



OUR ANNUAL "WELCOME TO GERMANY!" EDITION...

KAISERSLAUTERN LEGAL SERVICES CENTER



KAISERSLAUTERN LEGAL INFORMER

Inconvenient Auto Logistics

by Mark Christensen

A recent change to the contractor responsible for transporting vehicles of PCSing service members and civilians has resulted in widespread delays and unaccountability of POVs. In the past, military and civilian vehicle owners were able to track their POVs throughout the shipment process, but currently some cannot locate their vehicles, the carrier cannot tell the owners where their vehicles are, and some vehicles are not being delivered until after the Required Delivery Date (RDD). Some service members have even filed a lawsuit against the new carrier, International Auto Logistics (IAL), which may turn into a class-action lawsuit.



The initial guidance we have received concerning inconvenience claims for vehicles delivered after the RDD is that service members may be reimbursed \$30.00 per day for up to seven days (or until the vehicle is delivered, up to a maximum of \$210.00) by adding the expense to the service member's travel settlement voucher in DTS. The expense should be validated with POV shipment documents showing the RDD and the actual delivery date. Service members who receive their POV more than seven days after the RDD can make a claim for additional rental expenses directly against IAL.

Civilian employees with vehicles delivered after the RDD must make a claim directly against IAL for reimbursement of inconvenience expenses.

A service member or civilian employee whose vehicle is delivered after the RDD can also request direct billing of rental cars through IAL. If the service member or civilian makes such a request, IAL will consider it on a case-by-case basis. This may work best for those who do not have a credit card or enough cash available to rent a vehicle and seek reimbursement later.

Contact the Kaiserslautern Legal Services Center's Claims Office at DSN 483-8856 or Civilian 0631-411-8856 for information on how to file inconvenience claims for late-delivered vehicles. To monitor media coverage of this issue, Google "International Auto Logistics Watchdog." More information on IAL is available at <http://www.PCSMyPOV.com>.

IN THIS ISSUE...

- A User's Guide to the K-town Legal Services Center
- Parking Fines at Supermarkets
- Tipping in German Restaurants
- Visitor Visa Requirements
- Servicemen's Civil Relief Act
- Article 32, UCMJ Investigations
- Financial Disclosure
- And much more!



*United States Army
Judge Advocate
General's Corps -
America's Oldest
Law Firm*

A User's Guide to the Kaiserslautern Legal Services Center



The award-winning staff of the Kaiserslautern Legal Services Center serves the legal needs of the largest OCONUS American military community.

by MAJ Brad Gwillim

Are you new to the Kaiserslautern area or in need of free legal services but don't know where to find them? Search no further! You have luckily landed in the community served by the Kaiserslautern Legal Services Center (KLSC). The KLSC has won more Department of the Army-level awards for excellence in legal assistance and claims than any other legal office in Europe, and continues to be blessed with a dedicated staff of attorneys and paralegals who are ready and able to serve your legal needs.

The KLSC is located on the ground floor of Building 3210 on Kleber Kaserne, on the eastern edge of Kaiserslautern (see the map on the back of this newsletter for directions). The KLSC includes a Legal Assistance Office, Claims Office, Special Victim Unit, International Affairs Office, and Tax Assistance Center. Kaiserslautern's U.S. Army Trial Defense Service (TDS) Office is co-located with the KLSC. The KLSC also houses a military courtroom and the offices of the Chief Military Judge of the 5th Judicial Circuit.

The KLSC serves a community of approximately 57,000, in addition to clients from nearby military communities (like Baumholder and Wiesbaden) and former military communities (like Heidelberg).

In the pages that follow, we will take you on a virtual tour of the KLSC, and give you a better feel for the wide variety of legal services we provide. We hope you emerge with a better feel for who we are and what we can and cannot do for you. Legal problems generally do not improve with age. Knowing where to go and who to see is half the battle.

[continued on pages 3 thru 8...]

The Legal Assistance Office — Room 106

The KLSC's Legal Assistance Office provides counseling and assistance on a wide variety of personal legal matters to include:

- Estate Planning (*e.g.*, wills, SGLI, and Advance Medical Directives)
- Landlord/Tenant Issues (*e.g.*, eviction, security deposits, interpretation of leases)
- Family Law (*e.g.*, adoptions, paternity, child custody/visitation, separation and divorce, and non-support of dependents)
- Consumer Law Problems (*e.g.*, contract disputes and reviews, cell phone contract terminations, and defective merchandise)
- Citizenship and Immigration
- Notarizations, Certified Copies, Powers of Attorney, and Bills of Sale
- Military Administrative Matters (*e.g.*, OER and NCOER appeals, bars to reenlistment, QMPs, FLIPLs, line of duty determinations, memorandums of reprimand, Article 138 complaints, security clearance revocations)
- Finances, Debts, Bankruptcy, Insurance, Personal Property, Autos and Motor Vehicle Laws
- Torts (such as willful or negligent injury to a plaintiff's person, property, or reputation)
- Taxation (to include preparation of current and prior year federal and income tax returns and responding to notices from the IRS and state Departments of Revenue—see page 8 of this newsletter); the KLSC's Senior German Attorney-Advisor, Joerg Modellmog, advises clients from all over USAREUR on matters involving host nation taxation, double taxation, and tax treaties.
- Referral to other agencies or to other lawyers when appropriate



The KLSC's Chief of Client Services, Mark Christensen (left), and German Attorney-Advisors Joerg Modellmog (center) and Holger Blug (right), bring more than 50 years of legal assistance experience to the table, and are widely-recognized subject matter experts in their field.

