

Federal law consolidated: Entire legislation for the 5th COVID-19 Emergency Measures Ordinance, version of 22.11.2021

Long title

Ordinance of the Federal Minister of Social Affairs, Health, Care and Consumer Protection, with which special protective measures are taken to prevent an emergency situation due to COVID-19 (5th COVID-19 Emergency Measures Ordinance – 5th COVID-19 Emergency MV)

StF: [Federal Law Gazette II No. 475/2021](#)

Preamble/promulgation clause

On the basis of §§ 3 para. 1, 4 para. 1, 4a para. 1, 5 para. 1 and 6 para. 1 of the COVID-19 Measures Act, [Federal Law Gazette I No. 12/2020](#), as last amended by the Federal Act [Federal Law Gazette I No. 183/2021](#), the following is decreed in agreement with the Main Committee of the National Council:

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Text

Scope

§ 1. This regulation regulates health policy measures to prevent a breakdown of medical care.

General provisions

§ 2. 1. For the purposes of this Regulation, a mask of protection class FFP2 (FFP2 mask) without an exhalation valve or a mask of at least equivalent standard shall mean a mask of at least equivalent standard.

2. For the purposes of this Regulation, the following shall be considered as evidence of a low epidemiological risk:

1. "1G detection": Evidence of a centrally approved vaccine against COVID-19
 - a) second vaccination, which must not have been more than 360 days ago and must have elapsed at least 14 days between the first and second vaccination,
 - b) vaccination from the 22nd day after vaccination for vaccines for which only one vaccination is provided, which must not be more than 360 days ago,
 - c) vaccination, provided that there is a positive molecular biological test for SARS-CoV-2 at least 21 days before vaccination or evidence of neutralising antibodies prior to vaccination, provided that the vaccination was not more than 360 days ago, or
 - d) further vaccination, which must not be more than 360 days ago and between this and a vaccination in the sense of the
 - aa) lit. a or c at least 120 days or
 - bb) lit. b at least 14 daysmust have elapsed;
2. "2G verification": proof according to Z 1 or a
 - a) proof of recovery from an infection with SARS-CoV-2 survived in the last 180 days or a medical confirmation of an infection with SARS-CoV-2 survived in the last 180 days that has been confirmed by molecular biology, or
 - b) segregation notice if it has been issued to a person demonstrably infected with SARS-CoV-2 in the last 180 days prior to the intended testing;
3. '2,5G detection' means evidence in accordance with Z 1 or 2 or evidence by an authorised body of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which must not have been more than 72 hours ago;
4. "3G detection" means evidence in accordance with Nos 1 to 3 or evidence by an authorised body of a negative result of an antigen test for SARS-CoV-2, the acceptance of which must not have taken more than 24 hours ago.

(3) A proof according to § 4 Z 1 of the COVID-19 School Ordinance 2021/22 (C-SchVO 2021/22), [Federal Law Gazette II No. 374/2021](#), (Corona Test Pass) is equivalent to a 2G proof with regard to persons who are subject to general compulsory schooling in accordance with the Compulsory Education Act [1985, Federal Law Gazette I No. 76/1985](#). This also applies on Friday, Saturday and Sunday of this week in the week in which the test intervals in accordance with § 19 (1) C-SchVO 2021/22 are adhered to. In school-free periods, this applies mutatis mutandis to persons who are subject to general compulsory schooling, provided that similar tests and test intervals can be proven in § 19 (1) C-SchVO 2021/22.

(4) Evidence pursuant to paragraph 2 must be submitted in Latin script in German or English or in the form of a certificate in accordance with § 4b (1) of the Epidemic Act 1950 (EpiG), [Federal Law Gazette No. 186/1950](#).

5. Where this Regulation provides for proof in accordance with paragraph 2, it shall be kept available for the duration of the stay. The owner of a permanent establishment, the person responsible for a specific place or the person responsible for a meeting is authorised to identify the following personal data of the data subject:

1. Name
2. Date of birth
3. validity or period of validity of the proof and
4. Barcode or QR code.

In addition, he is entitled to determine data for the purpose of establishing identity. With the exception of the collection of contact data in accordance with § 16, duplication or storage of the evidence and the personal data contained in the evidence is just as inadmissible as the processing of the data collected in the context of identity verification. This also applies mutatis mutandis to certificates pursuant to § 4b (1) EpiG.

6. Where a COVID-19 prevention approach is prescribed in this Regulation, a state of the art approach to minimise the risk of infection with SARS-CoV-2 shall be developed and implemented. The COVID-19 prevention concept must include in particular:

1. specific hygiene measures,
2. regulations on behaviour in the event of the occurrence of SARS-CoV-2 infection,
3. regulations concerning the use of sanitary facilities,
4. where applicable, regulations concerning the consumption of food and beverages,
5. Regulations for the control of the flow of persons and regulation of the number of persons,
6. regulations concerning equalisation measures, such as barriers and ground markings,
7. Requirements for training employees on hygiene measures and supervising the performance of a SARS-CoV-2 antigen test for self-testing.

(7) Only suitable persons may be appointed as COVID-19 officers. A prerequisite for such suitability is at least knowledge of the COVID-19 prevention concept as well as the local conditions and organizational processes. The COVID-19 officer is the contact person for the authorities and has to supervise the implementation of the COVID-19 prevention concept.

