



COVID-19 Q&As 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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UPDATE March 2022: New Corona rules at work effective 20 March 2022!

The work-related Corona rules of the Law for the Protection and Control of Infectious Diseases (e.g., 3G at the worksite; so-called telework obligation; etc.) and the previous pandemic-related mandatory safety/occupational health rules from the SARS-CoV-2 Occupational Safety and Health Ordinance expired on 19 March 2022 and have not been renewed at the federal level.

What needs to be taken into account is that the German states are now authorized to issue stricter state-wide or regional protective measures – also for the work environment – on a temporary basis when a dangerous situation of infection has been determined (in Bavaria, for example, the existing customer-service 3G attestation requirements have been extended until 2 April 2022; in some cases, stricter mask requirements apply; etc.). Please refer to regional publications for rules with applicability for specific states or hotspots!

In particular, section 28b(1) and (4) Law for the Protection and Control of Infectious Diseases have not been renewed for Germany-wide applicability at the federal level. Thus,

– the obligation to offer telework does no longer apply. Effective 20 March 2022, employers, as a matter of principle, are authorized to have employees return from telework provided there are no conflicting organizational or individual agreements concluded with the employees (see => Q-B1)

– the control and documentation requirements for employers associated with the 3G obligation no longer apply. Exception: mandatory attestation obligations IAW section 20a Law for the Protection and Control of Infectious Diseases for individuals employed in health-care professions (hospitals; clinics; emergency medical services; etc.). Effective 16 March 2022, cases of missing immunization attestation, etc. have to be reported to the health authorities (see => Q-A13 + Q-A18).

The SARS-CoV-2 Occupational Safety and Health Ordinance with the previous general employer obligations for testing offers and telework, as well as the general requirements to wear and provide masks, temporarily applicable until 19 March 2022, has also not been renewed.

The new SARS-CoV-2 Occupational Safety and Health Ordinance entered into force on 20 March 2022 and will be temporarily applicable until 25 May 2022. Instead of mandatory Corona rules, the new Ordinance focuses on the employer's individual responsibility and corresponding risk assessments. In consideration of the local infection rates and job-related risks for infection, the employer may continue to consider protective measures like free testing offers (1 per week), telework offers, and/or local mask requirements (see => Q-A8).

However, there no longer is a general obligation to wear masks at work. Still, employer guidance based on corresponding risk assessments by DoD and/or USAREUR-AF continue to mandate a mask requirement for unvaccinated employees if they are not at their specific worksite and it is not possible to keep the minimum distance requirement (see => Q-A8).

A. PREVENTION

Q-A1: What precautions is USAREUR-AF taking?

A: From the beginning, USAREUR-AF has taken a proactive approach to contain as much as possible the spread of the Corona virus, and has been implementing the presidential directive, the U.S. Department of Defense directive, and the latest requirements of the German Law for the Protection and Control of Infectious Diseases. This will continue to significantly minimize the risk of infection with the SARS-CoV-2 coronavirus and its variants in the workplace and sustainably protect the safety and health of all employees.

It is still prohibited to access the workplace or participate in certain events with relevant symptoms of illness known for SARS-CoV-2, specifically fever, dry cough (not caused by known or diagnosed chronic diseases), loss of sense of taste and smell. If above symptoms occur, a PCR test has to be administered and a negative test result has to be provided (not older than 48 hours).

As for the rest, every employee is obligated by federal or state ordinances to behave in a way that other employees are not exposed to avoidable risks of infection.

In Europe and Germany, sufficient vaccines for everyone are available. Employees interested in a vaccination or a booster shot can schedule a vaccination with a physician, the health authorities, the vaccination center, or make use of one of the low-threshold local vaccination offers available

in the German states without an appointment (e.g., vax bus rodeos). As protection from COVID-19, a recombinant protein-based vaccine, a so-called classic inactivated vaccine from the NOVAVAX company, is now available for vaccination skeptics.