Legal Assistance Attorneys cannot provide advice on military justice or employment-related matters, private business activities, or litigation or claims against the U.S. Government.

The office is staffed with experienced civilian attorneys (see caption above), Active Duty and Reserve Judge Advocates (on three-week Overseas Deployment Training rotations), military paralegals, and a civilian paralegal who also serves as the 21st TSC tax program coordinator.

The hours for walk-in services (*e.g.*, notarizations, powers of attorney, certified copies of documents) are: Monday, Tuesday, Wednesday, and Friday from 0900 to 1200 and from 1300 to 1600 and Thursday from 1300 to 1600. The office is closed for training on Thursday mornings. You must make an appointment in order to see an attorney on other legal matters. ***Call DSN 483-8848 or Civilian 0631-411-8848 for more information.***

The Claims Office – Room 112

When it comes to taking care of the needs of claimants, the Kaiserslautern Claims Office has a sterling reputation; it has won The Judge Advocate General's Award for Excellence in Claims every year since 2006 largely due to the long experience and extraordinary helpfulness of its claims examiners, Martina Berndt and Karin Jordan. They spare no effort in trying to put claimants back in the position they were in before they sustained damage or loss.

Whether you are filing a claim against a carrier for full replacement value or against the Government, the Kaiserslautern Claims Office should be your first stop. Our claims examiners are experts at explaining the claims process and assisting claimants in filing their claims. The office has a claims kiosk (pictured to the right) where claimants can enter claims data electronically under the supervision of our knowledgeable claims examiners, who also assist claimants in filling out the proper forms to file other kinds of claims.



Karin Jordan assists claimants in entering data at our claims kiosk

Newcomers to the KMC need to unpack their hold baggage and household goods shipments as soon as possible after delivery and check for loss or damage. Making timely notification to the carrier of the loss or damage is critical to preserving your rights when you file a claim. While notification can be accomplished online, the process can be cumbersome and confusing; that's why ***claimants should come to the claims office and let our claims experts help you make timely notification to the carrier.*** Bring your DD Form 1840/1840R or similar notification document to claims within 75 days of delivery, and we can help ensure that the carrier receives it in a timely manner. ***Don't let this go until the last minute!***

There is much more to claims than broken pots and pans. Since the Army has single-service responsibility for processing all tort claims filed in Germany, and since the Kaiserslautern Claims Office is close to Ramstein and Spangdahlem Air Bases, Kaiserslautern investigates and adjudicates more tort claims than any other claims office in USAREUR. Our claims examiners process and adjudicate claims involving:

- Damage to privately-owned vehicles during Government-sponsored shipment
- Vandalism, theft, and damage from unusual occurrences (e.g., floods, fires, and hailstorms)
- Damage caused by government vehicles
- Damage caused by government employees acting within the scope of their employment
- Personal injuries/wrongful death
- Article 139, UCMJ (e.g., when a Soldier intentionally damages or wrongfully takes property).

All of the claims brochures that are available in hard copy in the display rack at the Claims Office can also be downloaded from the 21st TSC OSJA website. Just click on the following link: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>, scroll down to "Claims Brochures," select the topic you want, and print it out double-sided.

The Claims Office accepts notification documents, such as DD Form 1840/1840-R, on a walk-in basis during the following hours: Monday, Tuesday, Wednesday, & Friday from 0900 to 1130 and from 1300 to 1530, and on Thursdays from 1300 to 1530 or by appointment. Claims are processed by appointment only; you may make an appointment by calling or coming in during walk-in hours. ***For more information or to schedule a claims appointment call DSN 483-8856 or Civilian 0631-411-8856.***

The Special Victim Unit — Room 109

You may be familiar with the popular TV series “Law & Order: Special Victim Unit” (SVU). The KLSC has its own SVU, which is dedicated to delivering high-level services to the victims of crime. It is staffed by a Special Victim Counsel (SVC), Victim Witness Liaison (VWL), and Special Victim Prosecutor (SVP).

Our resident SVC is CPT Tulsi Rogers, who joined the SVU team following his assignment as the 21st TSC’s Senior Trial Counsel. As an SVC, he provides victims of sex-related offenses with responsive and timely representation throughout the investigative and judicial process. In an adversarial criminal system, SVCs work for neither the government nor the defense; their duty is to advise and zealously represent the best interests of their client, even though the client’s interests may sometimes conflict with those of the command or the government (represented by the trial counsel). Entering its second year of existence, the SVC program is available to all Soldiers; it is also available to other service members and dependent ID card holders regardless of age, where the offender is a Soldier. CPT Rogers also serves as the KLSC’s Claims Judge Advocate.

Martina Berndt serves as our VWL, working in conjunction with law enforcement personnel, legal personnel, and other agencies providing services to victims and witnesses. Ms. Berndt is the single point-of-contact for all victims and witnesses of crime, regardless of the offense, to address the problems they experience and lessen the hardships they suffer. She ensures that victims and witnesses are advised of and afforded their rights under federal law. She also serves as the KLSC’s Senior Claims Examiner.

MAJ Scott McDonald joined us this summer after completing a Master of Laws degree, with a concentration in criminal justice, at the University of Virginia. As an SVP, his primary mission is to supervise prosecution of special victim crimes, which include sexual assault, child abuse, child sexual exploitation, and serious domestic violence. His secondary mission is to develop a sexual assault and family violence training program for investigators and trial counsel. In addition to trying cases, MAJ McDonald trains, mentors, and develops junior trial counsel in the litigation of special victim cases. Based in Kaiserslautern, MAJ McDonald not only services the 21st TSC’s large area of responsibility, but also USANATO and ARCENT.



