CONSTITUTIONAL COURT
Freyung 8, 1010 Vienna
V 11/2022-4

Federal Minister for Social Affairs, Health,
care and consumer protection
room ring 1
1010 Vienna

In the above regulation review procedure, pursuant to Section 20 (3) VfGG, the request is made to provide the following information by February 18, 2022, also in preparation for any oral hearing:

1. In the ordinance files for the ordinances issued on the basis of the COVID-19-MG, reference is made in particular to numbers of people hospitalized in connection with COVID-19 in normal or intensive care units and to numbers of people who have died. According to a report - given as an example - in the daily newspaper "Die Presse" from October 11, 2021 ("Vaccinated people in the hospital too: Does the vaccination work at all?"), according to official information "for example, if patients are in the intensive care unit due to kidney failure, the accidental tested positive for Corona", count these "as Corona cases".

The Constitutional Court is therefore asking for information as to whether the hospitalization or death figures given in the ordinance files include all people infected with SARS-CoV-2 who are housed in hospitals on normal or intensive care units or who died "from or with" SARSCoV-2 are include? If so, why is this way of counting chosen? Furthermore, the Constitutional Court asks - if necessary - for a breakdown of these figures according to:

- People who died from COVID-19, people who died with COVID-19, and people who died (asymptomatic) with SARS-CoV-2.

- Individuals hospitalized in ICUs for COVID-19, individuals hospitalized in ICUs for another indication but also suffering from COVID-19, and finally individuals hospitalized in ICUs for another indication and (asymptomatic or with mild course that does not require hospitalization) were infected with SARS-CoV-2.

- Individuals hospitalized in general wards for COVID-19, individuals hospitalized in general wards for another indication but also suffering from COVID-19, and individuals hospitalized in general wards for another indication and (asymptomatic or with mild, course that does not require hospitalization) were infected with SARS-CoV-2.

The Constitutional Court requests notification of the respective figures on the one hand in total (broken down by age cohort) and on the other hand for January 25, 2022.

2. What is the average age and what is the median age of people hospitalized because of COVID-19 in normal wards and intensive care units and of people who died of COVID-19?

3.1. What is the number of deaths per 100,000 cases by age cohort and gender? How high is the number of hospitalizations in normal or intensive care units per 100,000 cases of illness by age cohort and gender?

3.2. What is the number of deaths per 100,000 infections by age cohort and gender? What is the number of hospitalizations in normal or intensive care units per 100,000 infections by age cohort and gender?

3.3. What is the number of deaths per 100,000 population by age cohort and gender? How high is the number of hospitalizations in normal and intensive care units per 100,000 inhabitants by age cohort and gender?

4. Which virus variants were present on January 1st, 2022, on January 25th, 2022 and in what percentage of infected, hospitalized or deceased people?

5. What is the percentage of infection that occurs in areas of life (such as family, work, shopping [basic services, other goods], various leisure activities)?

6. By what factor does wearing an FFP2 mask indoors or outdoors reduce the risk of infection or transmission?

7. How are the vaccination rates (divided into single, double, triple vaccinated) distributed among age cohorts?

7.1. Related to omicron infections: How high was the average 7-day incidence in January 2022 in people without vaccination against COVID-19, in people after the second vaccination but before the end of 14 days after the second vaccination, then in people with a completed vaccination -"Basic immunization" (without "booster vaccination") and finally for people with "booster vaccination"?

7.2. By what factor does the COVID vaccination reduce the risk of severe cases? Media reports spoke of up to 95%. The general risk (not differentiated by age and state of health) of dying from COVID-19 now appears to be 0.1516 percent (cf. AGES dashboard). What does a specified vaccination effectiveness of, for example, 95% refer to? What does absolute and relative risk reduction mean in this context?

7.3. To what extent does a first vaccination, a second vaccination and a third vaccination reduce the risk of being hospitalized because of COVID-19 in a normal ward or in an intensive care unit or of dying from COVID-19? Does this measure depend on the (predominant) virus variant?

