



**DEPARTMENT OF THE ARMY
UNITED STATES ARMY EUROPE AND AFRICA
UNIT 29351
APO AE 09014-9351**

AEPE-C

13 July 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Special Annulment Contract Program for Local National Employees in Germany

1. References

- a. Law on Continued Remuneration of 26 May 1994
- b. Social Security Code V of 20 December 1988
- c. Tariff Agreement of 16 December 1966 for the Employees of the Sending States Forces in the Federal Republic of Germany.
- d. Tariff Agreement of 31 August 1971 for the Social Security of the Employees of the Sending States Forces in the Federal Republic of Germany.
- e. Tariff Agreement of 2 July 1997 on Protection from Rationalization Measures, Termination of Employment and Income Protection.
- f. Decisions of the Federal Labor Court (FLC) of 7 August 2012 (file number 9 AZR 252/10), and of 19 February 2019 (file number 9 AZR 541/15).
- g. Memorandum, HQ USAREUR, AEPE-C, 5 September 2018, subject: Shop Agreement on Back-to-Work Employee Management (BEM).

2. Purpose.

To promulgate a special annulment contract policy with regard to a special annulment contract program for employees who can no longer fulfill their duties established in the employment contract due to medical, health-related or similar personal reasons, and who submit a request for early separation from employment.

3. Principles.

- a. This program is not an employee entitlement. Management officials must pre-approve each annulment contract request based on organizational and mission requirements after all other available means, such as Back-to-Work Employee Management (BEM) IAW reference 1.g., have been exhausted. During the subsequent review process, the employing organization's higher headquarters, which is usually the works council intermediate authority or the corresponding Major (Subordinate) Command, must approve the annulment contract and its funding.

b. As a matter of principle, indemnity payments under this special annulment contract policy are funded through operational funds of the employing organization.

c. The exclusive and final decision-making power for approval of annulment contracts and issuing payment authorizations to the Foreign Forces Payroll Office (FFPO) rests with USAREUR-AF G1, Civilian Personnel Directorate (CPD), regardless of the respective funding source.

4. Calculation basis for special annulment contracts:

a. The upper limits of the indemnity payment amounts of the annulment contracts are calculated as follows. There is no entitlement to these maximum amounts. The employer may deviate from this if necessary (see para. 4.(3)b) below):

(1) Indemnity payments are limited to a maximum of 10 months' pay. In accordance with Article 7 reference 1.e., 1/3 of the last regular monthly pay for each creditable year of service may not be exceeded.

(2) Periods of in-house apprenticeship will be credited with 1/3 of a monthly pay for each creditable year of service.

(3) A "month's pay" is defined as the last regular wage/salary per schedule. Temporary promotions of up to three months prior to the effective date of the annulment contract will not be considered.

b. At any time, a smaller amount than the maximum amount calculated IAW paragraph 4a can be offered to an employee. In the following cases, it is mandatory to offer an adjusted indemnity amount appropriate in the individual situation:

(1) In its decisions in reference 1.f., the FLC limited forfeiture of leave during the so-called transfer period for employees who were prevented from taking annual leave due to extended periods of sick leave. The relevant maximum transfer period based on reference 1.c. is 31 December of the following year. Consequently, compensation entitlements for unused annual leave at the end of employment for employees leaving with an annulment contract must be factored in.

(2) The duration of sick leave has consequences for the amount and basis of employee entitlements. Thus, full pay compensation applies for the first six weeks IAW reference 1.a. Thereafter, employees are entitled to sick pay from the health insurance IAW reference 1.b. for another 72 weeks, with the employer paying a sick pay supplement IAW reference 1.c. for a maximum period of 12 weeks. In due time before disbursement of sick pay ends (exhaustion of sick pay coverage), health insurances usually ask insured individuals to apply for rehabilitation measures or a retirement pension (pension for reduced earning capacity). Thus, the specific employee entitlements still available at the time of the annulment contract request and, if applicable, the status of above application for rehabilitation measures or a retirement pension must be factored in.

c. Under no circumstances may the calculated indemnity payment exceed the total gross pay expenses the employer would have incurred had the employee continued to work until the age of 65.

5. Process

a. Requests for annulment contracts may be submitted usually from the servicing CPAC no earlier than 12 months prior to the proposed effective date. In cases of necessary documentation for the German labor agency, a confirmation of eligibility can be issued upon request.

b. The indemnity payment resulting from the annulment contract will be paid out immediately after employment has ended (the annulment contract's effective date).

c. Employees whose employment was terminated by an annulment contract may not be rehired within a period of 12 months unless the received indemnity payment has been repaid to the employer. The rehiring action of former employees who were separated on the basis of an annulment contract requires prior CPD approval.

6. HQ USAREUR-AF POC is Mr. Andreas Nething, DSN: 537-1515, email: andreas.h.nething2.ln@mail.mil, or Mr. Fernando Dominguez, Chief, IPPB, DSN: 537-1502, email: fernando.dominguez.ln@mail.mil.



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