

**Video conference between the Federal Chancellor and
the Heads of Government of the *Länder* on
16 February 2022**

DECISION

The Omicron variant of the coronavirus is spreading in Germany. However, the wave seems to have peaked in most *Länder*.

In its most recent statement issued on 14 February 2022, the Federal Government's Council of Experts anticipates that the increase in case numbers will come to an end in the next few weeks. As a result, the wave is expected to flatten and the number of new infections with the Omicron variant BA.1 to decrease. The time has therefore come to plan and communicate forward-looking strategies to ease restrictions.

Thanks to the responsible and prudent behaviour of the vast majority of citizens, Germany has so far dealt with the Omicron wave comparatively well. The measures to protect against infection have prevented elderly and particularly vulnerable people from falling ill in large numbers, with many lives being saved as a result.

The experts point out that unvaccinated individuals are most at risk of serious illness, including from Omicron infections – along with those aged over 60 and people with severe underlying diseases. At present, the number of new infections in the age group over 60 is still relatively low compared to other age groups. However, this number is currently rising which would in turn gradually increase the number of admissions to intensive care units for this age group.

According to the Council of Experts, unvaccinated and older people are more likely to become infected and fall ill again as protective measures are eased. These groups would be at the highest risk of serious illness and would need further protection. In the age group over 60, the absolute number of unvaccinated persons is still very high: at present, almost three million people are not "boostered" – i.e. they have not yet received their third vaccination. 2.8 million of this age group are even without the basic protection offered by two vaccinations. Many other European countries which are currently taking wide-ranging steps to ease restrictions have significantly higher vaccination rates – as well as a younger population.

At the same time, the Council of Experts points out that the spread of the Omicron variant BA.2 could lead to a renewed increase in incidence rates and to an extension of the Omicron wave.

Against this backdrop, the experts predict that there is a risk of new waves of infection at the latest in the autumn. In addition to the risk of further mutations, previous virus variants such as the Delta strain continue to circulate and could trigger new waves of infection. According to current findings, unvaccinated persons are not reliably protected against infections with other variants after an infection with the Omicron variant.

In the opinion of the Council of Experts, we are now in a new phase of the pandemic but one which still requires a high level of caution. For the Council of Experts, an easing of state measures to protect against infection appears sensible, as soon as there is a stable decline in hospitalisations as well as intensive care admissions and occupancy, while easing restrictions too early poses the risk of a renewed increase in the disease burden.

It is particularly important that masks continue to be worn initially. These offer a high degree of protection, especially in view of highly contagious variants such as Omicron. The experts further point out that it is important to avoid contact with other people (self-isolation) and to test oneself when experiencing the relevant symptoms.

The Federal Chancellor and the Heads of Government of the *Länder* agree that the current measures to protect against infection should now be eased responsibly and in controlled steps. It is important to have a coordinated approach as far as possible in all 16 *Länder*. As many restrictions as possible should be eased based on the prevailing situation. At the same time, as many accompanying measures as necessary should be maintained to avoid jeopardising what has been achieved and to continue protecting citizens against serious illness as well as possible.

The Federation and the *Länder* will continue promoting vaccination intensively and providing easily accessible vaccination options. This is because vaccination helps. The Council of Experts also believes that a minimum of three vaccination doses is the most effective tool to minimise the disease burden of COVID-19 and to gradually reach the end of the pandemic. Existing immunity gaps are to be closed and a renewed wave of infections in autumn/winter prevented.

Against this backdrop, the Federal Chancellor and the Heads of Government of the *Länder* have agreed the following:

1. The Federal Chancellor and the Heads of Government of the *Länder* agree on a **three-step easing of restrictions in areas of national or fundamental importance**. In areas with little or no national impact, the *Länder* will be individually responsible for deciding on steps to ease restrictions, depending on infection and vaccination rates, as well as the varying burdens on the healthcare system. The wide-ranging restrictions on social, cultural and economic life should be eased step by step by the start of spring on 20 March 2022. After this, basic protective measures, in particular wearing medical masks, are to remain effective. The system outlined below is based on the current assessment of the situation and forecasts. Before each step, it is necessary to check in both directions whether the planned measures are appropriate for the situation.
 - a. In a first step, **private gatherings for the vaccinated and recovered** will be possible again without restrictions on the number of participants. Due to the particular risks for those who are unvaccinated, the existing restrictions on these persons will remain in force until 19 March 2022. If an unvaccinated person participates in a gathering, the contact restrictions for unvaccinated persons

apply: the gathering is then restricted to their own household and a maximum of two persons from another household. Children and young people up to the age of 14 are not counted as part of this figure.