(8) When entering premises, places of work, old people's and nursing homes, inpatient residential facilities for the disabled, certain places and public places, as well as at meetings and when using means of transport, care must be taken to ensure that a distance of at least two metres is or can be maintained between persons who do not live in the same household.

Initial control

§ 3. (1) Leaving one's own private living area and staying outside one's own private living area is only permitted for the following purposes:

1. averting an immediate danger to life, limb and property,
2. Care of and assistance for persons in need of support as well as exercise of family rights and fulfilment of family obligations,
3. Covering the necessary basic needs of daily life, such as in particular
 - a) the contact with
 - aa) the life partner not living in the same household,
 - bb) individual closest relatives (parents, children and siblings),
 - cc) individual important caregivers with whom physical or non-physical contact is usually maintained several times a week,
 - b) the supply of basic goods of daily life,
 - c) the use of health services, the use of vaccination against COVID-19 or the testing for SARS-CoV-2,
 - d) the coverage of a housing need,
 - e) the satisfaction of basic religious needs, such as visits to cemeteries and individual visits to places of religious practice, and
 - f) the care of animals,
4. professional and training purposes, where necessary,
5. Staying outdoors alone, with persons from the common household or persons according to Z 3 lit. a for physical and mental recreation,
6. the exercise of administrative or judicial channels which cannot be postponed, including participation in public meetings of the general representative bodies and in oral proceedings of the courts and administrative authorities in order to respect the principle of publicity;
7. to participate in elections provided for by law and to use instruments of direct democracy provided for by law,
8. for the purpose of permitted entry into customer areas of business premises in accordance with §§ 7, 9 and 10, for the purpose of entering certain places in accordance with §§ 11 and 13, old people's and nursing homes as well as inpatient residential facilities of disability assistance in accordance with § 12 as well as facilities in accordance with § 18 para. 1 no. 1 and 2 and para. 2 and

9. to participate in meetings in accordance with § 14 (1).

(2) The own private residential area also includes residential units in accommodation facilities as well as in old people's and nursing homes as well as inpatient residential facilities of the disabled assistance.

(3) Contacts within the meaning of para. 1 no. 3 lit. a and para. 1 no. 5 may only take place if

1. on the one hand, persons from no more than one household are involved at the same time, and
2. on the other hand, only one person is involved.

Public Places

§ 4. When entering public places in enclosed spaces, a mask must be worn.

Means of mass transport

§ 5. A mask shall be worn in means of mass transport and the associated metro stations, platforms, stops, stations and airports plus their connecting structures.

Carpooling, occasional traffic, cable cars and rack railways

§ 6. 1. A mask shall be worn when motor vehicles are used jointly by persons who do not live in the same household. The use of coaches and excursion boats in occasional traffic is prohibited.

2. The following shall apply to the use of cable cars and rack railways:

1. The operator of cable cars and rack railways may only admit persons who do not use the cable car or rack railway for professional purposes or to cover necessary basic needs of daily life if they present 2G proof.
2. Persons must wear a mask in closed or coverable means of travel (gondolas, cabins, coverable armchairs) as well as in enclosed rooms of the associated stations.
3. The operator of cable cars and rack railways must appoint a COVID-19 representative and develop and implement a COVID-19 prevention concept.

Customer Areas

§ 7. (1) Entering and driving into the customer area of

1. permanent establishments of trade for the purpose of acquiring goods,
2. Service companies for the use of body-related services,
3. leisure facilities for the use of services of leisure facilities, or
4. Cultural institutions for the use of services of cultural institutions

is prohibited. Z 1 and 2 do not apply for the purpose of at least two-sided business-related transactions. No. 1 and No. 4 with regard to cultural institutions pursuant to para. 5 no. 7 do not apply to the collection of pre-ordered goods, whereby a mask must be worn.

(2) Customers may only enter customer areas of permanent establishments for the purpose of using services that are not close to the body if they have 2G proof.

(3) In particular, services of hairdressers and wig makers (stylists), beauticians (beauticians), in particular piercing and tattooing, as well as masseurs and podiatrists are considered to be body-related services according to para. 1 no. 2.

(4) Leisure facilities pursuant to para. 1 no. 3 are establishments and facilities that serve the entertainment, amusement or recreation, such as in particular

1. fairground establishments, leisure and amusement parks,
2. Baths and facilities in accordance with § 1 para. 1 no. 1 to 7 of the Bathing Hygiene Act (BHygG), [Federal Law Gazette No. 254/1976](#); with regard to baths pursuant to § 1 sec. 1 no. 6 BHygG (baths on surface waters), the prohibition according to § 1 para. 1 does not apply if bathing operation does not take place in these baths,

3. Dancing schools
4. betting shops, slot machines, gambling halls and casinos,
5. show mines,
6. institutions for the practice of prostitution,
7. Indoor playgrounds,
8. paintball facilities,
9. museum railways,
10. Animal parks, zoos and botanical gardens.

(5) Cultural institutions pursuant to para. 1 no. 4 are institutions that serve the cultural edification and participation in cultural life, such as in particular

1. Theatre
2. concert halls and arenas,
3. Cinemas
4. Variety teas,
5. Cabarets
6. Museums, cultural exhibition halls and art galleries,
7. Libraries, libraries and archives.

