

**MODIFIED TEXT* OF GERMAN PERSONNEL REPRESENTATION LAW (GPRL)
OF MARCH 15, 1974
FOR PRACTICAL APPLICATION BY THE U.S. FORCES**

(*NOTE: This text has been composed from the German Personnel Representation Law and the Protocol of Signature regarding article 56(9) of the Supplementary Agreement to the NATO Status of Forces Agreement. Sections and paragraphs of the law that are not pertinent to the Sending States Forces or are affected by the Protocol of Signature have been omitted or reworded as needed for practical application.)

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**FIRST PART
CHAPTER ONE
GENERAL PROVISIONS**

**SECTION 1
Scope of the Law**

Works councils shall be established in administrative units and establishments of the foreign forces and their civilian components in the Federal Republic of Germany.

**SECTION 2
Trade Unions, Works Councils and Agency**

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

(2) In order that the trade unions represented in the agency may perform their duties and exercise their rights as referred to by this law, their representatives will be given access to the agency after the chief of the agency or his deputy has been so informed, unless access to the agency is precluded by absolutely necessary operational requirements, cogent safety provisions, or for security reasons. For security reasons and in accordance with special directives issued by the highest service authority of the force, union representatives may be restricted in their right to enter agencies of the force.

(3) The functions of trade unions, particularly the protection of the interests of their members, shall not be affected by this law.

**SECTION 3
Mandatory Nature of the Legal Provisions**

The right of personnel representation may not be regulated in deviation from this law by tariff agreement

**SECTION 4
Employees**

(1) Employees, within the meaning of this law, shall be salaried employees (*Angestellte*) and wage earners (*Arbeiter*) including employees undergoing vocational training.

(3) Salaried employees, within the meaning of this law, are employees who are so defined by the tariff agreement applicable to the agency or who are employed as salaried employees under overtariff conditions. Employees undergoing training for a salaried employee's occupation also are considered salaried employees.

(4) Wage earners, within the meaning of this law, are employees who are so defined by the tariff agreement applicable to the agency including those who are undergoing vocational training.

(5) The following persons shall not be considered employees within the meaning of this law:

1. Persons whose employment is predominantly based on motives of a charitable or religious nature.
2. Persons who are employed predominantly for their physical healing, rehabilitation, moral improvement, or education.

**SECTION 5
Grouping of Employee**

Salaried employees and wage earners will form one group each.

SECTION 6

Agencies

(1) Agencies, within the meaning of this law, are the individual administrative units and establishments of a force or of a civilian component as set up in the territory of the Federal Republic and defined by the force concerned.

(2) Those headquarters which are administratively immediately subordinate to the highest service authority of the force and to which other agencies are administratively subordinate shall be the intermediate authorities. The highest service authority shall be the headquarters of the force, designated by the sending state concerned, exercising final authority over matters that are subject to works council participation.

(3) Branch offices and parts of an agency that are located at a great geographic distance shall represent independent agencies, if the majority of their employees who are entitled to vote so decide by secret ballot. The decision shall be binding for the subsequent election and the term of office of the works council elected.

SECTION 7

Representation of Agency

The chief of an agency shall act on behalf of the agency. In discussions with the works council, he may be represented by a person holding a responsible position in the management of the agency and authorized to negotiate with the works council to the same extent as the chief of the agency. At highest service authorities, he may designate the chief of the personnel and administrative department, and at intermediate authorities, he may designate the respective department chief to act as his representative. The same applies to other representatives if the works council has agreed to this commission.

SECTION 8

Policy Against Hindrance or Preferential Treatment

Persons exercising functions or rights under this law may not be hindered in doing so and may not be discriminated against or be given preferential treatment because of their function; this applies also to their professional development. The chief of the agency is not required to submit to members of the works council, to the committee referred to in Section 93 of this law and to the conciliatory committee any material which is classified for security reasons; the same applies to information therefrom. In order to perform its duties, the works council may be granted access to secure areas to the extent necessary. Insofar as the regulations of the highest service authority of the force relating to military security preclude or restrict such access, access shall be granted under the same conditions under which civilian labor is allowed access; the same applies to other persons who, in accordance with the provisions of this law, may participate in the meetings of works councils.

SECTION 9

Protection of Employees in Vocational Training

(1) If subsequent to the successful completion of vocational training the employer does not intend to conclude an indefinite employment contract with a member of works council or a youth and apprentices representative who is undergoing vocational training under the vocational training law, he must so inform that person in writing 3 months before completion of the vocational training.

(2) If an employee referred to in (1) above submits a written request for employment to the employer during the last 3 months before completion of vocational training, an indefinite employment contract between the employer and the employee undergoing vocational training will be considered as concluded subsequent to successful completion of the vocational training.

(3) If the vocational training is completed successfully within 1 year after expiration of the term of office of the works council or the youth and apprentices representation, (1) and (2) above also shall apply.

- (4) Within 2 weeks after completion of the vocational training, the employer may request the labor court:
1. To determine that an employment contract shall not be concluded in accordance with (2) and (3) above, or
 2. To dissolve the employment contract already concluded in accordance with (2) and (3) above, if, after full consideration of all circumstances, the employer reasonably cannot be expected to continue the employment. The works council, and in the case of a member of a youth and apprentices representative also the latter, shall be a party in the proceedings before labor court.

(5) Paragraphs (2) through (4) above shall be applied regardless of whether or not the employer has fulfilled his information obligation under (1) above.

**SECTION 10
Obligation to Maintain Secrecy**

(1) Persons who exercise or have exercised functions or rights under this law are forbidden to communicate to anyone any information on official matters and facts known to them on account of their function. Except for Section 68, paragraph (2), sentence 3, and Section 93, the obligation to preserve silence shall not apply to members of the works council and youth and apprentices representation vis-à-vis the other members and for those persons referred to in sentence 1 vis-à-vis the concerned works council; furthermore, it shall not apply vis-à-vis the next higher authority, the works council above the local level established at that authority, and vis-à-vis the joint works council. Sentence 2, this paragraph, also shall apply to the conciliatory committee.

(2) The obligation to preserve silence does not apply to matters or facts that are publicly known or are of a nature not warranting such restriction.

**CHAPTER TWO
WORKS COUNCIL, WORKS COUNCIL ABOVE THE LOCAL LEVEL JOINT WORKS COUNCIL,
PERSONNEL ASSEMBLY
TITLE ONE
ELECTION AND COMPOSITION OF THE WORKS COUNCIL**

**SECTION 12
Establishment of Works Councils**

Works councils shall be established in all agencies that employ as a rule at least five persons who are entitled to vote, of whom three are eligible for office.

**SECTION 13
Entitlement to Vote**

(1) Entitled to vote shall be all employees who, on the day of election, have completed their 18th year of age, unless, by court decision, they do not possess the right to vote on public matters. Employees who, on the day of election, have been on leave without pay for more than six months shall not be entitled to vote.

(2) An employee detailed to another agency shall be entitled to vote in that agency as soon as the detail has exceeded a period of 3 months; at the same time, he shall lose his right to vote at the former agency. This shall not apply to employees who are released from regular duties as members of a works council above the local level or a joint works council. Sentence 1, this paragraph, also shall not apply, if it is certain that the employee will return to his old agency within another period of 6 months.

(3) Employees undergoing vocational training shall be entitled to vote only at their parent agency.

**SECTION 14
Eligibility for Works Council Membership**

(1) Eligible as candidates shall be all employees entitled to vote who, on the day of election

1. Have worked in the area of jurisdiction of their highest service authority for 6 months, and
2. Have been employed with administrative units and establishments of the forces and their civilian components for 1 year.

An employee who, by court decision, does not possess civic rights shall not be eligible as a candidate.

(2) Employees who work regularly less than 18 hours per week shall not be eligible as candidates. The employees referred to in Section 13, paragraph (3), shall not be eligible for election to a works council above the local level.

(3) The persons referred to in Section 7, as well as employees who are authorized to make independent decisions in personnel matters of the agency, shall not be eligible for election to the works council of their agency.

