



FOREWORD

This pamphlet provides information to help managers and other leaders deal effectively with works councils in Germany. In today's changing environment, managers must do more than ever. In addition to carrying out the traditional personnel-management functions (hiring, supervising, training, developing, coaching, and mentoring), today's managers must negotiate with works councils and regularly meet with them to discuss actions and issues that affect local national employees in their organization.

Leaders at every level must be prepared to meet the high demands of USAREUR's missions. This is especially challenging while the Army is in the process of transforming. This pamphlet is designed to answer general questions about works councils. It does not address every possible situation that may come up in dealing with works councils, but it will help leaders develop a positive working relationship with their works councils. Managers and other leaders should contact their servicing civilian personnel advisory center or the Civilian Personnel Operations Center for more information and assistance.

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**Dealing Effectively With Works Councils in Germany
(A Leader's Guide for Works-Council Relations)**

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Summary. This pamphlet provides guidance for leaders who deal with works councils in Germany.

Applicability. This pamphlet applies to military and civilian leaders who interact with works councils in Germany.

Forms. AE and higher-level forms are available through the Army in Europe Publishing System (AEPUBS).

Records Management. Records created as a result of processes prescribed by this pamphlet must be identified, maintained, and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information Management System Web site at <https://www.arims.army.mil>.

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CONTENTS

1. Purpose
2. References
3. Explanation of Abbreviations
4. What Are Works Councils and Severely Handicapped Representatives?
5. Basic Premise
6. Works-Council Rights
7. Developing Strong Relationships
8. Meetings
9. Helpful Hints for Effective Negotiations With Works Councils
10. The Head Works Council, USAREUR
11. Conclusion

1. PURPOSE

a. To varying degrees, works councils have the legal right to participate in nearly all organizational and personnel actions that affect local national (LN) employees. Works councils also have the legal right to be heard when making proposals for the benefit of the employees or when representing employees in grievances. Some matters must be submitted to works councils for “cooperation” (where the parties attempt to reach agreement but management makes the final decision). Others are submitted for “codetermination” (where an agreement must be reached or the proposed action must be submitted to a form of binding arbitration). In some cases, there is a requirement only to provide certain types of information to works councils.

b. German law requires that severely handicapped employees (SHEs) be represented by their elected representatives on works councils at all organizational levels. In works council dealings, the SHE representative must be informed and heard before a decision is made on any matter that may concern SHEs. Management officials and works councils must duly consider comments of the SHE representative before decisions are made. If a decision is made without consulting SHE representatives, the implementation of the decision affecting them may have to be suspended and the issue addressed again with the representative within 7 days after the suspension.

c. Management officials, works councils, and SHE representatives meet on a regular basis to formally or informally discuss actions or issues that may affect LN employees in the organization. It is imperative that representatives or subject-matter experts (SMEs) attending these meetings be fully informed about that process to enable them to conduct business in an efficient and meaningful manner.

NOTE: For detailed information about works councils, SHE representatives, and associated processes, consult with the local civilian personnel advisory center (CPAC).

d. This pamphlet will help you—

- (1) Develop a positive working relationship with the works council and SHE representatives.
- (2) Choose the most effective approach and make the most of attendance at works-council functions.
- (3) Ensure the organization’s expectations are met or exceeded when dealing with employee representatives.

2. REFERENCES

- a. NATO Status of Forces Agreement and the Supplementary Agreement.
- b. German Personnel Representation Law.
- c. AR 25-400-2, The Army Records Information Management System (ARIMS).
- d. DA Form 2028, Recommended Changes to Publications and Blank Forms.

3. EXPLANATION OF ABBREVIATIONS

CG, USAREUR/7A	Commanding General, United States Army, Europe, and Seventh Army
CHRA-E	Civilian Human Resources Agency, European Region
CPAC	civilian personnel advisory center
CPD	Civilian Personnel Directorate, Office of the G1, HQ USAREUR/7A
DWC	district works council
GPRL	German Personnel Representation Law
HQ USAREUR/7A	Headquarters, United States Army, Europe, and Seventh Army
HWC	Head Works Council, USAREUR
LN	local national
LWC	local works council
NATO	North Atlantic Treaty Organization
SHE	severely handicapped employee
SME	subject-matter expert
SOFA	Status of Forces Agreement
U.S.	United States
USAREUR	United States Army, Europe

