



UNCLASSIFIED

Novel Coronavirus Q&A for LNs in Germany

This document will continue to be updated as information changes due to further U.S. and Host Nation Government guidance or as the situation evolves.

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A. PREVENTION

Q-A1: What precautions is USAREUR taking?

A: USAREUR is taking a proactive approach to curtailing the coronavirus update, including certain closures for on base installations and limiting congregation for employees and their families. These precautionary measures are location specific and employees are encouraged to check the Army website specific to their post and monitor email activity for any announcements.

Q-A2: What should employees and managers do if given instructions by local authorities?

A: Employees and managers are directed to follow the instructions of the Public Health Command and German health and safety authorities as applicable. Health authorities in Germany may impose strict controls on travelers coming from areas at risk. German authorities may impose health checks and require hospitalization for infected persons.

Q-A3: What else can managers and employees do to prevent the spread of 2019-nCoV?

A: Managers and employees are encouraged to practice “social distancing” by limiting the amount of direct contact with other employees and the public at large. Canceling or postponing social gatherings, conducting meetings electronically instead of in person, and encouraging good personal hygiene can all help to limit the spread of disease.

Q-A4: What should employees do if they show symptoms of 2019-nCoV?

A: Persons with respiratory disease symptoms suspected of a SARS-CoV-2 infection must stay away from the workplace. If there is a suspicion of a SARS-CoV-2 infection, particularly in the case of fever, coughing and difficulty breathing, the employer must ask the affected individual to leave the workplace immediately and seek medical treatment, if necessary. Before going to a medical practice or emergency room, call ahead and tell them about any recent travel and symptoms; 2) avoid contact with others; 3) inform supervisors and keep them abreast of any ongoing developments; 4) do not travel while sick; 5) cover the mouth and nose with a tissue or sleeve (not hands) when coughing or sneezing; and 6) wash hands often with soap and water for at least 20 seconds to avoid spreading the virus to others.

Q-A5: Can a manager mandate that employees get tested if they show symptoms of infection?

A: Employees are encouraged to exercise caution and report to their physician as soon as they suspect they might be infected. Managers may not order testing for employees showing symptoms but may send employees home with recommendation to contact their physician if they reasonably believe the employees could be a direct threat to the health of others. The employee will be covered under admin leave if sent home.

Q-A6: What further precautions are required to prevent the spread of the virus effectively?

- Please note that the individual German states have issued their own separate Corona Ordinances.
- As of 1 February 2021, in addition to the Safety/OH standards (see Q-A8), a general obligation to wear medical-grade masks in all shopping facilities, post offices, AAFES and DeCA facilities, legal assistance offices, banks and other facilities offering goods or services is in place for USAG RLP and for all Air Force installations within the Kaiserslautern Military Community (KMC). Additional information can be found on the USAG RLP and KMC websites.
- For the protection of employees and limiting the introduction and quick spreading of the SARS-CoV-2 corona virus and its new mutations in the organizational environment, pls. refer to the Q-A8 update of 27 January 2021.

Q-A7: How do I get a (cloth face mouth-nose covering) - temporarily changed until 15 March 2021 to: medical-grade masks?

A: While the temporary SARS-CoV-2 Ordinance is in effect (at least from 27 January until 15 March 2021), the employer must provide medical-grade masks in certain situations (see Q-A8) for duties at the worksite. Information on which masks are acceptable as medical-grade masks can be found at the link of the German Federal Institute for Drugs and Medical Devices, BfArM.

<https://www.bfarm.de/SharedDocs/Risikoinformationen/Medizinprodukte/DE/schutzmasken.html>

Q-A8: Which courses of action does the host nation direct to avoid Covid-19 infections?

A: The SARS-CoV-2 Standard of Industrial Safety (“SARS-CoV-2-Arbeitsschutzstandard”) published by the Federal Ministry of Labor and Social Affairs directs the following:

- 1) The employer is required to review and, where necessary, update the existing risk assessment and occupational health and safety measures to include any additional measures required for protection against infection at work.
- 2) Measures have to be taken to ensure compliance with the distancing rule as a protection from infection at work.
- 3) Providing means for hand hygiene; easily accessible washing facilities with running water, sufficient liquid soap that is gentle on the skin, and facilities for hygienic drying of hands (disposable paper or textile towels).
- 4) Sanitary facilities must be cleaned at least once per workday.
- 5) Compliance with the distancing rule must be ensured in break rooms and areas, tea kitchens and kitchens, as well as in rooms and areas for use during stand-by duty. Additional measures include in particular the adjustment of seating arrangements, the application of floor markings, and the staggered organization of work and break times with the aim of reducing the occupancy rate. Hand hygiene facilities must be provided for use before entering and using these facilities.
- 6) Compliance with the distancing rule in canteens is to be ensured by arranging or reducing the number of tables and seats, as well as by other technical measures, e.g. distance markings on the floor; the installation of barrier tapes at the food dispensing point, tray return point and at the cashier's desk. Suitable organizational measures include limiting the number of patrons; extending the canteen and food dispensing times to avoid queues; or having a staff member instruct and organize canteen patrons. Cutlery and crockery should be handed out by canteen staff only.
- 7) Indoor facilities must have sufficient healthy respiratory air. Increased airing and ventilation can reduce the concentration of any virus-carrying aerosols in room air. Air quality can be improved in particular by increasing the frequency and/or duration at which rooms are aired by opening windows or increasing the amount of airflow. The simplest form of ventilation is airing out a room by opening windows. Rooms are to be aired out by opening windows at the start of work and at regular intervals thereafter. Meeting rooms must additionally be aired out before use, especially if other people have previously been in them.
- 8) Working from home as a form of mobile work is a way to reduce the number of employees present at the workplace at the same time, thus supporting compliance with distancing rules.

Update of 27 January 2021

In accordance with the Federal Ministry of Labor and Social Affairs' SARS-CoV-2 Safety and Occupational Health Ordinance dated 22 January 2021 (effective as of 27 January 2021; for now temporarily until 15 March 2021), additional special safety and occupational health measures are temporarily required in the organizational environment to protect employees and limit the introduction and quick spreading of the SARS-CoV-2 corona virus and its new mutations. These include, among others, the obligation to offer telework, provided organizational circumstances allow this, and to reduce official work contacts by limiting room occupancy. The draft furthermore provides for dividing the workforce in fixed work groups preferably with only a few members that work at different times and/or locations.

The employer has to provide medical face masks, or FFP2 or comparable masks if

1. the required standards for room occupancy cannot be met (more than one person per ten square meters is in the room for a longer period), or
2. the minimum distance of 1.5 meters cannot be met, or
3. the performed duties will likely cause a hazard through an increase in aerosol emissions.

