

This is a summary of the original decision which can be found on the Regional State Administrative Agency's website (www.avi.fi) in Finnish under *Koronapäätökset* (Covid-19 decisions) or in Swedish under *Coronadelgivningar*.

DECISION ON COMPULSORY HEALTH EXAMINATIONS UNDER SECTION 16 OF THE FINNISH COMMUNICABLE DISEASES ACT

MATTER

A decision under Section 16 of the Finnish Communicable Diseases Act which orders participation in a health examination for the purpose of preventing the spread of the generally hazardous COVID-19 disease caused by the SARS-CoV-2 virus referred to in Section 1 of the Finnish Government Decree on Communicable Diseases.

BACKGROUND

In its recommendation of 4 February 2021, the Finnish National Institute for Health and Welfare (THL) recommended that all passengers coming from high-risk countries be instructed to be tested at border crossing points.

On 26 February 2021, the Regional State Administrative Agency for Southern Finland ordered, under Section 15 of the Finnish Communicable Diseases Act, all of the municipalities and joint municipal authorities in the region to organise health examinations for persons who enter Finland through regional border crossing points for the purpose of preventing the spread of the SARS-CoV-2 virus. The order has been issued in the form of the following decisions: South Karelia Social and Health Care District (ESAVI/6612/2021), City of Helsinki (ESAVI/6610/2021), Joint Municipal Authority for Kymenlaakso Social and Health Services (ESAVI/6613/2021) and City of Vantaa (ESAVI/6603/2021). These orders are in force between 1 March and 31 March 2021.

On 9 March 2021, the Regional State Administrative Agency sent out a letter of guidance on organising the health examinations referred to in the above decisions. The letter of guidance refers to the guidelines by the Finnish National Institute for Health and Welfare on testing people entering Finland and when it is acceptable not to test.

STATEMENTS AND INFORMATION

The Regional State Administrative Agency has requested statements on the matter from the Finnish National Institute for Health and Welfare and from the hospital districts of South Karelia, Helsinki and Uusimaa, and Kymenlaakso.

According to the statement of 17 March 2021 by **the Finnish National Institute for Health and Welfare**, it is essential that its recommendations on testing and quarantine are followed as closely as possible at border crossing points in order to control the COVID-19 epidemic in Finland and prevent the spread of new viral variants. Moreover, the Finnish National Institute for Health and Welfare views that the Regional State Administrative Agencies must ensure testing and quarantining by ordering all passengers who, within the past 14 days, have been in a country where the COVID-19 incidence rate is higher than 25 cases/100,000 people/14 days ("high-risk country") to participate in a compulsory health examination under Section 16 of the Finnish Communicable Diseases Act (1227/2016).

The recommendation on compulsory health examinations does not apply to transit passengers who do not leave the transit area, transport and logistics staff on duty, or children born in 2008 or later.

Regardless of the country of departure, all passengers with symptoms of COVID-19 should always be instructed to participate in the health examination and to be tested for COVID-19.

The staff at border crossings will follow instructions by the Finnish National Institute for Health and Welfare on COVID-19 testing and exceptions to testing taking into consideration any certificates of negative test results or recovery certificates.

A physician in charge of communicable diseases in a public service employment relationship either with a municipality or joint municipal authority for a hospital district may order a person into a 14-day quarantine if the spread of the disease cannot be reliably prevented by other means (Section 60 of the Finnish Communicable Diseases Act 1227/2016). If a person refuses to participate in a health examination and/or testing, issuing a quarantine order may be justified. Quarantine orders are always issued on a case-by-case basis.

According to the statement of 16 March 2021 by the **Hospital District of Helsinki and Uusimaa**, the Hospital District considers it justified to

require participation in health examinations at border crossings and proposes that the Regional State Administrative Agency for Southern Finland issue a decision to that effect under Section 16 of the Finnish Communicable Diseases Act.

According to the statement of 12 March 2021 by the **Kymenlaakso Hospital District**, it is necessary to order compulsory participation in a health examination for anyone entering Finland through the Vaalimaa border crossing point in order to ensure that everyone either produces a negative COVID-19 test certificate or is tested at a border crossing point.

The city of Helsinki, city of Vantaa and the Joint Municipal Authority for Kymenlaakso Social and Health Services have communicated to the Regional State Administrative Agency that it must issue an order pursuant to Section 16 of the Finnish Communicable Diseases Act to people entering Finland through the regional border crossing points.

HEARING

Conducting a hearing in this matter may have jeopardised the appropriate enforcement of this decision and the resultant delay may have caused significant harm to human health and public safety. For this reason, no hearing was conducted under Section 34(2)(4) of the Finnish Administrative Procedure Act.

DECISION AND GROUNDS FOR THE DECISION BY THE REGIONAL STATE ADMINISTRATIVE AGENCY

Order

Under Section 16 of the Finnish Communicable Diseases Act, the Regional State Administrative Agency orders all persons coming from high-risk countries and entering Finland through border crossing points at Helsinki ports, Helsinki-Vantaa International Airport and the Vaalimaa border crossing point in Virolahti to participate in a health examination, immediately upon entering the country, organised by the city of Helsinki, city of Vantaa and the Joint Municipal Authority for Kymenlaakso Social and Health Services for the purpose of preventing the spread of the generally hazardous COVID-19 disease.