**SECTION 15
Eligibility for Election in Special Cases**

(1) If the highest service authority or the agency has existed less than 1 year, the prerequisite of Section 14, paragraph (1), number 1, shall not apply for eligibility to office.

(2) The prerequisite of Section 14, paragraph (1), number 2, shall not apply where there are not at least five times as many eligible employees of each group as shall be elected under Sections 16 and 17.

**SECTION 16
Number of Works Council Members**

(1) The works council shall consist, in agencies employing as a rule:

Employees Entitled to Vote	Works Council Member
5 to 20	1
21 to 50	3
51 to 150	5
151 to 300	7
301 to 600	9
601 to 1,000	11

The number of members shall be increased, in agencies employing 1,001 to 5,000 persons, by two for each 1,000 employees or part thereof; in agencies employing 5,001 and more persons, by two for each 2,000 employees or part thereof.

(2) The maximum number of members shall be 31.

**SECTION 17
Composition of Works Council**

(1) If members of different groups are employed in the agency, each group must be represented in the works council proportionate to its strength, provided the council consists of at least three members. In the case the groups are of equal strength, decision shall be made by lot. If a group does not make use of its right to be represented in the works council, the group shall lose its claim to representation.

(2) The election committee shall compute the distribution of seats among the groups in accordance with the principles of proportional representation (*Verhältnismahl*).

(3) One group shall be allotted at least:

Members of the Group	Representatives
If less than 51	1
51 to 200	2
201 to 600	3
601 to 1,000	4
1,001 to 3,000	5
3,001 and more	6

(5) A group consisting normally of not more than five employees shall be given a representation only if it comprises at least one-twentieth of the employees of the agency. If such a group is not given a representation but the election is carried out by groups (*Gruppenwahl*), any employees of the group not represented may join the other group by making a statement to that effect to the election committee.

(6) The works council should be composed of representatives of the two job categories.

(7) The sexes should be represented in the works council proportionate to their numbers.

SECTION 18
Deviating Distribution of Seats in the Works Council

(1) The distribution of the members of the works council between the groups may be regulated in deviation from Section 17, provided each group so decides by separate secret ballot before the new election.

(2) For each group, also employees of the other group may be nominated. The elected candidates shall be considered council representatives of the group for which they were nominated. The second sentence shall also apply to alternate members.

SECTION 19
Election Procedure

(1) The works council shall be elected by secret and direct election.

(2) If the works council consists of more than one person, salaried employees and wage earners each shall elect their representatives (Section 17) by separate ballot, unless the employees of each group who are entitled to vote have decided by separate and secret ballot, before the new election, that a joint election will be held. The decision requires the majority of votes of all employees entitled to vote in each group.

(3) The election shall be carried out in accordance with the principles of proportional representation. If only one slate is submitted, election shall be by individual candidates (*Personenwahl*). In agencies where the works council consists of one representative, he shall be elected by simple majority vote. The same applies to an employee group that is entitled only to one representative in the works council.

(4) The employees entitled to vote and the trade unions represented in the agency may submit slates for the election of the works council. Each slate must be signed by at least one twentieth of the number of group employees entitled to vote but not less than a minimum of three employees entitled to vote. In any case, the signature of 50 group employees entitled to vote shall suffice. Employees not eligible for office in accordance with Section 14, paragraph 3 may not submit or sign any slates.

(5) If joint elections have been decided upon, each slate must be signed by at least one twentieth of the employees entitled to vote. Paragraph 4, sentences 3 and 4 shall apply analogously.

(6) If, in the case of a joint election, employees of one group are nominated for the other group, each slate must be signed by a minimum of one tenth of employees entitled to vote of the group for which the candidates are nominated. Paragraph 4, sentence 3 and 4 shall apply analogously.

(7) Any one employee can be nominated on one slate only.

(8) If in an agency a works council does not exist, the trade unions represented in the agency may submit slates for election of the works council. Paragraphs 4 through 6 shall not be applied to these slates.

(9) Each slate of a trade union must be signed by two representatives; the representatives must be employees of the agency and members of a trade union represented in the agency. If doubts exist concerning the representation, the election committee may require the trade union to confirm the representation.

SECTION 20
Appointment of the Election Committee

(1) By no later than eight weeks before the expiration of its term of office, the works council shall appoint three employees entitled to vote as the election committee, and one of them as chairperson. If members of different groups are employed in the agency, each group must be represented in the election committee. If the agency has female and male employees, women and men should belong to the election committee. One representative each of the trade unions represented in the agency is entitled to participate in the meetings of the election committee in an advisory capacity.

(2) If six weeks before the expiration of a works council's term of office no election committee exists, the chief of the agency, on request of at least three employees entitled to vote or on request of a trade union represented in the agency, shall convene a personnel assembly for the election of an election committee. Paragraph (1) above shall apply mutatis mutandis. The personnel assembly shall elect a chairperson of the assembly.

SECTION 21
Appointment of the Election Committee in Agencies Without a Works Council

If a works council does not exist in an agency that meets the prerequisites of Section 12, the chief of the agency shall convene a personnel assembly for the election of an election committee. Section 20, paragraph 2, sentence 3 shall apply mutatis mutandis.

SECTION 22
Appointment of Election Committee by Agency Chief

If no personnel assembly (Section 20, paragraph 2, and Section 21) is held or if the personnel assembly does not elect an election committee, the chief of the agency, on request of at least three employees entitled to vote or on request of a trade union represented in the agency, shall appoint the election committee.

SECTION 23
Tasks of the Election Committee

(1) The election committee shall initiate the election immediately; it should be held after six weeks at the latest. If the election committee does not fulfill this obligation, the chief of the agency, on request of at least three employees entitled to vote or on request of a trade union represented in the agency, shall convene a personnel assembly for the election of a new election committee. Section 20, paragraph 2, sentence 3, and Section 22 shall apply mutatis mutandis.

(2) Immediately after completion of the election, the election committee shall count publicly the number of votes, prepare a protocol on the result of the election, and publish the result on the bulletin board for information of the employees of the agency. The chief of the agency and the trade unions represented in the agency shall receive a copy of the election protocol.

SECTION 24
Protection of Election — Election Costs

(1) No one may obstruct or interfere with the election of a works council in a manner which is contra bonos mores. In particular, no person entitled to vote may be restricted in his right to vote or in his right to be elected. Section 47, paragraphs 1, and 2, sentences 1 and 2 shall apply analogously to members of the election committee and to election candidates.

(2) The costs of the election shall be borne by the agency. Loss of work hours necessitated by voting, attending of personnel assemblies (Sections 20 through 23), or functioning in the election committee, shall not result in loss of salary or wages. Section 44, paragraphs 1, sentence 2, and Section 46, paragraph 2, sentence 2 shall apply analogously to the members of the election committee.

SECTION 25
Challenge of Election

At least three employees entitled to vote, any trade union represented in the agency, or the chief of the agency may contest the election at labor court within a period of twelve workdays from the day of publication of election result, if substantial provisions concerning voting entitlement, eligibility for election, or the election procedure have been violated and no correction has been made, unless such violations could not have altered or affected the election result.

SECTION TWO
TERM OF OFFICE OF THE WORKS COUNCIL

SECTION 26
Begin and Duration of Term of Office

The works council's regular term of office shall be 4 years. The term of office shall begin on the day of election or, if a works council still exists on that day, on the expiration of the term of office of this works council. It shall expire not later than 31 May of the year in which the regular elections of the works councils, in accordance with Section 27, paragraph 1 are held.

SECTION 27
New Elections Prior to the Expiration of the Term of Office

(1) The regular works council elections shall be held every 4 years during the period of 1 March through 31 May.

(2) Outside this period, the works council shall be elected when:

1. After 24 months from the day of election, the number of regularly employed employees has increased or dropped by one-half but at least 50, or

2. The total number of works council members, even though all alternate members have become regular members, has dropped by more than one-fourth of the prescribed number, or

3. The works council has decided to resign by majority vote of its members, or

4. The works council has been disestablished by court decision, or

5. A works council does not exist in the agency.

(3) In the cases of paragraph 2, numbers 1 through 3, the works council shall continue to function until the new works council is elected.

