



**MINISTRY OF HEALTH**  
**Palackého náměstí 375/4, 128 01 Prague 2**

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Prague, 30 July 2021,  
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## **EXTRAORDINARY 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 amending 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., to protect the population and prevent the occurrence and spread of COVID-19 caused by the novel SARS-CoV-2 coronavirus:

1. Effective from 12:00 a.m. of 31 July 2021 until this Extraordinary Measure is rescinded, all persons are prohibited from moving around and being present without the protection of their airways (nose, mouth), which is a respirator or similar device (always without an exhalation valve) meeting at least all the technical conditions and requirements (for a product), including filtration effectiveness of at least 94% in accordance with the relevant standards (e.g. FFP2/KN 95), which prevents the spread of droplets, specifically:
  - a) in the internal spaces of buildings that serve as a:
    - i) retail outlet;
    - ii) service provision outlet;
    - iii) healthcare facility;
    - iv) social service buildings, such as weekly care centers, homes for persons with medical handicaps, homes for senior citizens and homes with a special regime, and facilities providing facilitating social services in residential form;
    - v) international airports;
    - vi) universities, schools or school facilities, with the exception of primary school pupils during education at primary school, school groups or school clubs, pupils on the lower levels of six-year and eight-year high school during education at high school, pupils of the first four years of an eight-year conservatory curriculum during education at a conservatory, and applicants for education at a secondary school during an entrance examination, if they use the protective equipment set forth in point 2,
    - vii) museums, galleries, exhibition grounds, publicly accessible historical or cultural monuments (castles, chateaux or similar historical monuments, etc.), observatories and planetariums or places where trade fairs or retail economic exhibitions are held,
    - viii) gambling halls, casinos, music, dance, gaming and similar social clubs or

- discotheques,
  - b) in means of public transport,
  - c) on the indoor and outdoor premises of catering establishments,
  - d) as concerns attendees at concerts and other musical, theatre, film or other artistic performances, circuses and variety shows and sports matches,
  - e) during participation at congresses, educational events and examinations in person,
  - f) during participation at public or private events during which persons gather in one place at one time in groups of more than 10 persons in the case of indoor premises, or 30 persons in the case of outdoor premises, including assemblies pursuant to Act No. 84/1990 Coll., on the Right of Assembly, as amended; this applies to outdoor premises in cases when people do not maintain a distance of 1.5 meters between each other, unless they are exclusively members of the same household,
- with the exception of children under 15 years of age, who can wear the protective equipment specified in point 2 even in such places, unless the exemption under point 3 applies to them. In exceptional cases, when it is necessary for the pupil or student to see the teacher's mouth during schooling, it is possible for the teacher to use a protective shield as protective respiratory equipment, under the condition that they maintain a distance of at least 1.5 meters from the pupils or students. Pupils or students performing practice, practical schooling or practical training on the workplaces of legal entities and natural persons, shall observe the rules applied to employees on this workplace.

2. Effective from 31 July 2021 from 12:00 a.m. until this Extraordinary Measure is rescinded, all persons are prohibited from moving around and being present without the protection of their airways (nose, mouth), which is a respirator or similar device (always without an exhalation valve) meeting at least all the technical conditions and requirements (for a product), including filtration effectiveness of at least 94% in accordance with the relevant standards (e.g. FFP2/KN 95), a medical facemask or similar device meeting, at least, all the technical conditions and requirements (for a product) of the CSN EN 14683+AC standard, which prevents the spread of droplets, in all other indoor premises of buildings not specified in point 1, except for the place of residence or accommodation (e.g. hotel room), where there are at least 2 persons present in the same place at the same time at a distance of less than 1.5 meters, unless these are exclusively members of one household.
3. The prohibition pursuant to points 1 or 2 does not apply to:
  - a) children who have not yet commenced school attendance,
  - b) pupils, students and teaching staff in accordance with the Education Act and students and academic staff in accordance with Act No. 111/1998 Coll., on Higher Education Institutions and on Amendment and Supplementation of Certain other Acts (the Higher Education Act), as amended, within the framework of educational activities, the nature of which makes wearing of protective equipment impossible (in particular physical education, singing and playing wind instruments),
  - c) pupils and students during schooling, provided they are seated at a desk or otherwise seated,
  - d) teachers or academic workers during the provision of education
  - e) examined persons and examiners at school or university, if all the persons maintain a distance of at least 1.5 meters,
  - f) accommodated children, pupils or students while staying in their room ( i.e., outside of the common areas) at the boarding school, children's home and during school field trips;
  - g) children in educational facilities for the performance of institutional education or protective education and schools established as a part of them and centers of

- educational care when providing services in the form of boarding;
- h) schools established by the Ministry of Justice;
  - i) children at facilities for children requiring immediate assistance;
  - j) persons with intellectual disorders, disorders on the autistic spectrum and cognitive disorders or severe alterations of their mental state, whose mental capacity or current mental state does not allow them to observe this prohibition;
  - k) patients, if they are hospitalized in inpatient healthcare facilities or if this is necessary for the provision of healthcare services,
  - l) healthcare workers for the necessary period of time, if required for the provision of healthcare services;
  - m) social service users in social service buildings, such as weekly care centers, homes for persons with a medical handicap, homes for senior citizens and homes with a special regime, and in facilities providing facilitating social services in residential form;
  - n) other cases worthy of consideration that are stipulated by a healthcare or social service provider or attending doctor for movement and staying in healthcare facilities and social service facilities;
  - o) persons during the performance of work at the workplace or while performing another similar activity for the period of time over which they perform this activity in one place without the presence of other persons than a co-worker, unless determined otherwise by the employer on the basis of adopted and implemented hygiene, technical, organizational and other measures for the prevention of risks,
  - p) persons driving public transit vehicles, who are not in direct contact with passengers during their clearance,
  - q) judges, lay assessors, public prosecutors, accused persons and their defense counsel, parties to civil, administrative and constitutional court proceedings and their representatives, witnesses, experts, interpreters and other persons on which a court decides, in the place and at the time of the court proceedings,
  - r) persons performing copyrighted works (e.g. theatre, dance or musical performances), lecturers and persons participating in the creation and production of audiovisual works or programs,
  - s) hosts, reporters and other persons appearing on radio, television and other programs;
  - t) persons performing work classified by a decision of the competent public health protection authority in category three or four due to the risk factor affecting working conditions of heat stress, and also persons performing work which has not yet been categorized and for which it can be anticipated that, after categorization has been performed, they will be classified in category three or four due to the presence of a risk factor affecting working conditions of heat stress,
  - u) customers of catering establishments while consuming food and meals, including drinks, subject to the condition that the customer is sitting at a table,
  - v) persons outside catering establishments for the necessary period for the consumption of food and meals, including drinks;
  - w) the couple being married over the course of the wedding ceremony and other persons attending the ceremony, and persons declaring that they are entering into registered partnership together and other persons attending this declaration,
  - x) persons for the essential time needed to take their portrait photograph, or photographs of newlyweds, including a group photograph with household members and other direct relatives, and other close persons and persons for the period of time required to take photographs during photography sessions organized by the school or school facility,
  - y) athletes or persons exercising during training, exercise, matches, competitions, etc., including running and cycling, and to trainers, other team members within the

framework of collective sports,

and referees during participation in sporting activities or training conducted within competitions organized by sports unions or umbrella sports organizations,

- z) persons on the premises of artificial swimming areas, swimming pools, bathing pools, pools for infants and toddlers and paddling pools, spa and therapeutic pools, saunas, wellness facilities and salt caves,
- aa) persons for the period of time necessary to provide services which are provided to the person in the area of their head and neck and where use of protective equipment would prevent the provision of this service, such as barber shops, hairdressing salons, solariums, cosmetic, massage and similar regenerative or reconditioning services or other similar services during which skin integrity is breached,
- bb) persons during the organized activity of choirs, and only at the place of actual performance of the activity (singing) and during this activity,
- cc) persons participating in rehabilitation events or other similar events, both residential and non-residential, events or persons under 18 years of age when staying in and moving about the indoor and outdoor venue of the event (e.g. campground) and in nature, if no other mass event is held concurrently in the same place,
- dd) members and employees of the basic components of the Integrated Rescue System, if they use a mask or half mask meeting all of the technical (product) conditions and requirements of the ČSN EN 140 +A1 standard,
- ee) persons who cannot, for serious medical reasons, wear respiratory protective equipment as referred to in point 1 or 2 and are able to prove this through a medical certificate; however, such persons shall be required to wear other respiratory protective equipment under this measure, which is specified in the medical certificate, except where the medical certificate specifically states that the person cannot wear any respiratory protective equipment.