Information from the German Federal Institute for Drugs and Medical Devices (Bundesinstitut für Arzneimittel und Medizinprodukte – BfArM) on the use of face coverings, medical face masks and filtering half-masks (FFP masks) is available at:

<https://www.bfarm.de/SharedDocs/Risikoinformationen/Medizinprodukte/DE/schutzmasken.html>

Q-A9: What does management have to consider in case external persons access the work place and premises?

A: The following measures must be taken to reduce the risk of infection when external persons are present:

1. Use of electronic media to contact each other wherever possible to complete the work task;
2. Use of partitions if the distancing rule cannot be observed between people (for example transparent partitions if dealing with members of the public);
3. Limiting the number of external persons present at the same time so that the distancing rule can be observed between people (including the distance to employees);
4. Use of **(mouth and nose coverings - until 15 March 2021 no longer authorized) - medical-grade masks** if the distancing rule cannot be observed and there is no effective uninterrupted partitioning between persons.

Q-A10: How can the employer prevent that persons with symptoms gain access to military installations?

A: As part of the general obligation to take care of employees, the employer must take into consideration the wellbeing and justified interests of employees, prevent damage to them, while respecting their dignity and ensuring their personal rights are preserved. The employer must particularly ensure that, given the available means, all necessary and adequate measures are taken to counter the spread of the virus within its organizations. In particular, fever, cough and shortness of breath can be signs of a coronavirus infection.

Q-A11: What is the status of an employee with symptoms who was denied access to the installation?

A: In the midst of the Covid-19 pandemic, the employer generally feels impelled to assume the worst case, and to take corresponding care measures. Thus, the employer has an obligation towards all employees to counter potential risks of infection, and to release employees with a measured fever from duty and prompt them to consult a doctor immediately. Until a medical clarification can be provided, the employee is suspected of being unfit for work. The affected employees should immediately contact a physician/doctor or the health department. For employees who are unfit for work due to an actual disease, the usual tariff and legal provisions for unfitness for work will be applicable.

Q-A12: Does a Covid-19 positive tested employee have to report his infection to the employer (supervisor)?

A: While employees are normally not obligated to provide the employer with information about the type and cause of their illness, in case of an infectious disease which could have serious effects on third parties in the employment relationship (colleagues and customers), employees are legally obligated under the employment contract to notify their employer of the disease, in order to allow the employer to take the necessary protective measures. Because of the highly infectious nature of 2019-nCoV and the potential severe disease progression of 2019-nCoV, employees are obligated to notify their supervisor of a positive test.

Q-A13: Is it possible for the employer to direct LN employees to get vaccinated against influenza or Covid-19?

A: The employer cannot direct such vaccinations.

There is no legal vaccination obligation on the host nation side. In Germany, such a legal vaccination obligation for certain groups of employees currently only exists for measles. LN employees are only required to undergo a vaccination if this is stipulated in a law or collective tariff agreement (e.g. occupational health check-up IAW section 18(2)4 *ArbSchG* in conjunction with *ArbMedVV*; section 32 I *JArbSchG*; for employees in the food industry section 43(1) *IfSG*; and for passenger transportation e.g. section 48(4)3 *FeV*). However, employers can recommend that employees get vaccinated and make it more effective by granting "vaccination awards" and offering vaccinations free of charge. Nevertheless, if an employee refuses the (voluntary) vaccination, this refusal cannot be used as a basis for consequences under labor law, such as termination etc. Should the legal situation change, for example because a legal vaccination obligation for certain groups of employees - analogously to the measles vaccination - will be introduced in the Infection Protection Act in late 2020 or early 2021 when a vaccine is available, this will have to be assessed differently.

B. TELEWORK AND HOME OFFICE

Q-B1: Can employees telework during an outbreak?

A: Telework is authorized in accordance with USAREUR telework policy. Maximum flexibility of telework should be utilized. Working from home as a form of mobile work is a way to reduce the number of employees present at the workplace at the same time and to support compliance with distancing rules. [Based on the Federal Ministry of Labor and Social Affairs' SARS-CoV-2 Safety and Occupational Health Ordinance \(see also update of Q-A8 of 27 January 2021\), the employer must review](#)

- a) [whether the required standards for rooms and distance cannot be met for certain reasons;](#)
- b) [whether there are no compelling organizational reasons that prevent working from home.](#)

Q-B2: Which type of telework is authorized?

A: In the USAREUR shop agreement on telework, many agreed-upon benefits such as continuity of operations during emergencies are laid out. Telework on a situational basis for a longer period is authorized.

Q-B3: Can employees be directed to perform telework?

A: LN employees cannot be directed to perform telework at home. Employees could be directed to perform telework at an alternate worksite, a location away from the regular worksite that has been approved for the performance of assigned official duties (for example, satellite office at a different garrison). However, after establishing a corresponding mutual telework agreement, telework at a home office would become an option for LNs.

Q-B4: Can LN employee positions be designated Emergency-Essential (E-E)?

No. EMERGENCY ESSENTIAL (E-E) is a position-based designation to support the success of combat operations or to support combat-essential systems subsequent to mobilization, an evacuation order, or some other type of military crisis. E-E status is limited to DoD U.S. citizen civilian employees since LN employees are not deployable to combat operations.

Q-B5: Can LN employee positions be designated Mission-Essential (M-E)?

A: Yes. Mission-Essential (M-E) positions are identified unilaterally by local or command level management to support and maintain the uninterrupted execution of mission-essential functions (MEFs) and the continuity of operations. MEFs enable and equip the organization to continue performing essential functions during contingency operations, natural disasters, extreme weather situations or other emergency situations (e.g. the current Covid-19 pandemic). Other than E-E status, LN employee positions can be identified M-E. The M-E identification may be coded in the position description and requires neither the employee's consent nor a change notice, much like so-called "system-relevant" positions on the German economy (e.g., security, fire protection, medical, communications, etc.). Incumbents of M-E positions must be able to remain on duty or make every effort to report to duty on-time during emergency and/or crisis situations. However, supervisors will determine how the work is performed (physical presence or telework).

Q-B6: Which courses of action does the host nation direct in regards of working at home?

A: Arrangements regarding working hours and availability should be defined. Employees must be briefed regarding the working hours to be observed, breaks, the necessary documentation thereof, ergonomic workplace design and the use of work equipment, e.g. correct position of the computer screen, separate keyboard and mouse if possible, correct and alternating sitting posture and movement breaks.