The KLSC’s Special Victim Unit team includes (left to right) Special Victim Counsel CPT Tulsi Rogers, Victim-Witness Liaison Martina Berndt, and Special Victim Prosecutor MAJ Scott McDonald.

The International Affairs Office — Room 124

Americans stationed overseas are usually unfamiliar with local legal procedures and rarely speak the language of the host nation. That's why the services provided by the KLSC's International Affairs Office are so important. It's only a matter of time until you receive a speeding ticket in this country; that's just one example of the many types of documents our International Affairs staff serves upon Americans. "Service of process" consists of much more than just delivering a document; it involves translating the document into English and explaining how to respond to it. Accomplishing this in a timely manner is critical to preserving the rights of the recipient under host nation law.

Amanda Martins Gonçalves is the KLSC's civil process clerk. In addition to serving traffic tickets, her duties include service of civil process documents issued by German authorities such as payment orders, writs of execution, paternity questionnaires and related documents, court orders, requests for execution, garnishment and remittance orders, judgments, summonses, and subpoenas. Ms. Martins assists clients with appealing traffic tickets and making payment arrangements. She also serves reminders and requests for execution on clients who have failed to pay their tickets. Service of civil process and administrative fines is done on a walk-in basis from 0730 to 1130 and from 1300 to 1600, Monday through Friday.

Karl-Heinz Oberlaender serves as the 21st TSC OSJA's liaison with host nation justice and law enforcement officials (e.g., the German courts, prosecutors' offices, police, and prison wardens). His duties include service of criminal process documents such as penal orders, summonses, subpoenas, court orders, and judgments. He records all criminal cases involving service members, civilians, and dependents, maintaining the Foreign Criminal Jurisdiction data base which includes releases of jurisdiction, exclusive German jurisdiction cases, primary U.S. jurisdiction cases, etc. He accompanies Judge Advocates who observe German criminal trials involving American defendants with SOFA status, and who visit these Americans in pretrial and post-trial confinement in German prisons. He helps maintain a close, cordial, and mutually-beneficial working relationship with our host nation counterparts.

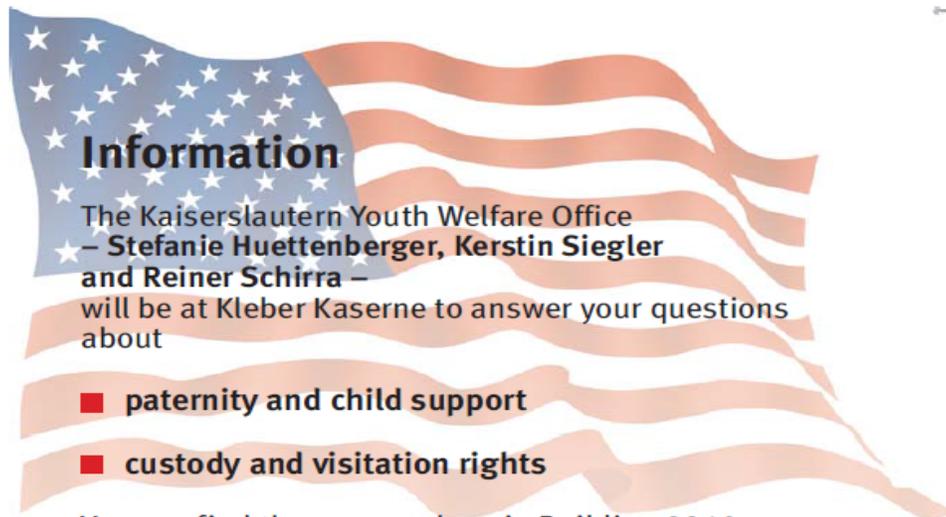
Our International Affairs staff organizes visits to the KLSC by Kaiserslautern Youth Welfare Office officials, to make it easier for clients to transact business with that office. Soldiers who have fathered a child by a German mother and wish to support and visit that child can meet with the competent German officials on-post, rather than drive downtown, try to find parking, and search for the right office. Youth Welfare Office officials will visit the KLSC again on Thursday, October 23rd, from 1330 to 1600 (see page 7 of this newsletter).

Individuals who have business to transact with the KLSC's International Affairs Office may wish to call ahead to ensure that someone is present, as our staff occasionally perform duties outside the office.

For more information or to make an appointment, call DSN 483-8854 or Civilian 0631-411-8854.



"Serving the most deserving" — Karl-Heinz Oberländer and Amanda Martins Gonçalves



Information

The Kaiserslautern Youth Welfare Office
– **Stefanie Huettenberger, Kerstin Siegler
and Reiner Schirra** –
will be at Kleber Kaserne to answer your questions
about

■ **paternity and child support**

■ **custody and visitation rights**

You can find the case workers in Building 3210,
Room 117 (Hearing/Conference room), Kleber
Kaserne, Legal Service Center on

23rd Oct. 2014, from 1:30 p.m. until 4:00 p.m.

If you wish to schedule an appointment for that day
please contact:

Stefanie Huettenberger, phone 0631-365 2709
stefanie.huettenberger@kaiserslautern.de

Kerstin Siegler, phone 0631-365 2671
kerstin.siegler@kaiserslautern.de

Reiner Schirra, phone 0631-365 2645
reiner.schirra@kaiserslautern.de

You can also contact
Ms. Amanda Martins Goncalves,
phone 0631-411 8859
amanda.martinsgoncalves.LN@mail.mil

**Walk-ins are welcome, but scheduled appointments
take priority. If you have questions – please feel free
to stop by.**



Tax Assistance Center - Room 102



KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-8848

Claims 483-8855/8856

International Affairs 483-8854

Trial Defense Service 483-8397

[Civilian: 0631-411-XXXX]

Administrative Law 484-8043

Criminal Law 484-7419

[Civilian: 0631-413-XXXX]

The KLSC operates three tax assistance centers in the Kaiserslautern Military Community (KMC) to better serve our clientele during tax season, which runs from late January through mid-June for Americans who are stationed overseas.