For their own protection and the protection of co-workers, it is highly recommended that all unvaccinated employees get vaccinated without delay, and that vaccinated employees get their booster shots.

Prior to issuing Corona measures, the German states have to determine a dangerous situation of infection. Restrictions and obligatory measures to contain Corona outbreaks can only be implemented if the state parliaments render corresponding resolutions. As a first step, the state parliaments have to determine the ‘specific risk of a dynamically developing state of infections’. Then, individual measures can be implemented for a ‘specifically designated territorial entity’. The options include mask requirements, physical distance requirements, hygiene concepts, as well as attestation of vaccination, recovery or test results (2G or 3G rules). Without a parliamentary resolution determining a specific risk of infection, state governments are given authority to implement general protective measures, like mask requirements for care facilities, hospitals, or for local public bus/train transportation. Another continuing option covers dictating testing requirements for care facilities and schools.

It is still recommended to follow basic hygiene rules (social distancing, sanitizing, wearing masks when it is difficult to maintain social distancing). As an additional measure, rooms should be aired out sufficiently on a regular basis. Several precautionary measures vary from installation to installation, and employees should review email notifications and Army websites for Garrison-specific 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 risk areas, high-incidence areas or virus variant areas. 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 the 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 has the right to ask affected individuals 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. As for the rest, every employee is obligated by federal or state ordinances and secondary contract obligations to behave in a way that other employees are not exposed to avoidable risks of infection.

Irrespective of this, employees may be directed to undergo COVID testing in individual cases of suspicion (e.g., in case of fever or typical symptoms of a Corona infection).

Q-A6: How long is the period during which someone is considered recovered?

A: ‘Recovered’ status is defined as the period starting 28 days after a positive PCR test until not longer than 90 days after administration of the test. During this period, an individual is considered sufficiently protected, and is subject to the same rules and exceptions as individuals with two vaccinations (section 22a(2) Law for the Protection and Control of Infectious Diseases).

Q-A7: How do I get medical-grade masks?

A: While the temporary SARS-CoV-2 Ordinance is in effect (at least until 19 March 2022), 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 do the sending state and host nation direct to avoid Covid-19 infections?

A: Numerous special Corona rules for the work environment expire on 20 March 2022. In particular, section 28b Law for the Protection and Control of Infectious Diseases will expire, which, among other things, established the requirement to offer telework and the so-called 3G rules at the worksite. Thus, employees no longer have to attest to being vaccinated, recovered or negatively tested (= 3G) before accessing employer premises. Deviating provisions only apply to employees in health care professions and emergency medical services, for which a statutory immunization attestation obligation has become effective on 15 March 2022.

The Corona-related obligation to offer telework does no longer apply (see => Q-B1).

The SARS-CoV-2 Occupational Safety and Health Ordinance, temporarily applicable until 19 March 2022, has also expired. It will be replaced by the new SARS-CoV-2 Occupational Safety and Health Ordinance, temporarily applicable until 25 May 2022. It does no longer implement direct basic protective measures but focuses on the employer’s individual responsibility IAW section 5, 6 et. seqq. Safety and Occupational Health Law.

Measures that are still necessary for protection from infection at work can be established and implemented based on organizational risk assessments and/or hygiene concepts. Measures that have to be established must also be implemented for break areas and during break periods.

Thus, the employer has to conduct a risk assessment and **review whether** and which of the following measures are necessary to guarantee the safety and health of employees at work. In doing so, the employer has to consider the regional infection rates and special job-related risks for infection, and

1. ... review whether to offer employees who do not perform full-time telework one free test for direct pathogen detection for the SARS-CoV-2 Corona virus per week on a voluntary basis;
2. ... review whether employees with office/administrative or similar duties can perform these from their home to mitigate work-related contacts, particularly by avoiding or reducing the use of indoor space by several individuals at the same time;
3. ... review whether to provide free medical face masks (like FFP2, nose-mouth covering) or the respiratory masks listed in the Safety and Occupation Health Ordinance. The SARS-CoV-2 Occupational Safety and Health Ordinance does no longer provide for a general mask requirement. However, employer guidance based on corresponding risk assessments by DoD and/or USAREUR-AF continue to mandate a mask requirement for unvaccinated employees if they are not at their specific worksite and it is not possible to keep the minimum distance requirement.

