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-AF taking?

A: USAREUR-AF will take a proactive approach to contain as much as possible the spread of the Corona virus and its variants given that incidence rates are rising again, and is 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 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.

Therefore, USAREUR-AF has directed IAW the so-called '3G' rules (the '3Gs' represent the initial letters of the German terms: "*Geimpft, Genesen, [negative] Getestet*" - vaccinated, recovered, tested [negative]) resulting from the amended section 28b Law for the Protection and Control of Infectious Diseases, in effect since 23 November 2021, that, effective immediately, all LN employees may only enter workplaces where physical contact between employees or with third parties cannot be ruled out, and organizations may only transport several employees to or from the workplace, if they are vaccinated (persons in possession of an official vaccination certificate issued to them), recovered (persons in possession of an official recovery certificate not older than 6 months issued to them), or tested negative (persons who can provide an individualized negative corona test result). This means they need also to ensure to carry, keep available for inspection or have deposited with the employer their corresponding vaccination document, certificate of recovery, or a negative test result.

Unvaccinated employees, employees with unknown immunization status, and employees without proof of recovery (not older than 6 months at time of attestation) have to provide proof of negative testing on a daily basis. When submitting test certificates on the basis of antigen rapid tests, these certificates have to be presented to the supervisor, e.g. every morning before entering the worksite and may not be older than 24 hours. If tests are based on nucleic acid detection tests (PCR, PoC-PCR or other methods of nucleic acid amplification technology), they may not be older than 48 hours.

The organizations, however, are not obligated to offer supervised self-tests. Independent from these '3G' attestation rules under the Law for the Protection and Control of Infectious Diseases, for which employees are responsible during their off-duty hours and at their own cost and that are a prerequisite for entering the workplace in the first place, the provisions governing test offers under the Safety/OH Ordinance (for details regarding test offers IAW section 4 SARS-CoV-2 Safety/OH Ordinance; issuing or reimbursing self-test kits; see Q-A15) continue to apply. Self-tests do not provide adequate proof for negative testing to gain access to the work place. Only in exceptional cases can a self-test administered on site be accepted as '3G' attestation if supervised by a voluntary employer representative and documented IAW the '3G' attestation rules.

Unvaccinated employees and employees with unknown immunization status who refuse to provide a current negative test result will not be allowed to access the workplace. They are considered to have not properly offered to perform the work owed IAW labor law and the mentioned legal provisions, and the employer is not considered to be in default of acceptance. As employees are only paid for properly offered work performance, the obligation to pay them does not apply in the cases of 3G-refusing employees.

By exercising the owner's right to the premises, for the protection of military security interests and to protect Local National employees, USAREUR-AF has also directed that all organizations restrict access or participation for various activities within the garrison. Access and participation will be limited to verifiably vaccinated and recovered personnel (< 6 months). Employing organizations have to treat individuals with unknown immunization status as unvaccinated or not recovered.

Access or participation may be appropriately restricted in the following exemplary cases:

- during meetings and events that are part of the employee's job duties (meetings, conferences, training events, etc.),
- for access to specific areas within the garrison (such as break areas/canteens/fitness centers, etc.),
- for TDY, particularly air travel, etc.

It is still prohibited to access the workplace or participate in above events with relevant symptoms of illness known for SARS-CoV-2, specifically fever, dry cough, 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).

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.

The German federal government and the German states are currently developing further modifications for existing Corona norms. The current rules are published on the websites of the Federal Ministry for Health and Social Affairs, individual German states, or local Garrisons.

Basic hygiene rules IAW host nation legislation (social distancing, hand sanitizing, masks wearing requirements, adequate ventilation etc.) and U.S. executive orders must continue to be observed. Numerous precautionary measures are location-specific and employees are encouraged to check the Army website specific to their location 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 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 six months after an infection (documented with a positive PCR 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 2 sentence 1 No. 4 and 5 COVID-19 Ordinance on Exceptions from Protective Measures dated 8 May 2021).

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 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. State-specific rules must be observed.
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.

In accordance with the Federal Ministry of Labor and Social Affair's SARS-CoV-2 Safety and Occupational Health Ordinance dated 22 January 2021 (effective as of 27 January 2021; for now temporarily extended until 19 March 2022), additional temporary special safety and occupational health measures will have to be reviewed and updated in the organizational environment to protect employees and limit the introduction and quick spreading of the SARS-CoV-2 corona virus and its new variants. Use of rooms by several individuals at the same time must be limited to the absolute organizational minimum.

