

Information

from the Division of Human Resources and Legal Affairs on the handling of returnees from COVID-19 risk areas

Provisions with regard to entry into Germany from risk areas (high-risk areas and areas of variants of concern) as well as employment law and civil service law issues in connection with mandatory quarantine upon return from risk areas for employees covered by collective agreements and civil servants

The following information is based on the information provided by the Brandenburg Ministry of the Interior and Municipal Affairs (MIK) on the handling of returnees from COVID-19 risk areas of November 1, 2021 as well as the applicable COVID-19 laws and ordinances on entry into Germany from risk areas as of October 13, 2021:

A. General provisions for entry into Germany from risk areas

When entering the country, the requirements of the [Ordinance on Coronavirus Entry Regulations \(CoronaEinreiseV\)](#) must be observed. Under these provisions, there is a general obligation to provide documentary evidence for persons entering the country, irrespective of the mode of transport and whether there has been a previous stay in a high-risk area or an area of variants of concern. As a rule, individuals aged 12 and older must have a negative test result, proof of vaccination or proof of recovery upon entry. Individuals who, at any time within the last ten days before entering the country, stayed in a high-risk area or an area of variants of concern classified as such at the time of entry into the country must follow special registration, documentation, and quarantine requirements. When entering the country from areas of variants of concern, passenger transport by train, bus, ship, and plane is prohibited coming directly from these countries, subject to very narrowly defined exceptions ([Brief overview of entry regulations](#)).

Before entering the country from a high-risk area or an area of variants of concern, you are required to complete a [Digital Registration on Entry](#).

When returning from a high-risk area or an area of variants of concern, quarantine is mandatory as a rule. In the case of a prior stay in a high-risk area, the affected person may be able to "test" themselves out of quarantine or end home quarantine early if proof of recovery or vaccination is provided. If such proof is provided prior to entry, quarantine is not required.

These options do not exist when returning from an area of variants of concern; in particular, there is no exemption from the quarantine requirement for fully vaccinated individuals.

It should be noted that as of November 1, 2021, employees will no longer receive compensation pursuant to Section 56 (1) sentence 1 and 2 of the Infection Protection Act if the order for quarantine and the associated loss of earnings could have been avoided by taking advantage of a vaccination against COVID-19 or by not undertaking an avoidable trip to a risk area that was already classified as such at the time of departure. A trip is considered avoidable if at the time of departure there were no compelling reasons for the trip that could not be postponed (e.g. birth of your own child, death of a close relative like your parent, grandparent, or child).

The employer is entitled to obtain proof of vaccination status or, if applicable, recovered status, or must determine if vaccination is not possible for medical reasons. A medical certificate or an official declaration by the employee may be submitted as proof of a medical contraindication.

B. Mandatory quarantine after entry from a high-risk area

A fundamental distinction must be made as to whether the destination to which the employee travels was declared a risk area or an area of variant of concern (I.) before entry or (II.) at a later time during the stay. It is therefore the responsibility of every employee to consult the website of the Federal Foreign Office (<https://www.auswaertiges-amt.de/de/ReiseUndSicherheit/covid-19/2296762>) or the Robert Koch Institute (https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogebiete_neu.html) before his or her trip to find out whether, due to the vacation destination, an order for isolation (quarantine) with a fine is to be expected upon return in accordance with the applicable CoronaEinreiseV.

I. The area had already been declared a risk area before the employee's entry

The deliberate acceptance of the subsequent quarantine order (Sections 611a, 241 (2) BGB (German Civil Code)) – which is mandatory and subject to a fine in case of non-compliance – constitutes a breach of duty which has the following effects on the employee's claim for remuneration or compensation:

1. Continued payment of remuneration

Continued payment of remuneration is excluded as a rule if working from home, teleworking, or mobile office are not possible. The employee has, after all, culpably caused his or her de facto inability to fulfill his or her contractual employment duties due to the legally mandated quarantine order.

Should the employee actually fall ill with COVID-19 during the quarantine, there is, as a rule, also no entitlement to continued payment of remuneration due to illness, because the employee deliberately caused the illness through, at least, gross negligence by traveling to a declared risk area for coronavirus.

2. Loss of earnings according to Section 56 IfSG (Protection against Infection Act)

As a rule, there will be no claim for compensation for loss of earnings despite quarantine orders due to the deliberate entry into a high-risk area for coronavirus, because the quarantine order was avoidable.

As a result, before entering a COVID-19 risk area, it is the employee's responsibility to ensure that he or she can perform his or her work from home, via telework, or mobile office during the subsequent quarantine at home, or that he or she can use up appropriate working time credits and/or vacation days in order to avoid losing his or her entitlement to remuneration.

II. Continued payment of remuneration if the area was declared a high-risk area only after the employee's entry

In principle, the employee is entitled to receive compensation (loss of earnings) in accordance with Section 56 IfSG in this case, which is to be paid by the employer for a period of up to six weeks. Instead of the loss of earnings in accordance with Section 56 IfSG, the employee will receive extra-tariff continued remuneration in accordance with the Continued Remuneration Act. However, the employer shall consider whether the activity can be performed during the quarantine by working from home, teleworking, or mobile office, or whether time credits (not vacation days) can be used.

III. Further measures of the employer

Even if no quarantine or a shortened quarantine is ordered due to proof of vaccination or an existing negative test result, the employer may still release the employee from work duties for up to 14 days as a precautionary measure in individual cases. The entitlement to remuneration remains unaffected, as a rule. In this case, too, it must first be determined whether the employee can perform his or her work from home, via teleworking, or mobile office. Time credits, overtime, or vacation days do not have to be used up.

The employer is entitled to ask employees returning from a private stay abroad whether they have stayed in a COVID-19 risk area. He or she may also order employees to report to the employer, before taking up their duties, that they are returning from a high-risk area so that the employer can take appropriate measures to protect other employees effectively.

IV. Legal situation for civil servants

Civil servants who go on vacation to an officially designated risk area for coronavirus and who therefore know in advance that they will be subject to quarantine upon their return must, in advance, clarify with their department whether it is possible to work from home during the quarantine period or whether the vacation can be extended or another form of paid leave (working time credit) can be claimed. Otherwise, this will be considered a breach of duty.

If in such cases civil servants do not resume their duties in time after the end of an approved vacation leave, a culpable absence from work is to be assumed, which results in the loss of the right to remuneration (Section 61 (3) LBG (Civil Servants of the Land of Brandenburg Act), Section 9 BbgBesG (Brandenburg Remuneration Act)). In case of a foreseeable quarantine there is no justification for this.

The consequences of the decision to travel privately to a risk area are therefore to be borne by the civil servant.

In the case of a subsequent declaration of the area as high-risk, the above provisions for employees covered by collective bargaining agreements shall apply mutatis mutandis.

Division 3 is at your disposal for any further questions.

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