



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. GENERAL

Q(-A)1: What precautions is USAREUR taking?

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

Q(-A)2: What should employees and managers do if given instructions by local authorities?

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

Q(-A)3: What else can managers and employees do to prevent the spread of 2019-nCoV?

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

Q(-A)4: What should employees do if they show symptoms of 2019-nCoV?

A: Employees who show signs of fever, cough, or difficulty breathing are directed to 1) seek medical care right away. 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(-A)5: Can a manager mandate that an employee get tested if they show symptoms of infection?

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

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

A: The current situation requires that on all military installations, to the extent practical, all individuals will wear cloth face (mouth-nose) coverings when they cannot maintain six feet (approx. 2 m) of physical distancing in public areas or work centers. These measures help effectively to prevent the spread of the virus but do not replace the need for physical distancing and effective hygiene practices (i.e., washing hands and sanitizing workstations). A face (mouth-nose) covering is required in particular when visiting the shopping and customer service facilities on a military installation, such as the Garrison EXCHANGE, commissaries, food courts, shoppettes, post offices, etc.

Q-A7: How do I get a cloth face (mouth-nose) covering?

A: Under the current circumstances actual surgical masks and/or N95 respirators are reserved for the appropriate personnel and will not be issued for this purpose. However, in addition to commercial face coverings, other 'cloth barriers' also provide better health protection by intercepting droplets produced when speaking, coughing, or sneezing. Consequently self-fashioned face coverings, like scarves, shawls, cloth cuttings, and other tightly woven cotton fabrics, can also be used. Where deemed necessary, employing organizations will make an effort to provide adequate face coverings

B. TELEWORK AND HOME OFFICE

Q(-B)6: Can employees telework during an outbreak?

A: Telework is authorized in accordance with USAREUR telework policy. Maximum flexibility of telework should be utilized.

Q(-B)7: Which type of telework is authorized?

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

Q(-B)8: Can employees be directed to perform telework?

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

C. ANNUAL LEAVE, SICK LEAVE AND ADMIN LEAVE/RELEASE FROM DUTY

Q(-C)9: Can an employee take approved leave as planned?

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

Q(-C)10: 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(-C)11: 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(-C)12: The employee cannot start previous year's leave on 31 March 2020 at the latest due to staff shortages because of the 2019-nCoV crisis. Is it possible to transfer such leave?

A: With the exception of unfitness for work, previous year's leave not taken would be forfeited after 31 March. Similar to the exceptions under Q10, previous year's leave may, as an exception, be transferred beyond 31 March for 'compelling operational reasons that leave no other option'. In accordance with the legal principle of Article 33 paragraph 6c CTA II, such remaining leave must be granted and started within two months once the 'compelling operational reason' ceases to exist (0analogous to restoration of fitness for work).

Q(-C)13: 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(-C)14: 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(-C)15: 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 in such a situation as the employee is not unfit for work due to sickness. However, the employer has the option of claiming entitlements under the German Law on Protection against

Infection (*“Infektionsschutzgesetz”*). Thus, the employer is obligated to pay the employee up to a total period of six weeks. The employer can then claim reimbursement from the responsible German authorities through the Foreign Forces Payroll Office.

Important: Said German Law on Protection against Infection only applies if quarantine is directed by a German authority. It is only applicable to situations where an employee cannot report for work during a quarantine directed in Germany. An employee quarantined abroad bears the regular risk associated with reporting for work (Q13).

Q(-C)16: 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(-C)17: 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(-C)18: 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(-C)19: 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 Q17)

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(-C)20: 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(-C)21: What type of leave can an employee request in case of school/daycare/kindergarten closures?

A: The CTAII does not cover mandatory closures of schools and daycare facilities by official German health authorities („Gesundheitsbehörden“). Generally, it is the employee’s responsibility to organize childcare.

However, as the current school and daycare closures are ordered as a preventive measure by public authorities and are therefore beyond the employee’s influence, they may constitute special personal hardship for employees with small children.