If the risk assessment determines that employees are not sufficiently protected by technical and organizational protective measures and employees therefore have to wear medical-grade masks (face coverings) or the respirator masks specified in the attachment, such masks have to be provided by the employer. Employees have to wear the masks the employer is required to provide, or at least equivalent masks.

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 **medical-grade masks** if the distancing rule cannot be observed and there is no effective uninterrupted partitioning between persons.
5. Access for external individuals will be limited to vaccinated or recovered individuals.

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

A: There is currently no legal vaccination obligation for COVID-19 or influenza on the host nation side. The employer also cannot require employees to get vaccinated.

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'.

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: In what way does the employer U.S. Army contribute towards vaccination support?
A1: After comprehensive consultations with the responsible German ministries and authorities (among others, the Federal Ministry of Health, the Paul-Ehrlich Institute for vaccines), the Highest Service Authority HQ USAREUR-AF submitted an official works council participation package for expanding the U.S. Forces COVID-19 Vaccination Program to include LN employees to the Head Works Council (HWC) in April 2021 under a codetermination procedure. Following corresponding discussions, including a walk-through at the U.S. Vax Clinic in Wiesbaden with a German vaccinator as a pilot project, the HWC concurred with the vaccination program concept for LN employees. Consequently, the U.S. Army can offer its LN employees in Germany to get a Corona vaccination from its own vaccination supplies starting 3 May 2021. There will be parallel vaccination efforts in Italy and Belgium.

For the time being, the EMA-authorized vaccines produced by Moderna and Johnson and Johnson will be used; the potential use of the Biontech/Pfizer vaccine was also part of the works council participation procedure.

As a matter of principle, organizing and administering Corona vaccinations are a responsibility of the German states, governed by the Corona Vaccination Ordinance. Even though U.S. vaccines are being used, the U.S. Army pursues close cooperation with the authorities of the German states and the respective garrisons to guarantee that the vaccinations meet host nation vaccination standards, and that they will be recognized correspondingly (e.g. German vaccination card). Given the comprehensive support by in-house physicians and vaccinators from German state-run vaccination centers, several thousand Corona vaccinations were administered for LNs during the first two weeks of the vaccination program.

Details regarding the local USAG vax clinics and the corresponding registration process and procedures are available on the respective Garrison website. Questions should be directed to the POCs of the Garrison COVID Council.

Vaccinations (first and second dose) constitute medical treatment in the meaning of Art. 28(1)h CTA II. Thus, employees can be excused from work upon request and production of corresponding evidence for the time absolutely necessary if the vaccination cannot be administered off duty. No other entitlements exist.

Update: In cooperation with the state of Rheinland-Pfalz, the U.S. Army is currently organizing so-called booster vaccinations by mobile vaccination teams. In December 2021 on U.S. installations to be determined, German vaccinators will administer booster shots (second dose Johnson & Johnson; third dose Moderna/Biontech-Pfizer) but also initial vaccinations, and provide corresponding documentation.

It is highly recommended that all unvaccinated employees get vaccinated immediately. In Germany, sufficient vaccines for all are available. Employees interested in a vaccination 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).

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

Q-A15: IAW sec. 4 of the updated SARS-CoV-2 Safety and Occupational Health Ordinance, "the employer shall offer employees who are not teleworking at home full-time a Coronavirus SARS-CoV-2 test with direct detection of the pathogen at least twice per calendar week". German press commonly refers to those tests as "rapid tests and/or self-tests". How does the employer implement this directive?

A: The German Federal Ministry of Labor and Social Affairs has established guidance on testing requirements for direct pathogen detection of the SARS-CoV-2 Safety and Occupational Health Ordinance.

On the basis of the SARS-CoV-2 Safety and Occupational Health Ordinance, the current version of which is dated 6 September 2021 and has been in effect since 10 September 2021, USAREUR-AF concluded a shop agreement to minimize the risk of infection with SARS-CoV-2 at work by testing for direct pathogen detection of the SARS-CoV-2 coronavirus. Thus, each employee who

does not perform full-time telework but works at the regular worksite at least once per week or performs duty travel or duty trips is entitled to receive two voluntary COVID-19 tests (rapid test; self-test) per week.

