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Measures and Restrictions Necessary for Preventing Spread of COVID-19

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16.12.2021	RT III, 17.12.2021, 2	20.12.2021, in part 03.01.2022
23.12.2021	RT III, 28.12.2021, 2	01.02.2022
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20.01.2022	RT III, 21.01.2022, 3	24.01.2022
27.01.2022	RT III, 28.01.2022, 1	01.02.2022
04.02.2022	RT III, 04.02.2022, 2	07.02.2022, in part 14.02.2022

On the basis of subsection 3 of § 27 of the Communicable Diseases Prevention and Control Act and considering the provisions of clauses 1 and 2 of subsection 1 of § 27 thereof and on the basis of clauses 1 through 3 and 5 of subsection 2 of § 28 and subsections 3, 5 and 6 of § 28 of the Communicable Diseases Prevention and Control Act and considering subsection 8 of the same section and subsection 1 of § 45² thereof and on the basis of clause 1 of subsection 1 of § 17 of the State Borders Act and subsections 2 and 3 of § 3 of Government of the Republic Regulation No 54 'Conditions of and Procedure for Involvement of Law Enforcement Agency in Performance of Functions of Health Board' of 27 May 2021:

Part I Measures and Restrictions Pertaining to Crossing of State Border

1. A person who has crossed the state border for the purpose of entering Estonia must remain in their place of residence or permanent place of stay for 7 calendar days after arrival in Estonia.

2. Notwithstanding the country of departure, the requirement set out in clause 1 to remain in one's place of residence or permanent place of stay does not apply to a person:

- 1) who is up to 12 years of age;
- 2) who has recovered from COVID-19 and no more than 180 days have passed since the SARS-CoV-2 RT-PCR test confirming the diagnosis was carried out by a healthcare provider or a SARS-CoV-2 antigen RTD test was carried out (hereinafter collectively *SARS-CoV-2 test*) or since the date of confirmation of the diagnosis;
- 3) who has completed the vaccination series for COVID-19, has developed full protection after the last dose of vaccine and no more than 270 days have passed since the last dose of vaccine;
- 4) who has completed the vaccination series for COVID-19, has developed full protection and after the completion of the series has received an additional dose of vaccine and no more than one year has passed since the additional dose of vaccine;

- 5) who has been given one dose of vaccine after recovering from COVID-19 and has developed full protection after the dose of vaccine and no more than one year has passed since the last dose of vaccine, or, after the first dose of vaccine, has contracted COVID-19 and has recovered from COVID-19 and no more than 270 days have passed since the SARS-CoV-2 test confirming the diagnosis was carried out since the date of confirmation of the diagnosis (hereinafter *person considered equal to a vaccinated person*). If a person contracts COVID-19 within two weeks after the first dose of vaccine, the person will be subject to the provisions of sub-clause 2) applicable to recovered persons;
- 6) who is a person directly involved in an activity taking place on the basis of a special permission granted according to and on the conditions provided for in clause 12;
- 7) whose vaccination and testing are not possible by a decision of a physician, considering the person's state of health;
- 8) who is an employee of a diplomatic mission or a consular post of a foreign country or the Republic of Estonia or their family member or a holder of an Estonian diplomatic passport;
- 9) who arrives in the Republic of Estonia in the framework of international military cooperation;
- 10) who is a member of a foreign delegation arriving in the Republic of Estonia for the performance of duties on the invitation of a state or local authority;
- 11) who is directly involved in transporting goods and raw products, including loading of goods or raw products, and who arrives in Estonia for the performance of duties;
- 12) who is directly involved in international carriage of goods and passengers, including a crew member and a ship's crew member servicing an international means of transport and a person performing repairs or warranty or maintenance work on such a means of transport, and who arrives in Estonia for the performance of duties;
- 13) whose purpose for arriving in the Republic of Estonia is directly related to the provision of passenger transport services and who is servicing travel groups;
- 14) who arrives in Estonia for the purpose of providing health services or services indispensable for responding to a health emergency related to COVID-19;
- 15) who is a patient travelling for good medical reasons;
- 16) whose purpose for arriving in the Republic of Estonia is related to ensuring the continuity of a vital service;
- 17) who is using the territory of the Republic of Estonia for immediate transit;
- 18) whose place of residence is in the administrative territory of the local authorities of Valga in the Republic of Estonia or Valka in the Republic of Latvia and who crosses the state border between the Republic of Estonia and the Republic of Latvia provided they will not go beyond the borders of the administrative territory of the local authorities of Valga and Valka, respectively;
- 19) who arrives in Estonia from a country on the European Union green list where the cumulative number of positive tests for the coronavirus SARS-CoV-2 causing COVID-19 per 100,000 population for the past 14 days is equal to or less than 75, and who is a national, resident or long-stay visa holder of a Member State of the European Union, a Schengen Member State, an EEA country, the Swiss Confederation, the Principality of Andorra, the Principality of Monaco, the Republic of San Marino, the Vatican City State (Holy See) or the United Kingdom of Great Britain and Northern Ireland or their family member or who is a resident of a third country on the European Union green list according to the laws of that country. Information on the infection rates by country is published on the website kriis.ee.