(4) If an employee group in the agency, which has hitherto been represented in the works council, is no longer represented by a member of the works council, this group shall elect new members.

(5) If the election of a works council was held outside the time period established for regular works council elections, the next election of that council shall be held during the next time period for regular works council elections which follows the election of that council. If, at the beginning of the time period for regular works council elections, the term of office of that council has been less than 1 year, the election of that works council shall be held during the next succeeding period for regular works council elections.

SECTION 28

Exclusion of a Works Council Member and Dissolution of the Council

(1) On request of one-fourth of the employees entitled to vote or of a trade union represented in the agency, the labor court may decide to exclude a member from the works council or to dissolve the works council because of gross neglect of legal rights or gross violation of legal obligations. For the same reasons, the works council may request the exclusion of a member. The chief of the agency may request the exclusion of a member from the works council or the dissolution of the works council because of gross violation of legal obligations.

(2) If the works council has been dissolved, the presiding judge of the labor court shall appoint an election committee. It shall initiate a new election without delay. Pending the new election, the election committee shall exercise the rights and duties vested in the works council by virtue of this law.

SECTION 29

Termination of Works Council Membership

(1) Membership in a works council shall end by:

1. Expiration of the term of office.
2. Resignation from office.
3. Termination of the employment contract.
4. Separation from the agency.
5. Loss of eligibility for election.
6. Court decision pursuant to Section 28.
7. Establishment of the fact that the elected person was not eligible for election, after expiration of the time limit in Section 25.

(2) Membership in the works council shall not be affected by a change of the group to which the member belongs; the member shall remain the representative of the group which has elected him.

SECTION 30

(Not applicable to the Sending States Forces)

SECTION 31

Alternate Members

(1) If a member leaves the works council, an alternate member shall take his place. The same applies whenever a member of the works council is temporarily prevented from performing works council functions.

(2) Alternate members shall be taken, one after the other, from among the non-elected employees nominated on the same slates as were the members to be substituted. If the member who leaves the council or who is prevented from performing his functions was elected by simple majority vote, the non-elected employee with the next higher number of votes shall join the works council as alternate member.

(3) Section 29, paragraph 2 shall apply analogously to a change of the group to which the alternate member belongs, before he becomes an alternate member of the works council.

(4) In the case of Section 27, paragraph 2, number 4, no alternate members shall join the works council.

**TITLE THREE
CONDUCT OF BUSINESS OF THE WORKS COUNCIL**

**SECTION 32
Establishment of Executive Committee**

(1) The works council shall form an executive committee from among its members. The executive committee shall consist of one member of each employee group represented in the works council. The representatives of each group shall elect their member of the executive committee. The executive committee shall conduct they daily business of the works council.

(2) By simple majority vote, the works council shall determine which member of the executive committee will take the chair of the works council. At the same time, it shall designate the deputies of the chairperson. In this connection, the group to which the chairperson does not belong must be considered, unless the representatives of that group waive their respective entitlement.

(3) The chairperson shall represent the works council within the scope of the decisions made by the council. In matters that concern only one group, the chairperson, unless he belongs to the same group, shall represent the works council together with a member of the executive committee belonging to that group.

**SECTION 33
Expanded Executive Committee**

If the works council consists of eleven or more members, it shall elect from among its members two additional members into the executive committee by simple majority vote. If members of the works council have been elected from slates with different names and if there are no members of the executive committee from the slate that received the second largest number of votes, but at least one-third of all the votes cast by the employees of the agency, one of the additional executive committee members shall be elected from this slate.

**SECTION 34
Works Council Meetings**

(1) No later than six workdays from the day of election, the election committee shall convoke the members of the works council to hold the prescribed elections and shall chair the meeting until the works council has elected a person in charge of the elections (*Wahlleiter*) from among its members.

(2) The onward meetings shall be scheduled by the chairperson of the works council. He shall establish the agenda and preside over the proceedings. The chairperson shall invite the members of the works council to the meetings in time and inform them of the agenda. Sentence three shall also be applicable to the invitation of severely handicapped employee representatives, members of the youth and apprentices representation, and temporary employee representatives inasmuch as they are entitled to participate in the meeting.

(3) On request of one-fourth of the members of the works council, the majority of the representatives of one group, the chief of the agency, the severely handicapped employee representative in matters that specifically concern handicapped employees, the majority of the members of the youth and apprentices representation in matters which specifically concern employees under Section 57, the chairperson shall convene a meeting and shall place on the agenda the matter the discussion of which has been requested.

(4) The chief of the agency shall participate in meetings that have been scheduled per his request and in meetings to which he has specifically been invited.

**SECTION 35
Closed Sessions and Timing of Meetings**

The meetings of the works council shall not be public; as a rule they shall be held during hours of work. The works council, when scheduling its meetings, shall give due consideration to the operational requirements of the agency. The chief of the agency shall be notified in advance of the time of the meeting.

SECTION 36

Attendance of Trade Union Representatives

On request of one-fourth of the members or of the majority of one group of the works council, a representative of a trade union represented in the works council may attend the meetings in an advisory capacity; in this case, the trade union shall be notified in due course of the time and agenda of the meeting.

SECTION 37

Passing of Resolutions, Quorum

(1) The decisions of the works council shall be made by simple majority vote of the members present. Abstention from voting shall be deemed rejection. In case of parity of votes, a request is disapproved.

(2) A quorum of the works council shall require the presence of at least one half of the council members; deputizing by alternate members shall be permissible.

SECTION 38

Right of Representation

(1) The works council shall jointly deliberate and decide on matters that are of concern to both salaried employees and wage earners.

(2) On matters which concern only one employee group, the matter shall be jointly deliberated in the works council but only the representatives of the group to which the matter is of concern are authorized to render a decision. This shall not apply, however, to a group that is not represented in the works council.

SECTION 39

Veto Suspending Decisions

(1) If the majority of the representatives of one group or the youth and apprentices representation considers a decision of the works council to prejudice seriously the important interests of the employees whom they represent, the decision shall be suspended, on their request, for a time period of six workdays from the date the decision was made. During this period, attempts should be made to reach an agreement; if necessary, assistance may be given by trade unions represented in the works council or in the youth and apprentices representation. The suspension of a decision according to sentence 1 shall not result in the extension of any time period.

(2) After expiration of the time period, a new decision shall be made regarding the matter. If the first decision is confirmed, the request for suspension may not be repeated.

(3) Paragraphs 1 and 2 shall apply analogously when the severely handicapped employee representative considers a decision of the works council to prejudice seriously the important interests of the severely handicapped employees.

SECTION 40

Representatives of Youth and Apprentices, and Temporary Employees

(1) A representative of and nominated by the youth and apprentices representation and the severely handicapped employee representative may participate in all meetings of the works council in an advisory capacity. In discussions of matters that specifically concern the employees named under Section 57, the entire youth and apprentices representation may participate in an advisory capacity. In connection with decisions of the works council that specifically concern employees under Section 57, the youth and apprentices representatives shall be entitled to vote.

(2) The representatives specified in Section 65, paragraph 1 shall participate in an advisory capacity in the discussion of matters that particularly concern the interests of temporary employees.

SECTION 41
Minutes of Meetings

(1) On all discussions of the works council minutes shall be taken which, as a minimum, shall include the wording of the decisions and the number of the majority vote by which they have been rendered. The minutes shall be signed by the chairman and another member. An attendance list signed personally by each participant shall be attached to the minutes.

(2) If the chief of the agency or representatives of trade unions have participated in the meeting, a copy of the appropriate part of the minutes shall be submitted to them. Objections to the minutes shall be made immediately in writing and attached to the minutes.

SECTION 42
Rules of Procedure

Other provisions on the conduct of business may be established in rules of procedure to be decided by the works council by majority vote of its members.

SECTION 43
Office Hours

The works council may arrange office hours to be held during working time. It shall decide on the time and place in agreement with the chief of the agency.

SECTION 44
Costs and Administrative Support

(1) Costs arising from the activities of the works council shall be borne by the agency. In case of duty travel necessary for performance of their duties, members of the works council shall be paid travel expenses pursuant to the tariff provisions governing travel expenses for employees of the Force.