The Kaiserslautern Tax Assistance Center is the first office you come to as you enter the KLSC through the doors pictured to the right.

The KLSC also operates two satellite tax centers in the KMC. One is located on the ground floor of Building 3701 at Landstuhl Regional Medical Center; it is co-located with the Laundrette and the Education Center, and has a ramp for handicapped access. The other was opened last January in Building 2886 on Pulaski Barracks, which makes it more accessible for those who live in the Vogelweh housing area and those who live or work on Ramstein Air Base.

All three tax centers are open Monday through Friday from 0900 to 1600 during tax season. They are open on a walk-in basis for those who want to pick up tax forms and instructions or have a simple tax return prepared while they wait. Taxpayers can also drop off their supporting documents (W-2s, 1099 forms, etc. and a copy of last year's return) and our staff will contact them when their return is ready. Those with more complicated returns involving foreign tax issues, rental property, sale of stock, or more than one state return should call for an appointment. **Note: the following phone numbers are only answered during tax season:**

- Kleber: DSN 483-7688 or Civilian 0631-411-7688
- Pulaski: DSN 493-4033 or Civilian 0631-3406-4033
- Landstuhl: DSN 486-6334 or Civilian 06371-86-6334

Take advantage of this free service! Use it or lose it!

WHAT IF YOU NEED TAX HELP NOW?

While our tax assistance centers closed their doors in the middle of June and won't reopen until next tax season, **year-round tax preparation assistance is available through the Kaiserslautern Legal Service Center's Legal Assistance Office.** If you still need to file, if you need to amend current year or past year returns, or if you receive a notice from the IRS and need help deciphering it, call DSN 483-8848 or Civilian 0631-411-8848 and ask for an appointment with Donald L. Davis, our tax program coordinator.



Donald L. Davis

2014 KLSC Tax Center* Results:

**Federal & State Income
Tax Returns Prepared:**

4,023

Tax Refunds Generated:

\$7,225,815

Savings to Taxpayers:

\$945,834

**THANKS FOR USING
OUR SERVICE!**

** Kleber + Pulaski + Landstuhl*

Expensive Groceries!

Parking too long at German supermarkets can cost you...

by Holger Blug

You stop by the supermarket after work to pick up some groceries for dinner. You pull into the parking lot, park your car, and enter the store. When you return a few minutes later you find a note on the windshield saying you have to pay €30.00 for a parking violation. You think this must be some kind of sick joke, but scenarios like this have become quite common in Germany.



Most supermarkets in Germany, such as Aldi, Lidl, Edeka, Netto, and Penny, have traditionally provided free parking for their customers. That is still the case, but many of these stores have implemented restrictions limiting how long you can park for free, requiring you to display a parking disk, and prohibiting overnight parking. To enforce these parking rules, they authorize companies such as “park & control” or “Contipark” to patrol their parking lots.

If you violate the posted time limit and/or do not display a properly set time on your parking disk*, these companies charge you a penalty. They put a note on your windshield demanding payment. If the penalty is not paid, they request the owner’s information from vehicle registration and send an invoice to the registered owner.

Although these companies try to make it look like an official fine, these notes or invoices are not governed by public administrative law; hence, they are not considered to be official parking tickets, which could be enforced administratively. These are private claims, which are subject to civil law and are enforceable in civil court actions (*i.e.*, lawsuits).

The companies post signs with symbols (*e.g.*, a picture of a blue parking disk—so it’s no defense if you can’t read German) at the entrance to a supermarket’s parking lot explaining the parking rules. If you park there, you are deemed to have accepted those rules and the business terms which state that violators will be assessed a penalty; under certain circumstances, the companies can even tow away your vehicle.

The parking lots belong to the owners of the supermarkets, so they have the authority to regulate who parks there. The owners want to make sure there is enough free parking for their customers, and prevent others from blocking parking spots and abusing the free parking privilege for activities not related to the store, such as walking downtown or attending a soccer match at the FCK stadium.

If your shopping takes longer than the allowed posted time or you failed to display your parking disk and you find a note on the windshield when you return, go back into the supermarket and show the manager your sales receipt so he can clarify the situation with the company. It is ill-advised to ignore these notes and invoices, since the companies will sooner or later send them to a collection agency or sue you. If you are the registered owner of the vehicle and you receive such an invoice in the mail, but you weren’t driving the vehicle at the time the incident occurred, you can try to dispute the claim. The case law on this issue is not settled, so it is best to consult with a German legal assistance attorney to explore all your options before deciding on a particular course of action.

For an appointment to consult with a legal assistance attorney, call the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

* The time on the parking disk should always be set to the next half hour, following your actual arrival; *e.g.*, if you arrive at 1101 set it to 1130.

Tipping in German Restaurants

Knowing the rules can help you avoid overpay-

by Steve Smith

While travelling in Germany this summer with family visiting from the States, I had a few unpleasant surprises. It started in Berlin, where we went to dinner at an outdoor restaurant in a picturesque part of town. It was a perfectly delightful evening until it came time to pay the bill. I paid in cash, as I usually do in this country, and was told rather pointedly by the waitress in English that “Service is NOT included.” This came as a real surprise, as I had always been told that service is already included in the price of the dishes listed on menus in Germany. I was also surprised because, up to that point, I had only spoken German to the waitress; she must have overheard us speaking English at the table and decided to address me in my native tongue, to better get her point across.