4. WHAT ARE WORKS COUNCILS AND SEVERELY HANDICAPPED REPRESENTATIVES?

a. “Works councils” are bodies whose members are elected by the employees of the organization. They are authorized to participate in and benefit from “cooperation” (para 6c) and “codetermination” (para 6d) with respect to the affairs of the organization according to the provisions of German personnel laws. Works councils are established at three organizational levels. Those at lower levels function independently and are not subordinate to councils at higher levels. The following German works council levels have been established:

- (1) Local agencies or local works councils (LWCs) at base support battalions or comparable levels.
- (2) Intermediate authorities or district works councils (DWCs) at area support groups or similar levels.
- (3) Highest service authority or Head Works Council (HWC), USAREUR.

b. There are 524 works-council representatives at the local-agency level, 118 at the intermediate level, and 31 on the HWC.

c. Under German law, every organization employing five or more severely handicapped persons must hold elections for a SHE representative. The SHE representative’s role is to ensure that the employer meets the requirements of applicable German laws.

d. A “severely handicapped person” is one who has a disability in earning capacity of 50 percent or more as the result of illness or injury and who holds an official identity card. Persons with a handicap degree of less than 50 percent, but at least 30 percent, may be given the same status by the responsible labor agencies if, because of their handicap, they would not be able to obtain or retain a suitable position.

5. BASIC PREMISE

a. The German Personnel Representation Law (GPRL) establishes the principle that management and works councils interact as equal partners. The law states that the—

Agency and works council shall cooperate in mutual confidence within the framework of law and collective tariff agreements and in cooperation with the labor unions represented in the agency for the benefit of the employees and to accomplish the mission of the agency.

b. The GPRL does not envision a controversial relationship between management and works councils (as is often the case in U.S. management-labor union relationships). On the contrary, the GPRL establishes a framework in which management and works councils cooperate in mutual trust to protect employee interests and accomplish the organization’s mission.

c. A works council may initiate labor-court action if it believes management is not meeting its obligations under the GPRL. Management may also request a labor court to determine the exclusion of a member from the works council or the dissolution of the works council because of gross violation of legal obligations. Lawyer fees and court costs resulting from such actions must be borne by management.

6. WORKS-COUNCIL RIGHTS

a. Works councils have the right to be heard when making proposals for the benefit of the employees and when representing employees in grievances.

b. Works councils also have the right to receive timely and comprehensive information on all management plans and actions affecting employees. For example, management must inform the works council when it plans to conduct a study of an organization.

c. On certain actions, works councils have the right **to cooperate** with management. The purpose of this cooperation is to ask for the works council's support for an action rather than taking the action against the desire of the works council. Only management may initiate a request for cooperation. The works council has the right to meet with management and have its opinion heard. Management is required to provide the works council a written decision concerning the works council's recommendations. The works council may appeal management's decision to the next higher level commander if its recommendations are rejected. The highest level of decision authority in this process is the CG, USAREUR/7A. The authority of the CG, USAREUR/7A, includes decision making for all Army activities and other Federal activities that are serviced by the Civilian Human Resources Agency, European Region (CHRA-E), and physically located in Germany. Decisions that are made above the CG, USAREUR/7A, level (for instance, decisions that are made at the Department of the Army or Department of Defense level) are excluded from this process. In such cases, the works councils only have a right to be informed of that particular decision.

d. On some actions, works councils have the right **to codetermine** with management. Under the formal codetermination procedure, management must consult with and consider the works council's recommendations before implementing an action. If the parties disagree, management or the works council (depending on which party initiated the action) may submit an appeal to the next higher authority where a DWC or HWC exists. If the matter cannot be resolved at the HWC level, it must go to an arbitration committee called "conciliatory committee" for final resolution. **Under the codetermination procedure, management actions may be taken only with the works council's approval or after action by the conciliatory committee.**

e. The rights in subparagraphs c and d above are absolute. In most cases, works councils work effectively with management to solve problems when the works council's rights are respected. When their rights are not respected, actions taken by management may later be declared void by a labor court.