Q-A9: N/A

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. Thus, in individual cases, employees showing symptoms of a Corona virus infection can be directed to see a doctor and undergo Corona testing and disclose the result (see also Q-A1).

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 the medical staff at the screening center of the respective U.S. installation, 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: Do Covid-19 positive tested employees have to report their 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 there a legal obligation for LN employees to get vaccinated against Covid-19?

A: There is currently no legal vaccination obligation for COVID-19 on the host nation side. Effective 15 March 2022, the following individuals working in the following facilities or establishments, however, have to attest to their status of being vaccinated or recovered in the meaning of section 2 No. 2 or No. 4 of the Exemption Ordinance for COVID 19 Protective Measures in its applicable version:

- a) hospitals
- b) facilities for out-patient surgery
- c) prevention and rehabilitation facilities
- d) dialysis centers
- e) day hospitals
- f) maternity clinics
- g) treatment facilities that are comparable to the facilities listed in a) through f)
- h) medical or dental practices
- i) practices for other healthcare professions
- j) public health facilities where medical examinations, preventive measures or out-patient treatment are provided
- k) emergency medical services
- l) social-pediatric centers IAW section 119 of Social Security Code V
- m) medical treatment centers for adults with intellectual disabilities or severe multiple disabilities IAW section 119 of Social Security Code V
- n) facilities for professional rehabilitation IAW section 51 of Social Security Code IX, as well as professional rehabilitation services
- o) evaluation and assessment services working on the basis of Social Security Code V or XI.

Several legislative proposals for a general vaccination requirement are currently under discussion in the German parliament.

! It is highly recommended to get vaccinated ASAP. The COVID-19 vaccination considerably helps to contain the pandemic, and it protects the vaccinated person and co-workers!

Q-A13a: Can the employer introduce a vaccination bonus for vaccinated LN employees?

According to the Robert Koch Institute (RKI), the probability to become PCR-positive despite a full vaccination is significantly reduced. Individuals who are infected with SARS-CoV-2 despite a vaccination secrete the virus for shorter periods than unvaccinated individuals with a SARS-CoV-2 infection. Consequently, the employer may take into consideration an employee's known immunization status when implementing protective measures at work IAW section 2 of the Corona

Safety and OH Ordinance. The employer therefore has a justified right worthy of protection that employees assist on a voluntary basis in improving protection from infection at work by providing current attestation of their immunization status. Against this background, vaccination incentives or bonus payments are lawful if they are established within commensurability parameters, and if works councils and/or unions were involved in compliance with the law.

During the 2021 CTA II pay negotiations on 10 November 2021, the ver.di union and the Stationing Forces in Germany (U.S., British, French, Canadian Forces, NATO, etc.) agreed on a 100-EUR one-time special payment for vaccinated employees and apprentices. Employees must attest to the employer to be fully vaccinated (IAW RKI) NLT 28 February 2022 (it is considered a benefit or support payment by the employer to mitigate additional burden caused by the Corona crisis that is exempt from taxation IAW section 3(11)a German Income Tax Law).

Detailed guidance on the corresponding procedure has been developed by the Highest Service Authority and distributed through the chain of command. From now on, organizations and LN employees can combine the vaccination attestation IAW Germany's "3G at the work place" rule (Q-A1) with the request for the tariff-based vaccination/attestation bonus. To do so, employees should approach their supervisors or timekeepers, who can consolidate the relevant data elements for subsequent submission IAW upcoming detailed processing guidance. LN employees, however, must refrain from contacting or submitting corresponding documentation directly to the Foreign Forces Payroll Office.