4. Effective from 12:00 a.m. on 31 July 2021 until this Extraordinary Measure is rescinded, all employers are ordered to equip employees with the protective respiratory equipment set forth in points 1 and 2, in a sufficient number for each work shift; this does not apply if the employee does not come into contact with other persons during the period of work performance and in connection with the performance of their work (e.g., remote work outside of the employer's premises).
5. Effective from 12:00 a.m. on 31 July 2021 until this extraordinary measure is rescinded, all health service providers are directed to only issue a certificate under paragraph 3(ee) to persons who are prevented from using respiratory protective equipment under paragraph 1 or 2 for serious medical reasons, and are further directed to make a record of that fact and the reasons for it, including the diagnosis, in the person's medical records, including that the natural person has been advised of the risks associated with not using respiratory protective equipment under point 1 or point 2.

## **Rationale:**

The Ministry of Health has proceeded to issue this extraordinary measure on the basis of the following facts and reasons and, in accordance with the provisions of Article 3(2) of Act No 94/2021 Coll., on Extraordinary Measures during the Epidemic of the COVID-19 Disease, and on amendments to certain related acts (hereinafter referred to as "Act No. 94/2021 Coll."), justifies it as follows:

### **I.**

#### **Current analysis of the epidemiological situation of COVID-19**

The current epidemic situation of the COVID-19 incidence in the Czech Republic is characterized by an increasingly higher number of daily newly diagnosed cases compared to the period between the second half of June and the first week of July this year, when we observed significantly lower daily detections. The current daily average increase in newly diagnosed cases of COVID-19 is around 180 cases, whereas in the aforementioned period between June and July the daily average was around 100 cases.

This situation is primarily influenced by developments in the capital city of Prague, and also in the Central Bohemia and Plzeň regions, i.e., the regions with the highest 7-day incidence. However, the development of the last week indicates a gradual stabilization of the epidemic situation in these regions; we are no longer seeing an upward trend but rather a gradual, continuous decrease in the number of newly-diagnosed cases, whereas the average daily number of cases in these three regions is showing a roughly 20 to 30% decrease in a week-on-week comparison. In the other regions, the number of newly diagnosed cases has been virtually identical to the levels of daily detections of new cases of COVID-19 in recent weeks, with occasional slight upward fluctuations, i.e., to higher values, as we have seen, for example, in the Pardubice region. However, these higher averages are usually influenced by higher prevalence within a localized outbreak and are thus not a trend issue that would indicate a worsening situation.

In descriptively analyzing the age structure of the cases, we continue to see indications of risk and increased detection in the 16-29 age group, which still accounts for about 40% of all cases detected in the last week, while the 65+ age group continues to show a favorable trend, with less than 5% of the total number of cases. A daily summary of the number of people with newly diagnosed COVID-19 is regularly published on the website <https://onemocneni-aktualne.mzcr.cz/covid-19>.

An increased case detection among young people is not an uncommon phenomenon, even when looking at developments in neighboring countries, and is often linked to a return from holidays, study visits or after attending mass and cultural events, as, for example, in the Netherlands or Spain. This unfavorable trend is related not only to the lack of vaccination coverage in this population group, but also to their "behavioral patterns", often with a reduced willingness to comply with the stipulated measures, and also to the higher number of social contacts and activities in this age group.

Looking not only at developments in the Czech Republic but also abroad, we can currently consider the meeting of people from younger population groups, who are not yet fully

vaccinated, at mass and other similar events, especially indoors, as particularly risky, as evidenced by the higher number of identified cases with a history of visiting dance and music clubs in the last few weeks in several major clusters, the largest of which currently counts more than 40 cases, which were found to be present in the given type of establishment.

In terms of the longer timeline and the assessment of the increasing trend in the number of cases that we have observed since approximately the beginning of July this year, the increase in the number of cases is most likely related to the spread of the delta variant of SARS-CoV-2 in the Czech Republic. This relatively rapid change in the representation of the delta variant in newly diagnosed cases and their increase is not unusual in other countries either, and a similar situation can be observed, for example, in the Netherlands, Germany, Greece, France, UK, USA and Russia and in other countries where this new variant has spread very rapidly and is now the dominant variant minimally at the EU level, accounting for the majority of newly detected cases. This phenomenon, where the delta variant has replaced the previously dominant alpha variant, is primarily due to the fact that the delta variant is characterized by higher transmissibility, with scientific publications reporting up to 60% higher transmissibility than the alpha variant, which means that infection can occur more rapidly than with the alpha variant (European Centre for Disease Prevention and Control). Implications for the EU/EEA on the spread of the SARS-CoV-2 Delta (B.1.617.2) variant of concern - 23 June 2021. ECDC: Stockholm; 2021).

A warning sign of this variant is its ability to “bypass” vaccination, where, with approximately 30% vaccination efficacy for this variant after the first dose of vaccines with a two-dose schedule, it is reasonable to assume an increased risk of infection with this variant, as shown by published scientific data from the United Kingdom in The New England Journal of Medicine, which, among other things, compared the effectiveness of vaccines for different variants, specifically between the alpha and delta variants. (LOPEZ BERNAL, Jamie, Nick ANDREWS, Charlotte GOWER, et al. Effectiveness of Covid-19 Vaccines against the B.1.617.2 (Delta) Variant. New England Journal of Medicine [online]. [cit. 2021-7-29]. ISSN 0028-4793. Available from: doi:10.1056/NEJMoa2108891) .

For this reason, especially in view of the autumn season of respiratory infections and the still significant number of unvaccinated persons in the elderly population, it is crucial to vaccinate as much as possible and as early as possible this vulnerable group with often associated comorbidities and compromised immunity, as this cohort of the population may have a more severe course of disease requiring hospitalization due to their health status. Vaccination, which undoubtedly provides significant protection against a severe course of the disease, as declared in an evaluation by Public Health England, the UK public health authority, which reports more than 95% protection against hospitalization in people vaccinated with two doses, is thus the most reliable preventive measure to protect this vulnerable group. This report, which looks comprehensively at the effectiveness of vaccination, is updated regularly and the latest one as at the date of the extraordinary measure is available from:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1007376/Vaccine\\_surveillance\\_report\\_-\\_week\\_30.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007376/Vaccine_surveillance_report_-_week_30.pdf)

The current data and the trend of the development of the monitored indicators and parameters for the epidemic assessment show us that after the growth phase, we are currently in a phase of stagnation to a slight decline and, given that this is a longer period of time,

we can assess this situation as stable, as we do not observe an escalation in any of the regions or risk indication beyond that described above.