3. The requirement set out in clause 1 does not apply to an asymptomatic person who does not meet the conditions provided for in clause 2:

- 1) if the person crosses the state border between the Republic of Estonia and the Republic of Latvia at least twice a week for the purpose of urgent cross-border work or studies, provided the person has taken a SARS-CoV-2 test intended for self-testing within the past three days and the results of that test have come back negative or a physician has declared the person not to be contagious;
- 2) if the person is 12 years of age or older and arrives from a country where the weighted rate referred to in point 3(g) of the Annex to the Council Recommendation on a coordinated approach to facilitate safe free movement during the COVID-19 pandemic and replacing Recommendation (EU) 2020/1475 is less than 300 and if up to 72 hours before arrival in Estonia a health care provider tested the person with an RT-PCR test for the coronavirus SARS-CoV-2 causing COVID-19 or if up to 24 hours before arrival in Estonia a health care provider tested the person with a SARS-CoV-2 antigen RTD test which came back negative. Information on the infection rates by country is published on the website kriis.ee;
- 3) who is a 12 to 18-year-old person arriving in the Republic of Estonia from a third country on the European Union green list if the cumulative number of positive tests for the coronavirus SARS-CoV-2 causing COVID-19 per 100,000 population in said country for the past 14 days is greater than 75, and who arrives in the Republic of Estonia together with their legal representative or a person authorised to accompany them who is not subject to the 7-calendar-day requirement to remain in their place of residence or permanent place of stay or to the requirements for testing for the coronavirus SARS-CoV-2 causing COVID-19, as set out in this Order, on the condition that before arrival in Estonia a health care provider tested the person with a SARS-CoV-2 test which came back negative or a health care provider tested the person with said test promptly after arrival in Estonia and said test came back negative. Until the test has come back negative the person is required to remain in their place of residence or permanent place of stay. If according to this sub-clause a health care provider tested a person with a SARS-CoV-2 antigen RTD test and it came back positive but the person was promptly re-tested with a SARS-CoV-2 RT-PCR test which came back negative, the result of the SARS-CoV-2 RT-PCR test will be the one that counts. The provisions of this sub-clause do not apply to groups of minors travelling together (for instance, sports and tourist groups). Information on the infection rates by country is published on the website kriis.ee;
- 4) who is a 12 to 18-year-old person arriving in the Republic of Estonia from a third country not on the European Union green list and who arrives in Estonia together with their legal representative or a person authorised to accompany them who is not subject to the 7-calendar-day requirement to remain in their place of residence or permanent place of stay or to the requirements for testing for the coronavirus SARS-CoV-2 causing COVID-19,

as set out in this Order, on the condition that a health care provider tested the person with a SARS-CoV-2 test promptly after arrival in Estonia and the test came back negative. Until the test has come back negative the person is required to remain in their place of residence or permanent place of stay. If according to this sub-clause a health care provider tested a person with a SARS-CoV-2 antigen RTD test and it came back positive but the person was promptly re-tested with a SARS-CoV-2 RT-PCR test which came back negative, the result of the SARS-CoV-2 RT-PCR test will be the one that counts. The provisions of this sub-clause do not apply to groups of minors travelling together (for instance, sports and tourist groups);

5) if the person is up to and including 18 years of age or attains the age of 19 years during the academic year 2021/2022 and takes part in schooling and education activities carried out in a general education school, a vocational educational institution or a hobby school or in activities or hobby activities carried out in a youth work agency.

4. Until the SARS-CoV-2 test provided for in clause 3 has come back negative the person is required to remain in their place of residence or permanent place of stay. If according to clause 3 a health care provider tested a person with a SARS-CoV-2 antigen RTD test and it came back positive but the person was promptly re-tested with a SARS-CoV-2 RT-PCR test which came back negative, the result of the SARS-CoV-2 RT-PCR test will be the one that counts.

5. The time when the full protection referred to in sub-clauses 3) and 4) of clause 2 is developed is, according to the manufacturers, 7 calendar days after the second dose of vaccine for Pfizer/BioNTech Vaccine Comirnaty, 14 calendar days after the second dose of vaccine for AstraZeneca Vaccine Vaxzevria and Moderna COVID-19 Vaccine, and 14 calendar days after one dose of vaccine for Janssen COVID-19 Vaccine. For other COVID-19 vaccines not mentioned in this clause, the specific manufacturer's instructions for full protection must be followed. Full protection for recovered persons vaccinated with one dose is deemed to have been developed at the times stated in this clause.