C. ANNUAL LEAVE, SICK LEAVE, ADMIN LEAVE/RELEASE FROM DUTY, QUARANTINE, CORONA BONUS PAYMENT

Q-C1: Can an employee take approved leave as planned?

A: Yes, employees with an approved leave request can basically start leave as planned.

Q-C2: Can management cancel or rescind leave that has already been approved?

A: No, as a matter of principle an employer may not cancel leave unilaterally once approved. Any subsequent changes require a corresponding agreement between the employee and the employer, generally represented by the supervisor.

Only in rare exceptional cases can approved leave be canceled unilaterally. Courts accepted this for ‘compelling operational reasons that leave no other option’. This only takes into consideration unpredictable events that are threatening one’s livelihood, like emergency situations and catastrophes; the sudden loss of a larger number of employees; mission failure; etc. Such constellation, however, must be handled very restrictively, and it may result in indemnity claims on the part of the employee (missed trip; costs for flights; etc.).

Q-C3: An employee does not want to start already approved leave due to the corona pandemic. Is this possible?

A: As a matter of principle, neither employer nor employee can change already approved leave unilaterally, like extending or reducing the leave period, etc. If leave periods are to be changed subsequently, this requires a corresponding agreement between the employer and the employee. There is no entitlement for the employee to cancel approved leave. However, the employer will be able to honor principles established in the CTA II, like taking into consideration employee’s preferences when scheduling annual leave, provided that there are no conflicting operational requirements or leave plans from other employees.

Q-C4: The employee cannot start previous year’s leave on 31 March 2020 at the latest due to staff shortages because of the 2019-nCoV crisis. Is it possible to transfer such leave?

A: With the exception of unfitness for work, previous year’s leave not taken would be forfeited after 31 March. Similar to the exceptions under Q-C2, previous year’s leave may, as an exception, be transferred beyond 31 March for ‘compelling operational reasons that leave no other option’. In accordance with the legal principle of Article 33 paragraph 6c CTA II, such remaining leave must be granted and started within two months once the ‘compelling operational reason’ ceases to exist (analogous to restoration of fitness for work).

Q-C5: An employee is traveling and cannot start the return trip due to direct consequences of the corona pandemic (e.g. flight cancelations; closed borders; etc.). What needs to be done?

A: As a matter of principle, if an employee does not report to work and thus cannot perform the duties owed under the employment contract, the employer, on in return, is not obligated to pay for non-performed work. Given that the reason for not reporting for work is not the fault of either of the parties and in order to avoid loss of pay, an employee’s leave request to cover the missed work days should be approved.

Q-C6: What needs to be taken into consideration when an employee falls sick with a 2019-nCoV infection while on annual leave?

A: As with any other sickness, the provisions of Article 29 paragraph 4a) apply in such case (‘The employee is required to immediately provide the employer notification of his or her unfitness for work and information on its probable duration’). Furthermore, according to section 9 Federal Leave Law, days for which unfitness for work is documented by a medical certificate when an employee falls sick while on leave will not be counted towards annual leave.

Q-C7: What happens if an employee is placed under quarantine by order of an authority during leave due to possible contact to an individual infected with 2019-nCoV?

A: An entitlement to continuation of pay under the German Law on Continued Remuneration is ruled out as, for the time being, there is no disease that justifies unfitness for work. Leave that was granted and its compensation remain unaffected. Quarantine days cannot be offset against leave days because employees, due to officially directed quarantine, usually are not available for work. For periods of granted leave that employees have to spend under quarantine the employer is not entitled to get reimbursed under the German Law on Protection against Infection (“*Infektionsschutzgesetz*”) by the responsible German authorities.

Important: Said German Law on Protection against Infection only applies if quarantine is directed by a German authority. In case of a quarantine directed abroad, employees bear the regular risk associated with reporting for work.

Q-C8: What should employees do if USAGs close activities in Germany?

A: Employees should contact their supervisors as they may be required to report to an alternate duty location. Telework may be authorized. If an employee who is fit for work is precluded from working by order of the employing agency, the employee is entitled to payment of the earnings that he or she would have received for his or her established regular workhours. In this case, the employee will be granted administrative leave until the facility re-opens.

Q-C9: What is the status of an employee who is unable to report to work due to being isolated or quarantined?

A: Employees may be excused from work without charge to leave or loss of pay under admin leave. The period of being under isolation or quarantine must be reported to management without undue delay. Management must inform the Foreign Forces Payroll Office immediately. Where an employee is telework eligible and not ill they are required to telework during their isolation barring exigent circumstances.

Q-C10: What is the status of an employee who is unable to report to work due to 2019-nCoV infection?

A: Employees unable to report to work due to actual infection of the 2019-nCoV will follow standard sick leave procedures.

Q-C11: What can employees do if a family member was infected with 2019-nCoV?

A1: If the employee cohabits with the family member or was in contact with the infected (see Q-C9)

A2: In addition, Art. 28 CTA II provides for special administrative leave in case the employee has to take care of a severely sick family member. Under the current exceptional circumstances of the ongoing 2019-nCoV pandemic, the provision of Art. 28, paragraph e), CTAII may temporarily also be applied if the employee has to take care of an infected family member who does not live in the same household as the employee. In this context, “care” also includes necessary administrative measures for and on behalf of the infected.

Upon request and submission of proof (if requested), these employees may be given time off with pay not to exceed 2 workdays (3 days for spouses) as admin leave. After 2 days (3 days for spouses), the employee must be charged annual leave or LWOP.

Q-C12: What can management do if an LN employee does not qualify for telework in case of a garrison shutdown?

A: Management can temporarily release the employee from his/her duties. If an employee who is fit for work is precluded from work by order of the employing agency, the employee is entitled to the payment of earnings that he/she would have received for his/her established regular workhours. In this case, the employee will be granted admin leave until the garrison re-opens.

Q-C13: What type of leave can an employee request in case of school/daycare/kindergarten closures?

A: The CTAII does not cover mandatory closures of schools and daycare facilities by official German health authorities („Gesundheitsbehörden”). Generally, it is the employee’s responsibility to organize childcare. To mitigate any hardship management should make use of previous year’s leave, comp-time, annual leave, other work flexibility options (e.g. telework, home office) and as a last recourse unpaid leave. Effective 25 March 2020, the government of the Federal Republic of Germany approved a “social bill” governing financial support for employees with small children affected by the situation of special personal hardship (for details see below). After 31 March 2020, employees meeting the legal special personal hardship criteria are to make use of this government program tailored to their situation.

