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## Decision pursuant to section 16 of the Communicable Diseases Act on compulsory participation in health examinations

### CASE:

A decision issued pursuant to section 16 of the Communicable Diseases Act to order compulsory participation in a health examination to prevent the spread of the generally hazardous communicable disease Covid-19 caused by the SARS-CoV-2 virus in accordance with section 1 of the Government Decree on Communication Diseases.

### BACKGROUND

According to the action plan for the implementation of the Hybrid Strategy for the Control of Covid-19 epidemic updated by the Ministry of Social Affairs and Health on 26 January 2021, the new SARS-CoV2 virus variants are a significant epidemiological threat. In its guidelines issued on 29 March 2021, the Finnish Institute for Health and Welfare (THL) has recommended that all passengers to enter Finland from high-risk countries be referred to a coronavirus test at the border crossing point.

The Regional State Administrative Agency of Lapland adopted a decision (LAAVI/632/2021) on 29 April 2021, according to which it has obligated under section 15 of the Communicable Diseases Act that municipalities and joint municipal authorities in its area of jurisdiction organise a health examination for all persons entering the country through border crossing points located in its area in



jurisdiction to prevent the spread of the generally hazardous communicable disease Covid-19 caused by the SARS-CoV-2 virus, The order will be valid for the period 1 May - 31 May 2021.

## STATMENTS

Actors who have provided statements on the matter to the Regional State Administrative Agency include the City of Tornio, the Länsi-Pohja healthcare district, the Western Finland Coast Guard, the Lapland Police Department and the Finnish Institute for Health and Welfare.

According to a statement issued by the Western Finland Coast Guard on 7 May 2021, the mandatory nature of section 16 of the Communicable Diseases Act will not have any substantial impact on the activities and resources of the Border Guard at the border crossing points where the Western Finland Coast Guard carries out internal border checks related to the returns.

A summary of the statement given by the Länsi-Pohja healthcare district and the City of Tornio on 7 May 2021 states that in the light of epidemiological data changing testing at the Tornio border crossing, so it is categorically compulsory is not justified at this point in time. No significant introduction of the disease into the country has occurred through the group of people entering the country that were subject to the decision. According to the statement, the decision would consume significant health care resources without affecting the management of the epidemic in Länsi-Pohja. The statement proposes that it would be justified to monitor the status of the disease and the health safety of the border closely without a decision on mandatory testing.

According to a statement issued by the **Lapland Police Department** on 10 May 2021, the obliging people to take part in compulsory health examinations would have an impact on the activities of the police in Lapland. The resources of the Lapland Police Department are scaled to ensure that normal emergency tasks, basic investigation and permit services can be performed. Due to the low number of



police patrols in the Sea Lapland area, it is not possible to carry out more extensive executive assistance tasks in practice. The police regularly handle a few requests for executive assistance on a daily basis, and they could handle a bit more. However, the necessity to be prepared at all times for emergency response tasks, which is the basic statutory task of the police, is a limiting factor.

According to a statement issued on 10 May 2021 by the Finnish Institute for Health and Welfare (THL), in order to control the Covid-19 epidemic in Finland and prevent the spread of new virus variants, it is essential that entry points follow the THL's recommendations on testing and quarantine practices as closely as possible. Furthermore, the Finnish Institute for Health and Welfare also believes that the Regional State Administrative Agencies must ensure the implementation of testing and quarantine practices by imposing compulsory health examinations in accordance with section 16 of the Communicable Diseases Act (1227/2016) for those travellers who have been stayed in a country whose incidence of coronavirus is greater than 25/100,000 persons/14 days within the 14 days preceding their arrival in Finland.

## HEARING

A hearing could have jeopardised the implementation of the purpose of this decision and the resulting delay would have caused significant harm to human health and public safety, which is why no hearing was held under section 34 of the Administrative Procedure Act (434/2003).

