



OUR ANNUAL "WELCOME TO GERMANY" EDITION...

KAISERSLAUTERN LEGAL SERVICES CENTER



KAISERSLAUTERN LEGAL INFORMER

10TH ANNIVERSARY EDITION!

IN THIS ISSUE...

by Steve Smith

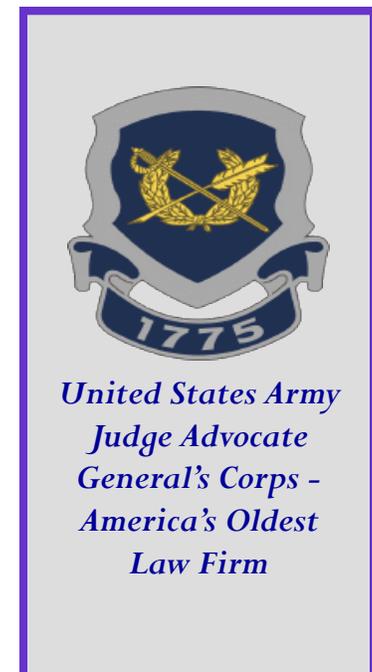
This summer marked the Kaiserslautern Legal Informer's tenth anniversary. Originally designed to share preventive law information on legal assistance and claims with our clients, the "KLI" has expanded over the years to cover the full range of legal issues with which our attorneys and paralegals deal on a daily basis. What started as a six-page hard-copy inaugural issue in the summer of 2005 has transformed into a comprehensive quarterly newsletter disseminated electronically to a vast readership that includes all 21st TSC users, the Landstuhl medical community, and family support group leaders and members in the greater Kaiserslautern area. We also share the newsletter with our branch offices in Baumholder, Stuttgart, Belgium, and the Netherlands, post it on Facebook, and share it with legal assistance and claims practitioners Army-wide on milBook, making the KLI the most widely-read preventive law newsletter in the Army.

The KLI is a living memorial to Jim Wiley, who served as Chief of Client Services at the Kaiserslautern Legal Services Center from 1998 until 2007. Jim came up with the concept for the KLI and edited the early editions of this newsletter. When Jim deployed as a mobilized Reserve Judge Advocate in 2007, we promised to keep the newsletter going in his absence. His tragic death in Afghanistan in 2008 made us resolve to work all the harder to keep his memory alive by keeping his newsletter going.

The changes in the KLI over the last decade reflect the changes in the services we offer our clientele. The summer of 2005 marked the arrival of Joerg Modellmog, the Kaiserslautern Legal Service Center's first full-time German Attorney-Advisor. Demand for his services became so great that we hired a second full-time German Attorney-Advisor in 2012, when we added Holger Blug to our staff. We've also expanded our tax services by opening a satellite tax assistance center on Pulaski Barracks, improved our claims services by installing a kiosk for claimants to enter their claims into the Defense Personal Property System (DPS), and provided more services to victims of sexual assault.

We thank our readers for their loyalty and pledge our continued efforts to keep them well-informed about legal developments and issues that impact Americans stationed overseas.

- Border Controls
- German Legal Pitfalls to Avoid
- Dual Citizenship
- Same-Sex Partners
- Service of Process
- Consumer Financial Protection
- KLSC User's Guide
- Meet New Special Victim Counsel
- DUI Reprimands
- Fantasy Football
- And much more!



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



KAISERSLAUTERN LEGAL INFORMER

FIRST IN SUPPORT

Summer 2005

The Kaiserslautern Legal Services Center 483-8848

Editor's Note: The header from our inaugural edition.

Germany Reimposes Border Controls

A German attorney explains the new restrictions...

by Holger Blug

In recent years, we have published several articles in this newsletter about the European Union (EU) and the open border system, which is based on the Schengen Treaty. Most of the EU member states (except for Great Britain and Ireland) as well as Switzerland, Iceland, Norway, and Lichtenstein are the signatory states to the Schengen Treaty. Those signatory states agreed on an open border system, which means there are no longer identity checks at the internal borders. In return, those countries established common rules for external border control and asylum proceedings.

However, in early September 2015, after thousands of refugees began flooding into the country, Germany decided to reinstate border controls in order to ensure an orderly entry process. Even though the border control system had been abolished by the Schengen Treaty, the rules still allow the temporary reinstatement of border restrictions in cases of crisis and national security. Germany decided to exercise this option in order to properly document refugees entering the country, many of whom have no passports or other documentation.

Of course the current restrictions will not lead to a complete shut-down of German borders. However, there are already frequent checkpoints, especially at the Austrian border. You should also expect checkpoints at the borders between Germany and other countries.

This means when you are visiting foreign countries, you should be prepared for border controls while re-entering Germany. U.S. personnel stationed in Germany have always been required to carry a passport with a SOFA stamp (or blue laminated SOFA stamp card), military ID, and leave form when traveling outside of Germany. In the past many personnel ignored this requirement because of the open borders. Now it is critical that military personnel carry all required documents for border crossing when traveling outside Germany.