An important aspect of the current development is that the continued increased detection has had no negative impact on the values of the key indicator of the epidemic, i.e. the number of hospitalizations, because the burden on the healthcare system is an important indicator for assessing the level of risk of public health. In this segment, we are also currently observing a stabilized situation, which is significantly helped by the continued vaccination of age groups of the population who, due to their age and associated diseases, are more likely to have a severe course of disease requiring hospitalization. However, it should be noted that even in the oldest population group, i.e. persons over 80 years of age, about 20% of persons have still not been vaccinated. This is a strong negative factor for the subsequent evolution of hospitalizations in the event of major outbreaks, which may subsequently have an impact on the healthcare segment, which is also threatened by another aspect, namely the lack of vaccination coverage among healthcare and social service professionals, as there is still a relatively high number of healthcare and social service workers who have not yet been vaccinated. The importance of high vaccination rates among social service professionals is emphasized in the opinion of the Social Welfare Working Group, given the presence of an at-risk population in these facilities, which is at significant risk in the event of infection, and considers a critical vaccination level to be at least 80% among social service workers and at least 90% for clients/residents of social service facilities. This opinion is available from: <https://www.gov.uk/government/consultations/making-vaccination-a-condition-of-deployment-in-older-adult-care-homes/social-care-working-group-consensus-statement-march-2021>.

However, this population group is not the only one that is not yet sufficiently vaccinated; it is much more pronounced in the lower age groups, especially among persons in their thirties, where complete vaccination coverage is only around 35%, which is a very low figure, both in terms of the overall vaccination threshold and compared to the population average.

The current overview of vaccination is available on the website <https://onemocneni-aktualne.mzcr.cz/vakcinace-cr>

However, despite the current stable situation, it is still necessary to maintain mechanisms to minimize the risk of significant outbreaks with the potential for further spread. A gradual and controlled process of easing restrictions is necessary in particular to avoid a significant deterioration of the epidemic situation and an exponential increase in the number of new cases, which would likely imply an impact on the unvaccinated cohort, i.e. all population groups, which is undesirable. Despite the increasing number of fully vaccinated persons, the vaccination coverage of the population in the Czech Republic is still below the desired minimum threshold of 80%, as only about 50% of the adult population is currently fully vaccinated, which means that there is still a significant number of susceptible persons in the population, even in the population group at risk in terms of severity of the disease. More than 500,000 people over 60 years of age are still not vaccinated with even one dose, which, with the likelihood of a severe course of the disease observed in the elderly ranging from 25 to 30% of infections over the long term, and if the number of new cases were to escalate and penetrate this vulnerable group, would mean a consequent increase in the number of hospital admissions and the associated increase in the burden on the health system and, in a significantly negative scenario, a renewed reduction in the provision of standard care due to overwhelming the health system. This is underlined by the fact that the delta variant, according to a study published in the Lancet based on the monitoring of hospital admissions in Scotland, is more likely to be severe in those with a higher number of comorbidities, primarily in unvaccinated people (SHEIKH, Aziz, Jim MCMENAMIN, Bob TAYLOR and Chris

ROBERTSON. SARS-CoV-2 Delta VOC in Scotland: demographics, risk of hospital admission, and vaccine effectiveness. The Lancet [online]. 2021, 397(10293), 2461-2462 [cit. 2021-7-28]. ISSN 01406736. Available from: [https://doi.org/10.1016/S0140-6736\(21\)01358-1](https://doi.org/10.1016/S0140-6736(21)01358-1) ), as referenced in the European Centre for Disease Prevention and Control report cited above.

## II.

### **Reasons that led the Ministry to issue the extraordinary measure**

The Ministry of Health considers it necessary to continue with the aforementioned current analysis of the epidemiological situation in order to continue with the stipulated anti-epidemic measures that can prevent a significant spread of the disease and thus a worsening of the epidemic situation. The use of respiratory protective equipment to prevent the spread of droplets is also internationally recognized as one of the important and essential anti-epidemic measures that can be used to limit the spread of the disease.

At the same time, and as a precautionary measure, in view of the further planned easing from 1 August 2021, especially in the area of mass events, in view of the number of citizens who spend their holidays abroad and in view of the worsening epidemic situation in popular and widely visited tourist destinations (e.g. Spain, Greece, Croatia, Tunisia), as evidenced by the number of cases with a history of travelling abroad, where from 1 July 2021, epidemiological investigations detected more than 600 imported cases, and in the context of the overall increase in the mobility of citizens during the summer holidays and vacations, we consider it necessary to maintain the obligation to wear adequate respiratory protective equipment in all indoor areas where there is a higher level of risk for objective reasons, especially if there is an accumulation of a higher number of people in one place at one time, without the possibility of observing other set conditions, i.e. sufficient distancing.

The Ministry of Health also sees the enabling of a standard start of the new school year as one of the main priorities for the coming period, which implies, among other things, setting up such anti-epidemic measures that will lead to a reduction or at least to maintaining the current state of the development of the COVID-19 pandemic during August, so that there is no significant increase in the risk of infection among persons who, for objective reasons, could not yet be vaccinated. The use of respiratory protective equipment is one of the most important and effective means of achieving this goal.

Evidence of the critical role of respiratory protection in preventing the transmission of SARS-CoV-2 has been published in a number of scientific studies, and nasal and oral protection has been recommended to the public by major international organizations, including the World Health Organization (WHO), the European Centre for Disease Control and Prevention (ECDC), and the United States Centers for Disease Control and Prevention (CDC).

On average, the risk of transmission is reduced more than five times (in a recent systematic overview, 17.4% without a face mask to 3.1% with a face mask, e.g. N95, surgical or 12-16 layer cotton mask). In addition, several other studies on the use of medical or non-medical face masks have demonstrated the effectiveness of this measure at both individual and population levels. A correctly-worn



face mask (i.e., a mask covering the nose and mouth) is effective not only in reducing the spread of the virus via respiratory secretions (i.e., controls the source of the contagion), but also protects individuals from the COVID-19 disease. Medical face masks represent a simple barrier that prevents the spread of droplets of respiratory secretions through the air to other people, primarily while speaking, coughing or sneezing. Details e.g. in the study:

GÖPFERTO VÁ, Dana a FABIÁNOVÁ, Kateřina. Epidemiological Characteristics of COVID-19: Thoughts about current knowledge of the disease. *Pharmaco therapeutic review: Novel SARS-CoV-2 coronavirus and COVID-19 disease.* 2020, 5(Suppl 1), 30-36. Available from:

[https://farmakoterapeutickarevue.cz/Resources/Upload/farmakoterapie/casopisy/supplementum01-2020//fr\\_2020\\_suppl1\\_covid-19.pdf](https://farmakoterapeutickarevue.cz/Resources/Upload/farmakoterapie/casopisy/supplementum01-2020//fr_2020_suppl1_covid-19.pdf).

Droplets larger than 10 µm (large drops) are often generated by coughing or sneezing, but also by shouting, laughing or regular speech, and they are sometimes released at high speed (50 m/s when sneezing, 10 m/s when coughing). Due to their dimensions and high speed, these drops reach a much further distance than small drops. Without a barrier, large droplets can travel a distance of more than 2 meters (coughing) or more than 6 meters (sneezing). Merely maintaining the usual distance may not prevent the spread of these large droplets, which may contain the virus.

Protection by wearing at least a medical face mask can substantially reduce the likelihood of transmission in the community and, in combination with maintaining a distance from other people, clearly leads to a reduced likelihood of infection.

The effect of respiratory protection measures has been the subject of a number of studies. For example, the study by Mitze, Timo, et al. "Face masks considerably reduce covid-19 cases in Germany." *Proceedings of the National Academy of Sciences* 117.51 (2020): 32293-32301 used regional data about the number of confirmed cases in neighboring Germany. Because respiratory protection was mandatory in different German regions at different times, the authors were able to compare the increase in infections in regions with mandatory respiratory protection and regions without mandatory respiratory protection. After considering different estimates, they concluded that 20 days after the introduction of mandatory respiratory protection, the number of new infections decreased by approximately 45%. The authors also note that since the economic cost is close to zero compared to other public health measures, masks appear to be a cost-effective means of combating COVID-19.