Q-C14: Who is eligible for the new entitlement to compensation for loss of earnings resulting from current school and day care closures under the new “social bill” (IAW Article 56 (1a), (2) Law on Protection from Infection in conjunction with Article 54 (1) NATO SOFA Supplementary Agreement) ?

A: Effective 25 March 2020, the government of the Federal Republic of Germany approved a “social bill” governing financial support for employees with small children affected by the situation of special personal hardship described below.

The aim of the compensation scheme is to mitigate the loss of earnings suffered by parents of children under the age of 12 if they have to take care of their children themselves due to the closures and they are therefore unable to pursue their contractual obligations.

The legal prerequisites are similar to the criteria described under Q21 and are also based on a possible special personal hardship for employees with small children.

1. Actual preventive closure of a community facility, like public schools, daycare centers, kindergartens, parent-child initiatives or similar facilities in response to the 2019-nCoV spread (Note: Does not cover regular scheduled school breaks, like Easter/spring break).
2. The children affected by said closures are younger than 12.
3. Any other reasonable childcare for the child/children cannot be obtained (e.g. from the other parent or emergency care in the facilities). IAW said new “social bill” risk groups such as the child's grandparents do not have to be involved.
4. Accordingly, the prerequisites of section 56(1a) are also to be applicable if compulsory school attendance is temporarily suspended because of the pandemic.

IMPORTANT: The compensation of 67% of the net income is granted for up to ten weeks and is limited to a maximum monthly amount of 2,016 euros. The payment is made by the employer, who can submit a reimbursement request to the responsible state authority. The rule does not apply to periods when the facility would be closed anyway due to school holidays and is limited until the end of the current year 2020. Employees may request this benefit with a written, informal request to their supervisors.

In order to avoid loss of earnings the employee has the option of requesting annual leave, use comp-time, and other work flexibility options (e.g. telework, home office, adjust work schedules). Management should approve these requests whenever possible and there are no official/operational reasons precluding the approval.

Update of 19 January 2021

On 18 January 2021, the modification of section 45(2)a *SGB V* (Social Security Code V) came into effect with a retroactive effective date of 5 January 2021. Thus, the entitlement to child sick pay for calendar year 2021 for each child covers a maximum of 20 work days, and a maximum of 40 work days for insured single parents. The entitlement to child sick pay also exists if child care facilities, schools, or facilities for people with disabilities are temporarily closed by the responsible authorities to prevent the spread of infections or communicable diseases based on the Law on Protection from Infection (*Infektionsschutzgesetz*); or if entry to these facilities is prohibited, also because of isolation; or if the responsible authorities direct or extend periods of school recess/company closedown for reasons of infection protection; or if compulsory school attendance is suspended; or if access to child care services is limited; or if the child does not attend the facility because of an official recommendation.

The legislator has determined that child sick pay IAW section 45(2)a *SGB V* takes precedence over compensation IAW section 56(1)a Law on Protection from Infection (section 45(2)b *SGB V*). Consequently, employees first have to fully exhaust child sick pay entitlements IAW section 45 *SGB V* before receiving compensation payments IAW section 56(1)a Law on Protection from Infection.

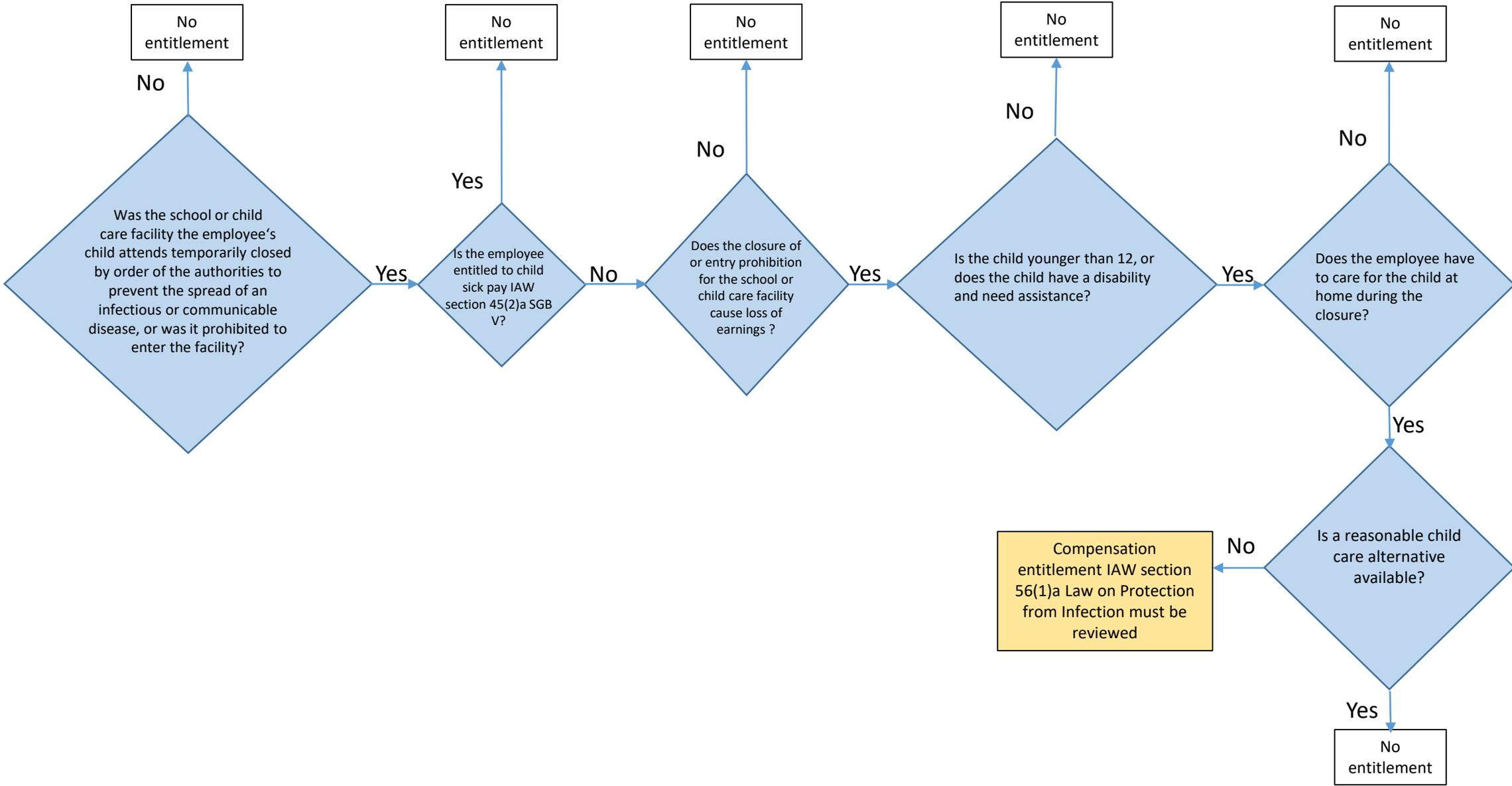
For employees, child sick pay is more advantageous as it can add up to 90 % of the net pay, with a maximum of 3,386.40 EUR per month; compensation IAW section 56(1)a Law on Protection from Infection, however, amounts to 67 % of the net pay, with a maximum of 2,016 EUR per month. (see also **Q-C14**)