6. A person subject to the prohibition on leaving their place of residence or permanent place of stay as referred to in clause 1 may leave their place of residence or permanent place of stay provided the person takes measures imposed by the Government of the Republic or the Health Board and all other possible measures for preventing the spread of the communicable disease and the following circumstances occur:

1) the person is given an order by a health care professional or a police officer to leave their place of residence or permanent place of stay;

2) the person leaves their place of residence or permanent place of stay because a health care professional has referred them to receive health services or in the event of an emergency that puts the person's life or health at risk;

3) the person performs urgent and inevitably necessary duties by a decision of their employer and up to 72 hours before arrival in the country a health care provider tested the person with a SARS-CoV-2 RT-PCR test or up to 24 hours before arrival in the country with a SARS-CoV-2 antigen RTD test or after arrival in the country with at least one SARS-CoV-2 test, the results of which came back negative, or a physician has declared the person not to be contagious. Until the test has come back negative the person is required to remain in their place of residence or permanent place of stay;

4) the person arrives from a third country for which information has not been released on the European Union green list published on the website kriis.ee and the person performs urgent and inevitably necessary duties by a decision of their employer and after arrival in the country a health care provider tested the person with a SARS-CoV-2 test and the results of that test came back negative or a physician has declared the person not to be contagious. Until the test has come back negative the person is required to remain in their place of residence or permanent place of stay. A person who performs urgent and inevitably necessary duties is also deemed to be an athlete, a coach or a team member who has an employment relationship with a club playing in Estonian championship league or who is involved in an athlete's everyday training activities at the Estonian national team level or who participates in an international high level competition as an athlete or an athlete's team member or who is directly involved in carrying out aforesaid sports competition;

5) the person attends an urgent family occasion and up to 72 hours before arrival in the country a health care provider tested the person with a SARS-CoV-2 RT-PCR test or up to 24 hours before arrival in the country with a SARS-CoV-2 antigen RTD test or after arrival in the country with at least one SARS-CoV-2 test, the results of which came back negative, or a physician has declared the person not to be contagious. This sub-clause applies to a person arriving from a third country referred to in sub-clause 4) of this clause only if a health care provider tests the person with a SARS-CoV-2 test promptly after arrival in Estonia and the result of that test is negative. Until the test has come back negative the person is required to remain in their place of residence or permanent place of stay;

6) the person is getting the everyday essentials near their place of residence or place of stay because it is otherwise impossible;

7) the person is outdoors and completely avoids contact with other persons;

8) for the performance of urgent duties, acquiring an education or due to a family occasion, the person returns to the country from where the person arrived in Estonia provided up to 72 hours before leaving Estonia a health care provider tested the person with a SARS-CoV-2 RT-PCR test or up to 24 hours before leaving Estonia with a SARS-CoV-2 antigen RTD test, the results of which came back negative, or a physician has declared the person not to be contagious.

[RT III, 04.02.2022, 2 – entry into force 07.02.2022]

Part II National Measures and Restrictions

7. In public indoor spaces, persons may be and move around if the person responsible for activities ensures physical distancing. This restriction does not apply to families and in cases when said requirements cannot be reasonably ensured. For the purposes of this Order, public indoor space means a space that has been given to the disposal of unspecified people or that is at the disposal of unspecified people or in which unspecified people are allowed to be; among other things, public transport vehicles are also public indoor space.
[RT III, 21.10.2021, 2 – entry into force 25.10.2021]

8. In public indoor spaces people are required to wear a protective mask. Person responsible for activities is required to ensure compliance with the requirement to wear a protective mask in public indoor spaces.
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]

8¹. The provisions of clause 8 do not apply in the event:

- 1) the person is under 12 years of age;
- 2) wearing a protective mask is not possible for health reasons and the person produces a certificate to that effect, issued by a health care provider;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 3) compliance with the conditions of sub-clause 5) of clause 14 is ensured;
[RT III, 28.10.2021, 2 – entry into force 01.11.2021]
- 4) wearing a mask is not possible due to the nature of the work or activity at hand.
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]

8². In the event provided for in clause 10, the person responsible for activities in public indoor spaces is required to ensure that no person is at the venue from 23:00 to 06:00. This restriction does not apply in the cases provided for in sub-clauses 5) and 6) of clause 14.
[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

8³. [Repealed – RT III, 17.12.2021, 2 – entry into force 03.01.2022]

9. The availability of disinfectants and compliance with the disinfection requirements according to instructions from the Health Board must be ensured in public indoor spaces.