Among similar research, for example, Karaivanov, Alexander, et al. "Face masks, public policies and slowing the spread of covid-19: evidence from Canada." *Journal of Health Economics* (2021): 102475. estimates the impact of regulations on the use of indoor respiratory protection and other non-pharmacological interventions (NPIs) on the increase in COVID-19 cases in Canada. The introduction of the respiratory protection mandate was staggered from mid-June to mid-August 2020 in 34 public health regions in Ontario, Canada's largest province by population. Based on the variability in the introduction of mandatory protection, the authors found that mandatory protection use was associated with a 22% weekly reduction in the number of new COVID-19 cases compared with a period of no mandatory use. The authors adjusted for mobility trends. An additional analysis shows that the protection obligation led to an increase of approximately 27 percentage points in the self-reported frequency of wearing a mask in public.

Systematic reviews and meta-analyses summarizing the available literature are also available. Their conclusions confirm the effectiveness of respiratory protection. For example

the review by Li, Yanni, et al. "Face

masks to prevent transmission of covid-19: A systematic review and meta-analysis." *American Journal of Infection Control* (2020) conducted a systematic review and meta-analysis to evaluate the effectiveness of using respiratory protection to prevent the spread of SARS-CoV-2. PubMed, Web of Science, ScienceDirect, Cochrane Library, and Chinese National Knowledge Infrastructure, VIP (Chinese) databases were searched for relevant articles. No language restrictions were imposed. After searching a total of 5,178 eligible articles in the databases and references, a total of 6 studies involving 4 countries were included. In general, wearing a mask was associated with a significantly reduced risk of COVID-19 infection (OR = 0.38, 95% CI: 0.21-0.69, I<sup>2</sup> = 54.1%). In a group of healthcare workers, face masks were shown to reduce the risk of infection by almost 70%. The results of this systematic review and meta-analysis support the conclusion that respiratory protection can reduce the risk of infection with Covid-19. Similarly, Ford, Nathan and Holmer, Haley K. and Chou, Roger and Villeneuve, Paul and Baller, April and Van Kerkhove, Maria and Allegranzi, Benedetta, Mask Use in Community Settings in the Context of covid-19: A Systematic Review of Ecological Data. SSRN: <https://ssrn.com/abstract=3848524> or <http://dx.doi.org/10.2139/ssrn.3848524>.

Thus, the current state of scientific knowledge shows that the widespread introduction of respiratory protection significantly reduces transmission and the effect of reducing the reproductive number in different contexts and according to different sources can probably be between 10% and 45%, as for example described by the data from the German study cited above.

Reducing the transmission of viruses in the population through the wearing of respiratory protective equipment is a relatively inexpensive intervention compared to the benefits, which can prevent an increase in population mortality and lead to a reduction in economic losses associated with increased morbidity.

Regarding the question of how and whether the use of the type of respiratory protection provided for by this measure is capable of endangering the health of an individual, both in the short term and in the long term, the Ministry states the following.

Research on the topic of health problems due to the use of respiratory protection or other personal protective equipment has mainly focused on healthcare workers. For example, the review paper by Unoki, Takeshi, et al. "Adverse Effects of Personal Protective Equipment Among Intensive Care Unit Healthcare Professionals During the covid-19 Pandemic: A Scoping Review." *SAGE Open Nursing* 7 (2021): 23779608211026164 looked at the adverse effects of personal protective equipment use among ICU health professionals, and based on an analysis of 25 articles, identified the following as key themes: studies focusing on protective equipment-related headaches, voice disorders, and skin manifestations. The majority of adverse effects in ICU healthcare workers were caused by the use of protective equipment for long periods of time, and were more common in nurses who were likely to perform strenuous work.

It can be estimated that the adverse effects of wearing protective equipment for healthcare workers in ICU represent a kind of upper limit of imaginable problems for the public - in the context of healthcare, protective equipment is used precisely, it is equipment with a high protection class (often FFP3), healthcare workers wear it continuously for long periods of time, often without the possibility of removing the equipment, and they perform very demanding and exhausting work. Even in this relatively extreme context, the research does

not indicate any serious health damage as an adverse effect.

Discomfort among non-professionals was examined in a study by Cheek, Gideon JW, et al. "Appropriate attitude promotes mask wearing in spite of a significant experience of varying discomfort." *Infection, Disease & Health* 26.2 (2021): 145-151. Of the 402 survey respondents, 78.4% complained of discomfort associated with the face mask, with the most common causes being difficulty breathing, communication difficulties, and sweating, with younger face mask wearers more likely to report dermatological problems and sweating.

According to some experts, it is possible that more significant than the physiological discomfort associated with respiratory protection are the psychological impacts and reactions that may contribute to the emerging controversy. (Scheid, Jennifer L., et al. "Commentary: physiological and psychological impact of face mask usage during the covid-19 pandemic." *International journal of environmental research and public health* 17.18 (2020): 6655.)

Several studies have confirmed that the use of medical face masks does not prevent oxygen getting through in the case of adults, including senior citizens over 65 years of age, e.g.: SHAW, Keely, Scotty BUTCHER, Jongbum KO, Gordon A. ZELLO a Philip D. CHILIBECK. Wearing of Cloth or Disposable Surgical Face Masks has no Effect on Vigorous Exercise Performance in Healthy Individuals. *International Journal of Environmental Research and Public Health* [online]. 2020, 17(21) [cit. 2021-7-28]. 1660-4601. <https://doi.org/10.3390/ijerph17218110> or Chan NC.

In addition to the sources cited, published research includes a number of studies showing that wearing respiratory protection has no measurable effect on physiological parameters. For example, in a small study by Chan, Noel C., Karen Li, and Jack Hirsh "Peripheral oxygen saturation in older persons wearing nonmedical face masks in community settings." *JAMA* 324.22 (2020): 2323-2324, wearing a three-layer non-medical face mask was not associated with a decrease in oxygen saturation in older participants. The study by Shaw, Keely, et al. "Wearing of cloth or disposable surgical face masks has no effect on vigorous exercise performance in healthy individuals." *International Journal of Environmental Research and Public Health* 17.21 (2020): 8110 showed that wearing respiratory protection during vigorous exercise had no clear detrimental effect on blood or muscle oxygenation and on exercise performance in young healthy participants.

A team of US and Canadian researchers published a meta-study summarizing the findings in this area across some 70 studies to date. These have looked at different forms of facial protection (from ordinary face masks to respirators to special surgical masks) over the years and mapped their effect on physiology or perception. Among the factors studied were such things as respiratory effort, blood pressure, heart function, brain oxygenation, muscle blood flow, and other metrics that could be affected by wearing a face mask, with the conclusion that for a healthy person, wearing face masks or respirators is not physiologically threatening in any way, only uncomfortable (see study: HOPKINS, Susan R., Paolo B. DOMINELLI, Christopher K. DAVIS, et al. Face Masks and the Cardiorespiratory Response to Physical Activity in Health and Disease. *Annals of the American Thoracic Society* [online]. 2021, 18(3), 399-407 [cit. 2021-7-29]. ISSN 2329-6933. Available from: doi:10.1513/AnnalsATS.202008-990CME).

Thus, the evidence to date can be summarized by stating that, despite the potential adverse effects associated with the wearing of respiratory protection, the greatest consequence of a blanket requirement for respiratory protection is likely to be simple discomfort for the wearer.

The benefit to the general population in terms of minimizing the risk of the virus spread and protecting vulnerable groups undoubtedly outweighs the impact on individual health or discomfort, but we perceive

that there may be exceptional cases where wearing respiratory protection may, exceptionally, cause complications for some patients due to their medical condition, and therefore we leave it to the judgement of the physician whether the risk outweighs the benefit of protection from viral disease. However, we believe that persons with comorbidities and respiratory problems that occur independently of the wearing of respiratory protection, in particular, should be protected from infection as much as possible, as any deterioration in their health may be fatal. At the same time, it should be borne in mind that if they do not wear respiratory protection, they will pose a risk of infection to those around them in the event of infection.