If you are a family member from one of the countries for which Germany and the other Schengen signature states require an entry visa (such as Russia, the Philippines, and many African countries), it is important to know that you are eligible to obtain a "Schengen Travel Visa" confirming residency in Germany for SOFA purposes. To avoid trouble while travelling to other countries you should apply for such a visa at the local Alien Office ("*Auslaenderbehoerde*") [see article on page 12 of the Winter 2015 edition of this newsletter].

If you decide to visit other countries by car, you should also obtain an international driver's license. Many EU member states require you to have one, since they do not accept the USAREUR certificate of license [see article on page 2 of the Summer 2006 edition of this newsletter].

You should plan more time for your trip, since the checkpoints may cause long delays on highways or other main roads near an international border. At the moment it is not clear when Germany will abandon the border checkpoints. It appears that they will be with us for some time to come, as the flood of refugees pouring into Europe shows no sign of abating.



How to Obtain an International Driver's License

Americans who live Stateside and are preparing for a tour of duty or a vacation in Europe can obtain an International Driver's License from the American Automobile Association (AAA). For those who are already stationed in the Kaiserslautern area, obtaining an International Driver's License is a little more complicated. It's essentially a three step process:

Step 1: First, you need to report to Driver's Testing in Room 106 of Building 3104 on Daenner Kaserne to obtain an application for an International Driver's License. You should bring along your ID card, USAREUR driver's license, and Stateside driver's license. Operating hours for International Driver's License applicants are Tuesday through Thursday from 1230 to 1515, and Fridays from 1230 to 1500. Note that the application form they generate is only valid for **one week** from the date it is issued, so you have only a week to accomplish steps 2 & 3.

Step 2: Obtain a so-called "biometric" (passport) photograph of yourself from a professional photographer or from a photo booth in a local store (there is one in the Pfalz Center shopping mall between Kleber and Panzer Kasernes). The photo should be of your head and shoulders, facing forward, no hat, and no laughing.

Step 3: If you live in Kaiserslautern County, take your ID card, USAREUR license, Stateside license, application form, biometric photo, and at least 20 Euros to the "*Kreisverwaltung*" building located at Lauterstrasse 8, just across the street from the tall white Rathaus building. The office that processes International Driver's Licenses is on the ground floor, to the left of the main entrance doors. They are open Monday to Wednesday from 0800 to 1145 and 1330 to 1600, Thursdays from 0800 to 1145 and 1330 to 1745, and Fridays from 0800 to 1145. If you live within the city limits of Kaiserslautern, you need to go to the "*Stadtverwaltung*" located in the Rathaus Nord Building at Benzinoring 1. They are open Monday from 0800 to 1200, Tuesday from 0800 to 1400, Wednesday from 0800 to 1200, Thursday from 0800 to 1200 and 1400 to 1800, and Friday from 0800 to 1200. If you live outside Kaiserslautern County, the personnel at Driver's Testing will tell you where you need to go to accomplish Step 3.

Note that an International Driver's License is only good for up to three years, or until your USAREUR license expires, whichever comes first.



KAISERSLAUTERN LEGAL SERVICES CENTER

**Building 3210
Kleber Kaserne**

Legal Assistance 483-8848

Tax Assistance 483-8848

Claims 483-8855/8856

International Affairs 483-8859/8854

Trial Defense Service 483-8397

[Civilian: 0631-411-XXXX]

OFFICE OF THE STAFF JUDGE ADVOCATE

**Building 3004
Panzer Kaserne**

Administrative Law 484-8043

Criminal Law 484-7419

[Civilian: 0631-413-XXXX]

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 milBook and shared with legal assistance and claims practitioners Army-wide.

Welcome to Germany! Watch Out For...

A civilian attorney warns newcomers of a host of legal pitfalls...

by Steve Smith

Many of our readers are newcomers to USAREUR. I'd like to offer them a few legal tips about living and working in Germany.

For starters, remember that you are a guest in this country, and comport yourself as a goodwill ambassador at all times. Stay out of trouble. Hanging out in bars and clubs is a good way to get in a fight and wind up seriously injured or worse. German beer is stronger than its American counterpart, and German wine packs a punch, too. If you drive, don't drink, and if you drink, don't drive. Many a career has ended prematurely because of alcohol-related incidents. The German Polizei routinely set up DUI checkpoints, and have the right to force you to submit to a blood-alcohol test. Don't argue with them. They will get their blood sample one way or the other; it's simply a question of how much blood you want to lose in the process.

Just because you are here on orders does not mean you could not wind up in German court or German jail. While German prosecutors usually release "concurrent jurisdiction" cases (those where the service member could be tried for the offense under either German law or the UCMJ) to military authorities for disposition, some German crimes, like negligent infliction of bodily injury, have no counterpart under the UCMJ and can only be tried by a German court. Civilian employees and family members are under exclusive German jurisdiction and wind up being tried in German courts because they normally cannot be court-martialed.