A few days later, it happened again. We were sitting in a beer garden at a popular restaurant in Munich. This time I decided to pay with a credit card. I signed the credit card receipt presented by a rather surly waitress who shoved it back in my face and pointed to a note (again in English) on the receipt saying “Service is not included,” and a separate line for a gratuity that I had overlooked.

That’s when I decided to call one of my German attorney colleagues to see if the rules on tipping had changed, or if I was simply being targeted as an American. He reassured me that the law had not changed, but, as with everything else involving German law, it is a lot more complicated than you might expect.

In Germany there is no real equivalent to the American tip, where customers are expected to pay separately for service by leaving a certain percentage of the bill on the table for the server, or add the tip to the credit card receipt. The word “tip” is commonly translated as “*Trinkgeld*.” While the German law strictly distinguishes between a service charge (“*Bedienungsgeld*”) and a tip (“*Trinkgeld*”), the terms tend to be used interchangeably.

When it comes to service charges, the law is crystal clear: § 7 para. 5 PreisAngVO (“*Preisangabenverordnung*,” or Pricing Regulation) states that “*Bedienungsgeld*” must be included in the listed price on the menu. You cannot be billed separately for service charges. So those waitresses in Berlin and Munich were clearly out of line when they said “service is not included” and demanded I pay a separate service charge.

“*Trinkgeld*,” on the other hand, is defined in § 107 para. 3 GewO (“*Gewerbeordnung*,” or Trade Regulation) as “a payment made without any legal obligation by a third person [customer] to the employee [waiter] in addition to the employer’s [restaurant owner’s] salary payment.” It is a strictly voluntary payment like a gift, and is therefore not subject to German income taxation as codified in § 3 No. 51 EStG (“*Einkommensteuergesetz*,” or Income Tax Act).

While you are not legally obligated to “tip” at all, German waiters and waitresses have come to expect a “*Trinkgeld*” tip, particularly from Americans whose “culture of tipping” is well-known.

[continued on page 11...]

Tiping in German Restaurants (continued)

Besides honoring good and fast service, the German concept of a tip has to do with efficiency. It is customary in this country to “round up” to the next full Euro. The idea is to spare the waitress having to root through her coin purse to come up with small change. I am constantly amazed at how many Americans sit by silently while their poor waitress rummages through her “*Geldbeutel*” trying to find the right combination of coins to give them as change; then they toss those same coins right back into her purse, as if they are doing her a big favor.

“Rounding up” is simple enough. If my bill comes to €23.50, I’ll normally hand the waitress a €20.00 note and a €5.00 note and say “*stimmt so,*” which roughly translated means “keep the change.” Another way to round up is to hand the waitress €30.00 or €40.00 in cash and say “*fünf und zwanzig, bitte*” (twenty-five, please), in which case she should give me back €5.00 or €15.00 in bills or change. Either way, you’re going to have to speak a few words of “*Gasthaus Deutsch.*”

If the service was bad, I have no obligation whatsoever to pay more than the amount of the bill. If, on the other hand, the service was truly exceptional, I might hand the waitress an extra amount, but that is strictly voluntary.

You should never leave a tip on the table the way people do in the States. That’s just not done here.

Other traps for the unwary include restaurants that permit customers to pay in dollars but use an extortionate exchange rate, and add an additional fee to a customer’s bill for the privilege of paying with a credit card without posting signs anywhere in the restaurant to put customers on notice of the practice.

Don’t let any of this discourage you from going out to eat in this country. Compared with the cost of meals in London or Paris, German restaurants are a tremendous bargain. The cuisine is delicious and the service is usually friendly, competent, and quick. The relative calm of a German *Gasthaus*, where you can pick any table you want and stay as long as you like, is in marked contrast to the typical restaurant in the States, where the decibel level is incompatible with conversation, the air conditioning is blowing full blast, you are told you have to wait in the bar even when you have a reservation, the server waits until you have your mouth full to demand to know “how is that tasting?” and you are expected to pay an extra 15% to 20% for all of the above and clear out so someone else can have the table. Is it any wonder so many Americans find the more relaxed pace of life here so appealing?



Building 3004 on Panzer Kaserne in Kaiserslautern, which houses the 21st TSC Office of the Staff Judge Advocate and the G6, among other organizations, received a new roof this summer, as did neighboring Building 3003, which houses Special Operations and the Inspector General. Building 3002, which houses the Comptroller and Public Affairs Office, will receive a new roof this fall. These IMCOM-funded improvements represent a major investment and are a reassuring sign of the Army’s commitment to maintaining a continuing presence in Germany.

Visitor Visa Requirements in Germany

A German attorney explains the many ins and outs...

by Joerg Modellmog

Being stationed far away from home in a foreign country, you naturally miss friends and family. The thought of enticing them into a European vacation crosses your mind. How long can they legally stay in Germany? Will they need a visa? While you, your spouse, and your children are covered under the NATO SOFA and generally don't need to worry about such things, special rules apply to your visitors. A lot will depend on your visitor's citizenship, and how long they plan to stay.



U.S. Tourists staying up to 90 days (visa waiver program)

Any U.S. citizen is allowed to fly to Germany as a tourist without having to first apply for a visa. At the port of entry, the tourist's passport will be stamped and the entry date registered. Thereafter, that tourist can spend up to 90 days in Germany or any other European country that signed the Schengen Treaty. Signatory states to the Schengen Treaty harmonized their corresponding visa rules. But be careful – the European Union and the Schengen area are two different zones. Great Britain, for example, is a member of the EU, but not a signatory to the Schengen treaty.