For the above reasons and as a precautionary measure, particularly in view of the higher transmissibility of the prevalent delta variant of SARS-CoV-2, it is necessary to maintain the obligation to wear adequate respiratory protective equipment wherever there is a higher level of risk for objective reasons, e.g. where there is an accumulation of a higher number of people in one place at one time or where it is not possible to maintain sufficient distances from other people.

The need to wear respiratory protective equipment indoors in the event of a persistent increased incidence of COVID-19 and in the context of the spread of the delta variant even in fully vaccinated persons is also mentioned in the latest recommendation of the US Centers for Disease Control and Prevention (CDC), available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>, as even a fully vaccinated person can spread the disease if infected with this variant.

The United States Centers for Disease Control and Prevention (CDC) has also issued guidelines for mass events (regardless of venue), which also mention the importance of wearing respiratory protective equipment. This recommendation is available at <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>

Based on these facts, we consider it necessary to continue to use respiratory protective equipment to prevent the spread of the disease at specified locations or in specified situations.

### III.

#### **Individual types of respiratory protective equipment and the level of risk associated with wearing or not wearing them in relation to the protection of public and individual health**

When deciding on the appropriate technical parameters for respiratory protection in selected indoor areas of buildings where a higher concentration of people or a meeting of people who do not normally meet (point 1 - e.g. a shopping center) can be expected, better respiratory protection than a face mask was adopted on the basis of the risk assessment. Of the theoretical options, the use of respirators, face masks or cloth masks were particularly worthy of consideration. Reusable cloth masks had their place, especially in times of absolute shortage of disposable protective equipment, but their properties (especially filtration efficiency) are not comparable to respirators or face masks (surgical masks), which are more suitable for protecting the respiratory tract from infectious droplets.

When deciding whether to order the use of a respirator or a face mask with comparable filtration efficiency of the material used, the essential difference between a respirator and a face mask must be taken into account, consisting in the better adhesion of the respirator to the face, where, if used correctly, exhaled air, which may be infectious, does not escape in the space between the protective device and the face. Similarly, when used correctly, the respirator does not allow air to be drawn from beyond the filter layer into the space between the protective device and the face of the protected person. It should be borne in mind that the protective equipment should not only protect against the inhalation of infected droplets but also prevent the exhalation of infected droplets into the environment. Thus, of the technical options available, the respirator has the most appropriate characteristics to protect both the wearer and the persons in the vicinity of the respirator. Hence, the important factors are not only that a similarly effective filtering material is used in the manufacture of the face mask or respirator, but also that, when the face mask is used, part of the air is inhaled and exhaled outside the filtering layer due to leaks, thus reducing the effectiveness of the protection of both the wearer and those around them. Reducing the effectiveness (protection) in this way may mean greater comfort for the wearer, particularly depending on how much air is inhaled outside the mask, but use in this way obviously further reduces the effectiveness of the face mask.

A FFP2 respirator reduces a user's exposure to large respiration droplets and aerosols to a significant degree. In the case of well-fitting and correctly-worn FFP2 respirators, there is minimum leakage around the edges of the respirator. The overall efficiency of a respirator e.g. FFP2 is > 94% - see the information on respiratory protection compiled by the Occupational Safety Research Institute, v.

v. v. i., available here: <https://www.bozpinfo.cz/sites/default/files/obsah/super-obsah/informace-o-ochrane-dychadel/soubory/ochranadychadelv4.pdf>.

Point 1 of the operative part of the extraordinary measure therefore provides that each respiratory protective device must meet all the technical conditions and requirements (for the product), including a filtration efficiency of at least 94% according to the relevant standards. This is therefore a general declaration of what all the protective equipment must meet, since respiratory protective equipment used in the Czech Republic meets the requirements of various standardization systems recognized around the world. However, this wording does not mean that the operative part deals only with filtering efficiency, but also includes all other "technical conditions and requirements" so that the respiratory protective equipment as a whole reaches the required level. However, for the average user deciding which respiratory protective equipment to purchase, the filtering efficiency is of particular importance, since the other conditions laid down in the technical standards must be ensured by the manufacturer, importer or distributor. The standardization systems (i.e. the individual standards listed below) specify the technical conditions and requirements for respiratory protective equipment in a cross-sectional manner, those being in particular: breathing resistance, fouling, attachment system, carbon dioxide concentration in the inhaled air, skin tolerance, penetration, etc. These are the technical conditions laid down in the standard by which the manufacturer is bound. It can therefore be said that every product must meet the aforementioned technical conditions and requirements in addition to the filtering efficiency.

The more favorable properties of the respirator are, however, reflected in its higher price compared to a face mask (surgical mask), which must be taken into account with regard to the daily need for a new aid for the average user and the necessary replacement (exchange) of the aid, e.g. at healthcare facilities or social service providers, where the protective equipment needs to be used repeatedly during one working shift, or replaced after the

specified period of use by the manufacturer, which may represent a significant financial cost. The state

took this cost into account when determining the amount of VAT, as this is the preferred option for respiratory protection (at the time of the extraordinary measure, however, one FFP2 respirator can be purchased for approximately CZK 10).

However, despite its undeniable positive features, this protection is not suitable for everyone, especially with regard to the sizes produced, where the availability for small children's faces on the market is not optimal, and at the same time, achieving the necessary tightness on the face is problematic for small children and use is more akin to the use of a mask. In view of this, the obligation to wear a respirator does not apply to persons under 15 years of age, where the obligation to protect the respiratory tract can be implemented by means of a face mask. At the same time, in view of the practical implications and application problems in practice, an exemption from wearing compulsory respiratory protection is provided for children who have not yet started compulsory school attendance.

Given the expert studies published to date focusing on the effectiveness of vaccines on "high-risk" variants of the SARS-CoV-2 virus, where it can be tentatively stated that the effectiveness of vaccines against some variants of the virus is reduced, it is still desirable to require proper respiratory protection as prevention against the possible transmission of infectious disease in these high-risk situations (indoor areas, mass events, inability to ensure sufficient distancing, etc.). In general, however, although a person who has recovered from laboratory-confirmed Covid-19 or who has received a complete vaccination is considered to be protected, this does not mean that they cannot become ill again or in spite of having received a vaccination, or that they cannot transmit the disease. It is important to note that having had the disease or vaccination does not protect against infection with SARS-CoV-2 in absolute terms, as stated, for example, in the Public Health England reports cited above and quoted above, but rather against a severe course of the disease. The completion of vaccination substantially reduces the risk of infection and, in particular, protects the vast majority of vaccinated persons from the severe form of the COVID-19 disease course. However, it cannot be excluded that a person who has had the COVID-19 disease (whether laboratory-confirmed or not), or a person who has been fully vaccinated, may still be infected with and carry the SARS-CoV-2 virus, as is also stated in the CDC opinion cited above. Therefore, these persons are not exempt from the requirement to wear respiratory protective equipment under point 1.

The obligation to wear respiratory protective equipment meeting the specified technical conditions of higher effectiveness applies in the interior of buildings used as shops and service establishments, workplaces of healthcare facilities, social service facilities, which are weekly residential homes, homes for people with disabilities, homes for the elderly and homes with special regime, and facilities providing relief social services in residential form, and in the interior spaces of buildings serving as international airports, interior spaces of museums, galleries, exhibition spaces, as well as interior spaces of castles, chateaux, observatories, planetariums and similar historical or cultural buildings and places where trade fairs or commercial exhibitions are held, i.e., premises where the public is again allowed to be present and it can be expected that the safe distance from other persons necessary to limit the transmission of infectious disease by droplets cannot always be maintained.

For the same reason, there is an obligation to wear respiratory protective equipment when attending mass events, both indoors and outdoors, where, among other things, people from different age groups and often from different geographical areas are likely to meet, which can again pose a risk of spreading disease.

In the case of patients with COVID-19, according to published works, the course of the disease is asymptomatic in 80%, only 15% have symptoms of the disease and 5% of the cases of the disease can be serious.