## DECISION BY THE REGIONAL STATE ADMINISTRATIVE AGENCY AND GROUNDS

### Order

**Under section 16 of the Communicable Diseases Act, the Regional State Administrative Agency has issued an order that all persons arriving in Finland from high-risk countries through border crossing points located in the City of Tornio must participate in a health examination organised by the City**



**of Tornio to prevent the spread of Covid-19 a communicable disease that is a risk to public health.**

**For the purposes of this decision, persons from high-risk countries refers to those who have stayed in a country with a coronavirus incidence greater than 25/ 100,000 persons/14 days within the 14 days preceding their arrival in Finland.**

**The following persons are excluded:**

- **children born in or after 2008**
- **transport and logistics personnel who are carrying out work tasks**
- **persons with negative result from a coronavirus test taken at most 72 hours before entry**
- **persons holding a reliable certificate of having recovered from Covid-19 less than six months ago**
- **Special groups holding a certificate in accordance with the procedure agreed on with the local communicable disease authorities**

**The order will be valid for the period 14 May - 31 May 2021.**

## **Justifications**

According to section 14 of the Communicable Diseases Act, municipalities must organise general vaccinations and health examinations to prevent infectious diseases. Getting a vaccination or participating in a health examination is voluntary.

Under section 15 of the Infectious Diseases Act, the Regional State Administrative Agency may order a health examination to be organised in its region for persons in a specific locality or workplace, institution, vehicle or other such location within its operating area, if such an examination is necessary to prevent the spread of a generally hazardous communicable disease. Participating in a health examination is voluntary.

According to subsection 2 of the same section A health examination is conducted by a physician or by another health care professional



with appropriate training under the supervision of a physician. As part of the examination, necessary specimens may be taken and other tests not causing significant harm to the person examined may be carried out.

According to section 16 of the Communicable Diseases Act, the Regional State Administrative Agency may decide that participation in a health examination pursuant to sections 14 and 15 is obligatory if it is necessary to prevent the spread of a communicable disease that poses a risk to public health or one which can reasonably be suspected to pose a risk to public health. The decision may apply to individual or multiple persons.

Pursuant to section 22, subsection 1 of the Communicable Diseases Act, in order to prevent the spread of the disease, a person who has or is justifiably suspected of having a generally hazardous or monitored communicable disease is

obliged to provide the physician investigating the matter with information regarding his or her view of the manner, date and place of infection, as well as the names of persons who may have been the source of infection or may have been infected.

Section 88 of the Communicable Diseases Act refers to chapter 44, section 2 of the Criminal Code (39/1889), which provides on penalties for health protection violations. Under the provision in the Criminal Code, a person may be sentenced to a fine or to imprisonment for a maximum of three months for a health violation if he or she deliberately or through gross negligence violates the obligation imposed under section 16 of the Communicable Diseases Act.

According to section 89 of the Communicable Diseases Act, in addition to what is laid down elsewhere in the Act, the Border Guard has the right in their executive assistance duties to stop a vehicle and steer traffic in compliance with the provisions laid down in section 38 of the Border Guard Act (578/2005), to process health data necessary in the performance of their executive assistance duties in accordance to what is provided on the protection of natural persons



in the processing of personal data and on the free movement of such data and what is laid down in the General Data Protection Regulation (EU) 2016/679 on the repeal of Directive 95/46/EC, what is laid down in the Data Protection Act (1050/2018) and in the Act on the Processing of Personal Data by the Border Guard (639/2019).

A Covid-19 infection is a communicable disease that poses a risk to public health to which a large proportion of the population is still exposed. Vaccinations against a coronavirus infection are underway, and currently around 30% of the population has been vaccinated. Many new virus variants spreading around the world pose a significant threat to the repeated spread of the epidemic. In Finland's neighbouring areas, the status of the virus in Northern Sweden's Norrbotten remains dire (the area's 14 day incidence rate is approximately 800/100,000). Globally, the Covid-19 pandemic is not showing signs of slowing down.

Preventing the spread of Covid-19, communicable disease that poses a risk to the general public, is of societal importance in order to safeguard citizens' fundamental rights to life and safety. In order to prevent the spread of Covid-19 infections, identification of sources of infection and persons exposed to the infection and prevention of further infections are essential.