If you are tried in German court, don't expect a jury trial. Juries don't exist here. Civilians and family members who do the crime should be prepared to do the time, and do it in German jail. The good news is that, if you are tried by a German court, you can request that the Army pay for a bilingual German attorney to defend you. The Army will also send a JAG officer to observe your trial and visit you if you wind up in German prison, to monitor the quality of the care you receive there.

If you bring a lawsuit in German court and lose, you could wind up paying attorney's fees for both sides and the court costs, unless you have legal protection insurance ("*Rechtsschutzversicherung*").

Getting settled in Germany is no easy matter. There is not enough Government housing to go around, so the vast majority of our personnel wind up having to rent a home or apartment from a German landlord. Make sure you check out the premises thoroughly before you move in, and memorialize all pre-existing damage. Failure to do that up front will almost certainly result in your being charged for the damage when you move out. If your German landlord tries to evict you, refuses to make needed repairs, or fails to return your security deposit, we have German Attorney-Advisors on our staff who can assist you. They spend most of their time dealing with landlord-tenant issues.



[continued on page 5...]

Welcome to Germany! (continued)

It is easy to sign a contract. It is not so easy to terminate one. German contracts for cell phones, landline phones, and internet service, and ADAC and BahnCard contracts usually have automatic renewal clauses that make it very tricky to cancel the contract. Our German attorneys can help explain the rules to you.

If you have a wireless local area network router, make sure you password it, change the password often, and disable the server set identifier to prevent the name of your network from being broadcast. If you don't protect yourself, others could tap into your router and download copyrighted material, which could result in your receiving a letter demanding monetary damages and attorney fees, or being sued for copyright infringement. This happens more often than you would imagine. See our German attorneys for more advice on this.

Buying and selling used cars in Germany is a tricky business. What you don't know can hurt you. If you sell a used car without any kind of contract or bill of sale indicating that the buyer accepts the car "as is," under German law you as the seller guarantee the car to be free from defects for a period of two years after the sale. If you are buying a used car from someone else, have it thoroughly checked out by an independent mechanic, and have the seller put any assurances or guarantees that are important to you in writing.

Make sure you have the right kind of tires on your vehicle. If you are caught with summer tires on your car in winter, or have insufficient tread, you can be fined by the Polizei. Even worse, if you are in an accident and had the wrong kind of tires on your vehicle your insurance coverage might be voided.

Watch your speed. While there are still portions of the German Autobahn where there is no speed limit, the areas where speed is limited are crawling with cameras. There is a well-oiled system in place for serving traffic tickets and related court documents, and assessing points against your license. Rack up too many points and you could lose your license. If you have an accident, do not flee the scene. If you must leave the scene, report the accident immediately to the closest Polizei or MP station, and to your insurance company. Always keep a warning triangle, first aid kit, and fluorescent vest in your vehicle. If you drive into other countries, carry your passport and an International Driver's License with you. And don't think you can avoid having to pay traffic tickets from other EU countries; those tickets can now be enforced on those stationed in Germany.



If you receive a notice from the German tax authorities asking for a copy of your W-2 form or proposing to tax you on your military or DoD civilian pay, make an appointment to see Mr. Modelmog, our German attorney who specializes in tax matters.

If you shipped a vehicle to Germany, inspect it thoroughly and note any damage on the Vehicle Inspection & Shipping Form (VISF) before you leave the Vehicle Processing Center. When it comes to household goods and unaccompanied baggage shipments, note any obvious loss or damage at the time of delivery, and unpack your boxes promptly and report any additional loss or damage you discover to the transportation service provider within 75 days of delivery. For more information, call or visit your local claims office.

Germany is a great place to be stationed, as long as you take steps to avoid legal pitfalls. Enjoy your tour!

Dual Citizenship for German Spouses

A German attorney outlines the rules and recent changes...

by Joerg Modellmog

In Germany, it is fairly easy for children to become dual citizens, as citizenship comes by birth. If one parent is German and the other one is American, the child acquires both citizenships, following a proper birth registration that establishes such entitlement (see my article entitled “Born in Deutschland” on page 2 of the Fall 2009 edition of this newsletter). However, if you are stationed in Germany under the NATO SOFA and neither your spouse nor you is German, your child will not be entitled to German citizenship, even if born in Germany.



It is much more difficult, but not impossible, for your German spouse to become a dual (German-American) citizen. A German spouse may petition for permission to keep German citizenship **BEFORE** the spouse opts to upgrade from U.S. resident alien (*a.k.a.* “Green Card”) status to become a U.S. citizen (§ 25 para. 2 StAG, *Staatsangehörigkeitgesetz*, German Citizenship Act). [Caveat: taking U.S. citizenship before any permission to maintain German citizenship has been granted will result in an automatic loss of German citizenship (§ 17 and § 25 para. 1 StAG). A procedural defect of this sort cannot be cured.]