For a complete list of Schengen countries and visa requirements for non-U.S. citizens, go to: <http://www.schengenvisainfo.com/schengen-visa-countries-list>.

The biggest myth is that you just need to leave the Schengen Treaty area for a day (*e.g.*, fly to Great Britain) to be granted another 90-day period upon your immediate return. One day won't do the trick. Once you have been here for 90 days, you have to be out of the Schengen area for 90 days before you can take advantage of the visa waiver program again for another visit of up to 90 days.

A word of caution: tourists in Germany are not allowed to work. You may also want to have your guests check into obtaining health insurance that will cover them during their trip. Regrettably, we have seen uninsured tourist visitors suffer heart attacks and strokes, leaving them with high medical bills for which their relatives could become responsible.

Letter of Invitation – stays up to 90 days but often shorter (visa requirement)

Citizens of the Philippines, many African countries, and various other nations (see the link above for a complete list) must not only obtain a visa before being allowed to fly to Germany, they also need to obtain a so-called "Letter of Invitation." In such cases, you will have to provide certain guarantees for your guest, and health insurance coverage is a must. Invitation letters are issued at the local alien resident office (*e.g.*, *Ausländeramt* for the County of Kaiserslautern, *Ausländerbehörde* for the City of Kaiserslautern). An administrative fee is charged for these letters.

In the end, the German Embassy or Consulate General at your visitor's place of residence processes the matter and has discretion to approve or disapprove the application, with limited opportunities for you to appeal the decision. German attorneys at your local legal assistance office can assist in the filing and petitioning process as well as advise you on your chances of successfully appealing a denial of entry.

[continued on page 13..]

Visitor Visa Requirements (continued)

Stays beyond 90 days

Visitors that needed a tourist visa in order to come to Germany cannot stay longer than the time specified in their visa.

Tourists that entered the Schengen Treaty area under the visa waiver program may petition for an additional 90-day (extended) tourist stay in accordance with Article 7 of the German Resident Alien Act (“*Aufenthaltsgesetz*,” or *AufenthG*) and §§ 40, 41 German Resident Alien Regulation “*Aufenthaltsverordnung*,” or *AufenthV*). The petition will involve showing proof of sufficient income and filing a German resident alien application. There will also be administrative fees of at least €100.00. Since the process takes approximately four weeks, it is strongly recommended to start it early on to avoid running out of time. For more information, go to the new website of the Kaiserslautern County Administration Office at <http://www.kaiserslautern-kreis.de/en/administration/> and click on “Immigration Authority” in the left-hand margin.



Schengen Area countries appear in blue and green on this map...

If you want to remain in Germany for more than 180 days you should obtain a visa **prior to** entering Germany (§ 31 *AufenthV*). Be aware that the grounds for approval of such visas are narrowly codified, e.g., foreign students or highly-specialized employees. German income taxation, labor, and custom issues often come into play, too.

If you want to bring a more distant family member (other than your spouse and children) to Germany to help you or your spouse during your assignment, Article 2, paragraph 2(b) of the German Supplementary Agreement to the NATO SOFA provides an opportunity for “close members of household” to be granted SOFA status (see AER 600-700, paragraph 8-2). The US Forces also created a special limited program called “In-loco parentis” for dual military families in need of help (see AER 600-700, paragraph 1-18). The German authorities defer to the U.S. Forces when it comes to making these determinations.

For more information on this subject, make an appointment to see a German Legal Assistance Attorney by calling the Kaiserslautern Legal Services Center Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

We're On the Web!

Current and back editions of this newsletter and articles we've published on legal assistance topics are posted on the 21st TSC OSJA website at: <http://www.eur.army.mil/21TSC/sja/LegalAssist/LegalAssistance.asp>

Claims articles, information papers, brochures, and related information is posted at: <http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp>

The “KLI” is also posted on JAGCNet and shared with legal assistance and claims practitioners Army-wide.

The Servicemembers Civil Relief Act

A Legal Assistance Attorney explains the relief it offers...

by CPT Josh Cumming

The Servicemembers Civil Relief Act (SCRA) is a federal statute that affords certain protections and benefits to military members. The Act traces its origins back to the Civil War, when Congress passed a total moratorium on civil legal actions brought against Union Soldiers and Sailors. The current SCRA, which was signed into law on December 19, 2003, is designed to protect active duty military, Reservists, and National Guardsmen who are engaged in active federal service. Some of the benefits under the SCRA extend to dependents of service members as well.



WHAT KIND OF RELIEF CAN IT PROVIDE?