In accordance with section 4(2) SARS-CoV-2 Occupational Safety and Health Ordinance, however, such test offers are not necessary if the employer guarantees equivalent protection for employees by other suitable measures, or can document existing equivalent protection.

Many USAREUR-AF organizations are taking comprehensive protective measures that, together with the vaccination status of U.S. and LN employees, meanwhile known in the majority of cases, can be taken into consideration (see section 2(1) sentence 2 Corona Safety/OH Ordinance) and constitute equivalent protection in the meaning of section 4(2) Corona Safety/OH Ordinance:

- With regard to the vaccination rate of the U.S. workforce (military and civilian), which had to be attested and reported since 22 November 2021 on the basis of the DoD Force Health Protection Guidance, a very high percentage of fully vaccinated U.S. staff of more than 90 % has been documented, in some areas even 100 %.
- As a result of this high vaccination rate on the U.S. side and the overall earlier start of the vaccination and booster programs for adults and the early start of the expanded vaccination programs for younger people (FDA approval for 12 years and older for BioNTech/Pfizer: 10 May 2021; children aged 5 and above (lower dosage) on 29 October 2021 (EMA: 12 and older on 28 May 2021; 5 and older on 26 November 2021); Spikevax/Moderna since late July 2021 for 12 years and older (EMA still pending)), the incidence rates on U.S. installations in Europe and Germany are considerably lower than in the host nations.
- Against this background, the introduction of a tariff-based vaccination attestation bonus for LN employees also is a significant incentive to inform the employer about the vaccination status, or to get vaccinated in the first place. Both support the safety at the workplace and help specify risk assessments.
- Planning and conducting large-scale in-house vaccination rodeos for LN employees, and now in-house booster programs, was and is an important contribution for safety/OH and for a high rate of (known) vaccination status.
- Employees were also released early on to attend scheduled host nation vaccinations; telework options were implemented on a large scale; and corresponding hygiene concepts were developed.
- Since late November, there have been access controls under 3G access rules governed by the Law on Protection and Control of Infectious Diseases.

Given that

- IAW section 2(1) sentence 2 Corona Safety/OH Ordinance, the employer can take into consideration a known vaccination status of U.S. and LN employees when determining and implementing infection protection measures at work, including test offers,

- and IAW section 4(2) Corona Safety/OH Ordinance, rapid self-tests are no longer necessary if the employer takes other suitable protective measures, or can document existing equivalent protection (according to the German Ministry of Labor and Social Affairs, section 4(2) Corona Safety/OH Ordinance allows the employer to exclude fully vaccinated employees from organizational test offers if he has creditable information on an employee's vaccination status; see Q-A16),
- according to the conference of German health ministers at the federal and state level, which took place on 14 December 2021, a testing obligation is usually not necessary under so-called 2G-plus rules if a booster shot can be documented,

in organizational units with documented high vaccination rates, IAW section 4(2) Corona Safety/OH Ordinance, test offers for vaccinated or boostered LN employees may be just as unnecessary as for vaccinated or boostered U.S. employees, as the employer can thus document existing equivalent protection (section 4(2) Corona Safety/OH Ordinance).

Equivalent protection for LN employees in the meaning of section 4(2) Corona Safety/OH Ordinance is considered secured if organizations, instead of providing test offers in form of issuing locally purchased testing kits

- were to offer two equivalent FDP-approved rapid testing kits per week, as currently used in U.S. medical facilities or additional purchased by U.S. medical facilities for unvaccinated DACs and visitors (the host nation recognizes these antigen tests used in the U.S. environment, for example for air travel and under 3G and 2G+ rules);

- were to offer LN employees reimbursement for two locally purchased antigen self-test kits per week (weekly submission of corresponding purchase receipts is sufficient);

- were to offer LN employees to have corresponding tests administered in U.S. testing centers on U.S. installations, where the U.S. employer has medical staff and in-house laboratories. In cases of a suspected infection, PCR tests can therefore be offered and scheduled. The medical staff on site can then provide additional information on what employees should do. PCR tests are the so-called gold standard.

The German Federal Institute for Drugs and Medical Devices publishes lists of suitable and accredited POC antigen rapid tests and self-tests on its website. POC antigen rapid testing kits are available starting at a retail price of 0.70 EUR per test and can be ordered in larger quantities.

