



Prague dated 6 April 2021

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## **EMERGENCY MEASURE**

The Ministry of Health, as the competent administrative authority, pursuant to Section 80(1)(g) of Act No. 258/2000 Coll., on Public Health Protection and amendments to certain related acts, as amended (hereinafter referred to as “Act No. 258/2000 Coll.”), orders this Extraordinary Measure, proceeding pursuant to Section 69(1)(i) and (2) of Act No. 258/2000 Coll., in order to protect the population and prevent the occurrence and spread of the COVID-19 disease caused by the new SARS-CoV-2 coronavirus:

### **I.**

A child, pupil or student that is not prohibited from attending in-person schooling under another extraordinary measure or crisis measure, and is a child or pupil of a preschool, primary school, special primary school, field of education at a one-year practical school or two-year practical school, pupil or student participating in practical schooling or practical training at a secondary school or college, pupil of a school or student of a college that participates in group consultations or final examinations, school-leaving examinations or discharge examinations, will be allowed to attend the given school in person only if

- a) they do not have symptoms of COVID-19, and
- b) they have taken a non-invasive preventive antigen test for the SARS-CoV-2 virus antigen at the frequency stipulated pursuant to Art. III, performed on their own or performed by another person and provided by the school (hereinafter the “preventive antigen test”), and submits the negative result of this test, unless stipulated otherwise in Art. II.

The restriction pursuant to the first sentence does not apply to individual consultations and individual in-person schooling. The school may only conduct tests using the tests designated for self-testing or permitted for use by non-professionals by the Ministry of Health.

### **II.**

The condition under Art. I(b) is considered fulfilled if the person proves that

- a) they have undergone a laboratory-confirmed instance of COVID-19, where the period of isolation in accordance with a valid extraordinary measure of the Ministry of Health has ended, and no more than 90 days have passed from the first positive RT-PCR test for the presence of SARS-CoV-2 or POC antigen test for the presence of a SARS-CoV-2 antigen,
- b) they have a negative result of a POC antigen test for the presence of the SARS-CoV-2 virus antigen or an RT-PCR test for the presence of the SARS-CoV-2 virus; the test must not be more than 48 hours old and must be performed by a healthcare service provider

pursuant to the currently valid extraordinary measure of the Ministry of Health concerning the performance of tests, or they have been issued a certificate by the Ministry of Health of the Czech Republic on vaccination against COVID-19, and at least 14 days have passed since the application of the second dose of a vaccine in the case of a two-dose scheme in accordance with the summary of product characteristics (hereinafter "SPC") or at least 14 days have passed since the application of the first dose of a vaccine in the case of a single-dose scheme in accordance with the SPC.

### III.

Preventive testing at schools is performed from 12 April 2021. Preventive antigen testing is performed at a frequency of twice per week, whereas the first test will be performed on the first day of the personal presence of the child, pupil or student at school in the week, with at least 2 and at most 3 working days between the individual testing dates. The preventive tests are always performed immediately after arriving at school. If the child, pupil or student is not present on the date of testing at school, the test will be performed on the date of their arrival.

### IV.

If the result of the preventive test pursuant to Art. I is positive, the school is obliged to contact the child's or pupil's legal guardian and inform them of the result of the preventive test. The school will issue confirmation of the positive test result, indicating the date and time of performing the test, to the child, pupil or student. The child, pupil or student is obliged to leave the school immediately; in the case of a child or pupil that cannot leave the school alone, the school is obliged to ensure their separation from other persons immediately and their legal guardian or other escort must pick them up at school. The legal guardian of the child or pupil, or the pupil or student are obliged to inform the healthcare services provider in the field of general medicine or general pediatric medicine via telephone or other usual remote communication about a positive test result.

### V.

If the child, pupil or student has a positive result of a

- a) RT-PCR test for the presence of the SARS-CoV-2 virus, or
- b) POC antigen test for the presence of the SARS-CoV-2 antigen and also shows COVID-19 symptoms,

and was personally present at school on the 2 days before taking the test or 2 days after taking the test, the legal guardian of the child or pupil or the student or pupil is obliged to inform the school of this positive test result; in the case of an RT-PCR test, the moment of performing the test refers to the moment of taking the sample, and in the case of a confirmation RT-PCR test performed based on a positive result of an antigen test for the presence of SARS-CoV-2 virus antigen (including a preventive antigen test), it is the moment of performing the antigen test.