7. DEVELOPING STRONG RELATIONSHIPS

To develop a strong relationship with employee representatives at any organizational level, it is important to—

- a. Know who the works-council members are and meet with them on a regular basis.
- b. Have an "open-door" policy for employee representatives.
- c. Encourage open communication.
- d. Communicate the organization's mission and goals to the works council.
- e. Create conditions for innovation and improvement for employees.
- f. Listen to the works council's concerns.
- g. Encourage the works council to find and present solutions to management-employee problems.
- h. Resist institutional bias and avoid emotional responses.
- i. Choose the "right" battles.
- j. Create a team approach and allow works councils to generate ideas without being criticized.
- k. Pay attention to negative influences and be aware of and prevent "personalities" from influencing decisions.
- l. When possible, involve works councils early in the process and ask for their opinion before making decisions that affect the LN workforce.
- m. Get to know the CHRA-E labor-relations specialist and involve the CPAC before making decisions that may have legal implications.

8. MEETINGS

a. Meetings with works councils and SHE representatives may take place on a daily, weekly, or monthly basis. The law prescribes that management and employee representatives meet at least once a month to discuss issues that affect LN employees. This meeting will include works council, SHE, and management representatives. It normally will take place in a formal manner and, in most cases, minutes of the meetings will be kept as an official record.

b. As a general rule, the works-council chair will conduct these meetings. This includes responsibility for the administrative details, such as breaks, lunch, meeting tempo, and so forth. Under the law, the works-council chair is authorized to unilaterally determine the meeting agenda. However, the usual practice is to mutually determine the meeting agenda a week before the formal meeting. When management wants to bring an SME to these meetings, management must provide the name of the SME to the works council before the meeting takes place. The works council may or may not agree to invite a certain person to the meeting.

c. Works-council bodies include both blue- and white-collar employees, depending on the size and makeup of the represented organization; and many council members may not speak English fluently. Some members may have a certain level of understanding but not enough to conduct business or meaningful negotiations in English. To ensure that all council members fully understand the discussions, the official “business language” of works councils is German. Usually an interpreter will be present during the meetings to translate the discussions either simultaneously or consecutively into English and back to German. This is a difficult and sometimes cumbersome process. When discussions occur under these conditions, participants must allow for the time it takes to translate one or two sentences at a time.

d. It is crucial that during formal discussions with works councils, management representatives direct their questions and answers to the works-council chair and not to the translator or anyone else attending the meeting. If the works-council chair asks an SME to explain something, the SME should get a “nod” from the management representative before speaking directly to the council chair. The SME should then speak directly to the works-council chair, *not to the translator*. In every case, SMEs must ensure that they do not make any commitment to the works council that the management representative is unable to keep. The management representative is ultimately responsible for the outcome of discussions and for commitments made during formal meetings.

e. If internal management conversations become necessary during a formal meeting, the management representative will ask the works-council chair to allow for a short break. These discussions should be conducted in private to prevent works-council members hearing “bits and pieces” of information that can be taken out of context and relayed to other works-council members.

f. If briefings are planned or required, the briefer should coordinate with the respective labor advisers or human-resources professionals who will be attending the meeting. These officials routinely deal with works-council members and can provide advice on what type of briefing is appropriate; they will also indicate whether or not the briefing needs to be translated into German.

g. Make sure all cell phones are turned off or placed in silent mode during meetings with works councils.

9. HELPFUL HINTS FOR EFFECTIVE NEGOTIATIONS WITH WORKS COUNCILS

a. *Separate the members of the works council from the action.* It is important to keep in mind that members of works councils are people. They are U.S. Forces employees even when they are sitting on the other side of the discussion table. They (like management representatives or anyone else) have emotions, values, different backgrounds, and different viewpoints. They get angry, frustrated, depressed, fearful, hostile, and sometimes highly offended in the course of a discussion. To separate the people of the works council from the action under discussion, the following discussion techniques may be helpful:

(1) Start by presenting your case in a professional manner. Know your subject and present concrete facts (when, what, where, who, and why) precisely, calmly, and without undue emotion. Take the subject seriously and refrain from making lighthearted comments in reply to their questions. Listen carefully to questions and make sure you understand the issue at hand. Do not assume you know the question before you hear it in its entirety. Do not “wing it.” Answer the works council’s questions clearly and to the point. If you do not know the answer to a question they ask, tell them you will try to find out and offer to provide the information later. Do not volunteer to provide information that goes beyond the question and, most importantly, avoid any kind of speculation. (Later questions of the works council may weaken your position.)

(2) When confronted with works-council objections or counterproposals try to avoid a defensive attitude. Instead, listen carefully to what works-council members have to say and try to understand their point of view. Do not hesitate to ask additional questions to clarify an issue.