Your spouse’s petition for permission needs to provide detailed specific reasons why the spouse wishes to keep German citizenship (*e.g.*, continued family ties, educational background, secondary residence). Your spouse will also have to spell out the driving force for his or her desire to come a U.S. citizen (*e.g.*, impact on your security clearance, inability to get certain jobs, detrimental provisions in the inheritance tax laws). A mere “nice to have” is considered insufficient justification and won’t do the trick. The same is true for general disadvantages that any foreigner faces abroad (*e.g.*, risk of being deported). In the end the German authorities will weigh all arguments carefully, taking into consideration private and public interests. It’s a case-by-case decision, driven by the facts.

Petitions filed from abroad through German Consulates are centrally processed at the “*Bundesverwaltungsamt*” (Federal Administration Office) in Cologne, while petitions from within Germany need to be submitted to the local Town Hall. In the latter cases, approval rates regrettably vary among the different German states, despite standard rules. Note that the petition is not free of charge, even if it is denied.

Since 2013, Germans residing abroad have been able to obtain a German ID card listing their place of residence as “abroad” (“*im Ausland lebend*”). Just like any other German ID card it has a chip and PIN, to facilitate German online certification. Moreover, Germans who generally reside abroad can apply for a German passport locally in Germany without any residency requirement, which can be a big relief for your German spouse should his or her German passport expire while they accompany you at your current duty station in Germany. You no longer need to contact the German Consulate servicing your stateside address; your spouse can do it all locally and without violating residency registration rules set forth in Article 6 of the German Supplementary Agreement to the NATO SOFA.

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.

Same-Sex Partners Now Recognized by Germany Under NATO SOFA

by Pete Masterton

The NATO Status of Forces Agreement provides many privileges to family members of U.S. Forces personnel. Among other things, it provides for exemptions in visa regulations and taxation. Effective September 9, 2015, these protections were extended to same-sex spouses of U.S. Forces personnel and DoD civilian employees stationed in Germany.

Under the NATO Status of Forces Agreement, “dependents” of U.S. Forces personnel are entitled to the full protections of the agreement. Until recently, Germany was unwilling to interpret the term “dependent” to include same-sex partners of U.S. Forces personnel because the U.S. was unable to grant a similar status to same-sex partners of German Forces personnel in the U.S. However, all that changed on September 9th. Same-sex partners of U.S. Forces personnel in Germany are now considered “dependents” and afforded full protection under the Status of Forces Agreement.

This means that same-sex spouses of U.S. Forces personnel and DoD civilian employees stationed in Germany are now exempt from the normal three-month limitation on tourist visas in Germany and can receive “SOFA stamps” for their passports. It also means they are authorized family travel to Europe and command sponsorship and can live with their sponsors in Government or private rental quarters. In addition, they can obtain a U.S. Forces Certificate of License permitting them to operate vehicles with U.S. Army Europe license plates and they can shop tax-free at the Commissary and Exchange and use Value Added Tax relief forms when shopping on the economy. In short, they now have all of the privileges and individual logistic support accorded family members under the Status of Forces Agreement.

To qualify for these benefits, same sex partners must be married to their sponsor. Germany does not provide for marriage (“Ehe”) of same-sex couples. Instead it developed an alternative legal category of registered life partnership (“*eingetragenen Lebenspartnerschaft*”) to allow same-sex couples to secure status substantially equivalent to marriage. The German Constitution requires equality, to the extent possible, between same-sex life partnerships and traditional marriages. However, such German “registered life partnerships,” do **NOT** constitute a marriage and, therefore, will **NOT** qualify a same-sex partner as a “dependent” under the Status of Forces Agreement. Consequently, such partners are not entitled to the logistic support benefits mentioned above.

Personnel who have questions concerning the benefits same sex partners are entitled to should contact their local legal assistance office.

For further information, contact the Kaiserslautern Legal Services Center’s Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.



Service of Process from U.S. to Germany

An American attorney explains the rules of the game...

by Mark Christensen

Our legal personnel in Germany frequently encounter clients who say they have been served with a civil summons or other legal papers from the U.S., and they now are required to respond within some period of time, normally 20 to 40 days. Most clients in this situation are part of a family law dispute, but some cases involve commercial issues such as debts or contractual relationships.



Service of court documents is a required event in a civil court case, a process indicating that a defendant or respondent in a case has been served with reasonable notice of the proceedings and afforded an opportunity to appear and be heard. Each state and federal court has its own rules on how service of process may be accomplished. In some jurisdictions service must be made by a sheriff or peace officer. In other locations service can be made by a hired process server or by certified mail. If the whereabouts of the defendant are unknown, a plaintiff may be able to serve notice by publication by placing a legal notice in a newspaper of general circulation. Plaintiffs normally cannot proceed with a case until service has been accomplished.