10. For the purpose of preventing the spread of the coronavirus SARS-CoV-2 causing COVID-19, the following measures and restrictions apply:

- 1) engaging in sports, training, youth work, hobby activities, hobby education and refresher training are allowed if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met. The requirements provided for in Part III do not apply to activities of disabled persons or to activities related to the military defence or internal security of the state or to refresher training and related examinations necessary for renewing a temporary certificate in proof of acquisition of a qualification;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 2) sports competitions and sports and exercise events are allowed if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met. The requirements provided for in Part III do not apply to the activities referred to in this sub-clause if they take place in outdoor settings in an unconfined territory, to activities of disabled persons or to activities related to the military defence or internal security of the state or to persons whose champion's league club or sports federation has set out in its sports or training environment risk assessment and has applied risk management measures for a specific venue and said person has complied with these requirements;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 3) people may be and move around in public saunas, spas, swimming pools and water parks if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 4) public meetings, public events, conferences, theatre performances, concerts and film screenings and provision of entertainment services are allowed if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met. The requirements provided for in Part III do not apply to the activities referred to in this sub-clause if they take place in outdoor settings in an unconfined territory, or to indoor public meetings if it is ensured that the total number of attendees is no higher than 50 people;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 5) in indoor settings, public religious services and other public religious rites are allowed if the total number of attendees is no higher than 50 people or if up to 50% occupancy is ensured and the requirements provided for in clauses 7 through 9 are met. The restrictions on occupancy and the number of people do not apply in indoor settings if the requirements provided for in Part III are met. In outdoor settings, in a confined territory, public religious services and other public religious rites are allowed if it is ensured that the total number of attendees is no higher than 100 people, unless the requirements provided for in Part III are met;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]
- 6) people may be and move around in museums and exhibition facilities if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met;
[RT III, 28.10.2021, 2 – entry into force 29.10.2021]

7) customers may be and move around in catering establishments' sales or service area if the requirements provided for in Part III and in indoor settings additionally the requirements provided for in clauses 7 through 9 are met. The requirements provided for in Part III and clause 8² do not apply when customers are and move around in catering establishments' sales or service area for the purpose of takeaway or provision of delivery or transport services or on board of passenger ferries used for domestic carriage of passengers or if catering service is provided in connection with a funeral that is not public, or to catering establishments' sales or seating area located inside the security restricted area of an international airport, catering establishments' sales or seating area located beyond the boarding gates in the waiting area of a passenger terminal of an international port, catering establishments' sales or service area located on board vessels servicing international routes, and on board of aircraft used for international carriage of passengers;

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

8) in indoor settings, customers may be and move around in the sales area of stores and public spaces of commercial establishments and service providers' service areas if the requirements provided for in clauses 7 through 8¹ and 9 are met.

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

11. The restrictions and measures provided for in clause 10 apply to persons carrying out activities and to the location of their permanent economic activity. The restrictions and measures set out in this Order also apply solely in the areas referred to in clause 10 in the course of performance of public law functions in the performance of duties prescribed by law, an international agreement or directly applicable legislation issued by the Council of the European Union or the European Commission, except for social services organised by state or local authorities. The restrictions and measures provided for in clause 10 do not apply to the activities of natural persons if the activities are aimed at specified people and the activities are not related to earning a profit.

12. The Government of the Republic may grant special permission for organising activities on conditions different from those provided by this Order where:

- 1) there is an overriding public or national interest in the relevant event;
 - 2) the local authority of the location of the event has provided an opinion on the activity;
 - 3) the Health Board has provided an opinion on the suitability of the risk management plan drawn up by the organiser of the event for preventing the spread of the coronavirus SARS-CoV-2 causing COVID-19.
- On the basis of sub-clause 6) of clause 2 the Health Board will establish necessary restrictions on the freedom of movement of the persons referred to in this clause.

[RT III, 04.02.2022, 2 – entry into force 07.02.2022]

Part III Restrictions and Measures Pertaining to Organisation of Controlled Activities

13. Person responsible for activities may carry out activities referred to in clause 10 if the number of participants does not exceed 1000 people in indoor settings and 2000 people in outdoor settings. Activities are allowed if compliance with other relevant requirements provided for in clause 10 and with the requirements for persons responsible for activities or persons participating in activities as provided for in clauses 14, 15¹, 16 and 17 is ensured.

[RT III, 12.11.2021, 3 – entry into force 15.11.2021]

14. A person may participate in activities on the conditions provided for in clause 13 if at least one of the following conditions is met:

- 1) the person is up to 12 years of age;
[RT III, 28.01.2022, 1 – entry into force 01.02.2022]
- 2) the person is 12 to 18 years of age (inclusive) and studies at a general education school or a vocational educational institution, the person is asymptomatic and only participates in the activities listed in sub-clause 1) of clause 10 or in a sports competition. The provisions of this sub-clause also apply to persons who attain the age of 19 years during the academic year 2021/2022. The conditions provided for in this sub-clause also apply to activities referred to in sub-clause 6) of clause 10 if the student engages in activities under their study programme where the other participants are students from the same class or group;
[RT III, 28.01.2022, 1 – entry into force 01.02.2022]
- 3) vaccinating the person is not possible by a decision of a physician, considering the person's state of health, and the person produces a certificate to that effect before participating in activities;
- 4) on the conditions provided for in clause 2, the person has recovered from COVID-19 or has been vaccinated, including with an additional dose of vaccine, or is a person considered equal to vaccinated persons and the person produces a certificate evidencing those facts before participating in activities;
[RT III, 04.02.2022, 2 – entry into force 07.02.2022]
- 5) the person is a person involved in the activities whose employer has set out in its working environment risk assessment and has applied risk management measures for a specific place of business and said person has complied with these requirements;
- 6) the person is a person responsible for activities or the latter's representative or a person involved in emergency work.