(6) The first sentence of paragraph 1 and paragraph 2 shall not apply to:

1. public pharmacies,
2. food retailers (including outlets of food producers) and farmers' direct marketers,
3. drugstores and drugstores,
4. Sale of medical devices and sanitary articles, medical aids and aids,
5. health and care services,
6. Services for people with disabilities provided by the Länder within the framework of the disability assistance, social assistance, participation or equal opportunities laws,
7. Services under the Unemployment Insurance Act 1977 (AIVG), [Federal Law Gazette No. 606/1977](#), and the Public Employment Service Act (AMSG), [Federal Law Gazette No. 313/1994](#),
8. veterinary services,
9. sale of animal feed,
10. Sale and maintenance of safety and emergency products, i.e. in particular fire extinguishers, protective equipment, lamps, fuels, fuses, salt spreaders, but not weapons and weapon accessories, unless their acquisition is absolutely necessary for professional purposes for legal reasons,
11. emergency services,
12. Agricultural trade, including animal auctions, as well as horticultural and national product trade in seeds, fodder and fertilizers,
13. petrol stations and charging stations as well as car washes,
14. Banks
15. Postal service providers, including their postal partners, insofar as these postal partners fall under the exceptions of § 7 (6) as well as postal offices within the meaning of § 3 no. 7 PMG, which are operated by a municipality or are located in municipalities in which the supply cannot be provided by any other postal office covered by § 7 (6), but exclusively for the provision of postal services and the activities permitted under § 7 (6), and telecommunications providers,
16. services related to the administration of justice,
17. public transport,
18. tobacco shops and newsstands,
19. hygiene and cleaning services,
20. waste disposal companies,
21. Car and bicycle workshops.

(7) Entering the customer area of permanent establishments is permitted under the following conditions and conditions:

1. Only goods that correspond to the typical range of goods of the trading establishments referred to in paragraph 6 may be offered.
2. Customers must wear a mask.
3. Entering the connecting structures, including corridors, elevators, staircases and other generally accessible areas, is permitted for customers exclusively for the purpose of passing through to the customer areas of the production facilities.
4. Services for education and training purposes may only be provided to one person or persons from the same household at a time. Other services may only be provided to as many persons as are necessary for the provision of the service. § 14 para. 1 no. 10 and para. 4 apply to services for absolutely necessary vocational education and training purposes.

(8) If, due to the nature of the service, the customer cannot wear a mask, this is only permitted if the risk of infection can be minimized by other appropriate protective measures.

(9) Paragraph 7 no. 2 and 3 shall apply mutatis mutandis to:

1. Administrative authorities and administrative courts in the case of party relations and
2. closed rooms of institutions for the practice of religion.

(10) For outdoor markets, paragraph 7 no. 1 to 3 applies mutatis mutandis.

Place of professional activity

§ 8. (1) When entering places of work, care must be taken to ensure that the professional activity should preferably take place outside the workplace, provided that this is possible and employers and employees reach agreement on the work carried out outside the workplace.

(2) Workers, owners and operators may only enter places of work where physical contact with other persons cannot be excluded if they have 3G proof. Contacts within the meaning of the first sentence shall not be considered to be a maximum of two physical contacts per day, which take place outdoors and do not last longer than 15 minutes at a time.

3. A mask shall be worn when entering places of work, unless physical contact with persons who do not live in the same household is excluded or the risk of infection can be minimised by other appropriate protective measures. Other appropriate protective measures are in particular technical protective measures such as the installation of partitions or plexiglass walls and, if technical protective measures would make the work impossible, organizational protective measures such as the formation of fixed teams.

(4) Paragraphs 2 and 3 shall also apply to entering external workplaces in accordance with § 2 (3) last sentence of the Employee Protection Act (ASchG), [Federal Law Gazette No. 450/1994](#), or § 2 (7) last sentence of the Federal Employee Protection Act (B-BSG), [Federal Law Gazette I No. 70/1999](#), with the exception of those in one's own private living area. Providers of mobile care and support services may only enter external workplaces if they present a 2G certificate and wear a mask when in contact with customers. If a 2G proof cannot be presented, a 2.5G proof may exceptionally be presented.

(5) Entering external workplaces for the purpose of providing services close to the body is prohibited. This does not apply to at least two-sided company-related transactions.

(6) The owner of a place of work with more than 51 employees shall appoint a COVID-19 representative and develop and implement a COVID-19 prevention concept.

(7) In addition to § 2 (6), the COVID-19 prevention concept pursuant to paragraph 6 shall contain requirements for the control of evidence and for ensuring compliance with requirements.

(8) With regard to the wearing of a mask and the submission of evidence of a low epidemiological risk, more stringent rules may be provided for in justified cases beyond this Regulation.

Hospitality

§ 9. (1) Entering and driving at permanent establishments of all types of establishments in the hospitality industry for the purpose of acquiring goods or using services of the hospitality

industry is prohibited.

2. Paragraph 1 shall not apply to hotels and restaurants operated within the following establishments:

1. hospitals and health resorts,
2. old people's homes and nursing homes as well as inpatient residential facilities for the disabled,
3. institutions for the care and accommodation of children and young people, including schools and kindergartens, and
4. Operated

if these are used exclusively by the persons cared for, accommodated or not staying there for mere visits or by employees.