Q-A14: N/A

Q-A15: N/A

Q-A16: N/A

Q-A17: N/A

Q-A18: Do employees have to disclose their vaccination or recovered status to their employers?

A: In principle, an individual's vaccination or recovery status is a private matter subject to special protection under the basic right of informational self-determination.

A disclosure obligation for the immunization status always requires a special legal basis/situation. The legislator established such a basis/situation during the pandemic in several cases.

Thus, for specific groups of employees in specific facilities and establishments, employers have been authorized to document and process information on the employees' vaccination or sero-status in connection with COVID-19 based on section 33 et. seqq. Law for the Protection and Control of Infectious Diseases to prevent the spread of COVID-19 regardless of whether there is an epidemic situation of national consequence. This disclosure obligation for the immunization or recovery status applied to specific areas with high exposure, like schools, child care facilities, homes, summer camps, in-patient/out-patient facilities for the care and accommodation of older,

handicapped individuals or individuals in need of care, ..., mass accommodation facilities and penitentiaries.

In addition, section 20a Law for the Protection and Control of Infectious Diseases **introduced the obligation** for health professionals (working in hospitals, clinics, medical/dental practices, emergency medical services, etc.; see Q-A13) effective **16 March 2022** to attest to their immunization status, meaning attest to their status of being vaccinated against or recovered from Corona, or, if applicable, providing a medical certificate confirming medical contraindications against the vaccination. In case of failure to provide such attestation, the employer is obligated to report to the servicing health authorities immediately after 15 March 2022 which of the employees have not provided the required documentation (**attestation of vaccination or recovery or certificate confirming a medical vaccination exemption**). The health authorities can issue a specific prohibition to enter the worksite for the affected non-vaccinated or non-recovered individual based on a 2-step process. As a result of a prohibition to enter the worksite, an affected employee will no longer be able to perform his/her work in the organization. As a rule, the entitlement to receive payment will cease to exist. An employer who schedules such an individual to work in a health care facility will risk financial sanctions.

Effective 16 March 2022, **new hires** will have to provide corresponding attestation **prior to the start of work** (see section 20a(3) Law for the Protection and Control of Infectious Diseases). Absence of such attestation will trigger an automatic prohibition of employment or prohibition to work.

As an exception, collection and processing of employee PII (including medical data) by the employer is also admissible to prevent or mitigate the spread of the virus among employees as best as possible. In particular, this includes information on cases where an infection has been detected or someone was contact to a documented infected individual, or someone was in an area considered a risk area or area of a variant of concern as classified by the Robert Koch Institute (RKI) during the relevant period.

The employer's right to issue directives IAW section 106 Trade Regulations enables the employer to dictate reasonable guidelines for employment purposes in more detail within the limits of the employment contract, tariff provisions or applicable laws.

In principle, this includes the employee's obligation to provide to the employer information that is necessary for employment purposes. The Federal Labor Court specifically granted employers a right to inquire if the 'employer has a justified, reasonable interest worthy of protection to have a question answered or to collect information, and the employee's interest for non-disclosure of such information does not exceed the employer's interest in collecting such information' (FLC, decision dated 15 November 2012 – 6 AZR 339/11).

Q-A19: Why should you get vaccinated against COVID-19?

A: All available COVID-19 vaccines are quite effective against COVID-19. If someone still falls sick, the risk for a severe course of the disease is considerably reduced. The COVID-19 vaccination does not only protect vaccinated individuals but may also prevent that vaccinated individuals infect other individuals who may require additional protection or are at a higher risk.

The course of the COVID-19 disease varies as far as symptoms and severity are concerned: people may be asymptomatic, have only few symptoms or a severe infection with pneumonia and other organ problems that can lead to respiratory/organ failure or death. Some COVID-19 patients do not recover for weeks or months after the beginning of the disease and suffer from severe general symptoms (long COVID). People with COVID-19 can infect others without their knowledge – friends, co-workers and family members.