7.4. According to media reports, the protective effect of COVID vaccinations will decrease over time. Is this true? So what is the protection factor after the second vaccination with the most commonly used vaccine three months, six months and nine months after the second vaccination? In each case, the absolute and the relative risk reduction are requested.

7.5. What is the proportion of people who have been vaccinated for the first, second or third time among those hospitalized for COVID-19 or SARS-CoV-2?

7.6. It seems to correspond to the current state of science that people with a COVID vaccination can also become infected with SARS-CoV-2, contract COVID-19 and transmit SARS-CoV-2. To what extent does the COVID vaccination decrease the risk of infection, disease and transmission? A breakdown is requested if this measure depends on the number of vaccinations and/or the elapsed time since the last vaccination.

8.1. What is the probability that a negative molecular biological test for SARSCoV-2 (§ 2 Para. 2 Z 3 of the 6th COVID-19-SchuMaV as amended by Federal Law Gazette II 24/2022) excludes the tested person from other people within 72 hours of taking the test can be infected with SARS-CoV-2?

Taking the incubation period into account: How long after the (negative) test is taken is it (with the highest probability) impossible for a person who has tested negative to transmit the SARS-CoV-2 virus?

8.2. How high is the risk of transmission in a person infected with SARS-CoV-2 with a second vaccination three, six or eight months ago compared to an unvaccinated person whose PCR test was negative 24 hours ago?

9.1. How high is the COVID-related hospitalization risk (normal ward or intensive care unit) of an unvaccinated 25-year-old over a period of one year?

9.2. How high is the COVID-related hospitalization risk (normal ward or intensive care ward) of a 25-year-old who has been vaccinated twice with the most common vaccine in Austria in the third, sixth or ninth month after the second vaccination, converted to a period of one year?

9.3. How high is the COVID-related hospitalization risk (normal ward or intensive care unit) of an unvaccinated 65-year-old over a period of one year?

9.4. How high is the COVID-related hospitalization risk (normal ward or intensive care ward) of a 65-year-old who has been vaccinated twice with the most common vaccine in Austria in the third, sixth or ninth month after the second vaccination, converted to a period of one year?

9.5.1. The so-called "lockdown for the unvaccinated" cannot rule out an infection, for example in the family or at work, but it can, for example, in the inn. Related to the assignment of infection risks to areas of life (5 above): By how many percentage points does the "lockdown for the unvaccinated" reduce the infection risk of an unvaccinated person (basis: infection risk without "lockdown for the unvaccinated" = 100)?

9.5.2. The "lockdown for the unvaccinated" is likely to be based, among other things, on the consideration that people without a COVID vaccination have a higher risk of hospitalization than vaccinated people, which is likely to pose a higher risk for the health system. Now the risk of hospitalization is also likely to depend significantly on age. Vaccination rates are likely to vary by age cohort. In any case, the vaccination rate across all age groups should be around 75% of "second vaccinations". The incidence of infection is also likely to be distributed differently in different areas of life, with the “lockdown” for the unvaccinated only excluding certain sources of infection for them. Taking into account these parameters and the extent of risk reduction through a second vaccination:

Or in absolute numbers: The AGES dashboard shows 1049 COVID-19 patients in normal wards and 194 COVID-19 patients in intensive care units for January 24, 2022. By how many beds would bed occupancy in normal and intensive care units be higher if there were no “lockdown for unvaccinated”?

10. The daily newspaper "Der Standard" reported on December 2, 2021 under the headline "Fewer COVID-19 victims than last autumn, but higher excess mortality" that there were a third fewer COVID-19 deaths compared to the previous year, at the same time but a weekly excess mortality in the three-digit range. Is this true? If so, what was the total excess mortality in 2021 that could not be explained by people who died of COVID-19, and how can this excess mortality be explained?

Vienna, January 26, 2022
From the Constitutional Court:
dr HAWK

Awarded to:

1. Federal Minister for Social Affairs, Health, Care and Consumer Protection, Stubenring 1, 1010 Vienna;

2. Mag. Ulrike Reisner and others, attn. RA Stix Rechtsanwälte limited partnership, Rotenmühlgasse 11/10, 1120 Vienna, zK