### VI.

1. If the child, pupil or student has a positive result of a preventive antigen test, then any child, pupil or student who was in one class or group with the positive child, pupil or student on the 2 days before taking this test or 2 days after taking this test

- a) will not be allowed to attend in-person schooling for the period until the result of the confirmation RT-PCR test for the presence of the SARS-CoV-2 virus is determined for the

child, pupil or student with the positive preventive antigen test result,  
b) will be allowed to attend in-person schooling again if the child, pupil or student with the positive preventive antigen test result submits the negative result of a confirmation RT-PCR test for the presence of the SARS-CoV-2 virus.

2. The provision of paragraph 1 applies mutatis mutandis to children, pupils or students if the positive result of the antigen test performed pursuant to another extraordinary measure of the Ministry of Health applies to a teacher who provided education in person to the children, pupils and students in the given group on the 2 days before taking the test or 2 days after taking the test.

## **VII.**

The school will immediately send the respective regional public health authority or the Public Health Authority for the City of Prague (hereinafter the “regional public health authority”) a list of the children, pupils or students at school who were in contact with another child, pupil or student or teacher who had a positive result of an RT-PCR test for the presence of SARS-CoV-2 virus or positive result of a POC antigen test for the presence of SARS-CoV-2 virus antigen and has symptoms of COVID-19 on the days specified in Art. V. The regional public health authority shall order the children, pupils and students from the list pursuant to the first sentence into quarantine and then proceed pursuant to the extraordinary measure of the Ministry of Health on ordering isolation and quarantine.

## **VIII.**

In the case of a positive result of the preventive antigen test pursuant to Art. I, the healthcare services provider in the field of general medicine or general pediatric medicine is obliged to decide on the performance of a confirmation test using the RT-PCR testing method and complete the electronic request form for this test.

## **IX.**

All persons with a positive result of the preventive antigen test pursuant to Art. I are ordered to undergo a confirmation RT-PCR test for the presence of the SARS-CoV-2 virus.

## **X.**

The school shall report aggregated data about performed testing of the child, pupil or student pursuant to Art. I electronically to the COVID forms App without undue delay on the date of obtaining the test results. The report shall contain at least the contact person, type of test, total number of tested persons, number of persons with a positive test result, number of persons with a negative test result and number of inconclusive tests.

## **XI.**

Before commencing preventive testing pursuant to this extraordinary measure, the school will inform all the affected children, pupils and students and their legal guardians and affected employees about the manner of performing tests and rules specified in this extraordinary measure.

## **XII.**

If the pupil or student, before arriving at school, is accommodated at a school educational and accommodation facility, or if the child or pupil is educated in a school group before arriving at school, then preventive testing is performed at this educational and accommodation facility or school group immediately before arriving at this facility or school group. The school educational and accommodation facility or school group informs the child, pupil or student's school about the test result without undue delay. Testing at the school educational and accommodation facility or school group replaces testing performed by the school, if the next testing date at the school is less than 48 hours from testing at the school education and accommodation facility or school group.

## **XIII.**

1. If the pupil or student accommodated at a school educational and accommodation facility has a positive preventive test result, the procedure pursuant to Art. IV shall apply mutatis mutandis, whereas if there is no alternative option, the accommodated pupil or student need not leave the school educational and accommodation facility. Otherwise, Art. I through III, V, VIII through XI, XVI and XVII shall apply mutatis mutandis to testing and testing results at the school educational and accommodation facility. Art. VI and VII shall apply as appropriate to accommodated individuals who were in personal contact with the accommodated individual with the positive preventive test result.

2. However, if the pupil has a positive preventive test result in the school group, the procedure under Art. IV shall apply mutatis mutandis. Otherwise, Art. I through III, V, VIII through XI, XVI and XVII shall apply mutatis mutandis to testing and testing results at the school group. Art. VI and VII shall apply, whereas the matter is resolved jointly with the situation of homogeneity in the class or group at school.