Service of process across international boundaries is more complicated. The U.S. and Germany (and other European countries) are signatories to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, *a.k.a.* the Hague Service Convention (HSC). The HSC is available on the Hague website (<http://www.hcch.net>) and addresses service of process across international boundaries. Under the Supremacy Clause of the U.S. Constitution, notwithstanding any state or local rule governing service of process to the contrary, service of process that does not conform to the provisions of the HSC is improper. Until service of process has been effected in accordance with the terms of the HSC, a defendant cannot be required to answer in a U.S. court action without express consent and waiver. A decree entered in contravention of the HSC is voidable.

Compliance with the HSC for service of process in Germany requires a U.S. plaintiff to certify court filings and obtain German translations before transferring the packet for service, even if the defendant is not German or does not speak German. Packets destined for Germany (to include U.S. military and civilian personnel stationed here under the NATO SOFA) are to be mailed to a so-called Central Agency with the German “*Land*” (*i.e.*, state) concerned to effect service of process. Only then has the defendant been properly served.

Plaintiffs often attempt other means of service, either unaware of the HSC or hoping to get around the requirements. While a defendant is free to waive HSC service requirements, without a waiver it is not permissible to serve a defendant by certified mail through the APO system or Deutsche Post. Nor is it permissible to serve a defendant personally by handing the defendant a packet or having someone else deliver the packet. U.S. military installations in Europe are not “U.S. soil” locations exempt from the HSC, and under Army Regulation 27-40, U.S. military and legal office personnel are not permitted to assist service of process attempts that do not comply with the HSC and the NATO SOFA. Such acts constitute an affront to German sovereignty and could be treated as an unlawful assumption of authority, punishable under German law. Most importantly, non-HSC service attempts are improper and subject to dismissal.

If you are served with legal papers by any means, whether through the Legal Office or by mail or in person, you should immediately consult with a lawyer regarding your rights and responsibilities. The Kaiserslautern Legal Services Center’s Legal Assistance Office has a handout on service of process which clients have found helpful in defending against improper service attempts or having their attorney effect proper service of process. Click on: <http://www.eur.army.mil/21TSC/SJA/LegalAssist/Areas-German%20&%20EU%20Issues/03-06-HSCMemo.pdf>.

Consumer Financial Protection Bureau

A governmental agency that looks out for the little guy...

by CPT Lauren Teel

Do you have credit cards? Bank accounts? Personal loans? Educational loans? Own a home? If you said yes to any of these, then the Consumer Financial Protection Bureau (CFPB) is looking out for you. The CFPB is a newly-created independent governmental agency that aims to consistently and fairly enforce financial rules in the consumer financial market and empower consumers to take more control over their economic lives.



The CFPB works to give consumers the information they need to understand the terms of their agreements with financial companies. Among other things, they:

- Write rules, supervise companies, and enforce federal consumer financial protection laws
- Restrict unfair, deceptive, or abusive acts or practices
- Take consumer complaints
- Promote financial education
- Monitor financial markets for new risks to consumers
- Enforce laws that outlaw discrimination and other unfair treatment in consumer finance

For example, the CFPB advises that you should take notice of any bank account you have that may have had the fees or other terms changed. After receiving complaints, the CFPB discovered a disturbing trend: official notices about bank account changes were routinely being sent to wrong or old addresses, then banks would impose penalties and fees for violation of the new account terms. To stop this from happening to you, you should make sure you keep your address current with your bank. Periodically ask your bank if there are any fees related to the non-use of an account or if a minimum monthly balance is required.

If you deploy or go on extended TDY, you should take steps to ensure your loved ones have access to your financial accounts. Sometimes, a General or even a Special Power of Attorney (POA) for finances and banking is not enough. One Soldier reported to the CFPB that his bank required a Special POA “authorizing” his wife’s access to his accounts electronically. Another Soldier’s mother had an issue speaking on the telephone to the bank for the Soldier even though she had a POA. You should check with your bank to ensure that the right type of access is granted by your current POA. If you are creating a new POA, you should check to see if any specific language or format should be used. Once you have the information, the Legal Assistance Office can create these POAs for you and notarize them.

You can seek enforcement of your rights by filing a complaint through the CFPB at: <http://www.consumerfinance.gov/complaint/>. You can find consumer information pertaining to military personnel, veterans, and their families at <http://www.consumerfinance.gov/servicemembers/>.

For further information, contact the Kaiserslautern Legal Services Center’s Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

The Kaiserslautern Legal Services Center

A guide to our services for newcomers to the Kaiserslautern community...

by MAJ Brad Gwillim

Are you new to the local area following the PCS season or in need of free legal services but don't know where to find them? You need look no further than the Kaiserslautern Legal Services Center (KLSC), located on the ground floor of Building 3210, on Kleber Kaserne (see the map on the back of this newsletter for directions). The KLSC puts all the legal services our clients need under one roof for "one-stop shopping."