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

15. [Repealed– RT III, 21.10.2021, 2 – entry into force 25.10.2021]

15¹. In addition to the grounds provided for in clause 14 a person 12 to 18 years of age may participate in activities if they produce a certificate proving the taking of a test for SARS-CoV-2 causing COVID-19 which gave a negative result and which was administered by a health care provider on the following conditions:

[RT III, 28.01.2022, 1 – entry into force 01.02.2022]

1) an antigen RTD test for the coronavirus SARS-CoV-2 causing COVID-19 must be taken up to 48 hours before participation in the activities;

2) an RT-PCR test for the coronavirus SARS-CoV-2 causing COVID-19 must be taken up to 72 hours before participation in the activities.

The requirements set out in this clause are also met where a person has taken, at the location of a general pharmacy authorisation holder, a SARS-CoV-2 antigen RTD test intended for self-testing according to guidelines issued by the Health Board, which must produce a negative result and which has to be taken up to 48 hours before participation in activities.

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

16. Before a person participates in activities the person responsible for activities is required to verify the circumstances provided for in clause 14 or 15¹, including the authenticity and validity of the certificate or test and establish the identity of the person.

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

17. When complying with the requirements provided for in Parts II and III of this Order, the person responsible for activities is prohibited from retaining any personal data, unless the relevant person gives their consent under Article 4(11) and Article 7 of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, pp. 1–88) or unless there are other legal grounds for retaining personal data according to the General Data Protection Regulation.

[RT III, 28.10.2021, 2 – entry into force 01.11.2021]

Part IV Implementing Provisions

18. Supervision over the requirements imposed by this Order is exercised by the Health Board, involving another law enforcement agency by way of professional assistance or in another manner provided by law, where necessary.

19. The measures and restrictions established by this Order apply until the date specified in this Order or until this Order is changed or repealed under clause 4 of subsection 1 and clause 3 of subsection 2 of § 53 and clause 1 of subsection 2 of § 66 of the Administrative Procedure Act and the need for these measures and restrictions will be reviewed no later than after every two weeks.

20.–23. [Omitted from this text.]

24. This Order takes effect on 26 August 2021.

25. This Order is to be published in the official gazette Riigi Teataja and on the website kriis.ee.

For the protection of the life and health of people and overriding public interest, including for the protection of the continuity of the state, this Order imposes indispensable measures and restrictions for preventing the spread of the coronavirus SARS-CoV-2 causing COVID-19.

§ 28 (1) of the Constitution of the Republic of Estonia (hereinafter the *Constitution*) provides for everyone's right to protection of his or her health. In this case the fundamental right protects different values. Firstly, the scope of protection includes people's right to protection of their health by having the state do everything in its power to stop the spread of the virus. Also covered by the scope of protection is public interest in avoiding increased spread of the virus and mass infections as well as overload of the health care system. In a situation where contact with other people poses a great risk of the virus spreading the state has an obligation to minimise the risk of infection, which also means that, for the purpose of achieving this objective, contact between people may be restricted in an appropriate manner.

The Constitution provides for rights and freedoms that the state is also required to ensure. The state may circumscribe the rights and freedoms set out in the Constitution considering the nature of the right or freedom in question and the conditions arising from the Constitution itself. For instance, under § 34 of the Constitution everyone whose presence in Estonian territory is lawful has the right to move freely in that territory and to choose freely where to reside. The right to move freely may be circumscribed in cases and pursuant to the procedure provided by law for the purpose of protecting the rights and freedoms of others and preventing the spread of a communicable disease, among others.

It is justified to apply certain restrictions for preventing the spread of the virus causing COVID-19. Setting restrictions on rights and freedoms requires a fair balance between the objective sought by the restriction and the scope and effect of the restriction. Whereas, it is important to consider how can people, in the long run, exercise

their other fundamental rights, such as right to liberty of movement and to engage in enterprise, if the virus that causes COVID-19 is not contained in Estonia and health care institutions are overloaded and health workers are overworked. Proportional restrictions necessary for stopping the virus are justified by the above compelling objectives.

Under § 28 (2), (5) and (6) of the Communicable Diseases Prevention and Control Act and considering § 28 (8) thereof, the Government of the Republic may take measures for preventing communicable diseases when the application of measures and restrictions for the prevention of an epidemic spread of communicable diseases has a significant effect on society or economy. The following preconditions must be met: it is an extremely dangerous communicable disease or a dangerous novel communicable disease; the Health Board has given the Government of the Republic information and a recommendation on a measure (obligation or restriction) on the basis of epidemiological, laboratory and clinical information; the measure is absolutely necessary for preventing the spread of the virus or in other words the requirement must be proportional and rational; the measure is temporary or in other words limited in time and it brings about a significant social or economic effect.

