

## Temporary construction and expansion of pandemic-resilient (cycling) transport infrastructure

### 1. Circumstances

According to the Berlin SARS-CoV-2 Containment Measures Ordinance of 22.03.2020, extensive contact restrictions apply in the area of the city of Berlin and a general social distancing requirement in accordance with § 14:

*"During any time spent outside of the residence, it is required – when possible – to maintain a minimum distance of 1.5 Meters to other persons."*

This distance requirement poses considerable challenges for transport systems, especially in densely populated urban areas like Berlin: in total, the mandatory contact restrictions result in a reduced traffic volume. In local public transport, however, there are cramped situations that make the maintenance of distance of 1.5 meters between people difficult or impossible. Persons who must make unavoidable trips, e.g. essential workers, are thus exposed to an increased risk of infection.

The car or bicycle offers an alternative to transit (bus, train, and metro). However, according to a study by the University of Dresden in 2019, 43.3% of Berlin households do not have their own car, this freedom of choice is often not available. Therefore, under the conditions of the SARS-CoV-2 Containment Measures Ordinance, the cycling and walking infrastructure in Berlin is not equipped to maintain mobility while constantly maintaining the social distancing requirement of 1.5 meters:

- Narrow cycling facilities lead to violations of the requirement of 1.5 meters physical distancing. This is especially true for overtaking and when waiting at an intersection.
- Mandatory use cycle paths on sidewalk level lead cyclists and pedestrians past each other at a very narrow sidewalk width of well under 1.5 meters.
- Roads of the primary traffic network often do not have any cycling facilities. Cyclists are thus exposed to an increased risk of accidents. As a result, cyclists often use the sidewalk, which – although forbidden – leads in turn to encounters with passers-by, which is problematic from the point of view of traffic safety as well as infection prevention.
- It has further been observed that green spaces are increasingly being used for recreational purposes. In Berlin, the SARS-CoV-2 Containment Measures Ordinance stipulates that families or groups of two people must maintain a distance of 5 m from each other. Due to the undersupply of green spaces in the district, these facilities are quickly overcrowded if the aforementioned distance regulation is observed, meaning that the physical distancing requirements are not able to be maintained.

### 2. Need for action

The identified inadequacy of the cycling infrastructure in conditions of the SARS-CoV-2 pandemic requires immediate action by the transport authorities responsible for the safety of road users:

- The primary objective of the measures to be taken now must be to enable the use of bicycles as well as ensuring safe use of sidewalks for pedestrians while maintaining the safe distancing in accordance with the SARS-CoV-2 Containment Measures Ordinance. In this way,

positive aspects of road safety are combined with support for the applicable infection control regulations.

- The instruments available are the temporary designation of new cycle paths, the widening of existing cycle paths and the hourly closure of secondary roads for through traffic.
- The current reduction in traffic volume by motor vehicles makes it possible to redistribute traffic areas according to the situation without causing unacceptable disruption and excessive congestion to motor vehicle traffic, including regular bus services. Rather, broad rescue lanes can be created, particularly for the mobility of system-relevant rescue and emergency services. These can be cleared by cyclists much faster than is possible by motor vehicles on motor traffic lanes.
- The measures mentioned above are necessary in order to cope with the short-term changes in traffic volume and, by promoting cycling, to relieve the reduced public transport availability, so that the physical distance requirements can be met in these means of transport as well.

### 3. Legal Basis

- The order of road traffic authority measures is always carried out in accordance with § 45 of the Road Traffic Regulations (StVO). Paragraph 9 of that regulation stipulates that cycle lanes could be ordered without the presence of a special danger situation. This also applies to the widening of existing facilities.
- These temporary arrangements can be carried out without traffic volume counts due to the decreased traffic density. These are also not absolutely necessary in other circumstances.
- In the pandemic situation, there is also a danger situation beyond the scope of traffic law. This results in a need for urgent action by the authorities in to avert the danger: as the existing bicycle traffic infrastructure is not fully suitable for complying with the regulations of the SARS-CoV-2 Containment Measures Ordinance, the higher legal right of physical integrity is endangered. Furthermore, the legal order is also affected, since the nature of the public infrastructure combined with permitted mobility behavior leads to imminent violations of the Containment Ordinance as a public legal regulation.
- Therefore, in the course of averting the danger, a short-term adjustment of the existing infrastructure is necessary in a very strongly accelerated procedure (see description of procedure in point 4).
- The responsible authorities for the orders are Department VI SenUVK (traffic management, Berlin Ministry for Traffic) for the primary roads, or the district (municipal) authorities in the secondary road network. The Berlin police and the district authorities must be heard in the proceedings.
- The necessity for accelerated action results from the principle of danger prevention in accordance with the General Safety and Order Law and is also the responsibility of Department VI SenUVK and the District Authorities (§1 para. 1 p.1 ASOG Bln).

### 4. Procedure for urgent implementation of infrastructure adjustments within 10 business days

In the network of primary roads, the Ministerial Administration for the Environment, Traffic and Climate Protection (SenUVK), Department VI, is responsible vis-à-vis the district authority for ordering road construction on the primary road network.

For roads in the secondary network, the procedure described below applies, but in this case the district road traffic authority / the district road construction authority is solely responsible.