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); the KLSC's Senior German Attorney-Advisor, Joerg Moddelmog, 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

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, Active Duty and Reserve Judge Advocates (on two or three-week Overseas Deployment Training rotations), military paralegals, and a civilian paralegal who also serves as the 21st TSC tax program coordinator.

[continued on page 11...]

The Kaiserslautern Legal Services Center (continued)

The hours for walk-in legal assistance services (e.g., notarizations, powers of attorney, certified copies of documents) are: Monday, Tuesday, Wednesday, and Friday from 0900 to 1600 and on Thursday afternoons from 1200 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 won The Judge Advocate General's Award for Excellence in Claims eight years in a row 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 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.

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 70 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 also 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, 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.

[continued on page 12...]

The Kaiserslautern Legal Services Center (continued)

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 483-8855/8856 or Civilian 0631-411-8855/8856.***

THE TAX ASSISTANCE CENTER — ROOM 102

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 main entrance on the east side of Building 3210.

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 has a ramp for handicapped access. The other is in Building 2886 on Pulaski Barracks, which makes it easily 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 493-4300 or Civilian 0631-3406-4300***
- ***Landstuhl: DSN 486-6334 or Civilian 06371-86-6334***

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.

[continued on page 13...]

The Kaiserslautern Legal Services Center (continued)

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 0830 to 1130 and from 1300 to 1500, Monday through Friday.

Karl-Heinz Oberländer 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 database 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.

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 483-8859/8854 or Civilian 0631-411-8859/8854.***



Serving the most deserving. Top row, from left to right: Chief of Client Services Mark Christensen, Legal Assistance Attorney CPT Lauren Teel, German Attorney-Advisors Holger Blug & Joerg Moddemog, Tax Program Coordinator Donald Davis. Bottom row from left to right, Claims Examiners Karin Jordan & Martina Berndt, Claims Judge Advocate and Special Victim Counsel CPT Wayne Janoe, International Affairs experts Karl-Heinz Oberländer & Amanda Martins-Gonçalves.

Meet Our New Special Victim Counsel

By MAJ Brad Gwillim

CPT H. Wayne Janoe has been assigned as primary Special Victim Counsel (SVC) for the 21st TSC in Kaiserslautern and the surrounding area. The purpose of the SVC Program is to provide zealous advocacy for victims of sexual assault throughout the military justice and administrative process. CPT Janoe and his fellow SVCs within the 21st TSC are attorneys and Judge Advocates who receive special training to represent victims who have filed a restricted or unrestricted report of sexual assault.

Those eligible for SVC services include Soldier victims of sexual assault, Service Members from other services when the offender is an Army Soldier, and other victims who are eligible for military legal assistance, such as dependents, if the Army can exercise jurisdiction over the offender. You may contact CPT Janoe if there is a question related to eligibility.

The SVC enters into a confidential attorney-client relationship with their clients, so victims can feel comfortable confiding in their SVC. SVCs work to empower victims and foster their understanding of the process from the initial reporting and investigation, through the entire court-martial, if applicable, and to final disposition of the case. An SVC is not a prosecutor or a defense attorney. Although they work closely with the command and the Office of the Staff Judge Advocate, an SVC's job is to represent the best interests of their client, the victim, even when that client's interests may not align with those of the U.S. Government or the command. As an SVC, CPT Janoe's primary duty is to his clients and not to any other person, organization, or entity.

CPT Janoe's advocacy also includes advising victims on civil (legal assistance) issues that may be related to the crime, advocating the victim's interests with the trial counsel and command on the disposition of the case, and referring a victim to a trial defense attorney when the victim is concerned that they may get in trouble for something related to the crime against them (collateral misconduct). He accompanies victims to pre-trial interviews, hearings, and court-martial proceedings. He prepares motions and argues in court to protect victims' rights under the "rape shield" laws and to protect their privileged communications with behavioral health providers and Victim Advocates.

CPT Janoe works alongside the Victim Advocate (VA) and other support personnel, including those within the Victim-Witness Assistance Program, to help victims connect with appropriate local resources for additional assistance. Survivors of sexual assault may require specialized legal assistance services to obtain protection orders (e.g., no contact orders for military service members). This includes victim services such as Transitional Compensation. An SVC may also refer clients for advice about other legal issues related to the crime such as child support, child custody, legal separation/divorce, unemployment compensation, immigration matters, financial matters, and/or housing.

The SVC office is located in Room 112 of the Kaiserslautern Legal Services Center, Building 3210, on Kleber Kaserne. Whether you are a victim, commander, concerned friend, VA, or a Sexual Assault Response Coordinator (SARC), you should feel free to contact the Kaiserslautern Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848 for more information or to make an appointment with CPT Janoe.

You may also contact CPT Janoe directly at DSN 483-8414, Civilian 0631-411-8414, Government Cell 0162-251-8296, or e-mail at: henry.w.janoe.mil@mail.mil.



