionals, including health researchers, and elderly care professionals traveling to or returning from performing their labor activities; (iv) transport workers, seafarers and aircrew required to provide air transport services; (v) diplomatic and consular staff, staff working for international organizations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions; (vi) students pursuing studies in Member State or a Schengen Associated State and that have the corresponding permit or visa; (vii) highly qualified workers if their employment is necessary and the work cannot be postponed or performed remotely, including individuals participating in top-level sports events held in Spain (these circumstances must be documented); (viii) passengers traveling for imperative family reasons, which must be duly documented; (ix) persons who can prove they are traveling for *force majeure* reasons or are in need, or whose entry is permitted for humanitarian reasons; and (x) seasonal workers in the agricultural sector.



- > They must undergo a health screening before entering the country, which may include temperature checks,⁴ identification controls and visual health checks on passengers.
- > Before traveling, all passengers arriving from any airport or port outside Spanish territory must complete a public health form online at the following web address: www.spth.gob.es, or through the free SPAIN TRAVEL HEALTH-SpTH application. After completing the form, passengers will receive a QR code, which they must show when they arrive in Spain.⁵ There will be a transitional period until July 31, 2020, in which international passengers who have not completed the form online may present it in paper form on arriving in Spain.

Recovery of mobility between regions within Spain

Regulations during the state of emergency	Resolution of June 3, 2020, of the Spanish Congress of Deputies, approving the publication of the agreement authorizing the extension of the state of emergency. Orders SND/458/2020 , of May 30, 2020, and SND/507/2020 , of June 6, 2020.
Entry into force	From the date the state of emergency was lifted (June 21, 2020).
Summary	Restrictions on mobility within Spain have been lifted, without prejudice to specific measures being imposed in certain regions for health and safety reasons.

Rules applicable to tourism establishments during the “new normality”

Regulation	Royal Decree-Law 21/2020 , of June 9, 2020.
Entry into force	From the date the state of emergency was lifted (June 21, 2020).
Summary	The competent authorities can enforce regulations on capacity, disinfection, prevention and refurbishment of tourism establishments.

⁴ Passengers with fever will undergo another medical examination. Any suspicion of infection will activate the protocol implemented for health alerts.

⁵ Travel agencies, tour operators and air or sea transport companies and any other agent that sells tickets independently or as part of a package holiday, must inform passengers traveling to Spain at the start of the ticket sales process of the obligation to submit the public health form at the destination airport or port. Also, during the registration or check-in process, passengers must be informed of the obligation to submit the public health form on their arrival in Spain.



Common areas: the appropriate organizational measures must be adopted, avoiding crowds and ensuring a minimum safety distance of 1.5 meters between people. If this is not feasible, the appropriate hygiene measures must be observed to prevent risks of infection.

Royal Decree-Law 21/2020 does not set out any specific restrictions on opening common areas in establishments, gymnasiums, spas or bars. Therefore, these establishments can remain open as long as the appropriate health and safety measures are adopted.

Rules established under regional regulations must also be observed (see our [Legal Flash](#) on regional regulations governing the new normality).⁶

Finally, to mitigate the effects of COVID-19 in the tourism sector, the different regulations have acted on two labor fronts:

- > Regarding social security contributions, by offering a 50% allowance from February to October 2020 (article 13 of RDL 7/2020 and Fourth Additional Provision of RDL 25/2020).
- > Regarding unemployment protection measures for permanent seasonal workers, by extending the applicable extraordinary measures to periods of employment and unemployment affecting these workers (article 25.6 of RDL 8/2020, which has been extended until December 31, 2020).

⁶ For example, Andalusia approved [Decree-law 13/2020](#), of May 18, establishing exceptional and urgent measures affecting hotel establishments, the coordination of alerts, the fostering of remote working, the recovery of the cultural sector, and providing greater flexibility to several areas in view of the situation arising from COVID-19. This law sets out specific provisions precisely to ensure compliance with measures on distancing, hygiene and protection.

In the case of the Balearic Islands, [Decree 3/2020](#), of June 7, of the president of the Balearic Islands, adopting measures for the easing, regulation and graduation of certain restrictions in the Balearic Islands established during the declaration of the state of emergency, following Phase 3 of the transition plan to a new normality, also sets out several provisions that must be taken into account regarding mandatory measures tourism establishments must fulfill once they resume their activity.



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