In contrast to the entitlement IAW section 56(1)a Law on Protection from Infection, the entitlement to child sick pay also exists in case of only ‘limited access’ to child care services, meaning when facilities are open but making use of the services is not recommended. Furthermore, the newly established entitlement is more advantageous as it is not conditional on whether the owed work can basically be performed by telework. Lastly, the entitlement to child sick pay is only ruled out if care is already guaranteed by ‘another person living in the household’. The entitlement IAW section 56(1)a Law on Protection from Infection, however, does not apply when there is any other reasonable child care alternative, meaning also those outside the own household.

The application process for child sick pay has not changed. The physician must confirm on the blue application form that the child is in need of care because of illness or the reasons mentioned above. The original form will then be forwarded to the health insurance carrier. The employer must be notified about the application (copy).

The following flow chart explains the application process for compensation IAW section 56(1)a Law on Protection from Infection:

Child care: Compensation IAW section 56(1)a Law on Protection from Infection



Child care: Compensation IAW section 56(1)a Law on Protection from Infection

1. Based on the flow chart there is an entitlement to compensation IAW section 56(1)a Law on Protection from Infection (IFSG).
2. The compensation for lost earnings for employees IAW section 56(1)a Law on Protection from Infection will be granted to every gainfully employed individual in form of an entitlement of no more than ten weeks; for gainfully employed individuals who are the sole provider of child care the entitlement covers a maximum of twenty weeks. The maximum period of ten or twenty weeks does not have to be exhausted in one uninterrupted period. The legal regulation on compensation is in effect until 31 March 2021. IAW section 56(1)a Law on Protection from Infection, the employer has to **disburse the compensation on behalf of the servicing authorities** for the duration of employment, **not to exceed six weeks**. The employer will then be reimbursed upon request for the paid amounts by the servicing authorities (section 56(5) sentence 2 Law on Protection from Infection).

After six weeks, the individual entitled to compensation/employee (!) must submit the claim for the compensation entitlement directly to the servicing authorities, i.e. starting with the seventh week employees making use of child care periods IAW section 56(1)a Law on Protection from Infection will be reported with ‚leave without pay‘ (absence code 0620). In cases where the ten or twenty weeks are not taken as one uninterrupted period, this period must be converted into work days.

For a 5-day work week, this adds up to 50 or 100 work days.

For a 4-day work week, this adds up to 40 or 80 work days.

3. Required information from the employee

- Duration of the closure directed by the authorities (from/until)
- Copy of the official closure directive

4. Required information from the organization

- Was the employee able to work from home during above period?
 - If yes, to what percentage?
 - If no, why not? The authorities usually require a detailed justification from the organization.

Bayern: https://www.stmgp.bayern.de/wp-content/uploads/2020/04/keine_anderweitige_zumutbare_betreuungsmoeglichkeit_bf.pdf

Rheinland-Pfalz: https://ifsg-online.de/downloads/Negativbescheinigung_Kinderbetreuung.pdf

Hessen: https://ifsg-online.de/downloads/Antragsformular_%C2%A756_1a_IfSG_Arbeitgeber.pdf

Baden-Württemberg: https://www.ifsg-online.de/downloads/Antragsformular_%C2%A756_1a_IfSG_Arbeitgeber.pdf

Q-C15: What are Time-Off Awards (TOA)?

A: The regulatory basis for Time-Off Awards (TOAs) granted to LN employees in Germany is AER 690-672 (Monetary and Honorary Awards for Local National Employees in Germany), dated 23 July 2018. In para. 6d of the regulation, TOAs are described as workdays of time off, which may be given to LN employees for achievements or performance significantly contributing to the accomplishment of the mission, not exceeding the ceiling of 10 workdays per year and 5 workdays for a single contribution. As a general rule, TOAs must be taken within 12 months after approval.

Q-C16: Are there any Covid-19-related changes to the expiration of TOAs?

A: The above-mentioned limitation period of 12 months for taking TOAs was removed because of the current Covid-19 emergency. Per Memorandum, Under Secretary of Defense, dated 19 June 2020, the mandatory period for taking TOAs was removed for those TOAs granted between 13 March 2019 and 30 September 2020. All TOAs granted, exclusively in the above mentioned period, to direct-hire LN employees in Germany are exempt from the regulatory obligation to be taken within 12 months of their approval, but they still have to be taken by 30 September 2021 at the latest, otherwise they will be forfeited. This exemption of the general rule enables employees, who were present at their workplace during the Covid-19 pandemic to get additional time to use their TOAs. However, employees are asked to make use of their TOAs continuously; an extensive “saving for later” of time-off workdays could – depending on the number of employees involved and the specific operational needs of the unit concerned – raise difficulties for the employer when it comes to implement accrued time off and annual leave of all employees. Moreover, TOAs need to be taken consecutively; TOAs from 2020 before TOAs from 2021. Any other TOAs granted before 13 March 2019 or after 30 September 2020 remain subject to the one-year limitation.

Q-C17: Who is required to enter home quarantine when travelling to the Federal Republic of Germany?

A: Anyone who has stayed in a risk area within the last 10 days prior to their entry to Germany is obliged to proceed directly to their own home or another suitable accommodation and self-isolate there for 10 days. This does not apply if the person only travelled to a risk area for a maximum of 24 hours or if the person only came through a risk area without spending time there. The quarantine ends earliest at the fifth day after entry, in case a person has a negative test result with regard to an infection with coronavirus SARS-CoV-2 on paper or in an electronic document in German, English or French and upon request has submitted it to the competent authority within ten days of entry. This quarantine rule does not apply to members of the stationing forces within the meaning of the NATO SOFA who entered or returned to Germany by reason of their military mission.

[Update of 27 January 2021](#)

Q-C18: What are risk areas?