(2) For the meetings, the office hours and the conduct of routine business, the agency shall provide the necessary space, supplies, and office personnel.

(3) Suitable space for announcements and the posting of notices shall be made available to the works council in all agencies.

SECTION 45
Prohibition to Collect Dues

The works council may not collect or accept dues from the employees for its functions.

TITLE FOUR
LEGAL STATUS OF WORKS COUNCIL MEMBERS

SECTION 46
Honorary Function, Time Off, Release From Duty

(1) The members of the works council shall perform their office without remuneration in an honorary capacity.

(2) Loss of working time that is necessary for the orderly performance of works council functions shall not result in a reduction of salaries and wages. If in the performance of their duties, works council members are kept occupied beyond regular work hours, they shall be given an appropriate amount of compensatory time off.

(3) For the orderly performance of their duties, members of the works council shall be released from their regular duty function when necessary, and to the extent required by the size and type of the agency. In connection with the selection of the members to be released, the works council shall first consider the members of the executive committee elected in accordance with Section 32, paragraph 1, after that the additional members of the executive committee elected according to Section 33, and finally further members. In connection with the release of further members, the votes cast for the individual slates shall be considered by applying the "Höchstzahlverfahren" if the works council's election was based on the principles of an election by proportional representation (Section 19, paragraph 3, sentence 1). In doing so, the members of the executive committee released pursuant to sentence 2 have to be deducted from the number of releases authorized per slate. In case of a personal election (Section 19, paragraph 3, sentence 2) the sequence of further members to be released shall be determined by the number of votes cast for them at the works council election. If the members of the groups represented in the works council have been elected partly on the basis of the principle of proportional representation, and partly by personal election, the groups have to be considered according to the number of their members by applying the "Höchstzahlverfahren" if additional persons are to be released. In this case, depending on the election procedure, further releases from within the groups will be determined by analogous application of sentence 3, and in accordance with sentence 4. The release shall not result in the impairment of the professional career.

(4) In accordance with (3) above, the following shall be released full time from their regular duty in agencies employing as a rule:

300	to	600	employees	1	member,
601	to	1,000	employees	2	members,
1,001	to	2,000	employees	3	members,
2,001	to	3,000	employees	4	members,
3,001	to	4,000	employees	5	members,
4,001	to	5,000	employees	6	members,
5,001	to	6,000	employees	7	members,
6,001	to	7,000	employees	8	members,
7,001	to	8,000	employees	9	members,
8,001	to	9,000	employees	10	members,
9,001	to	10,000	employees	11	members.

In agencies with more than 10,000 employees, one additional member shall be released for each additional 2,000 employees or a part thereof. Deviations from sentences 1 and 2 are authorized in agreement between the works council and the chief of the agency.

(5) Works council members who are released full time from their regular duty shall be paid a monthly expense allowance. Works Council members who are released part time, but not less than half of their regular working time, shall be paid one-half of the expense allowance in accordance with sentence 1. The Federal Government determines the amount of the expense allowance by means of a legal ordinance which is not subject to the approval of the Upper House of Parliament (*Bundesrat*).

(6) Works Council members shall be released from duty with continuation of pay for attendance at training and educational courses if they impart knowledge that is necessary for the performance of functions in the works council.

(7) Without prejudice to paragraph 6, each member of the works council, during his regular term of office, shall be entitled to be released from duty with continuation of pay for a total of 3 weeks for attendance of training or educational courses, which are recognized as suitable courses by the Federal Head Office of Political Education. Employees who for the first time assume the office of a works council member and have not been members of the youth and apprentices representation before, shall be entitled to a total of 4 weeks in accordance with sentence 1.

SECTION 47

Protection of Works Council Members in the Case of Terminations by Extraordinary Notice

(1) The termination of members of the works council, who are in an employment status, by extraordinary notice shall require the approval of the works council. If the works council refuses its approval or does not comment within 3 workdays after receipt of the request, the labor court may, on request of the chief of the agency, grant approval in place of the works council if taking all the circumstances into account, the termination of employment with extraordinary notice is justified. In the proceedings before the labor court, the employee concerned shall be a party to the proceedings.

(2) The involuntary transfer or detail of members of the works council is not authorized unless necessary for important official reasons, and also in consideration of the works council membership. Reassignment within the same agency connected with a change of the permanent duty station also shall be considered a transfer within the meaning of sentence 1. The commuting area, within the meaning of the legal ordinance on moving expenses, shall be considered to belong to the duty station. The transfer or detail of works council members shall require the approval of the works council.

(3) Paragraphs 1 and 2 and Sections 15 and 16 of the Law on Protection From Notice of Termination of Employment shall not apply to employees undergoing vocational training; paragraphs 1 and 2 also shall not apply in the case of transfer or detail of these employees to another agency after completion of the vocational training. The works council membership of employees referred to in sentence 1 shall be suspended without prejudice to Section 29 for the time they are transferred or detailed to another agency in accordance with the requirements of their training.

TITLE FIVE PERSONNEL ASSEMBLY

SECTION 48 Composition, Chair, Partial Assembly

(1) The personnel assembly shall consist of the employees of the agency. The chairperson of the works council shall preside over the assembly. It is not public.

(2) Partial assemblies shall be conducted, if a joint assembly of all employees cannot be held because of operational requirements.

SECTION 49 Ordinary and Extraordinary Personnel Assemblies

(1) Once in every 6 calendar months the works council shall present an activity report in a personnel assembly.

(2) The works council shall be entitled and, on request of the chief of the agency or of one-fourth of the employees entitled to vote, be required to convene a personnel assembly and to place the subject requested for discussion on the agenda.

(3) On request of a trade union represented in the agency, the works council shall convene a personnel assembly pursuant to paragraph 1 before 12 workdays after receipt of the request have expired if no personnel assembly or no partial assemblies were held within the preceding 6 calendar months.

SECTION 50 Personnel Assembly and Work Time

(1) The personnel assemblies mentioned in Section 49, paragraph 1 and those convened on request of the chief of the agency shall be held during hours of work unless operational requirements necessitate another arrangement. Participation in personnel assemblies shall not result in a reduction of salaries and wages. Inasmuch as in the cases of sentence 1, for duty reasons, personnel assemblies must be conducted after duty hours, the participants shall be granted a corresponding amount of compensatory time off. Travel expenses resulting from attendance of personnel assemblies in accordance with sentence 1 shall be reimbursed in accordance with tariff provisions governing travel expenses for civilian employees of the Force.

(2) Other personnel assemblies shall be held outside hours of work. Deviation from this provision shall be permissible in agreement with the chief of the agency.

SECTION 51
Competence of Personnel Assembly

The personnel assembly may submit proposals to the works council and may give its opinion on the council's decisions. The assembly shall be entitled to discuss all matters that directly concern the agency or its employees, particularly tariff and social matters as well as questions concerning the development of women and the compatibility of family and job. Section 66, paragraph 2, and Section 67, paragraph 1, sentence 3, shall apply analogously to the personnel assembly.

SECTION 52
Attendance of the Agency Chief and Trade Union Representatives

(1) Representatives of all the trade unions represented in the agency shall be entitled to participate in the personnel assembly in an advisory capacity. The works council shall inform the trade unions referred to in sentence 1 that a personnel assembly has been convened. A designated member of the works council above the local level or of the joint works council, as well as a representative of the authority where a works council above the local level exists, may participate in the personnel assembly.

(2) The chief of the agency may participate in the personnel assembly. He shall participate in assemblies that have been convened on his request or to which he has specifically been invited.

TITLE SIX
WORKS COUNCILS ABOVE THE LOCAL LEVEL AND JOINT WORKS COUNCILS

SECTION 53
Establishment of Intermediate Level Works Councils

(1) For the area of jurisdiction of commands with several levels of administration, district works councils shall be established at the intermediate command authorities and head works councils at the highest service authorities.

(2) The members of the district works council shall be elected by the employees working within the scope of jurisdiction of the intermediate command authority, whereas the members of the head works council shall be elected by the employees working within the scope of jurisdiction of the highest service authority.