In this decision, any person who, within the past 14 days, has been in a country where the COVID-19 incidence rate is higher than 25 cases/100,000 people/14 days is considered a person coming from a high-risk country.

This order does not apply to children born in 2008 or later or to transport and logistics staff on duty.

This order is in force between 18 March and 31 March 2021.

Grounds

Section 14 of the Finnish Communicable Diseases Act states that municipalities must arrange general vaccinations and health examinations to prevent communicable diseases. Participating in the vaccinations or health examinations is voluntary.

Section 15(1) of the Finnish Communicable Diseases Act states that 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 the health examination is voluntary. Section 15(2) of the same Act states that the 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.

Section 16 of the Finnish Communicable Diseases Act states that the Regional State Administrative Agency may order compulsory participation in a health examination referred to in Sections 14 and 15 if necessary to prevent the spread of a generally hazardous communicable disease or a disease that is justifiably suspected of being generally hazardous.

Preventing the spread of COVID-19 is important for Finnish society so that Finnish citizens' fundamental right to life and safety can be safeguarded. Identifying sources of transmission and those exposed as well as preventing further transmissions are crucial tools in preventing the spread of COVID-19 infection.

The Regional State Administrative Agency received an expert evaluation by the Finnish National Institute for Health and Welfare in which the Finnish National Institute for Health and Welfare states that the Regional State Administrative Agencies must ensure testing and quarantining by ordering all passengers who, within the past 14 days, have been in a country where the COVID-19 incidence rate is higher than 25 cases/100,000 people/14 days ("high-risk country") to participate in a compulsory health examination under Section 16 of the Finnish Communicable Diseases Act (1227/2016). The hospital districts of Helsinki and Uusimaa and Kymenlaakso agree with the Finnish National Institute for Health and Welfare in that compulsory health examinations for people entering the country through the regional border crossing points are necessary. Moreover, the health authorities of the city of Helsinki, city of Vantaa and the Joint Municipal Authority for Kymenlaakso Social and Health Services have communicated to the Regional State Administrative Agency that they request that the Regional State Administrative Agency issue a decision which orders people entering Finland to participate in a compulsory health

examination under Section 16 of the Finnish Communicable Diseases Act.

The Regional State Administrative Agency considers it necessary to order, under Section 16 of the Finnish Communicable Diseases Act, all persons coming from high-risk countries and entering Finland through border crossing points at Helsinki ports, Helsinki-Vantaa International Airport and the Vaalimaa border crossing point in Virolahti to participate in a health examination, immediately upon entering the country, organised by the city of Helsinki, city of Vantaa and the Joint Municipal Authority for Kymenlaakso Social and Health Services for the purpose of preventing the spread of the generally hazardous COVID-19 disease.

In this decision, any person who, within the past 14 days, has been in a country where the COVID-19 incidence rate is higher than 25 cases/100,000 people/14 days is considered a person coming from a high-risk country.

This order does not apply to children born in 2008 or after or to transport and logistics staff on duty.

This order is in force between 18 March and 31 March 2021.

If a person ordered to participate in a compulsory health examination under Section 16 of the Finnish Communicable Diseases Act does not comply with the order, the physician in charge of communicable diseases in the relevant municipality or hospital district may request assistance from the police under Section 89 of the Finnish Communicable Diseases Act.

The Regional State Administrative Agency reiterates that if a person refuses to comply with the compulsory health examination ordered by this decision, the provisions of Chapter 44, Section 2 of the Criminal Code of Finland may apply. According to Chapter 44, Section 2 of the Criminal Code of Finland, a person who intentionally or through gross negligence is in violation of the compulsory health examination order within the meaning of Section 16 of the Finnish Communicable Diseases Act shall, unless a more severe penalty has been provided elsewhere in law for the act, be sentenced for a health protection violation to a fine or to imprisonment for at most three months.

APPLICABLE RULE OF LAW

Constitution of Finland (731/1999) Sections 7, 10 and 22.

Finnish Communicable Diseases Act (1227/2016) Sections 1, 14, 15, 16, 60 and 88.

Government Decree on Communicable Diseases (146/2017) Section 1.

APPEAL

An appeal against this decision may be lodged in the Administrative Court of Hämeenlinna under Section 90(1) of the Finnish Communicable Diseases Act. The address for lodging an appeal is attached to this decision document.

IMPLEMENTATION

This Decision shall be enforced immediately under Section 91 of the Finnish Communicable Diseases Act, regardless of any appeal.

ADDITIONAL INFORMATION

For more information, please contact Senior Medical Officer of Regional Administration Anne Hiiri, tel. +358 295 016 000.

Head of Department

Kristiina Poikajärvi

Senior Medical Officer of Regional Administration Anne Hiiri

SERVICE BY PUBLICATION

This decision will be served by publication. The decision can be viewed by the public at the Regional State Administrative Agency for Southern Finland until 31 March 2021. The public will be notified of the publication of the decision on the Regional State Administrative Agency's website at www.avi.fi. This decision is considered served on the seventh day after the above notification has been published on the Regional State Administrative Agency's website.