## **XIV.**

If there is a pupil or student at the school educational and accommodation facility who is not allowed to attend in-person schooling by another extraordinary measure, such a pupil or student is ordered to undergo preventive testing at this facility using a preventive antigen test, which the pupil or student performs at the facility on their own or which is performed on them by a non-professional, Otherwise, the procedure under Art. XIII(1) applies.

## **XV.**

If the child, pupil or student is accepted to a facility for institutional and protective education or to a facility for preventive educational care for the purpose of full-day or boarding services, or if the child or pupil returns to these facilities after multiple days of absence, from 12 April 2021 such a child, pupil or student is ordered to undergo one-off preventive testing using a preventive antigen test pursuant to Art. I, which the child, pupil or student performs on their own or which is performed on them by a non-professional.

If the result of the preventive test is positive, the facility will immediately contact the pupil's legal guardian and healthcare service provider in the field of general medicine or general pediatric medicine, and ensure the separation of the child, pupil or student from other persons, and issue confirmation of a positive test result to the child, pupil or student with specification of the date and time of performing the test. Art. II, VI, VIII and IX apply further to these cases.

## **XVI.**

The school or school facility will ensure that all employees and persons subject to testing use personal protective respiratory equipment allocated by the employer, namely a respirator or other device (always without an exhalation valve) meeting at least all the technical conditions and requirements (for a product), including filtration effectiveness of at least 95% in accordance with the relevant standards (e.g. FFP2/KN 95).

## **XVII.**

The school or school facility may replace testing using antigen tests to stipulate the presence of the SARS-CoV-2 virus antigen with testing using RT-PCR tests for the presence of the SARS-CoV-2 virus, provided it has non-invasive diagnostic in vitro resources for the performance of self-sampling designated for the subsequent performance of the RT-PCR test, and if it has arranged for the performance of RT-PCR tests with a healthcare service provider named in the list of analysis laboratories of the State Institute of Public Health (<http://www.szu.cz/tema/prevence/laboratomi-vysetrovani-puvodce-covid-19>). Art. I through V and VII, X through XIV and XVI shall apply mutatis mutandis, whereas preventive testing is performed at a frequency once per week, whereas the school or school facility will perform the first test simultaneously

1 using preventive antigen tests, whereas this non-invasive RT-PCR cannot be substituted by submitting the result of a POC antigen test for the presence of the SARS-CoV-2

2 virus antigen performed by a healthcare service provider. The healthcare service provider in the field of general medicine or general pediatric medicine, which was informed about the positive result of a preventive RT-PCR test pursuant to the first sentence, proceeds according to the extraordinary measure of the Ministry of Health on the ordering of isolation and quarantine.

## **XVIII.**

This extraordinary measure does not apply to schools established by the Ministry of Justice and schools established to perform institutional and protective education, and preschools alongside healthcare facilities and primary schools alongside healthcare facilities.

## **XIX.**

This Emergency Measure shall take effect on the date of its issue.

### **Rationale:**

In the interest of protecting public health, a different extraordinary measure of the Ministry of Health stipulates, with defined exception, the continued prohibition of the personal presence of children, pupils and students in schooling at school facilities.

The prevention of serious infectious diseases which are transmitted through contaminated droplets (aerosol) consists of avoiding increased concentrations of people, especially in enclosed premises. The prevention of the further spread of infectious diseases through the airborne transmission of the originator can be augmented by observing measures which restrict personal contact in places with higher concentrations of people. Therefore, it is necessary to employ instruments to ensure the control and management of movement and operation of such locations.

One of the key measures is to restrict contacts between individual persons and limit the movement of persons to the essential minimum. At schools and school facilities, there is intensive contacts between individual children/pupils/students and the teaching staff. Attendance at schools and school facilities is associated with increased mobility and the frequency of social contacts during transportation. Due to the closing of schools, these contacts are limited.