(3) Sections 12 through 16; Section 17, paragraphs 1, 2, 6, and 7; Sections 18 through 21; and Sections 23 through 25 shall apply analogously. Section 14, paragraph 3 shall apply only to employees of the authorities at which the works council above the local level is to be established. No personnel assembly shall be held for the appointment of the district or head election committee. Instead, the chief of the authority at which the works council above the local level is to be established shall exercise the right of appointing the election committee pursuant to Section 20, paragraph 2, and Sections 21 and 23.

(4) If in a command the local works councils and the works councils above the local level are elected simultaneously, the election committees existing at the various agencies shall carry out the election for the works councils above the local level on behalf of the district or head election committee; otherwise, on request of the district or head election committee, the works councils or, if none exists, the chiefs of the various agencies shall appoint the local election committees for the election of works councils above the local level.

(5) Each employee group shall be given at least one representative in the works council above the local level. If the works council above the local level consists of more than nine members, each employee group shall be given at least two representatives. Section 17, paragraph 5 shall apply analogously.

SECTION 54
Term of Office, Conduct of Business, Expense Allowance

(1) Sections 26 through 39, Section 40, paragraph 1, Sections 41, 42, 44, and 45, Section 46, paragraphs 1 through 3 and 5 through 7, and Section 47 shall apply analogously to the works councils above the local level unless otherwise regulated in paragraph 2.

(2) Section 34, paragraph 1 shall apply with the proviso that the members of the works council above the local level shall be convoked to hold the prescribed election not later than 12 workdays after the day of election.

SECTION 55
Establishment of a Joint Works Council

In the cases of Section 6, paragraph 3, a joint works council shall be established in addition to the individual works councils.

SECTION 56
Election, Term of Office, Conduct of Business

Section 53, paragraphs 2 and 3 and Section 54, paragraph 1, first half of sentence 1, shall apply analogously to the joint works council.

CHAPTER THREE
YOUTH AND APPRENTICE REPRESENTATION AND YOUTH AND APPRENTICE ASSEMBLY

SECTION 57
Establishment of Youth and Apprentices Representations

Youth and apprentice representations shall be established in agencies having works councils and employing, as a rule, at least five employees under 18 years of age (juvenile employees) or under 25 years of age who undergo vocational training.

SECTION 58
Entitlement to Vote and Eligibility for Election

(1) Entitled to vote are all employees referred to in Section 57. Section 13, paragraph 1 shall apply analogously.

(2) Employees who on the date of election are not yet 26 years of age shall be eligible for election. Section 14, paragraph 1, sentence 1, number 1, sentence 2, and paragraphs 2 and 3 shall apply analogously.

SECTION 59
Size of the Youth and Apprentices Representation

(1) The youth and apprentice representation shall consist in agencies employing as a rule:

Employees Referred to in Section 57	Youth Representative
5 to 20	1
-21 to 50	3
-51 to 200	5
-201 to 300	7
-301 to 1,000	11
-More than 1,000	5

(2) The youth and apprentice representation should be composed of employees referred to in Section 57 of the agency representing the various job categories of the agency.

(3) The sexes should be represented in the youth and apprentice representation in proportion to their numerical strength.

SECTION 60

Election and Term of Office of the Youth and Apprentices Representation

(1) The works council shall appoint the election committee and its chairperson. Section 19, paragraphs 1, 3, and 4, sentence 1, and paragraphs 5, 7 and 9; Section 20, paragraph 1, sentence 3, Section 24, paragraph 1, sentences 1 and 2, and paragraph 2, and Section 25 shall apply analogously.

(2) The regular term of office of the youth representation shall be two years. It starts on the day of election or, if a youth and apprentices representation still exists at this time, with the expiration of its term of office. The regular elections of the youth and apprentices representation shall be held every two years during the period of 1 March through 31 May. The term of office shall expire not later than 31 May of the year during which the regular elections of the youth and apprentices representation are conducted in accordance with sentence 3. Section 27, paragraph 2, numbers 2 through 5, and paragraphs 3 and 5 shall apply analogously to the election of the youth and apprentices representation outside this period of time.

(3) If a youth and apprentices representation consists of three or more members, it shall elect a chairperson and his deputy from among its members.

(4) Sections 28 through 31 shall apply analogously.

SECTION 61

Competence of the Youth and Apprentice Representation

(1) General tasks of the youth and apprentices representation are:

1. To propose actions to the works council that are for the benefit of the employees referred to in Section 57, particularly in matters of vocational training.

2. To ensure that the laws, regulations, provisions for accident prevention, collective tariff agreements, shop agreements, and administrative instructions that are in force for the benefit of the employees referred to in Section 57 are implemented.

3. To receive proposals and grievances from employees referred to in Section 57, particularly in matters concerning vocational training, and, if they appear justified, to see that the works council works for their redress; the youth and apprentice representation shall inform the employees referred to in Section 57 concerning the status and the result of the negotiations.

(2) The cooperation of the youth and apprentices representation with the works council shall be governed by Section 34, paragraph 3, and Sections 39 and 40, paragraph 1.

(3) To enable it to carry out its functions, the works council shall keep the youth and apprentices representation informed fully and in due time. The youth and apprentices representation may request the works council to make available all documents necessary for the performance of its functions.

(4) In accordance with Section 66, paragraph 1 the works council shall call in the youth and apprentice representation to the discussions between the chief of the agency and the works council if matters are to be discussed that specifically concern employees referred to in Section 57.

(5) After informing the works council, the youth and apprentice representation may conduct meetings; Section 34, paragraphs 1 and 2, shall apply analogously. A works council member designated by the works council may participate in the meetings of the youth and apprentice representation.

SECTION 62

Other Provisions That Apply Analogously

Sections 43 through 45 Section 46, paragraphs 1, 2, and 3, sentences 1 and 6, and paragraphs 6 and 7; and Section 67, paragraph 1, sentence 3, shall apply analogously to the youth and apprentices representation. Section 47 shall apply analogously with the proviso that the extraordinary notice for termination of employment, the transfer, and the detail of members of the youth and apprentices representation shall require the approval of the works council. Section 47, paragraphs 1 and 2, sentences 1 and 2, shall apply analogously to members of the election committee and candidates.

**SECTION 63
Youth and Apprentices Assembly**

The youth and apprentice representation shall conduct a youth assembly once every calendar year. If possible, it shall be held immediately before or after an ordinary personnel assembly. The chairperson of the youth and apprentices representation shall preside over the assembly. The chairperson of the works council or another member designated by the works council should participate in the youth and apprentices assembly. The provisions concerning personnel assemblies shall be applied analogously. In addition to the youth assembly referred to in sentence 1, another assembly, not convened on the request of the chief of the agency, may be held during working time.

**SECTION 64
Youth and Apprentices Representations at the Intermediate Level**

(1) For the area of jurisdiction of commands with several levels of administration and where works councils above the local level exist, district youth and apprentice representations shall be established at the intermediate command authorities and head youth and apprentice representations at the highest service authorities. Section 53, paragraph 2 and 4, and Sections 57 through 62 shall apply analogously to youth and apprentice representations above the local level.

(2) In the cases of Section 6, paragraph 3 a joint youth and apprentices representation shall be established in addition to the individual youth and apprentice representations. Paragraph 1, sentence 2 shall apply analogously.

**CHAPTER FOUR
REPRESENTATION OF TEMPORARY EMPLOYEES**

**SECTION 65
Representation of Temporary Employees**

(1) If, during the works council's term of office, the number of employees increases temporarily by more than 20 employees who probably will only be employed for a period of at most six months, the temporary employees shall elect by secret ballot

Temporary Employees				Representative
for	21	to	50	1
for	51	to	100	2
more than			100	3

The works council shall appoint the election committee and its chairperson. For the rest, the provisions of Section 13, paragraph 1; Section 14, Section 17, paragraphs 6 and 7, Section 19, Section 24, paragraph 1, sentences 1 and 2, and paragraph 2; and Section 25 shall apply to the election of these representatives, with the exception of the provisions governing the length of employment in the area of jurisdiction of the highest service authority and with administrative units and establishments of the forces and their civilian components.