Scientific studies show that medical face masks reduce the spraying and dispersion of infectious droplets when worn over the nose and mouth. It is important to wear a medical face mask even if a person does not show symptoms of COVID-19 disease, because persons with COVID-19 disease who are asymptomatic and those who are not yet symptomatic (in the pre-symptomatic period) can spread the virus to others. The risk of asymptomatic and pre-symptomatic cases, and the associated risk of transmission, has also been noted by Furukawa et al. (FURUKAWA, Nathan W., John T. BROOKS a Jeremy SOBEL. Evidence Supporting Transmission of Severe Acute Respiratory Syndrome Coronavirus 2 While Presymptomatic or Asymptomatic. *Emerging Infectious Diseases* [online]. 2020, **26**(7) [cit. 2021-7-28]. ISSN 1080- 6040. Available from: <https://doi.org/10.3201/eid2607.201595>), as well as Wei in his article, where he describes several clusters of pre-symptomatic cases (WEI, Wycliffe E., Zongbin LI, Calvin J. CHIEW, Sarah E. YONG, Matthias P. TOH, Vernon J. LEE. Presymptomatic Transmission of SARS-CoV-2 — Singapore, January 23-March 16, 2020. *MMWR. Morbidity and Mortality Weekly Report* [online]. 2020, **69**(14), 411-415 [cit. 2021-7- 28]. ISSN 0149-2195. Available from: <http://dx.doi.org/10.15585/mmwr.mm6914e1> ).

Asymptomatic and pre-symptomatic cases pose a significant risk if they occur in a healthcare setting, as described by Arons (ARONS, Melissa M., Kelly M. HATFIELD, Sujan C. REDDY, et al. Presymptomatic SARS-CoV-2 Infections and Transmission in a Skilled Nursing Facility. *New England Journal of Medicine* [online]. 2020, **382**(22), 2081-2090 [cit. 2021-7-28]. ISSN 0028-4793. Available from: <https://doi.org/10.1056/NEJMoa2008457>), pointing out that unrecognized cases can pose a high risk not only in terms of further spread, but also in terms of impact; if hospitalized persons are infected, they may experience significant deterioration in their health status.

Another study emphasizes that a mask is a very important non-pharmacological measure in the process of halting the spread of COVID-19: WANG, Jiao, Lijun PAN, Song TANG, John S. JI a Xiaoming SHI. Mask use during covid-19: A risk adjusted strategy. *Environmental Pollution* [online]. 2020, **266**(22) [cit. 2021-7-28]. ISSN 02697491. Available from: <https://doi.org/10.1016/j.envpol.2020.115099> .

Wearing respiratory protective equipment is described as an important preventive measure by Brooks and Co. in their article (BROOKS, John T., Jay C. BUTLER, Robert R. REDFIELD. Universal Masking to Prevent SARS-CoV-2 Transmission—The Time Is Now. *JAMA* [online]. 2020, **324**(7) [cit. 2021-7-28]. ISSN 0098-7484. Available from: <https://doi.org/10.1001/jama.2020.13107>), which evaluates the effectiveness of this measure in relation to the number of cases detected during the regular testing of healthcare professionals and patients, and states that the number of symptomatic cases was significantly reduced after the introduction of this measure, i.e. the obligation to wear protective equipment.

Beyond the indoor areas of buildings and mass events, the United States Centers for Disease Control and Prevention (CDC) requires the wearing of respiratory protective equipment in public transport <https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html> , as it observes the risk in closer person-to-person contact, longer travel times, and the fact that passengers also frequently touch surfaces and objects that may be potentially contaminated.

In view of the concentration of the virus in indoor areas and also in connection with the existence of more infectious variants of the virus (see below) than at the beginning of the epidemic, the obligation to use respiratory protective equipment

with higher effectiveness, such as respirators, is stipulated for certain premises or situations. To ensure the highest possible protection of respiratory passages, a respirator or similar device (always without an exhalation valve) meeting at least all the technical conditions and requirements (for a product), including filtration effectiveness of at least 94% in accordance with the relevant standards, has been stipulated. These are always premises where a higher accumulation of persons can be expected. In the given case, respiratory protective equipment refers to a barrier protecting the airways (face and respiratory airways) and an element of the anti-epidemic measures.

The standards in the given case refer in particular to:

1. Standard EN 149 (European Union), label FFP2, FFP3,
2. Standard GB 2626 (People's Republic of China), label KN95, KN99, KN100, KP95, KP100,
3. Standard NIOSH- 42CFR84 (USA, Canada), label N100, N99, N95, R100, R99, R95, P100, P99, P95
4. Standard AS/NZS 1716:2012, AS/NZS 1715:2009 (Commonwealth of Australia/New Zealand), label P2, P3
5. Standard KMOEL - 2017-64 (KF94) (South Korea), label KF94, KF99
6. Standard JMHLW- Notification 214, 2015 (Japan), label DS2.

The effectiveness of using respiratory protective equipment is also described in an article by Brooks (BROOKS, John T. a Jay C. BUTLER. Effectiveness of Mask Wearing to Control Community Spread of SARS-CoV-2. JAMA [online]. 2021, 325(10) [cit. 2021-7-29]. ISSN 0098-7484. Available from: <https://jamanetwork.com/journals/jama/fullarticle/2776536>), who states in his article that the current available data already clearly demonstrate the effect of wearing respiratory protective equipment and rates it as an important non-pharmacological measure to help reduce the risk of spreading the disease.

#### IV.

##### **Proportionality of interference with the rights and legitimate interests of legal entities and natural persons.**

With regard to the proportionality of the interference with the rights and legitimate interests of legal persons and, in the case of this extraordinary measure, especially natural persons, i.e. the proportionality test of the established anti-epidemic measures, the Ministry of Health states that the obligation to wear respiratory protective equipment, especially under point 1 and point 2 of this extraordinary measure, cannot be considered a significant interference with the fundamental human rights or freedoms of natural persons, especially with regard to the objective pursued, which is the protection of the life and health of all persons in Czech Republic, in other words, the protection of public health. As follows from the systematics of the Charter of Fundamental Rights and Freedoms, but also, for example, from the Universal Declaration of Human Rights or the Charter of Fundamental Rights of the European Union, the protection of life (and health) is one of the fundamental human rights, the preservation of which should take precedence over all other human rights. The Ministry of Health states that the sole objective pursued by this extraordinary measure is precisely to protect the life and



health of society as a whole, as well as directly of individual persons, who are obliged by this extraordinary measure to wear the specified respiratory protective equipment in the specified places. Compliance with this extraordinary measure by its addressees, i.e. citizens of the Czech Republic and other persons on the territory of the Czech Republic, should lead to a significant positive effect, i.e. 1) a slowing down

or stop of the spread of SARS-CoV-2 virus in the Czech Republic, 2) protection of persons who have not yet suffered from COVID-19 disease or could not be vaccinated for health reasons (contraindications to vaccination), 3) protection of persons who did not have the expected immune system response to the disease or vaccination. In fact, the use of respiratory protection has been recognized worldwide as one of the most important measures in the fight against the COVID-19 pandemic since the beginning of the pandemic (as a reminder, the "3Rs" rule has been mentioned since the beginning of the pandemic - i.e. masks, hands, distancing). The purpose of this extraordinary measure is to minimize the risk of individuals contracting SARS-CoV-2. The resulting effect, to which this measure should contribute significantly, is not only the slowing down or complete stop of the spread of the SARS-CoV-2 virus in the population, but also the associated positive effect on the strain on healthcare facilities in caring for patients with the COVID-19 disease, since even in view of the increasing vaccination rate in the Czech Republic, there is a presumption of fewer serious cases of the disease, and the associated economic aspect of caring for these patients in terms of the cost to public health insurance. The Ministry of Health considers that another essential and positive benefit of this measure is that, as a result of the slowing down (or stopping) of the spread of the virus due to the combination of acquired (temporary) immunity with regard to the disease or vaccination and compliance with the various extraordinary measures (including this one), there is a realistic assumption that in the future it will no longer be necessary to resort to more restrictive measures that would have to be taken in the event of a rapid increase in the number of diseases and hospital admissions. All these solutions to the COVID-19 pandemic adopted in the past undoubtedly affect the individual fundamental rights and freedoms of natural and legal persons considerably more than the (temporary) obligation to wear respiratory protection in the situations and establishments listed in this extraordinary measure. The Ministry of Health also adds that the positive effect pursued by this extraordinary measure, i.e. the necessary degree of protection of the health of its addressees against the increased risk of transmission of the SARS-CoV-2 virus in places and (especially indoor) enclosed spaces where it is not possible to interrupt the path of transmission by other means (e.g. by sufficient distancing between people), unfortunately cannot be achieved in any other (i.e. less restrictive for the users) way than by the consistent use of the specified barrier respiratory protection devices.