(3) Paragraph 1 does not apply to accommodation establishments if food and drinks are administered or served exclusively to accommodation guests at the premises. The administration and consumption must take place as far as possible in the residential unit.

4. With regard to the exceptions provided for in paragraphs 2 and 3:

1. Customers must wear a mask.
2. The operator must ensure that the consumption of food and beverages does not take place in the immediate vicinity of the dispensary.
3. Food and drinks may only be consumed in the premises while sitting at administration stations.
4. Self-service is permitted provided that the risk of infection can be minimized by special hygienic precautions.

(6) Paragraph 1 does not apply to the collection of food and non-alcoholic beverages as well as alcoholic beverages filled in containers customary in the trade. The food and drinks may not be consumed within a radius of 50 meters around the premises. A mask must be worn at pick-up.

(7) Paragraph 1 does not apply to delivery services.

Tourist accommodation establishments

§ 10. (1) Entering accommodation establishments for the purpose of using the services of accommodation establishments is prohibited.

(2) Accommodation establishments are accommodation establishments which are under the direction or supervision of the accommodation provider or one of his representatives and which are intended for the temporary accommodation of guests, whether for payment or free of charge. Supervised campsites or caravan sites, unless they are permanent pitches, as well as refuges are considered accommodation establishments.

(3) Paragraph 1 does not apply to entering an accommodation establishment

1. by persons who are already in accommodation at the time of entry into force of this provision, for the duration of accommodation agreed in advance with the accommodation provider,
2. for the purpose of caring for and providing assistance to persons in need of support,
3. for professional reasons that cannot be postponed,
4. to satisfy an urgent need for housing,
5. by spa guests and accompanying persons in a health resort which is organised in accordance with § 42a of the Krankenanstalten- und Kuranstaltengesetz (KAKuG), [Federal Law Gazette No. 1/1957](#), as an accommodation establishment with an attached outpatient clinic in accordance with § 2 para. 1 no. 5 KAKuG,
6. by patients and accompanying persons in a rehabilitation facility organised as an accommodation establishment with an attached outpatient clinic in accordance with § 2 para. 1 no. 5 KAKuG,
7. by pupils for the purpose of school attendance and students for study purposes (boarding schools, apprentice dormitories and student dormitories)

for the duration strictly necessary. In the cases of Z 2 to 6, the operator may only admit guests if they present proof of 3G.

(4) The guest must wear a mask when entering generally accessible areas.

Sports facilities

§ 11. (1) Entering sports facilities in accordance with § 3 no. 11 of the Federal Sports Promotion Act 2017 (BSFG 2017), [Federal Law Gazette I No. 100/2017](#), for the purpose of practicing sports is prohibited.

(2) Excluded from the prohibition of paragraph 1 are access to sports facilities

1. by top athletes according to § 3 Z 6 BSFG 2017, also from the field of disabled sports, or athletes who carry out their sporting activity professionally and earn income from it or have already participated in international competitions according to § 3 Z 5 BSFG 2017, their supervisors and coaches as well as representatives of the media. § 8 applies mutatis mutandis to supervisors, trainers and representatives of the media.
2. outdoors by persons not covered by Z 1, whereby the exercise of sports may only take place with persons in accordance with § 3 para. 1 no. 2, no. 3 lit. a or with persons who live in the same household, or for the use of services in accordance with § 7 para. 7 no. 4. In this case, the sports facilities may only be entered for the purpose of practicing sport, the sport-specific practice of which does not involve physical contact. Closed premises of the sports facility may only be entered if this is necessary for the practice of sports in the open-air area. Staying in the sports facility is limited with the duration of the sports practice. § 4 shall apply mutatis mutandis.

(3) In the case of sports practice by top athletes in accordance with § 3 Z 6 BSFG 2017, the responsible doctor must develop a COVID-19 prevention concept and monitor its compliance on an ongoing basis. Top athletes as well as their supervisors and coaches must present a 3G certificate for training and competition operations if physical contact with other persons cannot be ruled out in accordance with § 8 (2). In the event of a positive test result, it is nevertheless permissible to enter sports facilities if:

1. at least 48 hours of absence of symptoms after expired infection, and
2. on the basis of the medical laboratory findings, in particular on the basis of a CT value >30, it can be assumed that there is no longer a risk of infection.

If a SARS-CoV-2 infection becomes known in an athlete, caregiver or coach, all athletes, caregivers and coaches must undergo molecular biological testing or an antigen test for the presence of SARS-CoV-2 infection before each competition in the following fourteen days after the infection becomes known.

(4) The COVID-19 prevention concept pursuant to paragraph 3 shall contain, in addition to Paragraph 2(6):

1. requirements for the training of athletes, supervisors and trainers in hygiene as well as for the obligation to keep records of the state of health,
2. Rules of conduct for athletes, coaches and coaches outside training and competition times,
3. Requirements for health checks before each training and competition,
4. Specifications for training and competition infrastructure,
5. Hygiene and cleaning plan for infrastructure and materials,
6. Requirements for the traceability of contacts in the context of trainings and competitions,
7. in the case of away competitions, requirements for the information of the responsible district administrative authority there, if a SARS-CoV-2 infection has occurred in an athlete, coach or coach in the epidemiologically relevant period thereafter.

Old people's and nursing homes as well as inpatient residential facilities for the disabled

§ 12. (1) Entering old people's homes and nursing homes as well as inpatient residential facilities of the disabled assistance is prohibited.