(2) The term of office of the representatives referred to in paragraph 1 shall end upon the expiration of the time period scheduled for the employment of the temporary employees or when the prerequisites for their election cease to exist. Section 26, sentence 2, Section 27, paragraph 2, numbers 2 through 4, and paragraph 3, and Sections 28, 29, and 31 shall apply analogously.

(3) Sections 43 through 45, Section 46, paragraphs 1, 2, and 3, sentence 1, and Section 67, paragraph 1, sentence 3, shall apply analogously to the representatives referred to in paragraph 1.

(4) The representatives referred to in paragraph 1 shall participate in the works council meetings in accordance with Section 40, paragraph 2.

**CHAPTER FIVE
PARTICIPATION OF THE WORKS COUNCIL
TITLE ONE
GENERAL PROVISIONS**

**SECTION 66
Monthly Discussions, Peace at the Agency**

(1) The chief of the agency and the works council shall meet at least once each month for discussion. At these meetings, among other things, the organization of operations, and particularly all matters essentially affecting the employees, shall be discussed. On questions in dispute, both parties shall negotiate in good will to achieve agreement and make proposals for the settlement of controversies.

(2) The agency and the works council shall refrain from any action that may cause disturbance of work and peace at the agency. In particular, the agency and the works council shall refrain from any industrial actions against each other. Labor disputes between parties eligible for collective bargaining shall not be affected by this provision.

(3) Appeals to authorities outside the agency may be made only if agreement within the agency could not be reached.

**SECTION 67
General Policies**

(1) The agency and the works council shall ensure just and fair treatment of all employees in the agency and, in particular, that there is no discrimination against employees because of descent, creed, nationality, origin, political or union activities or views, or sex. In this connection, they must conduct themselves in such a manner that the confidence of the employees in their impartiality and neutrality when carrying out their functions is not affected. Within the agency, both the chief of the agency and the works council shall refrain from any partisan political activities; the dealing with tariff and social matters shall not be affected hereby.

(2) Employees carrying out functions under this law also shall not be restricted within the agency in activities for their trade union.

(3) The works council shall stand up for the protection of the employees' freedom to organize.

**SECTION 68
General Tasks**

(1) General tasks of the works council are:

1. To propose actions that serve the agency and its employees.
2. To ensure that the applicable laws, regulations, collective tariff agreements, shop agreements, and administrative instructions that are for the benefit of the employees are observed.
3. To receive proposals and grievances from employees and, if they appear justified, to work for their redress through negotiation with the chief of the agency.
4. To promote the integration and vocational development of the severely handicapped and of other persons needing protection, particularly elderly persons.
5. To propose measures for the vocational development of the severely handicapped.

6. To promote the integration of foreign employees into the agency and the understanding between them and the German employees.

7. To work closely together with the youth and apprentices representation for the purpose of promoting the interests of the employees referred to in Section 57.

(2) For the purpose of carrying out its function, the works council shall be informed comprehensively and in due time. The records and documentation necessary for the accomplishment of their functions shall be provided to the works council unless they are classified for security reasons. Official personnel folders may be examined only with the consent of the concerned employee, and only by members of the works council designated by the employee. Performance appraisals shall be presented to the works council at the request of the employee.

TITLE TWO TYPES AND PROCEDURES OF CODETERMINATION AND COOPERATION

SECTION 69 Codetermination Procedure

(1) If an action is subject to the works council's codetermination, it may only be taken with the council's concurrence.

(2) The chief of the agency shall inform the works council of the planned action and request its concurrence. The works council may demand that the chief of the agency justifies the planned action; except in personnel matters the works council, in addition, may demand a written rationale. The decision of the works council on the requested concurrence shall be conveyed to the chief of the agency within 10 workdays. In urgent cases the chief of the agency may reduce this period to 3 workdays. The action shall be considered approved if the concurrence is not refused in writing by the works council within the specified period, by stating the reasons. If complaints and allegations of a factual nature are made in this connection that adversely affect an employee or may be of disadvantage to him, the employee shall be given the opportunity to comment; the comments shall be made a matter of record.

(3) If no agreement is reached, the chief of the agency or the works council may submit the matter through official channels within 6 workdays to the higher authorities where works councils above the local level exist. Paragraph 2 shall apply analogously. If, in accordance with sentence 1, this paragraph, the chief of the agency submits the matter to the higher authority, he shall inform the works council by stating his reasons.

(4) If the highest service authority and the works council established at its level cannot reach an agreement, the conciliatory committee (Section 71) shall decide; in the matters of Section 77 paragraph 2, it determines whether or not a reason for nonconcurrence exists. The conciliatory committee shall decide within two months of the declaration of one of the parties requesting a decision of the conciliatory committee. In the matters of Section 76, the conciliatory committee passes a recommendation to the highest service authority if it does not concur with the opinion of the highest service authority. After that, the highest service authority makes a final decision.

(5) In the case of actions that, because of their nature, cannot be postponed, the chief of the agency may make preliminary arrangements pending the final decision. He shall inform the works council of the preliminary arrangement, justify it, and initiate or continue the procedure pursuant to paragraphs 2 through 4 without delay.

SECTION 70 Works Council's Right To Take the Initiative

(1) If the works council requests an action that is subject to codetermination according to Section 75, paragraph 3 numbers 1 through 6 and 11 through 17 (except 13), it shall propose such action in writing to the chief of the agency. If the latter does not consent to the request, the subsequent procedure is governed by Section 69, paragraphs 3 and 4.

(2) If the works council requests an action that is subject to codetermination according to provisions other than those in paragraph 1, it shall propose it in writing to the chief of the agency. If the latter does not

consent to the request, the subsequent procedure is governed by Section 69, paragraph 3; the highest service authority shall make the final decision.

SECTION 71 Conciliatory Committee

(1) The conciliatory committee shall be established at the highest service authority. It shall consist of two members, one to be appointed by the highest service authority and one by the appropriate works council of that authority, as well as an impartial chairperson to be agreed upon by both sides. If no agreement can be reached on the chairperson, the appointment shall be made by the Secretary General of NATO, unless the parties jointly request the President of the Federal Administrative Court or the Secretary General of the Western European Union to make the appointment. The highest service authority may insist upon the members of the conciliatory committee being cleared to handle classified material. At the request of the force or works council concerned, in appropriate circumstances, standing or ad hoc conciliatory committees may be established.

(2) The proceedings shall not be public. The highest service authority and the appropriate works council shall be given the opportunity to state their views orally. In agreement with the parties concerned, such views may be stated in writing.

(3) The conciliatory committee shall decide by resolution. It may meet the requests of the parties concerned only in part. Resolutions shall be passed by majority vote. Conciliatory committee decisions shall be within the framework of current legal provisions, including the budgetary laws and regulations of the sending State, binding upon the highest service authority of the force.

(4) The resolution shall be delivered to the parties concerned. It shall be binding on the parties concerned, apart from cases of Section 76, to the extent that it contains a decision within the meaning of paragraph 3.

SECTION 72 Cooperation Procedure

(1) When decisions are subject to the works council's cooperation, a planned action, before its implementation, shall be discussed with the council in time and in detail to reach an understanding.

(2) If there is no response from the works council within 10 workdays or, if on discussions, the council does not maintain its objections or proposals, the planned action shall be considered approved. If the council raises objections, it shall inform the chief of the agency of the reasons. Section 69, paragraph 2, sentence 6 shall apply analogously.

(3) If the agency does not, or not fully, meet the works council's objections, it shall notify the works council of the decision in writing by stating the reasons.

(4) Within 3 workdays from receipt of the notification, the works council may refer the matter through official channels to the higher authorities where works councils above the local level exist and request a decision. These authorities shall decide after negotiations with the works council that exist at their level. The works council shall furnish a copy of its request to its agency.

(5) If a request pursuant to paragraph 4 has been made, the planned action shall be suspended until receipt of a decision from the higher authority.

(6) Section 69, paragraph 5, shall apply analogously.

SECTION 73 Shop Agreements

(1) Shop agreements are authorized only insofar as they are expressly provided for in this law. They shall be concluded jointly between the agency and the works council; they shall be established in writing, signed by both parties, and published in suitable manner.

(2) Shop agreements that apply to a larger area shall take precedence over shop agreements that apply to smaller areas.