This Order imposes measures and restrictions for preventing and stopping the spread of COVID-19 caused by the coronavirus SARS-CoV-2, which serve the purpose of reducing contact between people and preventing the spread of the virus.

This Order introduces the following fundamental changes compared to the measures and restrictions in force thus far:

According to the Order, as of 26 August 2021 the requirement to wear a mask will extend to all public indoor spaces where COVID-19 certificates are not checked. A mask will have to be worn in trade and provision of services, for instance at the bank, post office or hairdresser's or upon the provision of services related to telecommunications. Likewise, a mask will have to be worn when getting takeaway at a food establishment.

Moreover, in public spaces where people need to prove their COVID-19 safety, the provision of a COVID-19 certificate will have to be required of all customers or participants regardless of the number of people. The Order sets out exceptions as to people who need not present a COVID-19 certificate, such as children under 18 years of age. This means that a COVID-19 certificate must be presented when engaging in sports, training, youth work, hobby activities and hobby education, refresher training; at sports competitions and sports and exercise events; at saunas, spas, water parks and swimming pools; at public meetings and events, including theatre, film screenings, concerts, conferences; at museums and exhibition facilities; for entertainment services; and when having a meal or a drink at the premises of a food establishment.

COVID-19 certificates need not be checked at outdoor events where the territory is not confined.

COVID-19 certificates need not be produced at shopping centres or stores. Also, people need not prove that they are not infectious when getting takeaway at a restaurant or a café. However, as mentioned above, a mask will have to be worn at said places or in said cases.

Establishment of the restrictions by the Order is based on the fact that COVID-19 caused by SARS-CoV-2 is an infectious disease that spreads from one person to another by way of droplet infection, primarily upon close contact with an infectious person. The virus can be contracted when in close contact with an infected person, by inhaling particles of the virus¹ or through contaminated surfaces or, for example, contaminated hands.

The virus can spread in poorly ventilated and/or crowded indoor settings, where people tend to spend longer periods of time. The risk of becoming infected with SARS-CoV-2 is also present outdoors where close contact with a lot of people takes place.

Compared to previous weeks the spread of the coronavirus has significantly increased and the Delta variant has assumed the position of the dominant variant. The Delta variant spreads 60% more effectively than the Alpha variant, this means easier secondary and tertiary transmissions and the latent period is also shorter. Current data has shown that the level of immunity developed after a single dose of vaccine (for 2-dose vaccines) is about 17% less effective against the Delta variant compared to the Alpha variant dominant thus far². However, in respect to immunity developed after completion of the vaccination series the efficiency of the vaccine is about 10% lower.

There has been no noticeable reduction of responsiveness as to immunity developed after completion of the vaccination series. Considering that as per 19 August 2021 45.57% of the population have completed their vaccination series, the effect of vaccination is not yet sufficient to prevent possible increased morbidity caused by the Delta variant.

This Order has been drawn up considering the fact that the intensity of morbidity is high throughout Estonia. On 19 August 2021, the ratio of positive tests from the last 14 days to 100,000 inhabitants was 278.41 and the average rate of positive tests from the last 7 days was 277.

On 23 July 2021, the ratio of positive tests from the last 14 days to 100,000 inhabitants was 65.46 and the average rate of positive tests from the last 7 days was 75. On 7 July 2021 said figures were 31.83 and 32; on 21 June 2021 49.81 and 40; and on 16 June 2021 64.11 and 49. Therefore, 14-day morbidity per 100,000 population is high in Estonia and the growth rate of new cases is still on the rise. Figures concerning hospital capacity and the health care system are moderate and stable.

The Order is imposed in consideration of the Estonian level of vaccination for COVID-19³ and its planned progress in the coming weeks. As per 19 August 2021, 70.07% of people 60 years of age and older are covered by vaccination. 605,586 people (45.57% of the population) have completed their vaccination series.

14-day morbidity per 100,000 population is high in Estonia and the growth rate of new cases is on the rise. Figures concerning hospital capacity and the health care system are moderate. When changing the restrictions and measures the risk of infection must be assessed as high, which makes it justified to continue with all the current restrictions and measures and to impose additional restrictions compared to the current restrictions and measures.

The Delta mutation of the coronavirus has been the dominant one in Estonia as of week 26 (percentage: 33% in week 25, 67% in week 26, 92% in week 28 and 95% in week 29, 94% in week 30 and 98% in week 32).

During week 32, a total of 1942 new cases were registered. Compared to week 31, the number of new cases was 31.9% higher. During week 32, a total of 39,715 tests were analysed (2993 tests per 100,000 population), which is 35.4% more than in week 31. Out of all the tests 4.9% produced a positive result (5.0% in week 31).

The highest percentage of positive tests can be seen in Jõgeva County (11.0%), Põlva County (11.0%), Valga County (10.4%) and Võru County (10.2%). According to the genotyping data from week 32 the percentage of the Delta variant is 98%. In addition, in week 32 sequencing identified two people infected with the Gamma variant and two with the Alpha variant. In both cases one identified case had been imported. In Estonia, the Delta variant is spreading persistently within the country.