(2) Paragraph 1 shall not apply to:

1. Inhabitant
2. persons necessary for the care of the residents or for the operation of the facility,

including the staff of the auxiliary and administrative area,

3. Visits in the context of palliative and hospice care, pastoral care as well as for accompaniment in critical life events,
4. Visits with a maximum of two people per inhabitant per day,
5. in addition, a maximum of two persons per resident in need of support per day, if they perform regular support and care tasks,
6. in addition, a maximum of two persons per day to accompany underage residents of inpatient housing facilities of the disabled assistance.

(3) The operator of old people's and nursing homes as well as inpatient residential facilities of the disabled assistance may only admit visitors in accordance with para. 2 no. 4 if they have a 2G detection and additionally a proof of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which must not be more than 72 hours ago. For persons who regularly visit residents in accordance with para. 2 no. 3 and for persons who perform regular support and care tasks in accordance with para. 2 no. 5, paragraph 5 applies mutatis mutandis.

(4) When entering old people's homes and nursing homes as well as inpatient residential facilities of the disabled assistance, residents in generally accessible places that do not belong to the living area as well as visitors and accompanying persons must wear a mask.

(5) The entry of old people's and nursing homes as well as inpatient residential facilities of the disabled assistance by employees is only permitted under the following conditions:

1. Employees must wear a mask.
2. The operator may only admit employees if they present a 2G proof. If this cannot be demonstrated, evidence from an authorised body of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which must not have been more than 72 hours ago, must be provided. In the event of a positive test result, admission may nevertheless take place if:
 - a) at least 48 hours of absence of symptoms after expired infection, and
 - b) on the basis of the medical laboratory findings, in particular on the basis of a CT value >30, it can be assumed that there is no longer a risk of infection.

This also applies mutatis mutandis to the operator.

(6) Paragraph 5 shall also apply mutatis mutandis to entry by

1. external service providers,
2. Residents' representatives according to the Heimaufenthaltsgesetz (HeimAufG), [Federal Law Gazette I No. 11/2004](#),
3. Patient, disability and nursing lawyers,
4. Bodies of nursing supervision for the performance of the tasks provided for by state law and
5. Members of established commissions for the protection and promotion of human rights (Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Federal Law Gazette III No. 190/2012](#), and Convention on the Rights of Persons with Disabilities, [Federal Law Gazette III No. 155/2008](#)).

(7) The operator of old people's and nursing homes as well as inpatient residential facilities of the disabled assistance may only admit residents for new admission if they present a 2.5G proof or appropriate precautions are taken in accordance with para. 9 no. 6 and 7.

8. The operator of old people's homes and nursing homes shall offer residents an antigen test for SARS-CoV-2 or a molecular biological test for SARS-CoV-2 or molecular biological test for SARS-CoV-2 at least every three days, provided that they have left the home within that period.

(9) The operator shall appoint a COVID-19 representative and develop and implement a COVID-19 prevention concept. In addition to § 2 (6), the COVID-19 prevention concept must include:

1. Requirements for the training of employees with regard to professional and private risk behaviour, mandatory documentation of the training,
2. Requirements for access by external service providers,
3. specific regulations for residents who cannot be expected to comply with the

requirements in accordance with § 18 (8),

4. Regulations for the management of visits, in particular requirements for the duration of visits and places of visit, mandatory advance notification and health checks before each entry into the facility, whereby deviating, specific and situation-adapted requirements can be made for relatives and persons who perform regular support and care tasks,
5. Requirements for the handling of screening programs according to § 5a EpiG,
6. regulations on the admission and readmission of residents who have tested positive for SARS-CoV-2,
7. Regulations on organizational, spatial and personnel precautions for the implementation of quarantine measures in accordance with § 7 EpiG for residents,
8. Time and organizational requirements regarding the testing of residents in accordance with paragraph 7, in particular determination of fixed dates at regular intervals.

(10) Paragraphs 3 to 6 shall apply to day care facilities in the care of the elderly and in the area of the disabled.

(11) The measures provided for in old people's homes, nursing homes and inpatient residential facilities for the disabled must not be disproportionate or lead to unreasonable cases of hardship.

Hospitals and health resorts and other places where health services are provided

§ 13. (1) Entering hospitals and health resorts is prohibited.

(2) Paragraph 1 shall not apply to:

1. Patients
2. persons necessary for the care of patients or for the operation of the facility, including the staff of the auxiliary and administrative area,
3. one visitor per patient per week, if the patient is admitted to the hospital or spa for more than one week,
4. in addition, a maximum of two persons per day to accompany or visit underage patients,
5. in addition, a maximum of two persons per day to accompany patients in need of support,
6. a maximum of one person to accompany him during examinations during pregnancy, as well as before and during delivery and for visits after delivery,
7. Visits as part of palliative and hospice care, pastoral care and support during critical life events.

(3) In accordance with paragraph 2 no. 3 and 4, the operator may only admit visitors if they have a 2G detection and additionally proof of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which must not be more than 72 hours ago.

4. Patients, visitors and accompanying persons may only enter other places where healthcare services are provided if they wear a mask.