Municipalities and joint municipal authorities have arranged voluntary health examinations for people entering the country in the area with the jurisdiction of the Regional State Administrative Agency of Lapland. Up to the turn of April and May 2021, health examinations have been carried out on a voluntary basis and have been sufficient for the management of the epidemic. According to information received from parties carrying out health examinations, the number of people entering the country who do not participate in voluntary health examinations has increased in recent weeks. In Tornio, the municipality's physician responsible for communicable diseases has made individual decisions on compulsory participation in health examinations in accordance with section 16 of the Communicable Diseases Act. The Tornio border crossing point is the busiest in Lapland. Currently, approximately 3,500 people enter Finland



through this border crossing on a daily basis. Traffic volumes have grown in recent weeks.

Coronavirus infection is a communicable disease that poses a risk to public health to which a large proportion of the population is still exposed. In this respect, and taking into account the disease status in neighbouring areas, the large number of people entering Finland through the Tornio border crossing point, increased border traffic and reduced willingness to participate in voluntary health examinations, the Regional State Administrative Agency believes it necessary, pursuant to section 16 of the Communicable Diseases Act, to impose a mandatory health examination on all travellers from risk countries entering Finland through border crossing points located in the City of Tornio.

For the purposes of this decision, persons from high-risk countries refers to those who have stayed in a country with a coronavirus incidence greater than 25/ 100,000 persons/14 days within the 14 days preceding their arrival in Finland.

The provision does not apply to children born in or after 2008, to transport and logistics personnel carrying out their work-related duties or to persons with negative results from a coronavirus test taken no more than 72 hours before entry or a reliable certificate of having recovered from Covid-19 less than six months ago, or to special groups holding a certificate in accordance with a procedure agreed with the local communicable disease authorities. Such special groups include those regularly crossing the border due to work or some other necessary reason, as well as the Sámi who repeatedly cross the border due to their Sámi livelihood or culture. The health examination practices of these special groups must be agreed on locally; for example, they might be required to be tested for the coronavirus weekly.

The order will be valid for the period 14 May - 31 May 2021.

If a person, who has been ordered to take part in a health examination under section 16 of the Communicable Diseases Act, does not comply with the obligation, the physician responsible for



communicable diseases in a municipality or hospital district may request executive assistance under section 89 of the Communicable Diseases Act.

The Regional State Administrative Agency finds that if a person refuses to participate in a compulsory health examination provided for in this decision, the provisions laid down in chapter 44, section 2 of the Criminal Code may apply. Under chapter 44, section 2 of the Criminal Code, anyone who deliberately or through gross negligence violates the mandatory health examination referred to in section 16 of the Communicable Diseases Act must be sentenced, unless a more severe penalty is provided elsewhere in the Act, for a health protection violation to a fine or imprisonment for a maximum of three months.

## **LEGAL RULES APPLIED**

Constitution of Finland (731/1999), sections 7, 10 and 22  
Communicable Diseases Act (1227/2016), sections 1, 14, 15, 16, 22, 60, 88 and 89  
Government Decree on Communicable Diseases (146/2017) section 1

## **APPEAL**

Under section 90 of the Communicable Diseases Act, this decision can be appealed to the Regional Administrative Court of Northern Finland. The appeal instructions are attached to this decision.

## **IMPLEMENTATION**

This decision will be implemented immediately, notwithstanding any appeal, under section 91, subsection 1 of the Communicable Diseases Act.

## **ENQUIRIES**

For further information, please contact Sari Kemppainen, Senior Medical Officer (tel. +358 295 017 350 or email



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Senior Director Kaisa Ainasoja

Director

Leena Räsänen

## **APPENDIX** Appeal instructions

### **Decision on public communication**

The communication of this decision will take the form of a public communication. The document will be made available to the public at the Regional State Administrative Agency of Lapland until 31 May 2021. Notification concerning the placement of the decision on public display will be reported on a public information network on the Regional State Administrative Agency website [www.avi.fi](http://www.avi.fi).

The communication of this decision to the public is deemed to have taken place on the seventh day following the publication of the above-mentioned notification on the Regional State Administrative Agency website.