**(1) Preparation of project list for main roads by district (sheet "Projects Total")**

- Location / Length
- Priority
- Scenarios
- Target Date and Project Status

**(2) Project sheet for each individual measure/action to be taken by district (See Excel file "TEER")**

- Location / Description
- Scenario
- Relevant standard plans (see annex control plans 1-4)
- Required Material (Calculated from file "TEER", sheet "Total quantities")
- Map display with location of markings and determination of location of the standard plans
- Cross-section sketch
- Necessity of the order
- Planned date of realization
- Preparatory measures (e.g. Parking prohibition signage)

**(3) Department VI of SenUVK (state authority) Hearing of road construction authority (district authority) and police**

- Time allotment: 48 hours
- Considerations weighing on decision / changes / concretization
- If necessary, acceleration through on-site visit

**(4) Order of the measures by Department VI SenUVK (state authority)**

- Justification of the order
- Indication of the standard plan(s) to be applied

**(5) Necessary preparatory measures by district authority**

- Press- and Public Relations
- Announcement Signage if required (Parking prohibition)

**(6) Signage, markation, and documentation by district authority**

- Implementation by commissioned contracting company / district personnel
- Monitoring of the work by road construction authority (district)
- Immediate photo documentation as provisional Traffic-Signage plan (aerial photo by drone)

**(7) Presentation of the finalised traffic sign plan as per §45 (3) Road Traffic Regulations (StVO) to SenUVK (state authority) by district authority**

- Deadline: 24 hours
- Basis: Photo documentation

**(8) Finalization of the completed order by Department VI SenUVK (state authority)**

- Addition of the Traffic-Signage plan
- Duration: Until expiry of the SARS-CoV-2 Containment Ordinance

**(9) Evaluation of the measure by district and state (Department VI SenUVK) traffic authorities**

- Deadline: 72 hours
- Evaluation with regard to:
  - 1) Risk of infection reduction,
  - 2) Road safety ensured,
  - 3) Traffic flow ensured.

**(10) If necessary, determination of rectification work by district authority and Department VI SenUVK (state authority)**

**(11) Completion of the measure**

5. Dealing with the temporary arrangements following the pandemic crisis

In reference to the urgency coming from the current threat of infection and further challenges posed by the pandemic situation, the orders are issued exclusively as administrative acts within the scope of the powers of the road authorities for the purpose of compliance with the SARS-CoV-2 Containment Measures Ordinance. They are thus measures that are necessarily limited in content and time to the pandemic situation and are in relation thereto. Therefore, as well as for reasons of rapid administrative execution in the context of an acute situation of danger, only warning beacons, mobile signs and yellow markaton are used for the markings. These can be later removed.

The frequently asked question of whether the orders should be maintained in a post-pandemic situation cannot therefore be answered in general. Rather, there are two groups of cases:

- For such facilities which comply with the prescribed requirements of the Berlin Mobility Law and which are urgently required for reasons of traffic safety, decisions on continuation must be made by Department VI SenUVK in conjunction with the hearing of partners within the scope of official discretion.
- All orders that go beyond the requirements of the Berlin Mobility Act or road safety and that causally relate exclusively to infection prevention during the pandemic situation require a separate transport policy decision to be made in order to be sustainable. Thus, the decision as to whether parts of the temporary measures remain in place is beyond the purview of the road traffic authorities and lies rather in the field of political sovereignty, i.e. is reserved for discussion and decision making in the Berlin House of Representatives and/or the district assembly.

In any case, from the perspective of the Friedrichshain-Kreuzberg District Office, the following steps are necessary for a period after the SARS-CoV-2 Containment Ordinance expires:

- Within one week after the expiry of the SARS-CoV-2 Containment Measures Ordinance or the distance requirement of 1.5m, the Senate Administration for Health will determine whether a renewed increase in the number of infections and thus a retention or re-introduction of the distance rules can be expected within a six-month period. If this is to be assumed with a high probability, the orders remain in their entirety as a precautionary infrastructure for the time being.

- If the distance requirement of 1.5 meters is completely and predictably jettisoned for at least half a year, the relevant road traffic authority must check which installations would comply with the requirements of the Berlin Mobility Act if the distance requirement of 1.5 metres were to be maintained, or if they must be urgently maintained for reasons of road safety.
- If necessary, a new road traffic authority order including a hearing procedure is then issued by the respective responsible road traffic authority.
- The provision of a Berlin-wide financing fund by SenUVK (state ministry) would then be necessary for permanent implementation.
- The budget allocation would have to be made to the responsible road construction authority within the framework of contract-based management - or a title reinforcement from a central instance would be required.
- The approximate budget management can easily be carried out on the basis of those project sheets or standard plans for the temporary measures that are to last in the long term.
- The preparation of construction measures is carried out by the road construction authority within the framework of an accelerated planning procedure, which is based to a large extent on an evaluation of the temporarily arranged infrastructure. The planning period can thus be reduced considerably with regard to its duration and planning costs.
- In the case of complex planning processes for problematic sections, these sections initially remain in the temporary situation, whereas parts of the project that are easier to implement can quickly be permanently arranged and brought forward in the structural implementation.