Additional information by the RKI and on the Safety and Occupational Health Ordinance can be found at:

https://www.rki.de/SharedDocs/FAQ/COVID-Impfen/FAQ_Transmission.html

All measures included in the Law on Protection and Control of Infectious Diseases and the Corona Safety/OH Ordinance, including testing obligations and testing offer obligations are currently applicable through 19 March 2022.

Irrespective of the type of test (antigen/rapid/self-test, etc.), employees **with a positive test result will immediately enter home quarantine**, notify the employer of the positive test result immediately, and have a PCR test administered immediately to get confirmation or invalidation of the positive test result. In individual cases depending on occupational groups (e.g., employees in medical care facilities or providing close-contact services), there may also be a reporting obligation for virus-negative or invalid test results.

Q-A16: What are 'other suitable protective measures' that allow waiving organizational testing offers based on the Federal Ministry of Labor and Social Affairs?

A: This information allows employers to exempt fully vaccinated employees or employees who have recovered from COVID-19 from organizational testing offers provided the employer has reliable information on the employees. Currently, employees are obligated to provide corresponding information on their immunization status or current test status to the employer.

Link:
https://www.bmas.de/DE/Corona/Fragen-und-Antworten/Fragen-und-Antworten-ASVO/faq-corona-asvo.htm

Q-A17: What liberties or exceptions will be applicable to employees who are already vaccinated against the SARS-CoV-2 coronavirus?

A: Section 28(6) IfSG governs that the federal government can issue ordinances granting more detailed definitions, liberties or exceptions with regard to applicable restrictions of basic rights (e.g. freedom of assembly; personal freedom; freedom of movement (travel); privacy of the home; etc.). A corresponding ordinance governing exceptions and easing of restrictions set out in the Infection Protections Act to contain the pandemic (COVID-19 protective measures – regulation of exceptions) came into effect on 8 May 2021. The German document, *COVID-19-Schutzmaßnahmen-Ausnahmenverordnung – SchAusnahmV*, was published under reference 19/29257.

The definition of fully vaccinated individuals currently covers: complete vaccination dating back at least two weeks, showing no symptoms; of convalescents: Corona disease dates back at least 28 days but no more than six months.

The following exceptions from COVID-19 protective measures will apply to fully vaccinated individuals and convalescents:

- fully exempt from curfews and social restrictions (e.g., fully vaccinated individuals are not counted for social gatherings) regardless of local incidence rates;

- no more mandatory testing and quarantine in connection with (duty) travel (air travel, return travel, leisure travel); exceptions: so-called virus variant areas);

- no more testing requirements for shopping, close-contact services like hairdressers and massage therapy, gastronomy; or employer testing requirements IAW corresponding state-specific special regulations.

Several German states (including Bavaria, Hessen, Rheinland-Pfalz and Baden-Württemberg) have already implemented immunization-based liberties applicable to the entire state or district.

On 13 May 2021, the Centers for Disease Control and Prevention (CDC) published 'Interim Public Health Recommendations for Fully Vaccinated People'. Therefore, DoD also updated its mask guidelines.

These guidelines govern that fully vaccinated individuals (who are at least two weeks beyond their final dose) are exempt from the requirement for mandatory use of masks. According to the CDC, this shall not apply if masks are required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance; or according to DoD, if Commanders or supervisors issue corresponding exceptions based on updated Force Health Protection guidance.

For LN employees in Germany, the obligation to wear a medical-grade mask or keeping minimum social distance are governed by the SARS-CoV-2 Safety/OH Ordinance in the version valid through 19 March 2022.

In addition to the Safety/OH standards for LN employees, 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 has been in place since 1 February 2021, regardless of vaccination immunization, at USAG RLP and all Air Force installations within the Kaiserslautern Military Community (KMC).

With regard to increasing immunization rates and depending on decreasing infection rates, the federal government and the German states are planning additional rules. HQ USAREUR-AF regularly adjusts existing safety/occupational health guidance in line with the rapidly evolving legal situation during the pandemic.