1. **6% CAP ON INTEREST RATES:** Under the SCRA, a military member can notify their U.S. credit providers and financial institutions that the maximum interest rate they can be charged is 6%, as long as the military member took out the loan prior to entering on active duty. This 6% cap even applies to student educational loans. If a U.S. creditor or financial institution does not agree to lower the interest rate to 6%, service members should contact their local Legal Assistance Office.
2. **STAY OF PROCEEDINGS:** A service member stationed Germany who is being sued in an American court for any reason (to include divorce or proceedings related to child custody) can obtain a "stay" or postponement of those proceedings if the court is notified of the service members' active federal service. The burden is on the service member to show that military service has materially affected his or her ability to appear in court, and a stay may be extended if necessary, depending on the circumstances. For example, if a service member is being sued for divorce, he or she can postpone the hearing for some period of time, but it is unlikely that a court will allow that service member to delay the proceedings indefinitely.
3. **DEFAULT JUDGMENTS:** A default judgment is entered against a party who failed to appear or defend against a claim in a U.S. civil court. If a court orders a default judgment against a service member, the Legal Assistance Office can help determine how to ask the court to set aside the default judgment. This gives the service member a chance to present their case to the court.
4. **TERMINATION OF RESIDENTIAL LEASES:** The SCRA also allows service members who are just entering active duty service, or who are moving due to permanent change of station (PCS) orders, to lawfully terminate a lease within the U.S. without repercussions. If a U.S. landlord imposes penalties (e.g., withholds a security deposit or insists on additional rent), the Legal Assistance Office can help you address this. Housing agreements with local German landlords approved by the military housing office usually contain similar release language.
5. **TERMINATION OF AUTOMOBILE LEASES DURING MILITARY SERVICE:** If a service member signs a lease for an automobile prior to a PCS move to Germany, and chooses not to ship the leased car to Germany, it may be possible to use the SCRA to terminate the lease.

There are other protections that the SCRA affords to service members who are placed at a financial or other disadvantage due to their active duty service. ***For more information on your legal protections under the SCRA, contact your local Legal Assistance Office to speak with an attorney about your individual case.***

An Article 32 UCMJ Investigation Update Judge Advocates to Play a Much Larger Role...

by MAJ Jenevieve Murphy



Recent changes in the law have driven substantial changes to how pretrial investigations under Article 32, UCMJ, are conducted. The most significant changes came as a result of the FY 14 National Defense Authorization Act (NDAA). The first change requires the appointment of judge advocates to serve as Article 32 investigating officers “whenever practicable,” and indicates they should be equal or greater in rank to the other counsel involved in the case. This provision becomes effective on December 27, 2014. Ahead of this timeline, the 21st Theater Sustainment Command’s Office of the Staff Judge Advocate implemented this change and judge advocates now routinely serve as Article 32 investigating officers.

In the past, a judge advocate could serve as an Article 32 investigating officer but they were not regularly appointed unless the case had high visibility, dealt with a sensitive topic, or some other issue was present. Normally the convening authority appointed a field-grade officer from the unit of the accused to conduct the Article 32 pretrial investigation. Now a judge advocate must be appointed unless some circumstance prevents it (e.g., one is not available or the case would benefit from an officer with some particular expertise). Congress did not make the requirement absolute, as evidenced by the “whenever practicable” language in section 1702 of the NDAA, but it appears that most, if not all, investigations should and will henceforth be conducted by judge advocates.

Another important change comes in the revision of Rule for Court Martial (R.C.M.) 405. The rule now includes, in R.C.M. 405(i), the requirement to apply Military Rule of Evidence (M.R.E.) 412 during the Article 32 proceedings. Due to this change, every Article 32 investigating officer will now follow the judge’s procedure laid out in M.R.E. 412 when any party seeks to admit information related to a victim’s sexual behavior or sexual predisposition. A party intending to offer evidence of the victim’s sexual behavior or sexual predisposition must give written notice of the evidence and the purpose for which it is offered to the investigating officer, to the other parties, and to the victim and their Special Victim Counsel at least five days before the Article 32 hearing. Prior to allowing any evidence that falls under M.R.E. 412, the investigating officer must conduct a closed hearing and the victim must be afforded an opportunity to attend and be heard. This hearing must be sealed and remained sealed unless later ordered otherwise. The evidence from the closed hearing should not be included in the report of the investigation.

Other changes to R.C.M. 405 and R.C.M. 703 provide rules by which an Article 32 investigating officer or government counsel may issue a subpoena *duces tecum* to compel discovery of books, papers, documents, data, electronically stored information, or other important information for the pretrial investigation. These changes provide authority for investigating officers to obtain necessary evidence for Article 32 investigations, implementing provisions from the FY 12 NDAA.

Additional changes effective December 27, 2014 include changing the Article 32 to a preliminary hearing with the primary purpose of determining whether there is probable cause to believe an offense has occurred; the investigating officer will then be a hearing officer; the victim may not be required to testify at the hearing; the hearing must be recorded; and the victim can request a copy of the record.

These changes underscore that the law is not static. Judge advocates, like all attorneys, need to take notice and educate themselves on the current state of the law. In order to be prepared to serve as Article 32 investigating/hearing officers or to provide legal advice to other judge advocates, all judge advocates should review the updated Rules for Court Martial, Military Rules of Evidence, and Department of the Army Pamphlet 27-17, dated July 24, 2014, entitled “Procedural Guide for Article 32(b) Investigating Officer” and continue to watch for changes and updates to the law.

The Ethics Corner...

by Rick Schwartz

**FINANCIAL DISCLOSURE —
ENSURING IMPARTIALITY...**

Impartiality and an absence of bias or preference are bedrock principles of the manner in which all executive branch employees are to approach their duties. For those who make decisions that involve the interests of entities outside of the Federal Government, those principles must be considered in light of any personal interests they themselves may have in those outside parties. Today we're looking at the rules governing financial disclosure in the context of ensuring that certain influential people in government don't appear to be providing special treatment to outside entities as a way to advance their own interests at the expense of other outside entities or the taxpayer.

Within the Code of Federal Regulations (CFR), the provisions governing Financial Disclosure represent one tool supervisors have to ensure our decision-making processes involving outside entities are living up to those ideals. The program requirements are administered through the Office of Government Ethics (OGE) and currently conducted annually (and as new filers come into an assignment designated for disclosure) Army-wide through a convenient online program called Financial Disclosure Management (FDM). FDM includes a tracking mechanism for required annual ethics training for the approximately 44,000 confidential filers in the Department of the Army as well as various reporting tools that enable feedback to be given at all levels in terms of the effectiveness of the organization's ethics program. The CFR mandates two separate types of financial disclosure—Public and Confidential—based principally on the filer's level of responsibility.