20,281 people who filled in the traveller's questionnaire arrived in Estonia in week 32 (19,266 in week 31): From Latvia – 3196 people (2695 in week 31), from Russia – 2400 people (1660 in week 31), from Germany – 1713 people (2012 in week 31), from Italy – 1256 people (1279 in week 31), from Turkey – 1214 people (1395 in week 31). Imported cases recorded in week 32 amounted to 130, accounting for 6.7% of the total number of cases and 7.1% of cases for which information about the location of contracting the infection is available. The imported cases of week 32 are related to travelling in 24 countries. The majority of cases are related to travelling to Turkey, Finland and Russia.

The infection coefficient is 1.2 across Estonia (last week 1.2); it has remained on the same level compared to week 31. Compared to the status on 9 August 2021 the infection coefficient has significantly increased in the eastern region (1.1 → 1.35) because the number of cases has increased by 43% against the background of low number of infected people. The southern region's infection coefficient has not changed (R=1.3).

14-day morbidity has grown higher in all counties except for Ida-Viru County where it has slightly fallen. The highest growth can be seen in Valga County (139.4%), Jõgeva County (136.8%) and Saare County (90.9%). The regions with the highest infection rates are Võru County (477.2/100,000 population), Põlva County (446.3/100,000 population), Pärnu County (385.2/100,000 population), Tartu County (341.8/100,000 population), Jõgeva County (316.4/100,000 population) and Rapla County (303.5/100,000 population). The age group becoming infected has shifted from young adults to middle-aged and older people and the infection has mostly spread within family (36%). Considering the present level of the infection coefficient the Health Board estimates about 20% increase in the number of infected people in week 33, meaning about 2300 infected people a week and 300 to 400 infected people a day.

Considering the increase in the spread of the coronavirus SARS-CoV-2 across Estonia at the time this Order is issued, application of restrictions and measures in an altered form and continuation with other restrictions and measures that are not changed by this Order are an efficient and proportional measure for the protection of the life and health of people and for ensuring public health and the continuity of the health care system.

Under § 11 of the Constitution, rights and freedoms may only be circumscribed in accordance with the Constitution. Such circumscription must be necessary in a democratic society and may not distort the nature of the rights and freedoms circumscribed. The principle of proportionality arises from the second sentence of § 11 of the Constitution, according to which circumscription of rights and freedoms must be necessary in a democratic society. In this instance, the imposition of the restrictions and measures is in public interests and the restrictions and measures are imposed throughout the state. According to § 31 of the Constitution, Estonian citizens have the right to engage in enterprise and to form for-profit undertakings and organisations. Conditions and procedures for the exercise of this right may be provided by a law. The scope of protection of the freedom of enterprise as right to liberty is infringed when the public authority adversely affects this freedom.

The second sentence of § 31 of the Constitution gives the legislator authority to restrict the freedom of enterprise by the Communicable Diseases Prevention and Control Act. Any reasonable justification is sufficient for restricting the freedom of enterprise. This justification must be based on public interest or the need to protect the rights and freedoms of others, it must carry weight and it must naturally be lawful. Considering that the basis for restricting this freedom arises from the law and there is a legitimate and justified situation arising from public

interest and the need to protect the rights and freedoms of others, the imposition of the restrictions and measures provided for in this Order is lawful.

The restrictions and measures imposed by the Order serve the purpose of limiting the spread of the coronavirus and the number of people getting infected and ensuring the continuity of the vital functions of the state. The restrictions and measures provided for in the Order have been carefully considered and it has been decided in favour of those that are more efficient than their alternatives in the context of the current spread of the infection based on currently available information. It has also been assessed that said measures and restrictions are fair and proportional in interaction of various fundamental rights and freedoms (e.g. §§ 12, 16, 19, 28, 31, 34, 37, 40 and 47 of the Constitution). This means that the measures and restrictions as a whole affect all people for the purpose of public interest (protection of the life and health of people, continuity of the state).

Continuity involves a risk where a large number of people, e.g. medical staff, police officers, rescue workers, social workers, judges, teachers, state officials and members of the parliament falling ill has a perceivable effect on the availability of public services and the legal order of the state. When restrictions and measures are imposed, it is weighed for each area what is the fair balance between the protection of life, health and continuity of the state and the rights and freedoms circumscribed.

For instance, according to § 47 of the Constitution, everyone has the right to assemble peacefully and to conduct meetings without prior permission. This right may be circumscribed in the cases and pursuant to a procedure provided by law to safeguard national security, maintain public order, uphold public morality, ensure the safety of traffic and the safety of participants of the meeting, or to prevent the spread of an infectious disease. So, the right provided for in § 47 of the Constitution is also not an absolute right. The reason why § 47 of the Constitution specifically refers to the prevention of the spread of an infectious disease is that infectious diseases spread among people when people get together. Therefore, one of the most important and main measures of preventing the spread of infectious diseases in stopping the spread of an infection is to restrict interaction between people.