Unless already envisaged or implemented, the widespread admission restrictions applying to retail outlets will be lifted. **Access to retail outlets should be possible for everyone nationwide without any checks.** Given the ongoing high risk of infection indoors, **medical masks** must definitely be worn. The use of FFP2 masks is recommended and may even be mandatory depending on state regulations.

- b. Taking into account the situation in hospitals, in a second step from 4 March 2022, **admission to cafés and restaurants** will be open to those who are vaccinated or recovered and to persons with a test performed that day (3G rule). Overnight accommodation can also be used by those who are vaccinated or recovered and by persons with a test performed that day (3G rule).

Discos and clubs (dance venues) will be open to those who are vaccinated or recovered, subject to a test performed that day, and to those who have received a third vaccination (2GPlus).

At **major national events** (including sporting events), those who are vaccinated or recovered (2G rule and/or those who are vaccinated or recovered and have a test performed that day or have received a third vaccination (2GPlus rule)) can attend as spectators. In the case of indoor events, a maximum utilisation of 60 percent of the respective maximum capacity is permitted, whereby a total of 6000 spectators must not be exceeded. In the case of outdoor events, a maximum utilisation of 75 percent of the respective maximum capacity is permitted, whereby a total of 25,000 spectators must not be exceeded.

In addition, medical masks (preferably FFP2 masks) should be worn and hygiene concepts should be drawn up.

- c. In a third and final step **from 20 March 2022**, all the far-reaching **protective measures are to be lifted** if permitted by the situation in the hospitals. The **working from home regulations** which are mandatory under the Protection against Infection Act (Infektionsschutzgesetz) will also be **lifted**. However, employers can continue to offer working from home arrangements in agreement with their employees, if there are no operational reasons to prevent this and if this is in the interest of protection against infection in the workplace (e.g. in large open-plan offices).
- 2 The Federal Chancellor and the Heads of Government of the *Länder* agree that **low-threshold basic protection measures** are required beyond 19 March 2022 to curb the infection rate and to protect vulnerable groups. From the point of view of the *Länder*, these include above all mandatory face masks in enclosed spaces of facilities open to the public as well as in buses and trains, social distancing, general hygiene requirements, the possibility of stipulating testing requirements in certain areas, as well as the obligation to provide proof of vaccinated, recovered or tested status. These options are also necessary for schools and childcare facilities. In addition, from the point of view of the *Länder*, it is necessary to continue enabling sector-specific protective measures for institutions with vulnerable persons (especially hospitals, nursing homes and similar institutions) in order to also protect particularly vulnerable persons effectively. The *Länder* ask the German Bundestag to establish the **legal basis** for this so that they can take appropriate steps. They note that a corresponding legislative process is currently being prepared in the Federation. This should be concluded in good time before 20 March 2022 and also include a provision for additional protective measures in the event of a local outbreak of infection in individual districts, municipalities or urban districts where there is a risk of the local capacity of the healthcare system being overwhelmed. Should the infection rate worsen significantly after 20 March 2022 and further protective measures to contain the virus become necessary, the Federal Government will quickly initiate the necessary legislative processes to create the required legal basis.
 - 3 The Federal Chancellor and the Heads of Government of the *Länder* **ask the**

public to continue behaving responsibly in order to protect their own health and the health of their families and friends. For private gatherings, it is particularly important to consider the location in question, to independently test and to take appropriate hygiene measures to protect those involved because this is where the risk of new infections remains high. Responsible action is important in this phase of the pandemic in particular to protect elderly citizens and those with existing illnesses and to enable them to participate safely in gatherings and events.

- 4 The Federal Chancellor and the Heads of Government of the *Länder* ask the commission of experts set up to **evaluate the Protection against Infection Act (Infektionsschutzgesetz)** to complete their important work in good time so that the findings can be incorporated into a more fundamental revision of the law before autumn 2022.
- 5 **Efficient monitoring of** the key indicators for the **disease burden** can serve as an early warning system. The Federal Chancellor and the Heads of Government of the *Länder* ask the health ministers to work towards ensuring that the parameters relevant for the assessment of the disease burden (7-day incidence of new infections, incidence of hospitalisations, occupancy of intensive care units) can be recorded and transmitted digitally in high quality, with age-specific data, daily updates and regionalised information. This requires systematic data collection, as called for by the Council of Experts in its fourth statement issued on 22 January 2022.
- 6 The Federal Chancellor and the Heads of Government of the *Länder* urge all citizens to **make use of** the existing **vaccination options**. Vaccination helps. We will only be able to defeat the virus if significantly more people get vaccinated also in Germany. The vaccination is safe and it provides protection. There are enough vaccines available. The Federation has launched an information campaign to support the efforts of the *Länder* to make easily accessible vaccination options available everywhere. It should particularly reach those who have not yet decided to be vaccinated. All the experts agree that vaccinations can effectively reduce the disease burden from COVID-19 and thus prevent severe illnesses. A triple vaccination protects well against severe illnesses due to the Omicron variant. A high vaccination rate is the basic prerequisite for being able to permanently forego measures to protect against infection and to cope with a seasonal increase in

infection rates. After all, only a high vaccination rate can prevent a high number of severe illnesses and the associated burden on the healthcare system. Against this backdrop, the Federal Chancellor and the Heads of Government of the *Länder* reiterate the need to introduce general mandatory vaccination.