CPT Wayne Janoe

File Notice of Loss/Damage Within 75 Days ***A claims attorney discusses the importance of meeting deadlines...***

by CPT Wayne Janoe

Now that PCS season is over and your household goods have likely arrived, you must provide the carrier (the moving company, also known as the Transportation Service Provider or TSP) with notice of your lost or damaged goods within 75 days of delivery. If you miss this 75-day notice period, your claim may be denied or your payment may be reduced. Further, the process isn't over after you've filed notice. You must still file the actual claim. While the deadline for filing the claim itself is nine months from delivery (if filing with the carrier) or two years from delivery (if filing with a Military Claims Office), the critical first step is to give notice within 75 days.



You can maximize your claim recovery options by giving notice in the followings ways:

1. **At the time of delivery.** Note lost or damaged goods on DD Form 1840 or on a similar form called "Notice of Loss or Damage at Delivery," and provide the document to the movers before they depart. This satisfies the 75-day notice requirement for those items.

2. **After the date of delivery.**

- Filing online at www.move.mil: You should also provide notice on the Defense Personal Property System (DPS) at <http://www.move.mil>, especially if you realize that there is loss or damage not noted at delivery. You can do this from the comfort of your home or office, or you can take advantage of the **computer kiosk** at the Claims Office in Room 112 of the Kaiserslautern Legal Services Center. When you use our kiosk, our claims professionals can talk you through the process of filing your notice of loss or damage online, and answer other claims-related questions.

- Fax, e-mail, and mail: Loss or damage discovered after the movers have departed can also be noted on either DD Form 1840R or the "Notice of Loss or Damage After Delivery" form and provided to the TSP within 75 days of delivery. Fax or e-mail (and mail) the form to the TSP using the contact information listed on the delivery documents listed above.

3. **Within the first 70 days after delivery, go to your servicing Military Claims Office!** Claims personnel can dispatch the notice to the TSP and help you file notice for your claim, whether you need to file online (at home or at the claims kiosk) or directly with the carrier. Our claims experts can confirm proper notice and help clear up any confusion.

The 75-day notice period could be extended if you were deployed, on extended TDY, or hospitalized during the 75 days after delivery, and requests an extension based on other reasons could be approved by U.S. Army Claims Service. However, it is best not to count on receiving an extension, and to make every effort to put the TSP on notice as soon as possible. Keep track of this notice period and avoid missing out when it comes to payment of your claim!

If you have claims questions or need assistance in providing notice or filing your claim, call our experienced claims examiners at DSN 483-8855/8856 or Civilian 0631-411-8855/8856.

Mandatory DUI GOMORs

An experienced trial counsel explains how the process works...

by CPT A.J. Browell

You are a brand-new company commander here in Germany. After your first weekend in command, PFC Snuffy hits the blotter for driving under the influence. Of course, you already know this because you received a phone call from the military police desk at 0300 hours on Sunday informing you that PFC Snuffy was detained for DUI and now someone from the unit has to come pick him up. The blotter reveals that while PFC Snuffy was driving back to the barracks following a night at Nachtschicht, he was stopped at the gate by Pond guards because he reeked of booze; military police respond and take him back to the station where he submits to a breath test yielding a .16 breath alcohol concentration (BAC).



You want to take swift and just action to establish yourself as a commander who is tough on DUI, so you ask your battalion commander to impose nonjudicial punishment under Article 15, UCMJ for PFC Snuffy's violation of Article 111, UCMJ (Drunk Operation of a Vehicle). Your battalion commander agrees, and, a week later, now-PVT Snuffy is now working off his 45 days of extra duty after being found guilty.

A few days later, you receive a General Officer Memorandum of Reprimand to serve on PVT Snuffy addressing his DUI. You immediately think, "I thought we were done dealing with this DUI," and ask yourself, "what *is* a General Officer Memorandum of Reprimand?"

A General Officer Memorandum of Reprimand (GOMOR), sometimes inappropriately stylized "GOMAR," is a formal administrative condemnation issued by a General Officer in response to misconduct or other inappropriate behavior committed by a Soldier. Although any commander can issue a reprimand, only a General Officer can direct filing of a reprimand into a Soldier's Army Military Human Resource Record (AMHRR), formerly Official Military Personnel File (OMPF). A reprimand filed in a Soldier's AMHRR can have far-reaching consequences such as preventing promotion or triggering an involuntary separation proceeding.

With regard to driving under the influence in Europe, GOMORs are mandatory when a Soldier, 1) is found guilty of drunk driving in Article 15, UCMJ, proceedings; 2) refuses to submit to or complete a chemical testing, 3) drives or physically controls a car with a BAC of .08 or higher, or 4) drives or physically controls a car when a chemical test indicates the presence of illegal drugs. Under any of these four situations, the Soldier's General Court-Martial Convening Authority, normally the Commander, 21st TSC, must issue a reprimand to the Soldier.

