



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

REPLY TO  
ATTENTION OF:

AEAGA-CL

27 DEC 2004

CPD Policy Memorandum LN-GE-RIF 3

**SUBJECT: Extraordinary Termination for Compelling Business Reasons of Local National (LN) Employees Enjoying Special Tariff Protection from Ordinary Termination**

1. References.

a. Tariff Agreement of 2 Jul 97 on Protection of Employees of the Stationing Forces in Case of Rationalization Measures and on Additional Benefits in Case of Separations due to Troop Reductions.

b. Annex C, USAREUR Regulation 690-61, Labor-Management Relations – Local National (LN) Employees in Germany, 24 Apr 00 (German Personnel Representation Law (modified Version)).

c. Federal Labor Court Decision of 5 Feb 98, case file number 2 AZR 227/97.

d. Federal Labor Court Decision of 27 Jun 02, case file number 2 AZR 367/01.

2. Reference 1c established mandatory procedures for processing extraordinary terminations of LN employees who are past age 40 with 15 or more years of service. This gives them special protection from termination. Among other things, the Federal Labor Court held that:

a. As an exception to the normal restrictions, the extraordinary dismissal for compelling business reasons of an employee who is protected from termination based on tariff provisions is permissible if:

(1) The position of the employee has been abolished and the employer is unable to continue the employment, after having exhausted all reasonable efforts to do so, including an internal reorganization, and

(2) The ordinary advance notice period is being observed.

b. An extraordinary termination of this nature uses the same social selection and works council participation process as an ordinary termination. Section 1, paragraph 3, Law on Protection from Loss of Employment and section 79, paragraphs 3 – 5, reference 1b, apply accordingly.

3. Reference 1d concludes that the above principles are also applicable to 15/40 employees who reject offers of transfer of their employment to a contractor under the provisions of Article 613a,

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German Civil Code. 15/40 employees may only be terminated if there are absolutely no opportunities for continuing their employment in their own or in other organizations of the U.S. Forces in Germany. This includes the U.S. Army, Europe (USAREUR) and the Air Force, Europe (USAFE) and their tenants, as well as the Army and Air Forces Exchange Service (AAFES).

4. As determined in these precedent-setting decisions, extraordinary terminations of 15/40 employees and ordinary terminations of non-15/40 employees for compelling business reasons must be jointly cooperated with the responsible works councils (sections 72 and 79, reference 1b). Ordinary and extraordinary termination notices must be issued simultaneously, and the affected employees' regular advance notice periods will be observed; i.e., all are entitled to serve their entire ordinary notice period.

5. In summary, extraordinary terminations of 15/40 employees for compelling business reasons will not be issued unless:

a. There is documented evidence that the termination cannot be avoided by an internal reorganization.

b. All efforts to place the employee into a suitable position vacancy within or outside of USAREUR have been exhausted. Position vacancies are suitable if:

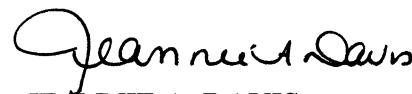
(1) They are located within the affected employees' commuting area.

(2) Employees meet the minimum qualification requirements, or

(3) Employees could become qualified within a reasonable period of time by means of advanced education or occupational retraining.

6. Placement efforts must start on the date in which the compelling business decision is announced and continue until the date of issuance of the notice of termination. During this period, all upcoming vacancies, as well as all vacancies that are predicted for the forthcoming calendar year must be considered for the placement of 15/40 employees.

7. HQ USAREUR/7A POC is Mr. Wolfgang Trum, 375-2522, fax 375-2511, e-mail [wolfgang.trum@us.army.mil](mailto:wolfgang.trum@us.army.mil).



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