!!! The COVID-19 vaccination considerably helps to contain the pandemic, and it protects the vaccinated person and co-workers!!!

Furthermore, distancing, wearing masks, and room ventilation are additional important measures to reduce the spread of SARS-CoV-2. Effective and safe vaccinations will allow to further relax contact restrictions. This requires that a large number of the population has developed immunity from the virus. The vaccination provides relevant population immunity in a relatively short time. The German Standing Committee on Vaccination continuously reevaluates its recommendations on the optimum use of vaccines for the population in order to guarantee the maximum effects for containing the pandemic and individual protection against a severe course of the disease.

Q-A20: What long-term effects can a vaccination have?

A: There are no long-term effects caused by vaccinations as vaccinations are not drugs. Drugs are taken for longer periods of time, are metabolized and the products of decomposition can accumulate in the body. A vaccine, however, is not metabolized but added to the immune system.

Q-A21: Who is considered fully vaccinated IAW legal ordinances?

A: There are different conditions for the status ‘fully vaccinated’ and ‘recovered’. They are determined, among others, by section 22a Law for the Protection and Control of Infectious Diseases.

Thus, the status of being fully vaccinated is applicable when

1. for the underlying individual vaccinations
 - a) a vaccine approved in the EU or different vaccines approved in the EU were used; or
 - b) additional vaccines in compliance with the legal ordinance on deviating prerequisites for vaccination/recovery/testing attestation were used;
2. a total of three individual vaccinations were administered; and
3. the last individual vaccination was administered at least three months after the second individual vaccination.

In deviation from this, until 30 September 2022 the status of being fully vaccinated is applicable in case of two individual vaccinations; and effective 1 October 2022 in case of two individual vaccinations only if

a. the affected individual can present hardcopy or digital documentation in German, English, French, Italian or Spanish of a performed specific positive antibody test, and this antibody test was administered at a time when the affected individual had not yet received any individual vaccinations against the SARS-CoV-2 Corona virus;

b. the affected individual had been infected with the SARS-CoV-2 Corona virus, can document said infection with a documented test for direct pathogen detection, and the test on which the test documentation is based

aa) was based on laboratory diagnostics via nucleic-acid-based methods (PCR or other methods of nucleic-acid amplification technology), and

bb) was administered at a time when the affected individual had not yet received the second vaccination dose against the SARS-CoV-2 Corona virus;

4. the affected individual contracted the SARS-CoV-2 Corona virus after the second vaccination dose, can document such infection with a test result for direct pathogen detection, and the test on which the test documentation is based

a) was based on laboratory diagnostics via nucleic-acid-based methods (PCR or other methods of nucleic-acid amplification technology), and

b) 28 days have passed since the day of the test on which the test documentation is based, or

5. no more than 270 days have passed since the last dose of the first series of vaccinations and the vaccination documentation is used solely for entering the Federal Republic of Germany. In deviation from sentence 3, in the cases mentioned under 1 through 3 of sentence 3, status of fully vaccinated is applicable until 30 September 2022 also in case of one individual vaccination; the first individual vaccination replaces the second individual vaccination.

Q-A22: N/A

Q-A23: N/A

Q-A24: N/A

Q-A25: N/A

B. TELEWORK AND HOME OFFICE

Q-B1: Can employees telework/perform mobile work during an outbreak?

A: The obligation to offer telework, governed by section 28b(4) Law on Protection and Control of Infectious Diseases, was applicable for a temporary period NTE 19 March 2022. It was not renewed, and thus is no longer applicable. Without substitution. Effective 20 March 2022, employers, as a matter of principle, are authorized to have employees return from telework (see Q-H6) provided there are no conflicting organizational or individual agreements concluded with the employees.

Regardless of the previous pandemic-related obligation to offer telework, the USAREUR-AF shop agreement governing mobile work continues to provide an opportunity to conclude individual agreements on mobile work/telework. Working from home/telework as a form of mobile work continues to offer the opportunity to reduce the number of individuals present at the workplace at the same time, and thus to minimize the risk of infection.