The foregoing is confirmed e.g. by the study *Ranking the effectiveness of worldwide COVID-19 government interventions*, which states i.a. that the latest relevant scientific studies rank this non-pharmaceutical intervention (NPI) among the most effective tools through which society can limit the further spread of the contagion, beyond the scope of pharmacological measures (vaccination and therapy). According to the study, the closing of educational institutions is the second-most effective non-pharmaceutical intervention (the first besting the restriction of assembly), whereas on a scale of efficacy from 0% to 100%, the study gave this measure an effective rate of 73% and, in absolute numbers, the ability to reduce the effective reproduction number  $R_t$  by 0.15 to 0.21. Other relevant data from the given study also clearly prove that the closing of schools has a positive impact on reducing the incidence of contagion and related deaths by up to 60%.

A similarly definitive conclusion, i.e., the clear observation of the key importance of closing schools in fighting the spread of contagion, is presented in the study *Inferring the effectiveness of government interventions against COVID-19<sup>2</sup>*, which states i.a., that the concurrent closing of schools and universities has the potential to reduce the effective reproduction number  $R_t$  by 38%, which corresponds in comparison to approximately the effect of restricting the congregation of persons in groups of more than 10 individuals (this measure achieved a result of 42%) and the closing of high-risk establishments (this measure achieved a result of 27%). The study also states that despite the fact that young people aged 12 to 25 years often have an asymptomatic course of the illness, the quantity of virus released by them does not differ substantially from the rest of the population, which combined with increased mobility and the number of social contacts in this age category poses a major threat to the lives and health of those population groups which are more seriously threatened by the severe course of COVID-19 disease. Furthermore, according to the cited study, experience with the opening of schools in Great Britain clearly showed that, despite strong simultaneously-adopted safety measures, there was a major spread of contagion in the order of tens of thousands of new infections daily after this easing in September 2020. In summary, according to the study it also applies that if the incidence of COVID-19 without the adoption of any non-pharmaceutical interventions corresponded to the average effective reproduction number  $R_t$  of around 3.3, then the concurrent closing of high-risk establishments, schools and universities and the restriction of congregation in groups of more than ten individuals would demonstrably have the potential to reduce the value of the effective reproduction number  $R_t$  to below 1.0, meaning a value associated with a decline in the number of newly-infected people.

However, the importance of education and the right to education and the length of restrictions in schooling create the need to find ways to restore the possibility of in-person schooling. Yet public health protection must always be held in account.

Given the consistently unfavorable epidemiological situation in the Czech Republic, it is necessary to employ all the available tools to reduce the risk of the further spread of the contagion during any easing of the measures in education.

The easing must therefore be gradual. This is why in the first phase, only some segments of education are eased through other extraordinary measures of the Ministry of Health.

In order to most effectively prevent the risk of further spreading of the coronavirus, this extraordinary measure subjects the return of children, pupils and students to in-person

schooling to a negative test for the presence of the SARS-CoV-2 virus antigen, performed through self-testing using an antigen test or RT-PCR test.

Pursuant to Section 69(1)(i) of Act No. 258/2000 Coll., the Ministry of Health is authorized to prohibit or order certain other activities to eliminate the pandemic or risk of its occurrence. This activity may also include undergoing testing as a condition for attending in-person schooling. A similar opinion is held by the Municipal Court in Prague, which in its judgment Ref. No. 11 A 127/2020-77 stipulated that *the term “elimination of the pandemic” or “elimination of the risk of occurrence of a pandemic” must be understood to mean a certain process that requires certain steps directed towards this objective. Hence, the given terms must also include actions which reduce the spread of the epidemic, as well as actions which will prevent the epidemic for occurring at all at certain locations (here social facilities). The court believes that the contested measure did not stipulate a legal obligation without adequate support in the Act on Public Health Protection, and even a restrictive interpretation leads to the conclusion that the measure imposing the testing of certain groups of employees is, given its character and the intensity of interference in work, a measure which is foreseeable under Section 69(1)(i) of the Act on Public Health Protection. It is a measure that is foreseen by law and is therefore within the boundaries of the law.”*

