

# The Ins & Outs of German Contract Law

## Getting out of a contract can be much harder than getting into one...

by Holger Blug

While stationed in Germany, you will probably sign German contracts to lease a house or apartment, rent a car, and obtain cell phone service. You may also wind up signing contracts to purchase a vehicle or furniture on the German economy. So the more you know about German contract law, the better.

### Entering into a contract in Germany.

A contract can be entered into orally or in writing. You can even enter into a contract over the telephone. However, a written contract or a written confirmation is preferable, so you can read and understand the details of your contract, especially its general terms and conditions. You should keep any documents or paperwork pertaining to your contract, in case any dispute over the details or interpretation of the contract arises. Also, keep the receipts for any payments you make under a contract. Writing trumps talking.



### Terminating your contract.

While it is very easy to enter into a contract in Germany, getting out of a contract can be much more difficult. A contract that runs for an indefinite period of time requires notice of termination, which must normally be given during the so-called "cancellation period," which is usually one to three months **prior** to the effective date of the termination. Even if your contract does not require written notice of termination, you should terminate it in writing anyway, since you will have the burden of proving the termination if it is contested. If a company denies having received your termination letter, you have to prove that they received it and when they received it, so it is best to send your written termination notice by special registered mail, ("*Einwurf-Einschreiben*"), as the mailman confirms delivery electronically when he drops the letter in the mailbox, whereas a letter sent by certified mail, return receipt requested ("*Einschreiben mit Rueckschein*") will be returned if the recipient refuses to sign, proving non-delivery. If you hand-deliver your termination notice, have the other party sign an acknowledgement of receipt.

### Automatic renewal clauses.

Most German contracts are for an indefinite period of time, although you might easily assume otherwise. The reason they are indefinite is the automatic renewal clause. You will find this clause in most phone contracts. It is also standard for ADAC and BahnCard contracts. Having a one-year or a 24-month contract does not mean that the contract automatically ends at that point. It just means that you cannot terminate the contract before then. And if you do not terminate the contract within the cancellation period, it will automatically renew itself.

### Early termination of a contract.

If you sign a one-year or a 24-month contract, you have no right under German law to terminate it early, unless you have an "important reason" for doing so. Since the highest German court has opined that moving to a new home is not an important enough reason to terminate a contract, you may have a hard time getting out of a contract because of a deployment or a PCS move. However, some companies will let you out of a contract if you provide them a copy of your orders, but they only do so in an effort to preserve customer good will. There is no legal requirement for them to do so, and they will charge you a flat sum for the service. Other grounds for early termination include medical reasons (e.g., you have a terminal illness), issues with the purchased item (e.g., it doesn't work), and lack of service (e.g., the cell phone you contracted for will not work where you

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live). If you want to terminate a contract because the item you purchased doesn't work, you can't just cancel the contract—you must first give the other party two chances to fix the item. Lack of service is a limited defense when it comes to cell phones as it was never guaranteed in writing that the cell phone would work where you live. Are you beginning to get the picture? German contract law tends to favor the other party when it comes to early termination. Since it isn't easy to terminate early, the best advice I can give you is to carefully consider the duration of a German contract before you sign it.

***Before entering into a German contract of any kind, you should make an appointment to see a German attorney at the Kaiserslautern Legal Services Center to discuss the possible pitfalls. If possible, bring a copy of the unsigned contract with you so the attorney can review it. To make an appointment, call DSN 484-8848 or Civilian 0631-411-8848.***

## ***Legal Assistance & Conflicts of Interest***

by Mark Christensen

The Legal Assistance Office of the Kaiserslautern Legal Services Center (KLSC) on Kleber Kaserne provides assistance on a broad variety of legal issues, including many issues in which a dispute has developed between two people, or between a person and an organization. Lawyers providing legal assistance take extreme care to ensure their activities do not constitute a conflict of interest; sometimes avoiding a conflict of interest can be frustrating to someone who needs legal help.



For instance, it is common in the KMC for a Soldier to sell a car to another Soldier. But if the buyer later finds out the vehicle had been in a serious accident and the seller did not disclose this information to the buyer, the buyer may seek legal advice at the KLSC to find out whether he has any legal recourse against the seller. If lawyers at the KLSC provide legal assistance to the buyer, the seller will not be able to come to the KLSC for help identifying his rights or responsibilities. If the seller contacts the KLSC for an appointment, he will be referred to another legal office, usually at Ramstein Air Base or Baumholder. The seller will not be told why he cannot be seen at the KLSC, as that information is privileged.

When this scenario is expanded into other conflicts such as divorces or child custody disputes, it sometimes appears to the second party (whether spouse or Soldier) as if the KLSC is only interested in serving the first party. However, under the requirements of Army Regulation 27-3, we do not discriminate against clients. If a client sees a lawyer at the KLSC concerning a dispute, the opposing party, whether a Soldier or spouse or civilian employee, will not be able to confer with that lawyer or any other lawyer at the KLSC. The result is that our lawyers give divorce advice to Soldiers, retirees, civilian employees, family members, husbands, and wives, but in any given case we can only provide legal services to the first party to be a client in our office.

If you are involved in a dispute and need legal assistance, please be aware that the paralegal who takes your request is required to do a conflict search before letting you see a lawyer, and, if there is a conflict, the paralegal cannot tell you why you cannot be seen in our office. That does not mean the paralegal is singling you out; it just means you should contact another legal office for help with your case.

***Contact the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848 if you have questions about these rules (but not for disclosures of privileged information!).***