Q-B2: What type of telework is authorized?

A: In the USAREUR-AF shop agreement on mobile work, many agreed-upon benefits of mobile work at an adequate worksite that can be independently selected, such as continuity of operations during emergencies, are laid out. Telework on a situational basis or mobile work for a longer period is authorized.

Q-B3: N/A

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

A: 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: N/A

Q-B7: What are reasons against performing work from home?

A: Many duties, like production, services, trade, logistics, etc., cannot be performed from home. In other areas, there may also be organizational reasons that argue against working from home, for example if this would considerably limit operational processes or an organization would no longer be operational. There may also be reasons associated with special requirements for operational data protection or protection of operational secrets that argue against working from home.

Q-B8: N/A

Q-B9: What has to be taken into consideration with regard to work schedules when working at home?

A: Whether you work at home or at employer premises: Under German labor law, employees are only obligated to be reachable during the work hours owed under the employment contract, with the exception of emergencies. The German Work Hours Law also applies when working at home. Provisions on maximum work hours and minimum rest periods have to be followed.

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: N/A

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.

Update of 14 January 2022:

During the Corona summit on 7 January, the federal government and the states agreed on new rules for the quarantine ordinance effective 14 January 2022. Thus, the following updates apply:

- The general duration of quarantine will be reduced from 14 days to 10 days;
- Unvaccinated and recovered individuals may end their quarantine only upon presentation of a negative antigen test;
- Vaccinated individuals may end their quarantine after 7 days if they can present a negative certified antigen test;

- Employees in system-relevant jobs ('critical infrastructure') may end their quarantine already after 5 days if they can provide a negative certified antigen test;
- Vaccinated individuals who had contact with Corona-infected individuals but show no symptoms may end their quarantine after 7 days. A negative antigen test is required.
- Individuals who received booster shots or two vaccinations do not have to quarantine after contact with Corona-infected individuals. The requirement for individuals with two vaccinations is that the second shot was administered less than three months ago.

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: N/A

Q-C14: N/A

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: N/A

Q-C17: N/A

Q-C18: N/A

Q-C19: N/A

Q-C20: N/A

Q-C21: Who has no entitlement for compensation for a quarantine period IAW section 56(1) Law on Protection and Control of Infectious Diseases end?

A: Compensation in the meaning of this provision will not be granted to someone who could have avoided a quarantine with a vaccination or by following other specific prophylactic measures that are mandatory or publicly recommended for the area of the affected individual's ordinary residence. Furthermore, the compensation entitlement does not apply for avoidable travel to high-risk areas or areas of variants of concern if employees could have avoided a prohibition to perform their previous duties or a quarantine by not travelling. In such case, employees are not entitled to continued payment of earnings IAW section 616 German Civil Code.

Q-C22: N/A

Q-C23: How is the situation if the travel destination outside Germany is declared a risk area, high-incidence area or virus variant area after the employee's arrival?

A: In this case, employees did not act culpably when traveling and are entitled to pay in accordance with section 616 German Civil Code (BGB) during quarantine. In this context, however, section 56 Law on Protection and Control of Infectious Diseases applies, based on which employees have a claim for compensation for loss of earnings during quarantine. In practice, the employer continues to pay the earnings and can have these payments reimbursed by the responsible authority (section 56(5) Law on Protection and Control of Infectious Diseases).

Q-C24: Having entered Germany from a risk area, high-incidence area or area of virus variant of concern, do I have to report to the employer?

A: Anyone who has stayed in a risk area, high-incidence area or virus variant 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, high-incidence area or virus variant area, and also about the fact that they have returned from a risk area but have valid proof 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-C25: Can management ask the employees if they plan to spend their vacation in a risk area, high-incidence area or virus variant 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, high-incidence area or virus variant 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, high-incidence area or virus variant 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-C26: N/A

Q-C27: N/A

Q-C28: N/A

Q-C29: Are there affordable ways to get a quick test or to test myself?

