



DEPARTMENT OF THE ARMY
UNITED STATES ARMY, EUROPE, and SEVENTH ARMY
UNIT 29351
APO AE 09014-9351

REPLY TO
ATTENTION OF:

AEAGA-CL

07 JAN 2005

CPD Policy Memorandum LN-GE-LAB 7

SUBJECT: Protection from Termination of Employment of Alternate Works Council Members

1. References:

a. German Law on Protection from Termination of Employment.

b. Annex C, USAREUR Regulation 690-61, Labor-Management Relations – Local National (LN) Employees in Germany, 24 Apr 2000 (German Personnel Representation Law (modified Version)).

2. In accordance with paragraph 15a, reference 1b, alternate works council members who have temporarily substituted for absent regular members, may not be terminated by ordinary notice until 1 year after the date of their last substitution (section 15, para 1, reference 1a).

3. In its decision of 12 Feb 2004, case file number 2 AZR 163/03, the German Federal Labor Court (GFLC) adjudicated that alternate works council members are entitled to this protection even if it turns out after the event that the substitution, in the meaning of section 31, reference 1b, did not take place. However, the special protection from ordinary terminations is not applicable if the substitution took place under false pretences, or if the alternate member knew or was obligated to realize that there was no need to substitute.

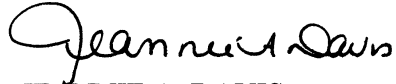
4. The case concerned the ordinary termination of an alternate works council member. The alternate works council member challenged the termination in labor court and specifically claimed to be entitled to special protection from termination of employment because he had participated in several meetings of the works council.

5. In support of its decision, the GFLC stipulated that when alternate works council members participate in works council meetings, they automatically assume the role of the internal adversary vis-à-vis the agency chief and are, therefore, equally in need of protection. Of course, this is not applicable in cases of collusive agreements between regular and alternate members of the works council that are merely intended to accord special protection from termination to the alternate members. However, in such cases, it is incumbent upon management to make a complete presentation of the facts and circumstances to the labor court.

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6. HQ USAREUR/7A POC is Mr. Wolfgang Trum, 375-2522, fax 375-2511, email wolfgang.trum@us.army.mil.

A handwritten signature in black ink that reads "Jeannie A. Davis". The signature is written in a cursive, flowing style.

JEANNIE A. DAVIS
Assistant Deputy Chief of Staff, G1
(Civilian Personnel)