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

A: IAW section 28b Law on Protection and Control of Infectious Diseases, employees have to present their immunization status or a testing certificate documenting a current negative antigen rapid test (< 24 hours) or PCR test (<48 hours) to gain access to the workplace. Employers are, therefore, authorized under section 28b Law on Protection and Control of Infectious Diseases to process employee data on the vaccination, recovery or testing status in compliance with data protection standards, and to use them for developing or adjusting organizational hygiene concepts IAW section 3 SARS-CoV-2 Safety and Occupational Health Ordinance.

Irrespective of section 28b Law on Protection and Control of Infectious Diseases, collecting and processing employee PII (including health-related data) by the employer to avoid or mitigate the spread of the virus among employees is authorized as an exception. This includes in particular information on cases where an infection has been determined or someone was in contact with a documented infected individual, or when someone was in a risk or variant area as classified by the Robert Koch Institute (RKI) during the relevant time.

The employer's right to issue directives IAW section 106 Trade Ordinance enables the employer to dictate more detailed rules for implementing employment within the limits of the employment contract, collective provisions or applicable laws.

In principle, this also covers the employee obligation to disclose information necessary for the implementation of employment to the employer. The Federal Labor Court specifically granted the employer the right to inquire if 'the employer has a justified, relevant interest that is worthy of protection in getting a response or obtaining information, and if the employee's non-disclosure right does not exceed the employer's right to collect such data' (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 a German ordinance governing exceptions from COVID-19 protective measures (section 2 No. 3 and 5 SchAusnahmV).

In Germany, the following individuals are considered **'fully vaccinated'**:

- Individuals who have been vaccinated with a COVID-19 vaccine approved in the EU after at least 14 days have passed since the last dose of the vaccine. Depending on the vaccine, one (vector-based COVID-19 vaccine Janssen/Janssen-Cilag International) or two doses (vector-based vaccine Vaxzevria/AstraZeneca; mRNA vaccine Spikevax/Moderna or Comirnaty/BioNTech; also heterologous vaccination scheme) are necessary to be considered fully vaccinated. A current list of EU-approved COVID-19 vaccines and information on the required doses are published on the website of the Paul Ehrlich Institute (https://www.pei.de/impfstoffe/covid-19).

- Individuals who had a PCR-confirmed SARS-CoV-2 infection and have received one dose of a COVID-19 vaccine.

- Individuals who are confirmed to have tested positive for SARS-CoV-2 antibodies* and have then received a COVID-19 vaccination.

- Individuals who were vaccinated once and then contracted a PCR-confirmed SARS-CoV-2 infection and have received an additional dose of a vaccine.

Q-A22: Who is authorized to control 3G attestation at work?
A: The employer is responsible for checking the 3G attestation before accessing the worksite. In compliance with the standards for employee data protection, the employer can delegate controls to suitable employees or third parties.

Q-A23: Do employees have to pay for tests?
A: Employees are responsible for being able to provide valid 3G attestation. Employees and employers can use the free community testing centers (Bürgertests) or test offers the employer has to provide based on SARS-CoV-2 Safety/OH Ordinance or other legal norms provided they are administered under supervision. The additional provisions of section 28b(2) Law on Protection and Control of Infectious Diseases have to be followed.

Q-A24: Can tests offered by the employer based on SARS-CoV-2 Safety/OH Ordinance or other legal norms be used for 3G attestation in the meaning of section 28b(1) Law on Protection and Control of Infectious Diseases?

A: Tests offered by the employer can be used if they are administered and documented by commissioned third parties, or are administered and documented at work under supervision. There is no entitlement for employees that the employer has to offer tests meeting the prerequisites of section 28b(1) Law on Protection and Control of Infectious Diseases under the employer obligation to offer tests IAW section 4 SARS-CoV-2 Safety/OH Ordinance.

Q-A25: What are consequences under labor laws for employees who do not want to attest their status? At what point can a termination be issued? What is the situation for continued payment of earnings?

A: Employees who cannot or do not want to provide 3G attestation and thus not perform their work, have to expect consequences under labor laws. As far as the right to terminate is concerned, the principle of commensurability initially requires an admonishment. If employees refuse to provide 3G attestation permanently, a termination can be considered as a last resort. Employees who do not want to or cannot provide 3G attestation are not entitled to pay.

B. TELEWORK AND HOME OFFICE

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

A: In accordance with section 28b(4) Law on Protection and Control of Infectious Diseases in conjunction with Art. 54 NATO SOFA SA, all organizations have to offer employees to work from home in case of office work or comparable duties if there are no conflicting organizational reasons. Employees have to accept such offer if they have no conflicting reasons. This obligation will be in effect at least until 19 March 2022.