In the same judgment, the Municipal Court in Prague further states that *“the respondent (Ministry of Health) is authorized to order the closing of healthcare facilities or closing of social service facilities through an extraordinary measure. Such an order, given its nature and degree of infringement on the rights and freedoms of the addressees, may indeed interfere much more intensively than a measure which imposes the testing of workers at social service facilities. If the legislator allows the respondent to order the closing of the given type of facility, it cannot be inferred that the respondent is not allowed to issue a type of less intensive measure, which imposes the testing of employees at these facilities. The testing imposed by the contested measure does not infringe on the petitioner’s specified rights and freedoms in a comparably intensive manner; it merely regulates the condition of exercising rights for a certain range of entities. Although it is a restriction which is not negligible and may be considered unpleasant on a subjective level, the court believes that it does not affect the substance of constitutionally guaranteed rights and freedoms in a manner that would lead the court to a conclusion on the inadequacy of the respondent’s actions.”* The same argument may be applied analogically to the testing of pupils and students (and teaching staff and other employees) at schools and school facilities, because, pursuant to Section 69(1)(b) of Act No. 258/2000 Coll., the Ministry of Health is authorized to close the school or school facility, as is the case of the social services facilities in the case of the cited judgment. Hence, this extraordinary measure is less invasive than would be the introduction of a measure that would lead to the closing of schools and school facilities.

The school is obliged to protect the health of children, pupils and students, as well as school employees (Section 29(2) of the Schools Act and Section 101 et seq. of the Labor Code). It applies even in normal situations, and all the more so in the current pandemic, that persons who show symptoms of acute disease must not go to school.

However, if signs of acute illness do nevertheless appear in the school, the principal should resolve the given situation by isolating the pupil from others and contacting the legal guardian, or having the pupil leave on their own depending on their age (Section 7 of Act No. 258/2000 Coll.).

However, COVID-19 may not necessarily be accompanied by visible symptoms. Therefore, regular testing is a suitable tool in order to avoid a situation where children, pupils or students in class (school or school facility) come into contact with a child, pupil or student infected with the SARS-CoV-2 coronavirus without knowing about it. This extraordinary measure is also legitimate with respect to the criterion of proportionality, because although it interferes with

individual rights on one hand by imposing their regular testing, there is a general interest in protecting human health and interest in reducing the transmission of the disease between individual children, pupils, students and employees at schools on the other hand. Hence, this extraordinary measure fulfills the criterion of proportionality, because its aim (protecting human health, minimizing the spread of contagion) exceeds the intervention in the rights of individuals (mandatory regular non-invasive testing), which this measure imposes.

Without preventing the spread of COVID-19, school would not be a safe environment in the current situation and the easing of measures in education could lead to a worsening of the overall epidemiological situation. Should such a situation arise, this would threaten the health of other classmates, teaching staff and other persons that they meet both inside and outside of the school.

In order to prevent this situation, the extraordinary measure allows the personal presence at schools for those children, pupils and students who are tested for the presence of the SARS-CoV-2 virus with a negative result. Children, pupils and students will test themselves using an antigen test, whereas this does not constitute a medical procedure.

The test itself must be non-invasive, whereas this refers to the type of test which is not performed using physically unpleasant methods. Hence, this is a non-invasive process with no interference in the person's bodily integrity (Section 93 et seq. of Act No. 89/2012 Coll., Civil Code, as amended). Instead of the antigen tests supplied by the state, the school may provide children, pupils and students with RT-PCR tests, but these have to be tests which the children, pupils and students perform themselves, and must be non-invasive tests.

With regard to the foregoing, self-testing is a minimal intervention, whereas its fundamental contribution is to allow the personal presence of selected groups of children, pupils and students at schools. If the child, pupil or student refuses to test themselves, then it is not possible for them to attend in-person schooling, because it cannot be assumed that they do not have COVID-19. These pupils (children, students) will be excused from schooling, whereas it is recommended that schools educate these pupils (children, students) to the best of their ability. Hence, the situation is similar to cases when the child, pupil or student remains home due to any other illness. If the child, pupil or student refuses testing, this will be considered an excused absence.

