

The impact of COVID-19 on the Internal Market and consumer protection - IMCO Webinar Proceedings

The [original full proceedings](#)¹ summarise the presentations and discussions at the IMCO webinar that was held on 9 November 2020.

Background

The COVID-19 pandemic is posing an unprecedented challenge both to the health and wellbeing of people across the globe and to the integrity of the Internal Market. Member States' responses to the outbreak of the pandemic have so far been fragmented and uncoordinated in the approach to the measures undertaken. The measures have ranged from border controls and restrictions on free movement and travelling, to export bans on selected medical products, and bans on the provision of certain services, including those in the hospitality sector. In some cases, these measures have affected consumer rights, disregarding obligations laid out in European law.

Since many of the measures have directly affected the functioning of the Internal Market, a series of actions were undertaken at EU level to ensure the good functioning of the Internal Market. These included lifting the bans on national export, the introduction of

green lanes at border crossings and the establishment of Europe-wide public procurements for medical supplies, as well as introducing common rules for crossborder air travel.

The goals of the webinar were to facilitate an information exchange between policy makers and experts regarding the impact of COVID-19 on the Internal Market and on consumer protection. The aim was to discuss the effects of the measures introduced at national and EU level to mitigate the negative consequences of the COVID-19 crisis on the Internal Market, and to suggest what more could be done to ensure a well-functioning Internal Market in these circumstances and in future crises. The webinar was structured in two panels, each

consisting of two presentations and two Q&A sessions. The first panel focused on the free movement of goods and people, while the second dealt with consumer protection and provision of services.

Key findings

The webinar led to key findings that are presented here in four parts pertaining to the presentations and discussions carried out for each of the four topics. Regarding the **free movement of goods**, restrictions on imports and exports are only allowed in EU Internal Market law under a three-tiered conditions test established by the CJEU requiring the measures to be (a) justified; (b) applied in a non-discriminatory manner; and (c) transparent. An assessment of the national measures and of the potential of EU measures is possible through reference to other EU legal bases such as public health and the civil protection mechanisms. It can be concluded that a common EU response to the challenge

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of COVID-19 is possible. From a legal point of view, however, the Internal Market provisions on the free movement of goods are insufficient to properly face this crisis, but examples from other policies may provide ideas for solutions.

On the topic of the **free movement of people**, it is important to note that EU legislation foresees justifications of restrictions to free movement based on public health provided that the proportionality principle is respected. A new category of workers has emerged, the so-called 'essential workers in critical occupations', whose mobility continued during the outbreak. The list includes health professionals, personal care workers, persons involved in the supply of food, food manufacturing and processing, transport workers. Two distinct groups within this category deserve special attention: seasonal workers and health professionals.

Several questions can be raised with respect to this topic. Firstly, whether the category of 'essential workers in critical occupations' is going to be a privileged group, and thus, if this privileged treatment is legal under the principle of non-discrimination. The second question is whether a possible blurring of the current distinction between EU and third country nationals is justified, as both are part of the category of 'essential workers in critical occupations'. The final question is whether COVID-19 and the transformations that are taking place will permanently impact the Internal Market as far as the free movement of persons is concerned, fundamentally changing mobility within the EU.



Regarding the issue of **consumer protection**, it can be highlighted that by November 2020, the number of requests to the European Consumer Center Network (ECC-Net) had already doubled when compared to 2019 (51% of requests concerned air passenger rights, 20% accommodation, and 15% package travel). According to the representative of the ECC-Net, the European Commission guidelines were very useful for the ECC-Net's work helping consumers claim their rights in cross-border cases and highlighted the continuing importance of Europe for the European consumer.

Various inconsistencies were observed in the approaches of different Member States. The ECC-Net noted that the role of booking intermediaries is very unclear. The ECC-Net notified some problematic intermediaries to the national enforcement authorities. In this situation, it is crucial to clarify the role of NEB's (national enforcement bodies) and ADR's (alternative dispute resolution bodies) and harmonise their competences throughout Europe.

On the topic of online shopping, two specific problem areas were identified: delivery issues and frauds. With regard to the first point, web shops and delivery services were not ready for higher than usual demand and deliveries took more time than expected as stocks were insufficient. With regard to the second point, the increasing reliance of consumers on e-commerce during the pandemic has opened the door to increasing levels of fraud.

The **impact of the pandemic on the hospitality sector** was also discussed. Long-term behaviour changes are expected in the sector, with respect to travel and mobility, increased sensitivity to context and modes of social contact, disruptions of undeclared work and the ongoing relevance of safety concerns. These changes will have to be addressed through investments in design, equipment, and communication that not all businesses can afford, especially small and medium-sized ones.

¹ Milieu Consulting SRL, 2020, *The impact of COVID-19 on the Internal Market and consumer protection - IMCO Webinar Proceedings*, Publication for the committee on Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg. Available at: [https://www.europarl.europa.eu/RegData/etudes/IDAN/2020/658212/IPOL_IDA\(2020\)658212_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2020/658212/IPOL_IDA(2020)658212_EN.pdf)

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