(5) The operator may only admit employees in accordance with § 12 (5). § 12 (5) also applies mutatis mutandis to the operator and persons in accordance with § 12 (6) no. 1 to 3 and 5 as well as to patient lawyers in accordance with the Accommodation Act (UbG), [Federal Law Gazette No. 155/1990](#). Furthermore, the operator or service provider must minimize the risk of infection by taking into account the specific circumstances by means of appropriate protective measures, insofar as this is organizationally and technically possible and reasonable.

(6) The operator of a hospital or health resort must appoint a COVID-19 representative and develop and implement a COVID-19 prevention concept. In addition to § 2 (6), the COVID-19 prevention concept must include:

1. Requirements for the training of employees with regard to professional and private risk behaviour, mandatory documentation of the training,
2. Requirements for access by external service providers,
3. regulations for the management of visits, in particular requirements for the maximum number, frequency and duration of visits as well as places of visit and health checks before each entry into the facility, whereby specific situation-adapted requirements must be made for relatives and persons who perform regular support and care tasks,

4. Requirements for participation in screening programs according to § 5a EpiG.

Meetings

§ 14. (1) Leaving one's own private living area and staying outside one's own private living area for the purpose of attending meetings is only permitted for the following meetings:

1. professional meetings that cannot be postponed if they are necessary for the maintenance of professional activities and cannot be held in digital form,
2. Assemblies according to the Assembly Act 1953, [Federal Law Gazette No. 98/1953](#),
3. Meetings in elite sport according to § 15,
4. meetings of organs of political parties that cannot be postponed, provided that it is not possible to hold them in digital form,
5. meetings of statutory bodies of legal persons that cannot be postponed, provided that it is not possible to hold them in digital form,
6. meetings that cannot be postponed in accordance with the Labour Constitution Act, [Federal Law Gazette No. 22/1974](#), if it is not possible to hold them in digital form,
7. Funerals
8. driving on theatres, concert halls and arenas, cinemas, variety shows and cabarets, if this is done with multi-lane motor vehicles,
9. Rehearsals and artistic performances in a fixed composition without an audience, which are carried out for professional purposes,
10. Meetings for absolutely necessary vocational education and training purposes, for the fulfilment of necessary integration measures in accordance with the Integration Act, [Federal Law Gazette I No. 68/2017](#), and for final vocational examinations, if it is not possible to hold them in digital form,
11. Meetings of medical and psychosocial support groups.

(2) At meetings pursuant to para. 1 no. 1, 2, 4 to 7, 10 and 11, a mask must be worn, unless all persons present a 2G proof. § 6 (1) applies to meetings pursuant to para. 1 no. 8.

(3) For meetings for rehearsals for professional purposes and for professional artistic performance in a fixed composition, § 11 (3) shall apply mutatis mutandis. In addition, the person responsible for the meeting must appoint a COVID-19 representative and develop and implement a COVID-19 prevention concept.

(4) For meetings that are carried out in accordance with the AIVG by or on behalf of the Public Employment Service as measures of retraining and retraining as well as for reintegration into the labour market, as well as for other meetings for absolutely necessary vocational education and training purposes, for the fulfilment of necessary integration measures in accordance with the Integration Act, [Federal Law Gazette I No. 68/2017](#), and for final vocational examinations, § 8 para. 2 and 3 applies mutatis mutandis.

(5) If the wearing of a mask cannot be observed at meetings in accordance with para. 1 no. 10 due to the nature of the training or further education or the integration measure of persons, the risk of infection must be minimized by other appropriate protective measures.

Meetings in top-class sport

§ 15. (1) Meetings at which only top athletes practice sports in accordance with § 3 Z 6 BSFG 2017 are permitted in closed rooms with up to 100 and in the open-air area with up to 200 athletes plus the coaches, supervisors and other persons necessary for the holding of the meeting. The person responsible for the meeting shall appoint a COVID-19 representative for these persons, as well as for trainers, caregivers and other persons necessary for the implementation of the meeting, and to develop and implement a COVID-19 prevention concept. § 11 (3) and (4) applies to team sports or to sports whose sport-specific practice involves physical contact. For individual sports, the COVID-19 prevention concept must contain, in addition to § 2 (6), in particular:

1. requirements for the training of athletes, supervisors and trainers in hygiene as well as for the obligation to keep records of the state of health,
2. Rules of conduct for athletes, coaches and coaches outside training and competition

times,

3. Requirements for health checks before each training and competition,
4. Regulations for controlling the flows of participating athletes, coaches and coaches,
5. Hygiene and cleaning plan for infrastructure and materials,
6. Specifications for the traceability of contacts in the context of trainings and competitions.

(2) Medical care and COVID-19 testing of athletes, caregivers and coaches must help minimize the risk of infection. § 8 also applies to supervisors, coaches and other persons who are necessary to carry out the meeting, and § 11 mutatis mutandis to the athletes.

Collection of contact data

§ 16. (1) The operator of a permanent establishment in accordance with §§ 9 and 10 and the person responsible for a meeting in accordance with §§ 14 and 15 is obliged to inform persons who are likely to stay at the place concerned for more than 15 minutes for the purpose of contact tracing.

1. first and last names as well as
2. the telephone number and, if available, the e-mail address

to collect. In the case of visitor groups consisting exclusively of persons living in the same household, the disclosure of the data of only one adult member of this visitor group is sufficient.

(2) The obligated party under paragraph 1 must provide the aforementioned data with the date and time of entry into the respective permanent establishment or the specified place and, if available, with a table number or area of the specific stay.