7. Patients, nursing care recipients and people with disabilities are to be better protected from a COVID-19 illness. Therefore, employees at institutions in the **healthcare and nursing care sectors** and those working in the area of integration for people with disabilities are required by law to prove that they are vaccinated or recovered (or cannot be vaccinated for medical reasons). With the aim of thereby also continuing to ensure adequate care nationwide in the relevant institutions, the health ministers of the Federal Government and the *Länder* are involved in an intensive coordination process. The health offices can exercise discretion regarding the implementation of the measures. A ban on entry represents the last stage, so such bans will not be automatically introduced immediately nationwide. In the case of fines, the discretionary principle applies.
8. With the revision of the COVID-19 Protective Measures Exceptions Ordinance (SchAusnahmV) initiated by the Federal Minister of Health, the delegation to the Paul-Ehrlich-Institut (PEI) and the Robert Koch Institute (RKI) of decisions regarding vaccinated and recovered status is no longer applicable. The rights of the *Länder* will be respected.

9. The Heads of Government of the *Länder* ask the Federal Government to develop a **testing strategy** beyond 31 March 2022 and to extend the testing regulation.
10. To take account of the global increase in incidences due to Omicron, the Federation will adapt the classification of high-risk areas. This is especially intended to make travelling easier for families, as children under 12 years of age are often not vaccinated and therefore cannot avoid quarantine. This will be taken into account in the forthcoming review of the relevant regulations.
11. To be able to provide the **best possible treatment** for coronavirus patients, the Federal Ministry of Health has negotiated the timely delivery of the orally-administered medication Paxlovid. If the drug is taken early, it has a high efficacy against COVID-19.
12. **Children and young people** have shown great solidarity over the past two years but they also suffer to a great extent due to the pandemic and the associated restrictions. The Federal Chancellor and the Heads of Government of the *Länder* emphasise the need to continue making every effort to reduce the impact of the pandemic on children and young people.
13. The *Länder* welcome the decision by the Federal Government to extend the eligibility period and special arrangements for **reduced hours compensation benefits**. In this way, companies affected by a loss of work since the beginning of the COVID-19 pandemic will remain able to receive reduced hours compensation benefits after 31 March 2022. As a key aid instrument, the **interim financial help IV** will also be extended until 30 June 2022 to provide ongoing support to companies in times of continued uncertainty. The supplementary restart and hardship relief programmes will be extended parallel to the interim financial help IV. The Federation and the *Länder* will take all necessary measures to prevent criminal abuse of the financial assistance. On the basis of the relevant data already available, the *Länder* will provide sufficient organisational and human resources to investigate and prosecute suspected crimes, also beyond the funding period. The Federation and the *Länder* will regularly inform each other of the measures they have taken and the results they have achieved. The *Länder* welcome the fact that the Federation will extend the aid provided through the **special fund for cultural events**. In view of the burden on hospitals, the *Länder* ask the Federal Government

to extend the regulations on compensation payments, healthcare surcharges and the designation of preventive care and rehabilitation facilities as substitute hospitals until 30 June 2022. The Heads of Government of the *Länder* reaffirm the decisions of the Conference of Ministers of Economics (WMK) of 8 February 2022 and continue to believe that targeted aid is necessary.

14. The Federation and the *Länder* will closely monitor the infection rate. The Head of the Federal Chancellery and the Heads of the State and Senate Chancelleries will discuss the situation regularly. The Federal Chancellor and the Heads of Government of the *Länder* will **meet again** on 17 March 2022 to discuss the COVID-19 pandemic. They will meet earlier if required.

Statement for the record by Baden-Württemberg:

1. With regard to the Protection against Infection Act (Infektionsschutzgesetz), Baden-Württemberg calls on the Federal Government to initiate a solution which will enable the *Länder* to take the necessary measures to protect against infection even after 19 March 2022.
2. The steps to ease restrictions sought by the Federal Government and the *Länder* need to be safeguarded by appropriate measures. It also must be ensured that the *Länder* can respond appropriately in the event of a (hopefully avoidable) situation in which healthcare services are overwhelmed due to an unexpectedly high increase in infections. Easing restrictions without safeguards runs contrary to the precautionary principle.
3. Against this backdrop, it is appropriate to extend the validity period of Section 28a (7) and (8) of the Protection against Infection Act by up to three months. This also applies to Section 28b (1) of the Protection against Infection Act, insofar as areas at high risk of spreading infections are involved (discos, meat processing plants, seasonal agricultural work, personal care services) and to Section 28b (2) of the Protection against Infection Act.