A: Classification as a risk area is the result of a joint analysis and decision-making process by the Federal Ministry of Health, the German Foreign Office, and the Federal Ministry of the Interior, Building and Community, for areas with an increased risk of infection with the SARS-CoV-2 coronavirus. Since January 2021, there are also designated ‘high-incidence areas’ and ‘areas of variant of concern’. For these areas, deviating rules apply due to the particularly high risk of

infection. The Robert Koch Institute regularly updates a corresponding list of risk areas, which is available at:

https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogebiete_neu.html

Q-C19: N/A

Update of 27 January 2021

Q-C20: Do all travelers returning from risk areas need to be tested?

A: According to the Federal Ministry of Health's Testing Obligation Ordinance, an obligation to get tested for coronavirus is in place when entering Germany after having spent time in a risk area within the 10 preceding days. Regardless of the test result, there is a quarantine obligation in accordance with the regulations of the respective Land. More information is available on the website of the Federal Ministry of Health:

<https://www.bundesgesundheitsministerium.de/coronavirus/current-information-for-travellers.html>

Q-C21: N/A

Q-C22: N/A

Q-C23: N/A

Q-C24: N/A

Q-C25: N/A

Q-C26: N/A

Q-C27: N/A

Q-C28: N/A

Q-C29: N/A

Q-C30: N/A

Q-C31: N/A

Q-C32: N/A

Q-C33: N/A

Q-C34: N/A

Q-C35: N/A

Q-C36: Do employees get paid during quarantine if they knowingly traveled to a risk area?

A: People who knowingly travel to a country for which a travel warning has been issued also know that they must go into quarantine after returning home. If they are unable to perform their work for the employer due to a self-inflicted quarantine, they may lose their entitlement to continued salary payments. In such a case, employees act culpably in the sense of the regulations on continued payment of wages. Therefore, a temporary prevention of the performance of work according to section 616 German Civil Code (BGB) arises. Accordingly, in such a case the employees are not entitled to continued payment of remuneration according to section 616 German Civil Code.

Q-C37: In this constellation, are employees entitled to state compensation for loss of earnings due to quarantine?

A: In the afore-mentioned constellation, there is also no entitlement to state compensation in accordance with section 56 of the Infection Protection Act for loss of earnings due to quarantine. Individuals who travel to a risk area even though they are aware - or even though they are grossly negligent not to know - that they will have to go into quarantine on re-entry are not entitled to compensation for loss of earnings resulting from quarantine.

Q-C38: How is the situation if the travel destination outside Germany is declared a risk area after the employee's arrival?

A: In this case, employees did not act culpably when traveling and are entitled to payment of wages in accordance with section 616 German Civil Code (BGB) during quarantine. In this context, however, section 56 Infection Protection Act applies, based on which the employee has a claim for compensation for the time of the quarantine. In practice, the employer continues to pay the wages and can have these payments reimbursed by the competent authority (section 56(5) Infection Protection Act).

Q-39: Having entered Germany from a risk area, do I have to report to the employer?

A: Anyone who has stayed in a risk area within the last 10 days prior to their entry to Germany must report to the competent health office and the employer (supervisor) accordingly. While employees are normally not obligated to provide the employer with information about the travel destination, they are obligated to provide any information with undue delay that helps to interrupt the infection chains as soon as possible.

Employees are legally obligated under the employment contract to notify their employer of the quarantine after returning from a risk area, and also about the fact that they have returned from a risk area but have a valid negative test result in order to allow the employer to take further necessary protective measures. Because of the highly infectious nature of 2019-nCoV and the potential severe disease progression of 2019-nCoV, employees are obligated to notify their supervisor of a positive test without undue delay.

Q-C40: Can management ask the employees if they plan to spend their vacation in a risk area.

A: The employer has a duty of care towards employees, and must observe occupational health and safety regulations and protect the workforce from danger and health risks. In the Corona context,

this means that the employer must know whether one of his employees is particularly at risk of infection. The employer may demand information from employees as to whether they have been on vacation in a risk area designated by the authorities or the Robert Koch Institute, or whether they will travel to such an area. Employers must be able to find out about this increased risk so that they can act appropriately to protect their employees, for example by reorganizing work or sending employees to the home office. However, it is sufficient for the employer to ask whether the employee is traveling to a risk area. The answer must then truthfully only be "yes" or "no". Employees who remain silent in response to the employer's justified question or who say the untruth violate their contractual obligations, with the consequence that they may even be dismissed after a warning.

Q-C41: Corona Bonus Payment

A: Employers currently can make tax-free Corona bonus payments to their employees up to a total amount of 1,500 EUR. This covers special payments that employees receive between 1 March and 31 December 2020 to mitigate the additional burden caused by the Corona crisis (**Update January 2021: period extended through 30 June 2021**). As a prerequisite, the bonus payment must be granted in addition to regular pay. The tax-free benefits must be recorded in the payroll account. **Note:** Only the total period for granting a ‘Corona bonus payment’ has been extended. The total maximum amount remains 1,500 EUR (minus the tariff bonus payment of 250 EUR in December 2020).

D. DISTRIBUTION OF MANPOWER

Q-D1: In case of manpower shortage, can management direct employees to support other branches?

A: Yes, indeed. As a principle, the employer has the right to determine content, place and time of work performance at his reasonably exercised discretion. The newly assigned duties shall be adequate and comparable to the original contractual duties. A management directed assignment is not required if an employee voluntarily agrees to assist with other duties.

Q-D2: Can work schedules of the LN workforce be changed?

A: The employer has the right to determine content, place and time of work performance (right to direct/“*Direktionsrecht*”) at his reasonably exercised discretion as long as employment contract, shop agreement, tariff agreement or laws do not guarantee specific work conditions. Therefore, management has the flexibility to modify work schedules temporarily, especially in emergencies. However, if the work schedules of the entire workforce need to be changed permanently, the LN works council’s concurrence is required.

Q-D3: Can LN employees be directed to work at a different worksite?

A: LN employees can be directed to work at a different worksite within their military community or can be sent on TDY to any other duty station.

E. EMPLOYEES WITH THE POTENTIAL FOR SEVERE COURSE OF ILLNESS

Q-E1: Are there any employees with a higher risk of developing a severe course of 2019-nCoV disease?

A: A major aspect of the current planning to return to normal operations is the protection of the workforce, in particular those with a higher risk of developing a severe course of 2019-nCoV disease, from a second wave of case incidents.

The following groups of individuals are at a higher risk of developing a severe course of 2019-nCoV disease:

- The risk of a serious illness increases steadily with age. Elderly people, in particular, can become more seriously ill after an infection (immune senescence) due to the less responsive immune system. Since unspecific disease symptoms such as fever are the immune system's response to an infection, they can be weaker or absent in advanced age, which means that sick people only consult their physician later.