A: Since 13 November 2021, the federal government has again been funding a rapid test (at least once a week) at local testing centers, doctors' offices or local pharmacies for all citizens (section 4 Corona Safety/OH Ordinance). PoC tests and self-tests administered under supervision (not older than 24 hours) are admissible. Self-tests are offered at retail.

Those who test positive should have their results checked directly with a PCR test. Those who test negative should nevertheless continue to follow the general covid-19 infection prevention "DHM".

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 the 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 another wave of incidents with virus variants. It is highly recommended that employees with a higher risk of a severe course of the disease get vaccinated immediately.

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 measures for reducing contacts, 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 contacts by ensuring adequate distance from other employees (space between 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 will not be granted.

F. WORKS COUNCIL RELATIONS

Q-F1: N/A

Q-F2: N/A

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, unless the personnel assembly is a virtual event. Nevertheless, even after a lockdown, the works council should carefully consider whether a non-virtual 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 physical personnel assembly despite an increased risk of infection. As for the rest, the rules for meetings/assemblies in closed rooms IAW the Corona ordinance for the respective state are applicable. At present, a personnel assembly can only be held as 2G+ (vaccinated, recovered with a negative test) if the Safety Specialist clears the event and the proposed rooms after a corresponding risk assessment. The state-specific rules have to be considered. 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 in Germany?

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

HQ USAREUR-AF General Corona Information
<https://www.europeafrica.army.mil/coronavirus/>

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>

Federal Ministry of Health (English Version Ordinance on protection against infection risks):
<https://www.bundesgesundheitsministerium.de/service/gesetze-und-verordnungen/guv-19-lp/coronaschv/coronaschv-en.html>

Robert Koch-Institut (English):
<https://www.rki.de/EN/Content/infections/epidemiology/outbreaks/COVID-19/COVID19.html>

Bundesministerium für Arbeit und Soziales:
<https://www.bmas.de/DE/Service/Presse/Pressemitteilungen/2021/corona-arbeitsschutzverordnung-verlaengert-und-ergaenzt.html>

H. RETURNING TO NORMAL OPERATIONS AND POST-CONTINGENCY

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

A: Provided that the pandemic situation allows it, HQ USAREUR-AF plans a phased approach in returning to normal operations while it is still necessary to minimize the risks of infection and

spread of the COVID-19 virus. USAREUR-AF decisions will remain in line with host-nation laws and guidance. Telework continues to be authorized. Furthermore, USAREUR-AF is implementing the U.S. Department of Defense directive and the presidential directive that all federal employees have to attest to be fully vaccinated. In principle, this directive also applies to LN employees under host nation German laws and ordinances. The purpose is to minimize the risk of a SARS-CoV-2 infection at work and to sustainably protect the safety and health of soldiers and civilian employees.

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

A: USAREUR-AF will continue to adjust existing rules based on the pandemic situation, and implement post-contingency rules that will help to deter other waves of case incidents within USAREUR-AF. The end state is a USAREUR-AF that has successfully reintegrated the workforce and that is capable of accomplishing pre-contingency tasks with new post-contingency health protection measures in effect. An organizational hygiene concept will be developed in cooperation with the Safety Specialist on the basis of a risk assessment, which will determine and implement measures for protection from infection at work that continue to be necessary.

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

A: The following general hygiene and health protection measures are still recommended:

- social distancing
- washing hands
- wearing medical-grade masks
- regularly disinfecting frequently touched objects and surfaces
- conducting meetings through video-teleconference, minimizing in-person meetings, and limiting meeting size.
- telework/home office/mobile work.

Q-H4: N/A

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: N/A

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.

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: 483-5844, civilian: 0631-411-5844

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 HQ USAREUR-AF, G1, CPD at DSN: 537-1502, civilian: 0611-143-537-1502.