The reasons for the measures and restrictions are set out in the Order and the explanatory memorandum to the Order.

Under § 44 (1) of the Communicable Diseases Prevention and Control Act, supervision over the requirements imposed by this Order is exercised by the Health Board. Failure to duly comply with measures for preventing the spread of the virus will prompt the application of the administrative coercive measures set out in § 28 (2) or (3) of the Law Enforcement Act. The maximum amount of non-compliance levy is 9600 euros. This non-compliance levy, which serves the purpose of enforcing the requirements, measures and restrictions imposed by this Order and preventing the spread of the virus, may be imposed repeatedly.

This Order can be appealed against by filing a challenge with the Government of the Republic pursuant to the procedure provided by the Administrative Procedure Act within 30 days as of the day the relevant person became or should have become aware of the Order. This Order can also be appealed against by filing an action with the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure within 30 days as of the day of announcement of this Order.

The explanatory memorandum to the Order is available on the website kriis.ee.

¹ <https://www.who.int/news-room/q-a-detail/coronavirus-disease-covid-19-how-is-it-transmitted>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/993879/Variants_of_Concern_VOC_Technical_Briefing_15.pdf

³ Estonia considers the recommended level of vaccination against COVID-19 to be 70% of the population. Should new strains of the virus that spread faster or are resistant to vaccines emerge, said required percentage may prove higher. <https://www.terviseamet.ee/et/koroonaviirus/koroonakaart>.

Reasons for the amendments made by the Government of the Republic Order No. 29 of 4 February 2022

For the protection of the life and health of people and overriding public interest, including the continuity of the state, this Order imposes indispensable measures and restrictions for preventing the spread of the coronavirus SARS-CoV-2 causing COVID-19, likewise requirements for quarantine for the purpose of preventing the spread.

§ 28 (1) of the Constitution of the Republic of Estonia (hereinafter the *Constitution*) provides for everyone's right to protection of his or her health. In this case the fundamental right protects different values. Firstly, the scope of protection includes people's right to protection of their health by having the state do everything in its power to stop the spread of the virus. Also covered by the scope of protection is public interest in avoiding increased spread of the virus and mass infections as well as overload of the health care system. In a situation where contact with other people poses a great risk of the virus spreading the state has an obligation to minimise the risk of

infection, which also means that, for the purpose of achieving this objective, contact between people may be restricted in an appropriate manner.

Under § 34 of the Constitution everyone whose presence in Estonian territory is lawful has the right to move freely in that territory and to choose freely where to reside. The right to freedom of movement may be circumscribed in the cases and pursuant to a procedure which is provided by law to protect the rights and freedoms of others, in the interests of national defence, in the case of a natural disaster or a catastrophe, to prevent the spread of an infectious disease, to protect the natural environment, to ensure that a minor or a person of unsound mind does not remain unsupervised, or to ensure the proper conduct of a criminal case. Under § 27 (3) of the Communicable Diseases Prevention and Control Act, if the establishment of quarantine is accompanied with a significant effect on the society or economy, the quarantine shall be established by an order of the Government of the Republic.

This Order seeks the purpose of bringing measures and restrictions pertaining to the crossing of the state border into conformity with the conditions set out in Council Recommendation (EU) 2022/107 of 25 January 2022 on a coordinated approach to facilitate safe free movement during the COVID-19 pandemic and replacing Recommendation (EU) 2020/1475. Due to the vast number of amendments, Part I of the Order is re-enacted in its entirety and the previous structure of Part I is modified to ensure intelligibility.

Furthermore, the purpose of the Order is to simplify the rules of quarantine applicable to children and young people in the event they turn out to be a close contact of someone infected with COVID-19 and to ease the national restrictions on participation in activities by lifting the requirement for COVID certificate for persons 18 years of age and persons attaining the age of 19 years during the academic year 2021/2022.

Also, conditions are set out whereby an employee of a healthcare provider may perform urgent duties while being infected with COVID-19 if their symptoms are regressing and the person takes all measures imposed by the Health Board for preventing the spread of the communicable disease.

Under § 44 (1) of the Communicable Diseases Prevention and Control Act, supervision over the requirements imposed by this Order is exercised by the Health Board. Failure to duly comply with measures for preventing the spread of the virus will prompt the application of the administrative coercive measures set out in § 28 (2) or (3) of the Law Enforcement Act. The maximum amount of non-compliance levy is 9600 euros. This non-compliance levy, which serves the purpose of enforcing the requirements, measures and restrictions imposed by this Order and preventing the spread of the virus, may be imposed repeatedly.

This Order can be appealed against by filing a challenge with the Government of the Republic pursuant to the procedure provided by the Administrative Procedure Act within 30 days as of the day the relevant person became or should have become aware of the Order. This Order can also be appealed against by filing an action with the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure within 30 days as of the day of announcement of this Order.

The explanatory memorandum to the Order is available on the website kriis.ee.