When comparing the interest in health protection and right to education, it must be emphasized that the extraordinary measure accommodates the fulfillment of the right to education to the greatest possible extent, while best protecting the health of everybody. Self-testing constitutes a minimal intervention, but allows the fulfillment of the right to education while acting as a tool to protect health.

At this moment, testing is implemented among the defined groups of children, pupils and students in connection to another extraordinary measure, which determines which activities are permitted in person at schools. Testing will be conducted where the frequency of in-person attendance is general regular and concerns a greater number of persons.

V At this moment, testing is implemented as a means of controlled easing of measures. Testing on such a large scale is logistically and financially demanding and the Ministry will evaluate its benefits regularly and opt for a further strategy to ease the measures on this basis.

An exception is stipulated for both pupils, employees and other persons, where preventive testing is not performed (other performed test or having suffered COVID-19 or having received complete vaccination, and with a period of at least 14 days since application of the last dose based on the specific vaccination scheme). In the case of having suffered from COVID-19 previously, it is assumed that such a person is immune to COVID-19 for a period of 90 days,



and testing would thus be unnecessary.

All the tests used at schools and school facilities must have an exemption granted by the Ministry of Health to use the test as an in-vitro medical device through self-sampling with the assistance of a healthcare professional.

In order to protect health at schools, a frequency of twice per week was chosen for antigen testing (AG tests) and once per week for RT-PCR testing. The higher frequency for antigen tests compensates for their lower efficacy than RT-PCR tests.

The important contribution of screening (testing twice per week during weekly rotations) is confirmed by studies modeling school operations in the USA.<sup>1</sup>

Experience with regular non-invasive testing using antigen tests indicates that this is not a measure which is sufficient on its own to limit the spread of COVID-19, but there is conviction that it can work well as a supplementary measure which allows a further reduction of the risk when combined with other measures.

Hence, testing will always be conducted before commencing schooling at school, so that infection in the class is detected as soon as possible and the situation can be resolved.

The consequence of a positive preventive test result will be such that the pupil cannot attend in-person schooling. Furthermore, a person with a positive result is obliged to contact their general practitioner and undergo a confirmation PCR test.

V If the child or pupil is unable to leave the school immediately, the school is obliged to ensure the separation of such a pupil from other persons, whereas the pupil must be supervised.

The extraordinary measure also regulates the consequences for epidemiologically important contacts - the classmates of the child, pupil or student that tested positive at school. In this case, it is necessary for these pupils to either take a RT-PCR test or remain at home for 14 days. If they submit a negative result of a confirmation RT-PCR test, they will be allowed to attend in-person schooling, likewise if a negative confirmation RT-PCR test result is submitted by the originally tested child, pupil or student because of whom the other classmates were prevented from attending school in person.

Children, pupils and their legal guardians, students and all employees and persons participating in the testing will receive information from the school about the manner of testing and rules stipulated by this measure.

For statistical reasons, the school will provide anonymized data about the number of performed tests and number of positive results.

The extraordinary measures also deal with the situation when the pupil, who is obliged to undergo testing, is accommodated at a school educational and accommodation facility (boarding school, children's home). Typically, the child arrives at the boarding school on Sunday and only goes to school on Monday. Hence, if the pupil is accommodated at the facility before regular testing at the school, testing will be conducted at this facility. The school will then not be tested at school, if regular testing at the school is organized on the following two days. The same applies to those students who attend school groups in the morning before schooling at school begins. These pupils will also be tested at the school group, and in the case of a positive result will be sent home and will not go to school at all.

<sup>1</sup> (Figure 5) McGee R.S et al. Model-driven mitigation measures for reopening schools during the COVID-19 pandemic. <https://doi.org/10.1101/2021.01.22.21250282>.

Because school educational and accommodation facilities may provide services to pupils and students who have no other residence in the Czech Republic, the testing of these pupils must also be resolved when their personal presence at school is not allowed (typically pupils of high schools who do not have practical schooling). In this case, the same procedure applies as for testing at schools.

**doc. MUDr. Jan Blatný, Ph.D.**  
**Minister of Health**  
*Signed electronically*

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