As far as being at a higher risk for a severe course of the disease is concerned, there are no fixed scientific age limits. The CDC assumes a higher health risks for people aged 65 and older. The German Robert Koch Institute (RKI) points out that the risk for a more severe course of the disease is higher for older people with underlying diseases compared to people with just one factor (age or underlying disease). Taking a different approach from the CDC, the RKI focusses less on a specific age limit but points out that older people, due to a less responsive immune system, can generally have a more severe course of a disease following an infection. The risk for a severe infectious disease steadily increases starting between the ages 50 and 60, particularly in combination with underlying diseases like diabetes mellitus, liver diseases (e.g. cirrhosis of the liver; chronic hepatitis), cancer (e.g. after chemotherapy), severe heart diseases, as well as for people with a weak immune system or who take immunosuppressive drugs (e.g. cortisone).

- Individuals with several health risk factors, like one of the underlying diseases listed below, or with several underlying diseases (multimorbidity):
 - cardiovascular disease,
 - respiratory system disorders,
 - patients with a chronic disease of the liver or kidneys,
 - patients with diabetes,
 - patients with cancer,
 - patients with a weakened/compromised immune system (for example, due to a disease that is accompanied by an immune deficiency or by taking medication, which weakens the immune system, including cortisone).
 - patients in advancing age with one of the above noted diseases or those with several identified diseases (multimorbidity) are at higher risk than if there was only one underlying disease.

Q-E2: Are there any specific measures to be implemented at the workplace for employees with the potential for a severe course of illness?

A: General preventive measures, recommended for the protection of all employees, shall be particularly considered for the needs of employees at a higher risk for severe course of illness. The underlying “social distancing” measures, adapted on a case by case basis, shall be implemented for the safety of the concerned employees to the maximum extent possible:

- provide options for home office to the largest extent possible while meeting operational and organizational requirements,
- Minimize the need for close contacts by ensuring adequate distance from other employees (space between worksite desks)
- assign alternate work schedules resulting in affected employees performing their duties when a minority of co-workers are at work, particularly if considered to be mission essential,
- Management may also direct the employee to work at a different worksite within the military community.
- assign alternative work, if possible
- ensure liberal leave policy where telework is not possible and employee is not considered to be mission essential (annual leave, unpaid leave)
- Telework/work in a separate work place

Generally, admin leave is not authorized.

F. Works Council Relations

Q-F1: Can management prohibit works council meetings to enforce social distancing?

A: The current situation around 2019-nCoV presents severe challenges to the entire world. This of course also applies to management and works council relations. Such an exceptional situation cannot be an excuse to bypass works councils and to effectively override or undermine their rights.

However, all federal states in Germany implemented and are implementing measures to enforce social distancing. The Head Works Council and all district works councils are strongly encouraged to cancel works council meetings to guarantee social distancing.

In case the Head Works Council or a district works council decides in coordination with management to cancel meetings based on the principle of cooperation in mutual trust and confidence the agency chief will neither transmit any measures to the Head Works Council or district works council nor will he/she execute measures that are subject to participation.

However, on a local level management should agree with the works council on reducing the meetings to a minimum, especially in case of works councils with more than one member. Management and works councils should come to an agreement on the procedural details in case time critical measures have to be participated, such as hiring measures.

Even in a phase in which no works council session will be conducted, management is obligated to keep the works councils informed.

Q-F2: Can works councils meet virtually?

A: Normally, works council members come together for a face-to-face meeting to make the necessary decisions.

In the version of the German Personnel Representation Law applicable to the Forces, the use of video or telephone conferences is not explicitly mentioned. However, the current situation is very unusual because management and workforce together have to face the challenges arising out of the 2019-nCoV pandemic. Therefore, the German Federal Ministry of Labor suggests if a face-to-face meeting leads to a danger to the life or health of the works council members or is not possible due to official orders, works council meetings should be canceled or conducted by means of video or telephone conferences including online supported systems as far as technically and security-wise possible.

Decisions rendered during virtual meetings are only considered legally valid in accordance with the version of the German Personnel Representation Law currently not applicable to the Forces. As there cannot be a handwritten signed attendance list in such a case, participation should be confirmed to the chair of the works council in text form, for example by email. The principle of non-publicity must be upheld during a video or telephone conference. For this reason, it must be ensured that unauthorized third parties do not take part in the meeting in any way.

Q-F3: How can works councils transmit comments and decisions digitally?

A: The chairperson of the works council manages the business of the works council. He or she signs and transmits comments and decisions to the agency chief electronically. This can be done by email that clearly originates from the chairperson or by a document in PDF-format with a handwritten signature.

Q-F4: Is the works council allowed to invite to a personnel assembly during the Corona pandemic?

A: As a matter of principle, this is not allowed during a lockdown. Nevertheless, even after a lockdown, the works council should carefully consider whether a personnel assembly is necessary. Jurisdiction recently ruled that a works council violates the prohibition of the unlawful exercise of rights if it invites the workforce to a personnel assembly despite an increased risk of infection. The annual report could be transmitted to all agency members in a very abstract statistical form (no PII/PHI data included) by email if technically possible.

G. ADDITIONAL RESOURCES

Q-G1: Where can I get further information about 2019-nCoV?

A: The following links provide valuable up-to-date information about the current 2019-nCoV outbreak.

Command Guidance for HQ USAREUR Personnel on Coronavirus 2019 (COVID-19)
Reintegration Procedures (AE Cmd Memo 2020-015)
<https://media.defense.gov/2020/May/08/2002296497/-1/-1/0/CM2020-015.PDF>

Johns Hopkins University, Baltimore, Maryland
<https://hub.jhu.edu/novel-coronavirus-information/>

World Health Organization (WHO):
<https://www.who.int/news-room/q-a-detail/q-a-coronaviruses>

(German) Federal Ministry of Health (Q&A English version):
<https://www.bundesgesundheitsministerium.de/en/press/2020/coronavirus.html>

Robert Koch Institute (German equivalent to Center for Disease Control - Q&A German/English summary):
https://www.rki.de/SharedDocs/FAQ/NCOV2019/FAQ_Liste.html

German Federal Ministry for Labor and Social Affairs:
https://www.bmas.de/SharedDocs/Downloads/DE/PDF-Schwerpunkte/sars-cov-2-arbeitsschutzstandard-en.pdf?__blob=publicationFile&v=2

H. RETURNING TO NORMAL OPERATIONS AND POST-CONTINGENCY

Q-H1: How does USAREUR plan to return to normal operations?