**SECTION 74
Implementation of Decisions; Prohibition of Unilateral Actions**

(1) Decisions in which the works council has participated shall be implemented by the agency unless agreed otherwise in individual cases.

(2) The works council may not interfere with the agency's operations by unilateral actions.

**TITLE THREE
MATTERS SUBJECT TO WORKS COUNCIL PARTICIPATION**

**SECTION 75
Codetermination in Personnel and Social Matters**

(1) In personnel matters concerning salaried employees and wage earners, the works council shall codetermine (except numbers 1 and 2) with regard to the following items:

1. Appointment. The cooperation procedure shall apply in this case.
2. Assignment of higher or lower level duties, upgrading or downgrading, and initial grading. The cooperation procedure shall apply in this case.
3. Transfer to another agency or reassignment within the agency, if it is connected with a change of the permanent duty station (the commuting area within the meaning of the legal ordinance on moving expense shall be considered to belong to the duty station).
4. Detail for a period of more than 3 months.
5. Extension of employment beyond the retirement age.
6. Instructions which restrict the employee's free choice of domicile.
7. Denial or withdrawal of approval for a second employment.

(2) In social matters the works council shall codetermine with regard to the following items:

1. Granting of welfare support, advance payments, loans, and corresponding social allowances.
2. Assignment and cancellation of quarters that are at the disposal of the agency as well as establishment of conditions for their use.

If an employee has applied for a benefit pursuant to item 1, the works council shall participate only on his request; on request of the employee; only the executive committee of the works council shall codetermine. The agency shall, after the end of each calendar quarter, submit a summary to the works council of the support compensation and corresponding social allowances granted. In this summary, requests and payments made shall be compared. Information as to the reason stated by the applicants shall not be disclosed in such a summary.

(3) The following matters (except number 13) shall be subject to the works council's codetermination, if appropriate, by the conclusion of shop agreements, to the extent they are not regulated by law or tariff agreement.

1. Establishment of the beginning and end of daily work hours and breaks; distribution of work hours over individual weekdays.

2. Time, place, and method of payment of salaries and wages.
3. Setting up the leave plan, scheduling the time periods for annual leave of individual employees if no agreement has been reached between the agency chief and the employees concerned.
4. Questions regarding the wage structure within the agency, particularly the establishment of principles governing pay, the introduction and application of new pay methods and the changes thereof, as well as the determination of piece work and premium rates and corresponding remuneration based on performance, including money factors.
5. Establishment, management and dissolution of social facilities regardless of their legal nature. The right of codetermination in this matter shall only apply to social facilities maintained exclusively for civilian labor.
6. Implementation of vocational training for salaried employees and wage earners.
7. Selection of employees for participation in advanced training activities.
8. Contents of personnel questionnaires for employees. Insofar as the contents of personnel questionnaires for salaried employees and workers concern questions of military security, the cooperation procedures shall apply instead of codetermination.
9. Procedures for employee performance appraisals.
10. Appointment of confidential doctors or work physicians as employees.
11. Measures to prevent on-the-job accidents and other damages to health.
12. Principles for the evaluation of accepted suggestions within the scope of the agency's suggestion program.
13. Establishment of social plans including retraining plans for the compensation or mitigation of financial disadvantages caused by rationalization measures. The cooperation procedure shall apply in the case.
14. Determination not to advertise vacancies that shall be filled.
15. Regulations concerning good order within the agency, and conduct of employees.
16. Layout of the workplaces. The right of codetermination shall not apply where members of both the force or the civilian component and civilian labor are employed in the same facility or involved in the same program, and the number of civilian labor does not predominate.
17. Introduction and application of technical means designed to control the conduct or the performance of employees.

(4) If, because of requirements that cannot be foreseen by the agency, the daily work hours (paragraph 3 number 1) for certain groups of employees must be determined irregularly and at short notice, the works council's codetermination is limited to laying down the principles that will govern establishment of duty schedules, particularly for the ordering of standby time, additional work, and overtime.

(5) To the extent that matters are regulated by law or tariff agreement, or are usually regulated in accordance with sub-paragraph (a) of paragraph 5 of Article 56, Agreement to Supplement the NATO Status of Forces Agreement, they are not subject to codetermination.

(6) Insofar as in individual cases the right of codetermination provided for in the Law is incompatible with military interests particularly worthy of protection, the extent of the right of codetermination may be restricted. The highest service authority shall communicate in writing the reasons for the restriction on the right of codetermination and shall specify the extent of such restriction. Where the disclosure of reasons

would cause a danger of serious detriment to the security of the sending State or its force, the highest service authority may establish this by means of a formal declaration to be confirmed by the President of the Federal Labor Court.

(7) In those cases where the rights of codetermination are not applicable by virtue of subparagraph (a), paragraph 6 of the Protocol of Signature of the Agreement to Supplement the NATO Status of Forces Agreement reference Article 56, paragraph 9 the cooperation procedure shall apply.

SECTION 76 Codetermination in Other Matters

(2) The works council shall codetermine in the following matters, if appropriate by concluding shop agreements, if they are not regulated by law or collective tariff agreement, with deviations as indicated:

5. Measures for improvement of work performance and simplification of work flow. The cooperation procedure shall apply in this case.

6. General matters concerning advanced training of employees.

7. Introduction of basically new working methods. The cooperation procedure shall apply in this case.

8. Issue of guidelines for the selection of personnel in case of appointments, transfers, regradings, and notices of termination of employment.

9. Claims for compensation of damages against an employee.

In cases of number 9 above, the works council shall codetermine only upon request of the employee; the latter shall be informed in advance and in due time of the planned action.

(3) The provisions listed in Section 75, paragraphs 5 through 7 shall apply analogously.

SECTION 77 Special Provisions for Specific Groups of Employees, Catalogue of Reasons for Non-concurrence

(1) In personnel matters of the employees referred to in Section 14, paragraph 3, and of employees performing work of a predominantly scientific or artistic nature, the works council, pursuant to Section 75, paragraph 1 shall codetermine or cooperate only on their request.

(2) The works council may refuse to concur in the matters of Section 75, paragraph 1, if:

1. The action constitutes a violation of a law, and ordinance, a provision of a tariff agreement, a court decision, an administrative instruction, or a guideline within the meaning of Section 76, paragraph (2), number 8.

2. Anxiety exists, justified by facts, that the action will be of disadvantage to the employee concerned or other employees without this being justified for operational or personnel reasons.

3. Anxiety exists, justified by facts, that the employee's or the applicant's antisocial or illegal conduct will disturb the peace in the agency.

SECTION 78 Cooperation

(1) The works council shall cooperate in the following matters:

1. Preparation of administrative instructions of an agency on internal matters of social and personal concern to the employees within its area. The head of the agency shall submit administrative instructions to

the works council prior to their being issued, except in circumstances in which Section 72, paragraph 6 applies in conjunction with Section 69, paragraph 5.

2. Deactivation, reduction in strength, relocation, or merger of agencies, or major parts thereof.

(3) Before submission of manpower requirements in connection with the budget estimate, the works council shall be heard. If the works council of a subordinate agency gives its comments on manpower requirements, they shall be sent to the next higher authority together with the manpower requirements. This shall apply analogously to personnel planning.

(4) Paragraph 3 shall apply analogously to the construction of new offices, alterations, and expansions thereof.

(5) The works council shall be heard before basic changes of working systems and work flows.

SECTION 79

Cooperation in Connection With Notices of Termination

(1) The works council shall cooperate in the case of ordinary notice of termination of employment given by the employer. The works council may raise objections to the notice of termination of employment if, in the council's opinion:

1. Social aspects were not at all or not sufficiently taken into account in the selection of the employee subject to the notice of termination of employment.

2. The notice of termination of employment violates directives within the meaning of Section 76, paragraph 2, number 8.

3. The employee subject to a notice of termination of employment can be employed in another position within the same agency or in another agency of the same Sending State within the same duty station including its commuting area.

4. The continued employment of the employee is possible after reasonable actions of vocational retraining or further training or

5. The continued employment of the employee is possible under changed employment conditions and the employee has agreed to this.