Public Financial Disclosure and the OGE Form 278. The public financial disclosure system is a way for senior executives to establish that their personal financial interests do not conflict with—or improperly influence—the decisions they make in their official capacity.

The CFR requires each General Officer, member of the Senior Executive Service and Presidential Appointee (among others), to file an OGE Form 278 annually. Those annual disclosures are available to the public upon request, and include components related to the filer's interests in real estate, gifts from outside sources, securities holdings and outside positions and transactions, as well as certain related information about the financial interests of the filer's spouse and dependent children. Items are listed in a range of dollar amounts.

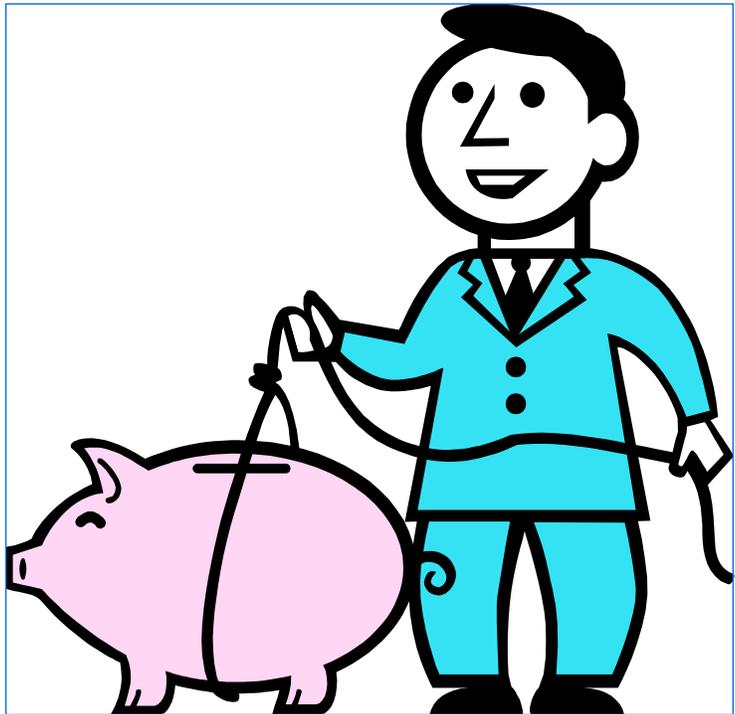
In addition, the Stop Trading on Congressional Knowledge (STOCK) Act would require certain disclosure on an OGE Form 278-T for reportable financial transactions that take place periodically throughout the calendar year.

***[continued on page 17..]***

FINANCIAL DISCLOSURE (Continued...)

Confidential Financial Disclosure and the OGE Form 450.

For those individuals designated as OGE Form 450 filers, the most significant difference from the public financial disclosure rules is as the name suggests: their filings are kept confidential. Only the filer's supervisor and the organization's Ethics Counselor are able to review the disclosures. Those two individuals have responsibility for determining whether a filer's personal financial interests or affiliations pose an actual or potential conflict of interest with the filer's official duties. Where there is a potential or actual conflict based on particular holdings, the filer must either remove the conflicting holding (*e.g.*, by selling particular shares of stock) or be prohibited from taking any official action that might affect that personal interest.



Determining who files the OGE 450. Certain duty positions have been designated for confidential financial disclosure. These positions have been designated based on 3 factors: pay, type of work and level of responsibility. Specifically, the filer must (1) be an O-6/GS-15 or below, (2) perform work that affects the financial interests of outside entities (including through contracting or procurement) where there could be the appearance of favoritism or a lack of impartiality and (3) exercise significant judgment in the decision-making process without substantial review by their supervisor. Certain positions, such as Brigade-level or installation Commanders, are almost always designated. Other positions, however critical to the acquisition process, because they have another layer or two of supervisory review to provide added protection and objectivity, would not be designated as filing positions. While it is important to avoid any possible appearance of potential conflicts of interest, careful consideration should be given to the third factor to ensure that only those positions requiring a filing are so designated.

Whether you have a stake as a filer, supervisor or taxpayer, keep in mind that the financial disclosure rules are yet another tool to prevent conflicts of interest, promote transparency, maintain procurement integrity, and promote trust in the Executive Branch.

This column is meant to provide an overview of the financial disclosure process, and you should bear in mind that the analysis for each individual situation is fact-specific. If you would like specific advice, contact your servicing Ethics Counselor. Additional information may also be found at <https://www.fdm.army.mil/>.



JAG officers and civilian attorneys from the 21st TSC OSJA's offices in Kaiserslautern, Baumholder, Stuttgart, Schinnen, and Mons, the 409th Contracting Support Brigade, the 7th Civil Support Command, the U.S. Army NATO Brigade, the U.S. Army Trial Defense Service, and the U.S. Army Trial Judiciary at the entrance to the WWII-era Maginot Line's Hackenburg fortress, during a staff ride that also included a visit to the WWI battlefield of Verdun; this trip was part of a series of Officer Professional Development events sponsored by the 21st TSC OSJA that are designed to retrace the origins of American military presence in Europe and remind participants of "why we are here."

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Bldg. 3210 is directly across from the former site of the Kleber Shoppette. Enter Bldg. 3210 from the door on the east end of the building.