(3) Be open to all proposals of the works council and show your appreciation for their contributions, whether the proposals are acceptable or not. It is often advisable to be noncommittal at meetings. You can usually consider their proposals and arguments later when the time comes to make a final decision about the action.

(4) Allow the works council to “let off steam.” Do not interrupt, and do not allow an aggressive—or even hostile—works-council member make you lose *your* temper.

(5) Try not to draw negative conclusions when the works council makes a proposal. Hear them out. For example, the works-council proposal not to have a reserved parking policy should not automatically be interpreted to mean that works-council members are not interested in a compromise. In fact, you will often find a negotiated solution that wins the works council’s full support.

(6) Be aware that you also may have to deal with and accept certain works-council perceptions that you may not agree with. Realize that face-saving is a reality in dealing with works councils and that, at times, there may be a hidden agenda that overshadows the declared one. When the discussion gets to this point, continue to focus on the action at hand and gently remind them of the issue. Often the works council will not agree to your proposal in public—not because the proposed action is unacceptable, but to avoid giving the appearance of giving in to management or backing down in front of other council members.

b. Avoid discussing legal opinions and politics. Sometimes works-council members may initiate discussions aimed at bringing underlying concerns and interests of employees to the surface in a public forum. Listen to the works-council’s legal argument or statement and acknowledge it without giving any response.

10. THE HEAD WORKS COUNCIL, USAREUR

An action initiated at the local level may be appealed to the next higher level and, if not resolved, may eventually be elevated for discussion to the level of the highest service authority, HQ USAREUR/7A, where the HWC has been established. The following should help you or your organization if you find yourself attending an HWC meeting as a management representative:

a. The HWC is a body of 31 LN employees. One member of the HWC is elected to be the chair. Three other members are elected to constitute (with the chair) the HWC Executive Committee. The USAREUR representative for SHEs is also part of the HWC.

b. The CG, USAREUR/7A, is the decision authority (also called the highest service authority) for all activities serviced by CHRA-E or the Army and Air Force Exchange Service, Europe. The role of the CG, USAREUR/7A, is established in the Supplementary Agreement to the NATO SOFA and the GPRL, which designate the CG, USAREUR/7A, as the “head of the highest service authority of the U.S. Army in Germany.” In this capacity, the CG, USAREUR/7A, is the final decision-making authority in all matters covered by the GPRL as well as the legal speaking partner of the HWC. The CG, USAREUR/7A, has fully delegated this authority to the Director, Civilian Personnel Directorate (CPD), Office of the G1, HQ USAREUR/7A.

c. The business of the HWC is normally conducted in regular monthly meetings with the Director, CPD, the representative of the highest service authority. The Director, CPD, has authority to direct non-USAREUR activities in Germany to carry out (or not carry out) actions covered by the law.

d. Many members of the HWC are affiliated with German unions and political parties, and the HWC has close ties to the German press and television media.

e. Meetings of the HWC take place at a local facility in or near Heidelberg. The representative of the highest service authority sits directly across from the HWC chair, and the interpreter sits on the representative’s left. Seated on either side are staff members to assist with questions that may come up during the meeting. Invited guests will take their places to the left of the interpreter.

(1) HWC meetings usually start at 0900 and normally take place on a Thursday. As a rule, the HWC chair rings a bell and calls the meeting to order. The chair then welcomes council members and the highest service authority representative and staff, welcoming everyone by name, one by one. The chair then poses a question to the highest service authority representative and normally asks if there is any “new information” that can be provided to the HWC.

(2) Following the presentation of any new management information, the first agenda item is called and the invited representatives and their SMEs are asked to join the discussion on the item and sit at the table. (The HWC chair prefers that everyone sit at the table and introduce all invited guests.)

(3) Discussion of the item begins immediately. The chair determines the length of the discussion. The chair is also the person who decides when the HWC has enough information to make a decision on the matter at hand.

(4) When the discussion comes to an end, the chair will announce the “end of the discussion of the aforementioned agenda item,” thank the attendees, and dismiss them. At that point, that agenda item is concluded and the attendees are expected to get up and leave the room.

11. CONCLUSION

The objective of an effective working relationship between management and the labor representatives is twofold:

a. First, to ensure that actions are taken with the support of the works council, rather than against the desire of the works council.

b. Second, to attempt to reach an agreement between management and the works council that is in the interest of both parties.