(3) The obligated party under paragraph 1 must provide the district administrative authority with the data upon request in accordance with § 5 (3) EpiG.

(4) The obligated party pursuant to paragraph 1 may process the data exclusively for the purpose of contact person tracking and transmit it to the district administrative authority to the extent of its request; processing of the data for other purposes is inadmissible.

(5) The obligated party under paragraph 1 must take appropriate data security measures in the context of the processing and transmission of this data and, in particular, ensure that the data cannot be viewed by third parties.

(6) The obligated party under paragraph 1 shall keep the data for a period of 28 days from the date of their collection and, in the case of meetings, from the date of the meeting and thereafter delete or destroy them immediately.

(7) If contact data cannot be collected in the form of paragraph 1 due to legitimate confidentiality interests, appropriate alternative measures must be taken.

(8) Paragraph 1 shall not apply to:

1. permanent establishments where there is a stay predominantly outdoors, with the exception of permanent establishments in accordance with § 9 and meetings in accordance with § 14 (1);
2. Meetings pursuant to § 14 (1) no. 2 and no. 5;
3. Meetings in the private living area.

Enter

§ 17. Entry within the meaning of this ordinance also includes staying (§ 1 para. 2 COVID-19-MG).

Exceptions

§ 18. 1. This Regulation shall not apply:

1. for – with the exception of § 16, § 18 abs. 2 to 4 and §§ 19 to 22 – elementary educational institutions, childminders or fathers, schools in accordance with the School Organization Act, [Federal Law Gazette No. 242/1962](#), Art. V No. 2 of the 5th SchOG Amendment, [Federal Law Gazette No. 323/1975](#), and the Private School Act, [Federal Law Gazette No. 244/1962](#), agricultural and forestry schools, the regular use of sports

facilities in the context of regular lessons and facilities for extracurricular childcare, Federal Law Gazette No. 244/1962, agricultural and forestry schools, the regular use of sports facilities in the context of regular lessons and facilities for extracurricular childcare,

2. for universities in accordance with the Universities Act 2002, [Federal Law Gazette I No. 120/2002](#), private universities in accordance with the Private Universities Act, [Federal Law Gazette I No. 77/2020](#), universities of applied sciences in accordance with the Fachhochschulgesetz, [Federal Law Gazette No. 340/1993](#), and universities of teacher education in accordance with the Higher Education Act 2005, [Federal Law Gazette I No. 30/2006](#), including the libraries of these institutions,
3. for activities within the scope of the legislative bodies, unless otherwise stipulated in the area of house rules,
4. for activities within the sphere of activity of the general representative bodies, unless they are already covered by Z 3 and there are no other regulations in the area of house rules,
5. for activities within the sphere of jurisdiction with the exception of party relations in administrative courts, unless otherwise stipulated in the area of house rules,
6. for – with the exception of § 7 sec. 9 no. 1, § 8, § 18 sec. 3 to 6 and §§ 19 and 20 – other activities within the sphere of activity of the enforcement bodies, unless otherwise stipulated in the area of house rules,
7. for meetings for the practice of religion. *(Note 1)*

(_____)

Note 1: By judgment of 30 June 2022, V 312/2021-15, the Verfassungsgerichtshof (Constitutional Court) served on the Federal Minister for Social Affairs, Health, Care and Consumer Protection on 2 August 2022, rightly held:

Para. 1 no. 7 of the Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection, which takes special protective measures to prevent an emergency situation due to COVID-19 (5th COVID-19 Emergency Measures Ordinance – 5th COVID-19 Emergency MV), [Federal Law Gazette II No. 475/2021](#), was unlawful (cf. [Federal Law Gazette II No. 306/2022](#))).

(2) For elementary educational institutions, institutions for extracurricular childcare and childminders:

1. § 5 (3) and (4) C-SchVO 2021/22, Federal Law Gazette II No. 374/2021, as amended by Regulation [Federal Law Gazette II No. 434/2021](#), applies mutatis mutandis to pedagogical and other care staff, administrative staff and childminders. The obligation to provide proof of a negative result of a molecular biological test for SARS-CoV-2 carried out by an authorised body at least once a week of presence, the acceptance of which must not have been more than 72 hours ago (§ 4 Z 1 lit. d C-SchVO 2021/22), does not apply if corresponding tests are not available in sufficient numbers.
 2. For other persons with the exception of children in care, § 5 (1) C-SchVO 2021/22 applies mutatis mutandis with the proviso that proof of a low epidemiological risk does not have to be presented if the facility is only entered at short notice, in particular for the purpose of picking up children. In addition, the obligation to wear a close-fitting mechanical protective device covering the mouth and nose area does not apply to children up to the age of six.
3. Conditions and obligations under this Regulation shall not apply:
1. to avert immediate danger to life, limb and property, or
 2. to supervise minor children.
- (4) The obligation to wear a mask does not apply
1. during the consumption of food and beverages as well as during the stay at the administration site in business premises in accordance with § 9;
 2. for deaf and severely hearing impaired persons and their communication partners during communication;
 3. if this is necessary for therapeutic-pedagogical reasons;
 4. for persons providing or using speech therapy health services, for the duration of the

provision or use of the speech therapy service;

5. if this is necessary for the provision of a service close to the body or if this makes the provision of a service impossible;
6. during the practice of sports;
7. in damp rooms, such as showers and swimming pools;
8. for persons who cannot be expected to do so for health or disability-specific reasons. In this case, another close-fitting mechanical protective device covering the mouth and nose area may also be worn. If this cannot be expected of the persons for health reasons, another mechanical protective device that is not tightly fitting but completely covers the mouth and nose area may also be worn. A complete cover is present if the non-tight-fitting protective device reaches up to the ears and well under the chin. If this cannot be expected of the persons for health reasons, the obligation to wear a mechanical protective device covering the mouth and nose area does not apply.