As regards the specific interference with the constitutionally guaranteed rights and freedoms of natural persons and legal entities as a result of this extraordinary measure, the Ministry is of the opinion that it does not constitute any significant interference with them. First of all, the Ministry points out that it cannot be forgotten that one's personal freedom ends where another's freedom (and, in this case, health) begins. If the aim of this measure is to protect the lives and health of all the people present in the territory of the Czech Republic (and not, for example, just some people), it is perfectly legitimate for individuals to submit to this measure and to act in accordance with it, since by doing so they are protecting not only themselves but also, and especially, others.

While it is true that this measure interferes in a certain way with the monetary situation of the addressees, who must purchase the specified respiratory protective equipment at their own expense, the costs of acquiring it are not high or even ruinous (at the time of the issuance of this extraordinary measure, it was possible to purchase 20 protective face masks - respirator of the FFP2 class for a price of CZK 198, i.e. approximately CZK 10 per piece). In view of the

contribution of the stipulated respiratory protection equipment to preventing the spread of COVID-19, the Ministry of Health does not consider these costs to be excessive. In this context, it should also be taken into account that if an individual falls ill with the COVID-19 disease, in many cases they will not be able to exercise their profession for at least the period of isolation (or quarantine, if someone with whom they have been in contact has fallen ill), which will result in a much more significant interference with their monetary situation.

This extraordinary measure is also capable of restricting the right to freedom of movement of natural persons to a certain extent, but even in this case the Ministry of Health does not consider this intervention to be disproportionate. The Ministry of Health bases this conclusion primarily on the fact that it is not a real restriction of movement, as was the case, for example, during the state of emergency in the spring of this year, when free movement was restricted, with exceptions, to the territory of the municipality, but in fact it is only a specification and establishment of the conditions under which a natural person may move freely anywhere in the territory of the Czech Republic. In other words, if a natural person complies with this extraordinary measure, their movement within the territory of the Czech Republic will not be restricted in any way. Furthermore, it is clear that a natural person who does not wish to use the stipulated respiratory protection equipment is restricted in their freedom of movement, particularly with regard to indoor areas, while in the case of outdoor areas there are only a few enumerated cases (e.g. concerns or other open-air cultural events, sports matches, participation and public or private events outdoors), but even in the case of indoor areas, there are justified exceptions to the obligation and a general exemption is now introduced for persons who, due to their health condition, cannot use the respiratory protection. In addition, as regards travel, many of the addressees of the extraordinary measure (although obviously not all) have the choice between public transport and the use of their own private means of transport, where the obligation to use respiratory protection does not apply. Similarly, a number of matters can now be handled remotely via the internet, in particular the basic necessities of life (e.g. shopping) or dealing with the authorities. The Ministry of Health is of course aware that this does not apply across the board to everyone and everything (e.g. a visit to a medical facility certainly cannot be dealt with in this way), but this fact also contributes to the fact that in many cases there is no significant interference with the freedom of movement.

As regards possible interference with the right to health, this extraordinary measure extends the exemptions from wearing respiratory protective equipment to persons who, for serious medical reasons, cannot wear the prescribed protection on the basis of an indication made by a healthcare provider. As far as other, i.e. healthy persons are concerned, the use of respiratory protective equipment, even for a long period of time, does not endanger their health, as already mentioned above. On the contrary, its use contributes to the protection of the health of such persons, as it significantly reduces the risk of contracting SARS-CoV-2.

The Ministry of Health therefore concludes that it does not find any disproportion in the chosen means and the pursued objective of this extraordinary measure in relation to the fundamental rights and freedoms of natural persons or legal entities; on the contrary, it assesses them as proportionate.

## V.

### **Obligations of employers**

For the reasons set forth above, all employers are obliged to equip employees with protective respiratory equipment, namely such equipment which must be used pursuant to this extraordinary measure to protect the respiratory airways, in a sufficient quantity for every

work shift. This does not apply if the employee does not come into contact with other persons during the work performance and in relation to the work performance, e.g. during remote work outside of the employer's workplace.

## VI.

### Exceptions

Despite all the aforementioned reasons for the duty to wear airway protection in the specified cases, there are reasons worthy of consideration for which an exception from the relevant rule can be set.

The exception under letter (a) applies to "children who have not yet commenced school attendance", with regard to the fact that such small children are not able to comply consistently and effectively with instructions and it is not possible to ensure that they will wear a protective device at a time they should do so, i.e., imposing such a duty on them makes no sense. Hence, it cannot objectively be ensured that the protection of the airways be kept clean and functional.

The exception under letter (b) applies to "pupils, students and teaching staff in accordance with the Education Act and students and academic staff in accordance with Act No. 111/1998 Coll., on Higher Education Institutions and on the amendment and supplementation of certain other acts (the Higher Education Act), as amended, within the framework of educational activities, the nature of which makes wearing protective equipment impossible (in particular physical education, singing and playing wind instruments)", since such activities could not be performed without an exception from the duty to use a protective device and it is also a necessary part of the studies.

The exception under letter (c) applies to "pupils and students who are seated in a desk or otherwise seated", because they are regularly tested, are seated in a desk and do not move around during instruction, and the risk of possible infection is reduced by maintaining sufficient desk distancing.

The exemption under letter (d) applies to "teaching staff or academic staff in the provision of education", as the risk of infection is reduced by maintaining a distance from the pupils and subject to the condition of regular testing or submission of proof of vaccination or recovery from illness.

The exception under letter (e) applies to "examined persons and examiners at school or university, if all the persons maintain a distance of at least 1.5 meters," because these are persons who are regularly tested, and the risk of contagion is reduced by observing a minimum distance of 1.5 meters.

The exception under letter (d) applies to "accommodated children, pupils or students while staying in a room ( i.e., outside of the common areas) at a boarding school or children's home and during school trips," as persons accommodated in a room at boarding school are constant roommates in the case of which the non-use of a protective device in such a very small group, often containing only two people, does not represent a serious risk; the same applies for school trips, which is usually a homogenous collective which spends several consecutive days together.

The exception under letter (g) applies to “children in educational facilities for the performance of institutional education or protective education and schools established as a part of them and centers of educational care when providing services in the form of boarding”, as they are integrated and unchanging collectives of the same people, in which case the non-use of a protective device within such a collective does not represent a serious risk. At a time more virulent SARS-CoV-2 mutations are spreading,

the exception does not apply to employees of the specified facilities for the purpose of preventing their spread in such facilities.

The exception under letter (h) applies to “schools established by the Ministry of Justice” as they are integrated and unchanging collectives of the same people, in which case the non-use of a protective device within such a collective does not represent a serious risk.

The exception under letter (i) applies to “children at facilities for children requiring immediate assistance”, as they are integrated and unchanging collectives of the same people, in which case the non-use of a protective device within such a collective does not represent a serious risk. At a time more virulent SARS-CoV-2 mutations are spreading, the exception does not apply to employees who are participating in extra-curricular education at school clubs or in groups designated exclusively for these pupils or students, for the purpose of preventing their spread in such facilities.