Statement for the record by the Free State of Bavaria:

1. Bavaria is concerned about the protection of our children and young people in schools and childcare facilities if the legal basis for the current measures to protect against infection is removed or weakened. Safe lessons in the classroom at schools and the health protection of school pupils during examinations are of primary importance. It is not acceptable to wait for infections to spread among the young generation. The Federation is responsible for continuing to ensure legal scope is available for resolute concepts, including mandatory masks and testing obligations, to ensure school pupils are protected.
This also applies to the safe care of children in childcare facilities.
2. Bavaria is committed to institution-based mandatory vaccination but underlines the need for practical, uniform enforcement rules nationwide. In particular, we cannot allow chaos to break out in nursing care when enforcement begins which is why many questions still need to be clarified. The dialogue that has begun between the Federation and the *Länder* must now be brought to a swift conclusion. The recommendation presented by the Federation is at best a first step. The absolute priority when it comes to balanced enforcement must be ensuring healthcare for people in need of medical treatment and nursing care.

Statement for the record by the Free State of Saxony:

The Free State of Saxony regrets that the advice from the municipal level to the Federal Government on the implementation of the institution-based mandatory vaccination has not been heeded. The requests for help from many independent agencies operating institutions in the healthcare and nursing care sectors, as well as the criticism of how this has been structured, have not been taken seriously. Many employees in the healthcare and nursing sectors have done a fantastic job in the past two years of the pandemic and we owe a great deal to their dedication. They and the people of our country rightly expect politicians to provide a practical solution.

Ensuring care in the healthcare and nursing sectors remains the top priority. Leaving this evaluation process to the municipal level alone creates misunderstanding and frustration. The institution-based mandatory vaccination was decided in light of the Delta variant. With the Omicron variant, the underlying conditions have changed fundamentally. In its sixth statement of 14 February 2022, the Federal Government's Council of Experts points out that due to the strong immune escape of the Omicron variant, there will also be more infections among vaccinated and recovered persons. The legal purpose of the institution-based mandatory vaccination can no longer be achieved at present. This must be recognised and the legal situation in connection with the planned amendment of the Protection against Infection Act (Infektionsschutzgesetz) must be reviewed.

As long as the conditions for general mandatory vaccination have not been precisely clarified, there cannot be mandatory vaccination. From the point of view of the Free State of Saxony, a decision on this is only possible when a vaccination register has been established, when there are further findings on possible virus variants and when sufficient quantities of appropriate vaccines are available. For mandatory vaccination to succeed, there has to be broad social acceptance of such a step. The Free State of Saxony considers the wide-ranging abolition of the catalogue of measures in the Protection against Infection Act (Infektionsschutzgesetz) to be premature. It is wrong to declare the pandemic over based on a calendar date, as the legal basis for various provisions expires and without taking into account the healthcare system criteria such as bed occupancy. A wide range of instruments must remain available to the *Länder* so that they are able to act quickly in an emergency.

Statement for the record by Saxony-Anhalt:

1. Saxony-Anhalt regards the decision taken at the meeting of the Federal Chancellor and the Heads of Government of the *Länder* to be a guideline for the actions of the *Länder* and reserves the right to take different steps based on local circumstances.
2. Saxony-Anhalt considers the move away from the constitutional yardstick of the risk of the healthcare system being overwhelmed to be problematic; this criterion has been the guiding principle for taking protective measures

to date.

3. Following the decision of the GMK (Conference of the Ministers of Health of the Federal Government and the *Länder*) of 15.02.2022, Saxony-Anhalt points out that important enforcement issues remain unresolved with regard to institution-based mandatory vaccination. The recommendation presented by the Federal Ministry of Health (BMG) is useful but remains non-binding. It remains questionable whether it can provide sufficient support for the legal enforcement of the compulsory vaccination, taking into account the unresolved labour law issues (point 4 of the GMK decision) and need to ensure provision of care in regions with high rates of unvaccinated workers in the relevant institutions.

Statement for the record by Hesse and Baden-Württemberg:

Hesse and Baden-Württemberg consider a vaccination register to be necessary to effectively counter pandemic situations in the future.

Statement for the record by Schleswig-Holstein regarding Item 1, letter a:

The high vaccination and booster rates among all age groups in Schleswig-Holstein compared to other *Länder*, as well as the stable situation in hospitals that has prevailed for several weeks, allow for a moderate amendment of contact restrictions for meetings in which unvaccinated people also participate in the first step – parallel to the abolition of contact restrictions for the vaccinated and recovered persons.