Management should first make use of previous year’s leave, comp-time, and other work flexibility options (e.g. telework, home office). Only if such options are not available or have been exhausted may management authorize extraordinary admin leave for childcare purposes for up to the first 10 workdays of the closure with continuation of pay provided all of the following prerequisites are met and documented:

1. Actual closure of a community facility, like public schools, daycare centers, kindergartens, parent-child initiatives or similar facilities in response to the 2019-nCoV spread.
2. The children affected by said closures are younger than 12.
3. Alternative childcare for the child/children cannot be obtained (e.g. single parent).
4. There are no official/operational reasons precluding the granting of such leave.

Extraordinary admin leave request (AE Form 690-99G, SECTION B - ABSENCE WITH PAY) with the corresponding justification (special personal hardship due to 1-4 situation) needs to be submitted to the timekeeper after coordination with the supervisor. In case annual leave has been transferred into this calendar year, such leave must be taken (AE Form 690-99G, SECTION A – ANNUAL LEAVE) before the above-mentioned extraordinary admin leave can be granted.

Update: Effective 25 March 2020, the government of the Federal Republic of Germany approved a “social bill” governing financial support for employees with small children affected by the situation of special personal hardship described above (for details see Q22). Its legal prerequisites are similar. After 31 March 2020, employees meeting the legal special personal hardship criteria are to make use of this government program tailored to their situation. Admin leave IAW Q21 will no longer be authorized.

Q(-C)22: Who is eligible for the new entitlement to compensation for loss of earnings resulting from current school and day care closures under the new “social bill” (IAW Law on Protection from Infection)?

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

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

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

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

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

Employees may request this benefit with a written, informal request to their supervisors.

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

D. DISTRIBUTION OF MANPOWER

Q(-D)23: 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(-D)24: 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(-D)25: 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(-E)26: Are there any employees with a higher risk of developing a severe course of 2019-nCoV disease?

A: According to the Robert Koch Institute, 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. Senior 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.
- Independent of age, people with various underlying diseases, such as
 - 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(-E)27: Are there any specific measures to be implemented at the workplace for employees with the potential for a severe course of illness?

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

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

Generally, admin leave is not authorized.

F. Works Council Relations

Q(-F)28: Can management prohibit works council meetings to enforce social distancing?

A: The current situation around 2019-nCoV presents severe challenges to the entire world.

This of course also applies to management and works council relations.

Such an exceptional situation cannot be an excuse to bypass works councils and to effectively override or undermine their rights.

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

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

However, on a local level management should agree with the works council on reducing the meetings to a minimum, especially in case of works councils with more than one member.

Management and works councils should come to an agreement on the procedural details in case time critical measures have to be participated, such as hiring measures. Even in a phase in which no works council session will be conducted, management is obligated to keep the works councils informed.

Q(-F)29: Can works councils meet virtually?

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

The use of video or telephone conferences is not explicitly mentioned in the German Personnel Representation Law. However, the current situation is very unusual because management and work force 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.

The German Ministry of Labor believes that the decisions taken at a virtual meeting are valid. As there cannot be a handwritten signed attendance list in such a case, participation should be confirmed to the chair of the works council in text form, for example by email. The principle of non-publicity must be upheld during a video or telephone conference. For this reason, it must be ensured that unauthorized third parties do not take part in the meeting in any way.

Q(-F)30: How can works councils transmit comments and decisions digitally?

A: The Chair 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 or by a document in PDF-format with a handwritten signature.

G. ADDITIONAL RESOURCES

Q(-G)31: Where can I get further information about 2019-nCoV?

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

World Health Organization (WHO):

<https://www.who.int/news-room/q-a-detail/q-a-coronaviruses>

(German) Federal Ministry of Health (Q&A English version):

<https://www.bundesgesundheitsministerium.de/en/press/2020/coronavirus.html>

Robert Koch Institute (German equivalent to Center for Disease Control - Q&A German/English summary):

https://www.rki.de/SharedDocs/FAQ/NCOV2019/FAQ_Liste.html