A: The HQ USAREUR plans a phased approach in returning to normal operations while continuing to minimize the risks of infection and spread of the COVID-19 virus. The COVID-19 new-infection rate in Germany is decreasing and German Federal and State Governments have announced adjustments to their public-health restrictions. USAREUR will take a conservative approach that prioritizes the protection of the force and the avoidance of a second wave of case incidents. USAREUR decisions will remain in line with host-nation guidance. In addition, the USAREUR will generally stay approximately 14 days behind the host nation in many areas of reintegration. Telework continues to be authorized to provide widest flexibility in consideration of operational needs.

Q-H2: How does USAREUR plan to avoid another wave of case incidents?

A: USAREUR will implement post-contingency rules that will help to deter a second wave of case incidents within USAREUR. USAREUR will continue to use a mission command approach as to return to a degree of normalcy, increase unit staffing, and resume a greater task load.

Leaders will be allowed to determine their own procedures for increasing the number of personnel in the workplace in accordance with operational needs, Commanding General USAREUR COVID-19 Decision Authority Guidance and Chief of Staff Command Guidance for HQ USAREUR Personnel on Coronavirus 2019 (COVID-19) Reintegration Procedures (AE Cmd Memo 2020-015). USAREUR will recommend certain measures to protect employees with a higher risk of developing a severe course of 2019-nCoV disease and will recommend establishing a planned separation among staff in order to maintain a reserve of healthy staff members in the functional areas to avoid situations where an entire functional staff is infected. The end state is a USAREUR that has successfully reintegrated the workforce and that is capable of accomplishing pre-contingency tasks with new post-contingency health protection measures in effect.

All commands and units are authorized to increase staffing to the degree that workspace allows for physical distancing. This depends on the facility, so shift work or telework may be used in more confined spaces, as applicable, in order to ensure efficiency within USAREUR.

Department of the Army Civilian and LN employees are encouraged to continue teleworking in order to mitigate personal risk and hardship. Additionally, supervisors should take each employee's situation into account (for example, situations in which school-age children are at home with a single parent or where both spouses are employed). Leaders are empowered to determine how the increase is implemented and may delegate decision-making to their directorate or division chiefs.

Q-H3: Which health and prevention measures will stay in place?

A: Physical distancing and public health measures, as follows, will not change:

- social distancing
- disinfecting frequently touched objects and surfaces
- **(cloth face mouth-nose coverings) - temporarily changed until 15 March 2021 to: medical-grade masks** will be worn when at least 1.5 meters feet of separation distance cannot be kept
- established safety zones remain in place
- hand washing
- conducting meetings through video-teleconference, minimizing in-person meetings, and limiting meeting size.
- telework/home office

Q-H4: How does this affect employees with the potential for a severe course of illness?

A: Also in these cases USAREUR will continue the underlying “social distancing” measures, adapted on a case-by-case basis, as outlined in Q-E2.

Q-H5: How do we recall employees with the potential for a severe course of illness from admin leave?

A: Generally, admin leave was and is not authorized for employees with the potential for a severe course of illness. The employees do not have any entitlements to admin leave at all. However, in

the event that employees of this group are on admin leave, management should exercise its right to direct and send a cancellation notice of the admin leave to the employee notifying the employee to return to the office without undue delay or at a specific date. In case of existing release agreements, management has to follow the terms of the agreement.

Q-H6: How soon can I recall my employees to the workplace?

A: Each employee, after a corresponding notification through the supervisor, may be ordered to return to the workplace immediately. However, it is recommended to grant a notification period of at least 24 hours. Special circumstances should be taken into consideration, e.g., long commutes or the need for accommodation near the garrison location. There may be cases that require longer notification periods, depending on the individual situation and individual agreements. This must be reviewed on an individual basis, and may have to be discussed with the local CPAC LN MER.

Examples:

1. An employee has a telework agreement or has been released from work on a temporary basis, which includes a 2-week notification period for a return to the workplace. Do I have to adhere to this time limit?

YES, the agreed time limit must be adhered to. However, an earlier return to the workplace is possible if both parties agree.

2. An employee has a telework agreement or has been released from work on a temporary basis without a specific notification period for a return to the workplace. In this case, the immediate order for a return to the workplace meeting OH and hygiene standards is possible in consideration of the organizational and personal interests described above.

Q-H7: What happens when an employee refuses to return to the workplace?

A: If an employee belongs to the high-risk group, the measures suggested in Section E of these Q&As are to be followed and implemented IAW the Memorandum for Supervisors of Department of the Army Local National Employees in Germany, dated 8 April 2020, which includes guidelines for how to deal with employees of the high-risk group. However, there is no general entitlement to release from work or telework for employees of the high-risk group.

Q-H8: An employee refuses to return to the workplace but does not belong to the high-risk group. What needs to be done?

A: The employee is not entitled to release from work or permanent continuation of telework if a return to the workplace is possible again. In this case,

- the employee can request annual leave
- the employee can submit a written certificate documenting unfitness for work
- if applicable, the employee can request compensation payments IAW section 56(1a) German Law on Protection against Infection; see Q-C14.

If, following notification by the supervisor, an employee is absent without an excuse or legitimate reason, like annual leave, the LN MERs at the local CPAC must be informed immediately in order to discuss disciplinary action and maybe stop the LN's pay, as the case may be.

Q-H9: Can I as the supervisor inquire about the health of an LN employee?

A: No. Information on an LN's health can only be shared by the employee on a voluntary basis. A screening like the COVID-19 Return to Work Screening is not compulsory for LN employees.

However, the employer may inform the LN employee that it is a secondary obligation of the employment contract to reveal if he/she poses an increased risk for other employees.

I. POINTS OF CONTACT

For additional information on the FAQs, please contact your local CPAC at:

CPAC Grafenwöhr (Ansbach/Illesheim/Katterbach, Grafenwöhr, Hohenfels, Vilseck, Garmisch (Garrison only))

DSN: 526-8002, civilian: 09641-70-526-8002

CPAC Stuttgart (Stuttgart, Garmisch, Berchtesgaden, Oberammergau, Pfullendorf)

DSN: 431-3188, civilian: 07031-153188

CPAC Wiesbaden (Wiesbaden, Wackernheim, Bremerhaven)

DSN: 546-2223, civilian: 0611-143-546-2223

CPAC Kaiserslautern (Baumholder, Kaiserslautern, Landstuhl, Miesau, Pirmasens, Ramstein, Sembach, Spangdahlem, Weilerbach, Dülmen)

DSN: 483-4879, civilian: 0631-411-4879

Please direct your suggestions for improvements or additional questions to USAREUR-AF, G1, CPD at DSN: 537-1502, civilian: 0611-143-537-1502.