If the employee is given notice of termination of employment, although the works council, pursuant to sentence 3 above, has raised objections to it, the employee shall receive a copy of the works council's comments together with the notice of termination of employment, unless the works council above the local level does not uphold the objections in the proceedings under Section 72, paragraph (4), sentence 2.

(2) If the employee, in case of paragraph 1, sentence 4 above, has, under the Law on Protection From Notice of Termination of Employment, initiated action for a declaratory judgment (*Feststellungsklage*) that the employment is not terminated by the termination notice, the employer must, on request of the employee, continue his employment after the expiration of the notice period under unchanged same employment conditions until the final, legally binding conclusion of the lawsuit. On request of the employer, the labor court may release him by means of an injunction (*Einstweilige Verfügung*) from the obligation to continue employment pursuant to sentence 1, if

1. The employee's lawsuit does not have sufficient chances of success or appears to be malicious, or

2. The continued employment of the employee would result in an unreasonable financial burden for the employer or

3. The works council's objections obviously were unjustified.

(3) Before extraordinary notices of termination of employment, the works council shall be heard. The chief of the agency shall justify the proposed action. If the works council has any objections, it shall inform the chief of the agency of them immediately but not later than within 3 workdays, in writing by stating the reasons.

(4) A notice of termination of employment shall have no effect if the works council has not been involved.

SECTION 80

Participation in Tests

A member of the appropriate works council as designated by the council may attend, in an advisory capacity, examinations conducted by the agency for its employees.

SECTION 81

Participation in Industrial Safety

(1) The works council shall, in the prevention of hazards that may cause accidents or damage to health, assist the authorities responsible for safety measures, the carriers of statutory accident insurance, and the other authorities concerned by making suggestions, giving advice and information, and promoting the implementation of the provisions for safety measures and accident prevention in the agency.

(2) In all inspections and questions connected with safety measures or accident prevention and investigations of accidents, the chief of the agency and the authorities mentioned in paragraph 1 shall be required to consult with the works council or members appointed by the council who are employed in the agency in which the inspection or investigation takes place unless regulations regarding military security or discipline exclude the presence of works council members. The chief of the agency shall inform the works council immediately of the requirements and instructions of the authorities mentioned in paragraph 1 concerning safety measures and accident prevention.

(3) Works council members appointed by the works council shall participate in meetings between the chief of the agency and the safety inspectors or safety committee in accordance with Section 719, paragraph 3 of the Reich Insurance Ordinance (*Reichsversicherungsordnung*).

(4) The works council shall receive the minutes of the investigations, inspections, and discussions in which it is to be consulted under paragraphs 2 and 3.

(5) The chief of the agency shall submit to the works council a copy of the accident report to be signed by the works council pursuant to Article 1552, Reich Insurance Ordinance.

TITLE FOUR

PARTICIPATION OF WORKS COUNCILS ABOVE THE LOCAL LEVEL AND THE JOINT WORKS COUNCIL

SECTION 82

Participation of the Intermediate Level Works Councils

(1) Instead of the local works council, the works council above the local level established at the appropriate higher authority shall participate in matters which the local agency is not authorized to decide.

(2) Before making a decision in matters that concern individual employees or agencies, the works council above the local level shall give the works council an opportunity to comment. The time limits established in Sections 69 and 72 shall double in this case.

(3) Paragraphs 1 and 2 shall apply analogously to the distribution of responsibilities between the local works council and the joint works council.

(4) Sections 69 through 81 shall apply analogously to the rights and duties of the works councils above the local level and the joint works council.

**CHAPTER SIX
COURT DECISIONS**

**SECTION 83
Court Actions**

(1) Besides the cases referred to in Sections 9, 25, and 28, and 47, paragraph 1, the Labor Courts, and in the third legal instance the Federal Labor Court, shall decide on:

1. Eligibility to vote and eligibility for election.
2. Election and term of office of works councils and of the representatives referred to in Sections 57 and 65, as well as the composition of works councils and youth and apprentices representations.
3. Competence, conduct of business, and legal status of works council and representatives mentioned in Sections 57 and 65.
4. Existence or nonexistence of shop agreements.

(2) The provisions of the Labor Court Law concerning the degree procedure (*Beschlussverfahren*) shall apply. The Federal Republic shall act in the court proceedings in the name of a force or a civilian component, upon their request.

**CHAPTER SEVEN
PROVISIONS FOR SPECIFIC ORGANIZATIONS AND THE HANDLING OF CLASSIFIED MATERIAL**

**SECTION 92
Special Provisions for Ministry of Defense Area of Responsibility**

In lieu of Section 62, paragraph 5, the following provisions shall apply within the area of responsibility of the Ministry of Defense.

1. When an agency at which no works council participation is provided for takes personnel and social measures affecting employees of an agency not subordinate to it, agreement will be reached first between the agencies involved and then the chief of the affected agency shall give his works council the right of participation.

2. When an agency at which no works council above the local level is provided for establishes committees to prepare decisions pursuant to Section 75, paragraph 2, sentence 1, number 2, and paragraph 3, number 5 which have an effect on other agencies, the agency shall discuss the planned action with a member of the council at the next higher authority of the two agencies referred to. This member shall be designated by the council at the next higher authority. Number 1 shall not be applied.

**SECTION 93
Classified Matters**

(1) If a matter subject to works council participation is classified for security reasons, a committee shall take the place of the works council. The committee shall consist, as a maximum, of one representative of each group represented in the council and elected by corresponding application of Section 32, paragraph 1. The committee members must be cleared to handle classified material. Works councils at agencies subordinate to intermediate authorities shall not establish a committee; instead, the committee of the district works council shall take its place.

(2) If the appropriate committee is not established in time, the committee of the highest service authority shall participate in the matter.

(3) In the case of 1, sentence 1 above, the members of the conciliatory committee (Section 71) and its chairperson must be cleared to handle classified material.

(4) Sections 40, 82, paragraph 2; and the provisions of Sections 36 and 39, paragraph 1, governing the participation of the trade unions shall not be applicable. Matters classified for security reasons shall not be discussed in the personnel assembly.

(5) In the case of paragraph 1, sentence 1, the chief of an agency shall not be required to submit to the members of the works council, the committee, or the conciliatory committee such documents as are classified for security reasons.

THIRD PART Penal Provisions

Effective 1 January 1975, Sections 110 and 111 of the German Personnel Representation Law have been replaced by the following provisions (extracts) of the German Criminal Code:

German Criminal Code--Section 203 Breach of Private Secrecy

(1) and (2) Whoever, without authority, reveals a third person's secret, in particular a secret concerning the sphere of anyone's personal life or a company or official secret he was entrusted with or of which he gained knowledge as a person performing functions or exercising rights under the law on Personnel Representation, shall be sentenced to imprisonment not exceeding 1 year or to a fine.

(3) Paragraphs 1 and 2 are also applicable if the offender, without authority, discloses the secret of another person after the death of the person concerned.

(4) Whoever commits the act for the purpose of gaining financial profit for himself or another person, or causing damage to another person, shall be sentenced to imprisonment not exceeding 2 years or to a fine.

German Criminal Code--Section 353b Breach of Official Secrecy

(1) and (2) Whoever, without authority, reveals a secret he was entrusted with or of which he gained knowledge as a person performing functions or exercising rights under the law on Personnel Representation, and who thereby endangers important public interest, shall be sentenced to imprisonment not exceeding 5 years or to a fine. If a person, by any such act, has negligently endangered important public interests, he shall be sentenced to imprisonment not exceeding 1 year or to a fine.

(3) and (4) The attempt to commit any such act shall be punishable. At the request of a force or a civilian component, the agency designated by the Federal Republic shall apply for the institution of a criminal prosecution in respect to a breach of secrecy (*Verletzung der Schweigepflicht*) in accordance with the penal provisions of the law.

FOURTH PART FINAL PROVISIONS

SECTION 115 Election Regulation

For the purpose of regulating the elections referred to in Sections 12 through 25, 55 through 57, 64, and 65, the legal ordinance issued by the Federal Republic pursuant to Section 115 of the law on Personnel Representation shall apply analogously.