The exception under letter (j) applies to “persons with intellectual disorders, disorders on the autistic spectrum and cognitive disorders or severe alterations of their mental state, whose mental capacity or current mental state does not allow them to observe this prohibition”, with regard to the fact that such persons are usually not able to comply with instructions and it is not possible to ensure that they will wear a protective device at a time they should do so, i.e., imposing such duty on them makes no sense.

The exception under letter (k) applies to “patients, if they are hospitalized in inpatient healthcare facilities or if this is necessary for the provision of healthcare services” with regard to the fact that they are usually patients lying on a bed and, in addition, a protective device could complicate their treatment or the provision of healthcare services.

The exception in accordance with letter (l) applies to “healthcare workers for the necessary period of time, if required for the provision of healthcare services” with regard to the fact that some, albeit rare cases of the provision of healthcare services cannot be realized without a protective device, such as speech therapy.

The exception under letter (m) applies to “social service users in social service buildings, such as weekly care centers, homes for persons with a medical handicap, homes for senior citizens and homes with a special regime, and in facilities providing facilitating social services in residential form” with regard to the fact that a protective device could represent an unreasonable burden for social service users and could endanger their health.

The exception under letter (n) applies to “other cases worthy of consideration that are stipulated by a healthcare or social service provider or attending doctor for movement and staying in healthcare facilities and social service facilities”, in order to take into account various particularities of operation, without which there could be serious complications in the provision of healthcare or social services.

The exception under letter (o) applies to “persons during the performance of work on the

workplace or during the performance of other similar activities, for the period when they perform this activity in one space without the presence of persons other than a colleague”, given that if this condition is observed during stable work at the workplace, there is no serious risk of transmission of the disease.

The exception under letter (p) applies to “persons driving public transport vehicles, who are not in direct contact with passengers during their transport” with regard to the fact that, if this condition is complied with, there is no serious risk of transmission of the disease and a protective device could hamper the activities of a driver of a public transport vehicle.

The exception under letter (q) applies to “judges, lay assessors, public prosecutors, accused persons and their defense counsel, parties to civil, administrative and constitutional court proceedings and their representatives, witnesses, experts, interpreters and other persons on which a court decides, in the place and at the time of the court proceedings” with regard to the fact that the use of protective devices could interfere with the proper course of a court process, because the chance to watch expressions on the faces of persons participating in court proceedings contributes to knowledge important for court proceedings.

The exception under letter (r) applies to “persons performing copyrighted works (e.g. theatre, dance or musical performances), lecturers and persons participating in the creation and production of audio-visual works or programs” with regard to the fact that the presence of a protective device on the face of a performer would fundamentally interfere with the performance.

The exception under letter (s) applies to “moderators, reporters and other persons appearing on radio, television and other programs” with regard to the fact that the presence of a protective device on the performer’s face would fundamentally interfere with the performance.

The exception under letter (t) applies to “persons performing work classified by a decision of the competent public health protection authority in category three or four due to the risk factor affecting working conditions of heat stress, and also persons performing work which has not yet been categorized and for which it can be anticipated that, after the categorization has been performed, it will be classified in category three or four due to the presence of a risk factor affecting working conditions of heat stress” with regard to the fact that the presence of a protective device on the face of such a person could endanger his/her health.

The exception under letter (u) applies to “customers of catering establishments while consuming food and meals, including drinks, subject to the condition that the customer is sitting at a table” with regard to the fact that it is not otherwise possible to consume food and meals and a customer is in a stable position that represents a lesser risk for his/her environment.

The exception under letter (v) applies to “persons travelling on public transport for the necessary period for the consumption of food and meals, including drinks” with regard to the fact that it is not otherwise possible to consume food and meals and, in the case of travelling, it is necessary to enable the consumption of food and meals for the necessary time, as otherwise there could be a risk to the health of some persons.

The exception under letter (w) applies to “the couple being married over the course of the wedding ceremony and other persons attending the ceremony, and persons declaring that they are entering into registered partnership together and other persons attending this declaration” with regard to the fact that it is an exceptional and rare opportunity with a limited number of persons, where the presence of a protective device on the face would interfere

with the celebratory character of the event.

The exception under letter (x) applies to “persons for the essential time needed to take their portrait photograph, or photographs of newlyweds, including a group photograph with household members and other close persons” with regard to the fact that the presence of a protective device on the face would prevent the achievement of the aim of taking photographs.

The exception under letter (y) applies to athletes or persons exercising during training, exercise, matches, competitions, etc., including running and cycling, and to trainers, other team members within the framework of collective sports, and referees during participation in sporting activities or training conducted within competitions organized by sports unions, given that the presence of protective equipment on the face significantly complicates this activity.

The exception under letter (z) applies to “persons on the premises of internal artificial bathing places, such as swimming baths and pools, pools for toddlers and infants and paddling pools, spa and therapeutic pools and saunas” with regard to the fact that the presence of a protective device on the face would fundamentally complicate such activities and could entail a threat to the health of persons at a bathing place.

The exception under letter (aa) applies to persons being provided with services in the area of their head and neck at establishments such as barber shops, hairdressing salons, solariums, cosmetic, massage and similar regenerative or reconditioning services or other similar services during which skin integrity is breached, where the use of protective equipment would impede or entirely prevent the provision of this service.

The exception under letter (bb) applies to persons during the period of actual signing within organizing singing choirs, due to the significant impediment to singing if using protective equipment for the airways while doing so.

The exception under letter (cc) applies to “persons participating in rehabilitation events or other similar events, both residential and non-residential, events or persons under 18 years of age when staying in and moving about the indoor and outdoor venue of the event (e.g. campground) and in nature. This exception is stipulated for the reason that the persons attending the event form a homogeneous group of persons who have provided proof of “infection-free status” before the start of the event, or are repeatedly tested during the event, thus minimizing the risk of disease among the participants. The exception from respiratory protection for these events also takes into account the activities that take place during these events (camp-wide games, sports or night-time activities), also taking into account the climatic conditions that prevail during the summer months. This exception applies only to situations where there is no other mass event taking place at the same time on the site.

The exception under letter (dd) applies to “members and employees of the basic components of the integrated rescue system, provided that they use a mask or half-mask meeting all the technical conditions and requirements (for the product) pursuant to Standard EN 140 +A1”, as this personal protective equipment can alternatively be accepted as adequate respiratory protection for the aforementioned persons.

The exception under letter (ee) applies to persons who, for serious medical reasons (see below), cannot use the respiratory protective equipment specified in point 1 or 2. However, such persons must have a medical certificate to that effect and be able to demonstrate it if they are checked for compliance with the stipulated obligations. The certificate in question,

issued for such purpose, must not only conclude that the person concerned is unable to wear the prescribed respiratory protection, but must also indicate what type of respiratory protection the person is able to use or that they are unable to use any protection. In this context, the Ministry of Health is aware that the given medical confirmation will, in principle, contain information about the medical

condition consisting of whether or not the person concerned is able to use the prescribed protection, but it sees no other way of proving the fact in question, i.e. the impossibility, for serious medical reasons, of wearing the prescribed respiratory protection equipment. However, in view of the proportionate interference with the right to the protection of personal reasons, the certificate will not contain

any specific information about the person's state of health, which follows from the very nature of this document (it is

not a medical report). It is at the discretion of the attending physician to determine whether the patient can use the prescribed respiratory protection or whether the risk of potential health complications associated with wearing this protection is greater than the risk of contracting a viral disease. Based on the risk assessment, they will then recommend a lower form of protection or exclude the use of any respiratory protection on medical grounds. The patient shall be adequately informed of these risks and

a record of the information shall be made in the medical records. The attending physician shall issue a certificate to the patient stating what protective equipment they may use in view of their medical condition, or that they may not use any protective equipment.

**Mgr. et Mgr. Adam Vojtěch, MHA, undersigned**  
Minister of Health