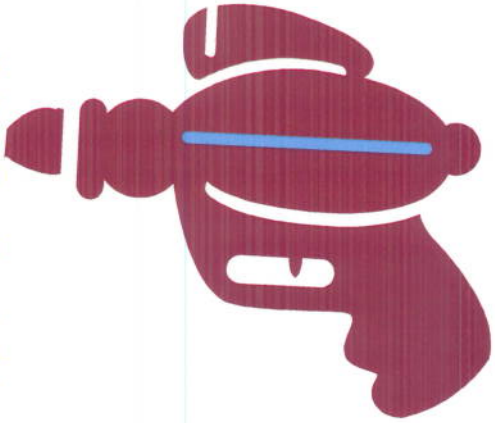
The Pitfalls of Paintball & "Airsoft" Guns

"Toto, I don't think we're in Kansas anymore..."

by Joe Hall



Around him in the darkness crickets chirped, a trickle of sweat rolled down his cheek and dripped onto his clinging camouflage T-shirt; with cramped muscles the warrior waited wedged deep in the brush, ready for the moment when his enemy would step into the clearing.

A snap – a cry – blinding lights – *"Waffen runter!" "Polizei - Waffen runter – Polizei!" "Waffen runter oder ich schiesse!!!"*

Next day's news: "What started in fun, ended in tragedy last night when one of several dependent teenagers was shot by local police while the boy was playing 'capture the flag' using an 'Airsoft' pistol in the local German woods."

A work of fiction? No. A true story? Almost. In Stuttgart on July 7, 2010, a dependent family member had a run in with the German police under the above type circumstances. Had one of the boy's friends not yelled out that the boy did not understand German, and had the German police not been able to understand what was said and then call out their command to drop the weapon in English, a tragedy could very well have occurred.

Gun laws and reactions to guns differ among the various states in the U.S. They vary much more between the U.S. and Germany. Playing guns, playing cowboy, playing cops and robbers, and young children going off with real guns to shoot squirrels and rabbits in the woods is common practice in the U.S. That kind of activity is much less common in Germany, where even hunting in the woods for adults is a very highly regulated and controlled activity.

With very little exception, while living in Germany, members of the U.S. Forces – uniformed, civilian employees, and family members – fall under German law, whether we are on-post or off. One of the laws we fall under is the German Weapons Law. This law impacts two popular pastime activities – the use of "Airsoft" guns, and paintball.

"Airsoft" Guns. The German Weapons Law generally does not apply to "toys." However, there is one big exception. It does regulate toy guns that look like real guns – unfortunately, that includes almost all "Airsoft" guns that are sold today. The rule is, if the gun (toy or not) gives the appearance of being a real gun (size, shape, color, etc.), that gun may not be carried around outside in public areas (*e.g.*, outside your apartment or home). For violators, the gun will be confiscated and the individual is subject to administrative fine.

So, what if my 12-year-old son's "Airsoft" gun does not look like a real weapon; can he run around and shoot it in the housing area?

- No. "Airsoft" guns may not be used in public areas (housing areas or the woods). They can only be used in specially-designed shooting areas or possibly inside private residences/yards, but in any case, wherever used, the area needs to be enclosed so that the pellets cannot go outside the boundaries of the facility. Third parties may not be endangered.

- Also, your 12 year old is not authorized to have an "Airsoft" gun. For "Airsoft" guns of limited power (less than 0.5 joules), the minimum age is 14. For higher power "Airsoft" guns (greater than 0.5 joules), the minimum age is 18.

Paintball. Paintball markers (guns) usually do not look like real weapons, so that aspect of the German weapons law usually does not apply – but no matter, paintball markers and their use are also very strictly regulated in Germany.

German law dealing with paintball provides that a person normally needs to be 18 years old to play; paintball may only be played in specifically designed courses that will prevent a round from leaving the course property; the round being fired cannot exceed 7.5 joules in power (otherwise the marker is classified as a real gun); and the marker must have a special imprint stamped into it (a pentagram with a letter "F" in the center) in order to verify that its power does not exceed 7.5 joules.

Army in Europe Regulation 215-144 sets out rules and policy on paintball activities in USAREUR. You should consult that regulation and call the local MWR Rod and Gun Club for more specifics on paintball play. Possession of guns with greater than 7.5 joules of power is prohibited.

Remember these rules of thumb for "Airsoft" guns and paintball markers:

- No carrying any type of realistic looking guns, toy or not, in any public areas, including the woods.

- No playing "Airsoft" games or paintball in any outside areas not specifically designated and approved for that type activity.

- No shooting at neighbors, their pets, street lamps, or street signs.

- *"Waffen runter"* means, put your weapon down; and *"Waffen runter oder ich schiesse"* means put your weapon down or I'll shoot.

"May it please the court!" German judges from the Rheinland-Pfalz State Supreme Court in Koblenz greet a delegation from the 21st TSC Office of the SJA in their courtroom.

Mr. Ralf Bartz, President of the Rheinland-Pfalz State Supreme Court in Koblenz, welcomes 21st TSC SJA COL Claes Lewenhaupt.

Comparing Legal Systems. 21st TSC SJA COL Claes Lewenhaupt and members of his staff travelled to Koblenz on September 20th to visit the Rheinland-Pfalz State Supreme Court, at the invitation of the President of the Court, Mr. Ralf Bartz. They and their German counterparts discussed German and US rules of evidence in criminal cases. The focus was on the "exclusionary rule," and the "fruit of the poisonous tree" doctrine pertaining to derivative evidence. The exchange highlighted a significant difference in the two systems' approach to the issue. In Germany, the "exclusionary rule" is known, but very sparingly applied. Under the US system, trial and defense counsel must be very much aware of the rule and doctrine, and anticipate their application as they prepare and present their cases.

The visit grew out of similar discussions begun at last May's Law Day legal liaison event in Kaiserslautern, hosted by the 21st TSC OSJA. Such discussions are highly beneficial on various levels. At the trial level, they help US military trial and defense counsels better understand the expectations and frame of reference of German police officers called to testify at courts-martial. At other technical levels, these meetings and discussions are helpful in getting a better perspective on why a particular procedural rule or practice exists, and to help think about ways to modify or to reinforce the rule or procedure. And finally, these meetings help maintain the good working and good neighbor relationships that we have with our host nation.

Both delegations look forward to continuing similar dialogues in the future.