5. The obligation to wear a mask or a mechanical protective device covering the mouth and nose and fitting closely shall not apply to children up to the age of six; Children from the age of six to 14 may also wear a close-fitting mechanical protective device covering the mouth and nose area.

(6) The obligation to wear a mask does not apply to pregnant women, who instead have to wear another mechanical protective device covering the mouth and nose area and closely fitting.

(7) The obligation to provide proof in accordance with § 2 (2) does not apply to children up to the age of twelve.

(8) The obligation to submit a negative test result does not apply to persons who cannot be expected to undergo testing for health or disability-specific reasons, in particular due to dementia. If these persons have other proof in accordance with § 2 (2), their obligation to submit remains unaffected.

(9) If this Ordinance obliges persons to provide proof in accordance with Paragraph 2(2), such evidence shall only be kept available for the duration of the stay at permanent establishments, non-public sports facilities or leisure facilities without staff.

(10) The obligation to provide 2G evidence and the restrictions for persons who do not have 2G proof do not apply to:

1. persons who have no proof in accordance with § 2 para. 2 no. 2 lit. a or b and cannot be vaccinated without danger to life or health, and
2. Expectant mother.

In such cases, evidence from an authorised body of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which must not have been more than 72 hours ago, shall be provided.

(11) The obligation to provide 2G evidence and the restrictions on persons who do not have 2G evidence do not apply to persons who have received evidence of initial vaccination with a centrally authorised vaccine against COVID-19 and evidence from an authorised body of a negative result of a molecular biological test for SARS-CoV-2, the acceptance of which shall not have been more than 72 hours ago, show.

(12) If it can be credibly demonstrated that proof of a negative result of a molecular biological test for SARS-CoV-2 prescribed by §§ 8, 12 and 13 cannot be provided by an authorised body for reasons of lack of availability or an untimely evaluation, the operator may exceptionally admit persons even if they submit a 3G proof. This also applies mutatis mutandis to the operator.

Credibility

§ 19. (1) The fulfilment of the requirements in accordance with §§ 3, 14 and 18 is to be determined upon request to

1. organs of the public security service,
2. Authorities and administrative courts in the case of party relations and official acts, and
3. holders of a permanent establishment or place of work as well as operators of a means of transport to fulfil their duty under § 8 (4) COVID-19-MG,

4. the person responsible for a meeting
to make it credible.

(2) The reason for exception pursuant to Paragraph 18(10) and the exceptional grounds according to which health reasons

1. the wearing of a mask or a close-fitting mechanical protective device covering the mouth and nose area or a mechanical protective device covering the mouth and nose area cannot be reasonably expected,

2. the performance of a test provided for in Paragraph 2(2) cannot be reasonably expected, as well as the existence of a pregnancy must be proven by a certificate issued by a doctor entitled to practise his profession independently in Austria or the EEA.

(3) If the existence of an exceptional reason has been credibly demonstrated to the persons referred to in para. 1 no. 3, the owner of the permanent establishment or place of work as well as the operator of a means of transport has fulfilled his obligation under § 8 para. 4 of the COVID-19-MG.

Data processing

§ 20. Where this Regulation provides for evidence of an epidemiologically low risk, the holder of a permanent establishment or the person responsible for a specific place shall be authorised to identify the following personal data of the data subject:

1. Name
2. Date of birth
3. the period of validity of the proof, and
4. Barcode or QR code.

In addition, he is entitled to determine data for the purpose of establishing identity. The storage of this personal data is not permitted.

Principles of participation according to § 10 COVID-19-MG and § 28a EpiG

§ 21. In the context of the cooperation pursuant to § 10 COVID-19-MG and § 28a EpiG, the organs of the public security service shall refrain from taking measures against persons who violate an obligation to behave or refrain from doing so under this Ordinance if the legal condition can be established by more lenient means or if these measures would not be proportionate. The decision whether to refrain from taking a measure pursuant to § 10 COVID-19-MG and § 28a EpiG must be made on the basis of the epidemiological hazard situation in connection with COVID-19, in particular on the basis of information provided by the locally competent health authorities.

Employee protection, federal employee protection and maternity protection

§ 22. This Ordinance does not affect the ASchG, the B-BSG and the Maternity Protection Act 1979, [Federal Law Gazette No. 221/1979](#).

Coming into force

§ 23. 1. This Regulation shall enter into force on 22 November 2021 and shall expire on 1 December 2021.

2. Upon the entry into force of this Regulation, the 5th COVID-19 Protective Measures Ordinance (5th COVID-19 SchuMaV) shall cease to apply.

3. Medical certificates issued before the entry into force of this Regulation concerning an infection which has occurred in the last six months and which have currently expired shall remain valid for the respective period.