Working from home as a form of mobile work offers 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: Can employees be directed to perform telework?

A: At this time, LN employees cannot be directed to perform telework at home. The employer, however, has a legal obligation to offer telework if there are no conflicting compelling operational reasons. Employees, on their part, have to accept the offer if there are no conflicting reasons (see Q-B1). However, 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).

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: 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.

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: When can employees reject the offer to work from home?
A: As a matter of principle, employees are obligated to accept an employer offer to work from home provided there are no conflicting reasons. Such reasons may include lack of space or technical infrastructure at the employee's home. It is sufficient if the employee provides informal notification that the personal circumstances do not allow working from home.

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 spent 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: 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: 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: N/A

Q-C18: Q-C18: What are high-risk areas or virus variant 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 'virus variant areas'. 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

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: 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 May 2021: period extended through 31 March 2022). 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; of 150 EUR in December 2021; and the tariff-based bonus payment for vaccinated employees of 100 EUR).

Q-C27: What federal rules do exist for (cross-) border commuters?

Border commuters reside in the Federal Republic of Germany (FRG) and work, study or complete their training abroad. Conversely, cross-border commuters reside abroad and work, study or complete their training in the FRG. (Cross-) border commuters return to their place of residence regularly, at least once a week.

Regulations for simple risk areas:
For cross-border commuters and border commuters

- The obligation to register (www.einreiseanmeldung.de),
- No testing obligation
- No quarantine obligation.

The countries bordering Rhineland-Palatinate, Belgium and Luxembourg, are currently classified as simple risk areas. France and the Département Moselle are classified as virus variant areas as of 28 March 20201 and 2 May 2021 respectively (as of 19 May 2021).
For updates please check the Robert Koch Institute webpage.

Regulations for high incidence areas:
For cross-border commuters and cross-border commuters, there is

- the obligation to register (www.einreiseanmeldung.de),
- the testing obligation; the testing and documentation obligation is only waived if the competent authority has granted an exemption in justified individual cases, or if the time spent there was less than 24 hours, or if the destination is less than 30 kilometers from the place of residence,
- no quarantine obligation if the cross-border commuters and border commuters comply with adequate protection and hygiene concepts and if they have to commute on a mandatory basis. The compelling necessity and compliance with the protection and hygiene concepts must be certified by the employer, the principal or the educational institution. If these requirements are missing, quarantine is mandatory.

Q-C28: For cross-border commuter employees, does the employer bear the costs of corona testing due to the existing Covid-19 border crossing regulations?
A: In principle, the employer is not obliged to bear the costs incurred by the employee in order to get to the workplace or home.

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: 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.

Meanwhile, physical meetings of works council are possible again under the Corona rules published by the federal government or the respective German state. Usually, members and individuals who can attest to their vaccination or recovered status, and can provide a negative test result of a PCR test (not older than 48 hours) or a PoC antigen rapid test (not older than 24 hours) can participate under 2G + rules if a specific number of participants is not exceeded. Details can be found in the Corona ordinances applicable in the respective German state.

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 unless the measures cannot be postponed and the works council is informed about immediate implementation due to the urgency of the matter. In such cases, works council participation must occur immediately afterwards.
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; the same applies to virtual monthly discussions with the agency chief.

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 and IAW the Law on Protection and Control of Infectious Diseases has to be offered if there are no conflicting operation reasons (Q-B1). 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 (see Q-A1).

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 (see Q-A1). 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.

All commands and units are authorized to increase on-site staffing to the degree authorized under host nation rules for protection from an infection and safety/OH (see Q-B1).

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
- regularly disinfecting frequently touched objects and surfaces
- if a minimum separation distance of at least 1.5 meters is not possible, medical-grade masks will be worn (temporarily until 19 March 2022)
- hand washing
- conducting meetings through video-teleconference, minimizing in-person meetings, and limiting meeting size.
- telework/home office/mobile work.

Q-H4: How does this affect employees with the potential for a severe course of illness?
A: Also in these cases USAREUR-AF 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, die 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. The standards in Q-A1 and Q-B1 are applicable.

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-C21.

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. The standards in Q-A1 are applicable.

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