Once the GOMOR is issued, the Soldier's command must ensure prompt service of the reprimand on the Soldier. The Soldier then has seven days to seek legal counsel and provide a written response to the CG. After the Soldier submits a response, if any, the Soldier's chain of command will provide a recommendation to the CG on whether or where to file the GOMOR. The CG may elect to destroy the reprimand, file the reprimand in the Soldier's Military Personnel Records Jacket (MPRJ) or "local file," or file the GOMOR in the Soldiers AMHRR.

Back to PVT Snuffy, he decided not to submit a response to the GOMOR. You and the battalion and brigade commanders recommend the CG file the GOMOR in his AMHRR, and the CG agrees. The reprimand is filed appropriately, and you bide your time hoping PVT Snuffy doesn't hit the blotter again - or worse, you get another call at 0300 hours...

This article only highlights one aspect of actions that must be taken in response to DUIs. Other mandatory actions can include referral to the Army Substance Abuse Program (ASAP), initiation of separation, and suspension/revocation of driving privileges to name a few. It is critical that commanders contact their servicing trial counsel soonest when war gaming how to appropriately dispose of DUI-related misconduct.

The Ethics Corner...**FANTASY FOOTBALL IN THE
FEDERAL WORKPLACE**

by Robert Vedra

It's that time of year again. The air is crisp, the leaves will soon be turning brilliant shades of red and gold, the kids are back in school, and football season has just begun. Most people, it seems, have a favorite team they support through thick and thin, but in recent years a phenomenon has emerged that transcends fans' interest in any one team—fantasy football. Allowing any NFL fan to be owner, general manager, and coach of their very own team, fantasy football has become a way for fans to feel even more connected to each Sunday's action and now seems firmly entrenched in the American sporting experience.



For the government employee, however, fantasy football can be a trap for the unwary. Paragraph 2-302 of the Joint Ethics Regulation, which applies to both Soldiers and civilian employees, prohibits conducting or participating in any gambling activity while on duty or on government property. Gambling activity includes, among other things, conducting a lottery or pool or participating in a game for money or property. To help us understand the extent of these prohibitions, let's look at a couple of examples from the Encyclopedia of Ethical Failure. This listing of ethical blunders is maintained by the Department of Defense Office of General Counsel as a training tool and as evidence that lawyers sometimes do have a sense of humor.

In the first example, a DoD employee was accused of operating a fantasy football league in the workplace. Each participant paid \$20 to enter, and those funds were used for an end-of-season luncheon and for trophies. The DoD General Counsel ruled that these activities constituted workplace gambling and violated the Joint Ethics Regulation.

In the second example, Air National Guard members were accused of running a fantasy football league on government computers. Each participant paid \$10 to enter, and the winner bought the other participants' pizza at the end-of-season party. Although the winner spent more on pizza than he or she received in winnings, and although league activities were conducted during break times, the personnel involved were counseled by their commander for gambling on federal property and misusing government resources.

From these examples, we can see that it would be difficult, if not impossible, to conduct or participate in a fantasy football league in the federal workplace without running afoul of the Joint Ethics Regulation. To be safe, it's probably best to take part in this kind of activity from the comfort of your own home, on your own time.

Editor's Note: Robert Vedra assumed new duties this summer as the Ethics & Fiscal Law Attorney in the Administrative & Civil Law Division of the 21st TSC Office of the Staff Judge Advocate, where he is carrying on the good work of his predecessors, Rick Schwartz, Jeannine Smith, Bruce Ensor, and Warren Argue. A graduate of West Point and the University of Minnesota School of Law, Mr. Vedra is a retired Major in the Judge Advocate General's Corps, whose last assignment was as Officer-in-Charge of the Netherlands Law Center, a branch office of the 21st TSC Office of the Staff Judge Advocate. We welcome Robert and his family to Kaiserslautern.





German and American jurists gathered together to celebrate the 200th anniversary of the Higher Regional Court in Zweibrücken on Friday, September 18th. From left to right: Major Michael P. Baileys, Deputy Staff Judge Advocate, 21st TSC OSJA; R. Peter Masterton, Chief of International Law, 21st TSC OSJA; Gerhard Meiborg, Chief Criminal Law Branch, Ministry of Justice and Consumer Protection for the State of Rheinland-Pfalz; Hans-Peter Freymann, President of the Regional Court of Saarbruecken; Joerg C. Modelmorg, Senior German Attorney-Advisor, 21st TSC OSJA.

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 a stop light. Proceed straight ahead at the intersection and follow the priority road as it curves to the right behind the Real store. Enter Kleber Kaserne by the east gate. Turn right after passing the clinic. Drive north until you reach an intersection with 4 stop signs. Bldg. 3210 sits to the left of that intersection. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Enter Bldg. 3210 from the door on the east end of the building (see photo of Bldg. 3210 on page 3).

