



21ST TSC LEGAL INFORMER



FALL 2022

German Traffic Tickets Explained

By Jennifer Mahana

In Germany, most traffic tickets are served by mail. Unlike the United States, where local police conduct traffic stops for speeding, in Germany most speeding violations are recorded by camera and the violators receive notification several days or weeks later, either through their APO mail, their chain of command or by e-mail.

There are three types of correspondence that you may receive for a traffic violation: a warning ticket (Verwarnung) for relatively minor offenses, an administrative fine order (Bußgeldbescheid) for major offenses and a questionnaire (Anhörung) when German officials need additional information.

Warnings are for violations carrying fines of less than €55. Some may be collected on the spot during a traffic stop; if that is the case, make sure to get a receipt. Most warning tickets will be put on your windshield (e.g. parking violations) or sent by mail. If sent by mail, the warning will usually come through your chain of command (commander/supervisor) or to your private APO address. For this reason, it is important to keep your address up to date with the U.S. Forces vehicle registration office. These warnings must be paid within one week, unless properly protested. Unlike in most states in the U.S., no formal service of process is necessary in Germany. In other words, the issuing authority does not have to show that the warning reached you. Unpaid warnings will convert into administrative fine orders (see below) with an administrative fee added. This administrative fee is NOT a late fee. To pay your fine, just take the ticket into your local bank and they will generate a direct deposit from your account to the issuing authority.

Administrative fines are issued if the initial violation carries a fine of €55 or greater or if a warning ticket is not paid. There is a €25 administrative fee automatically added to the fine and, if applicable, fees for procedural or other costs (e.g. for testing blood). Unlike warnings, administrative fine orders require formal service of process. (Continued on Next Page)



IN THIS ISSUE:

- German Traffic Tickets Explained
- Limitations on Political Activities
- German Rules on Rental Security Deposits

The 21st TSC Legal Informer is the newsletter of the 21st Theater Sustainment Command (TSC) Office of the Staff Judge Advocate.

Our mission is to provide outstanding legal support to Soldiers, Civilian Employees and Family Members assigned to or supported by the 21st TSC.

Our headquarters is located in Kaiserslautern, Germany. We have branch offices in Baumholder and Stuttgart, Germany, Mons, Belgium, Brunsum, the Netherlands and Camp Bondsteel, Kosovo.

Copies of this and previous newsletters may be found at: <https://intra-net.eur.army.mil/21tsc/sja/SitePages/Home.aspx>

German Traffic Tickets Explained (continued)

You must receive the administrative fine order through a U.S. Forces legal office, either by personal service or by e-mail. For Soldiers, Army civilians and their dependents in the Kaiserslautern Military Community area, personal service may require you to come to the international law section of your respective legal office for service of the ticket. Administrative fine orders from other German states (such as Bavaria or Hessen) may be sent by another U.S. Forces legal office to your unit or to your APO or street address.

Administrative fine orders may be protested within two weeks of the time you are served.

Please contact your local legal assistance office for help with this—the legal personnel who serve the ticket on you are NOT authorized to provide you confidential legal advice. If your protest is denied and your issue goes before a German court, you may face higher fines plus possible court costs if you are convicted. You must make payment within four weeks of the time you are served if you choose not to protest. Like warnings, administrative order fines are paid through your bank. Unpaid administrative fine orders are enforced through a German bailiff with the assistance of the legal office. This can result in additional costs for garnishment and remittance orders/enforcement actions (Vollstreckungsauftrag).

Questionnaires are sent out by German officials if the initial violation carries a fine €55 or greater. The questionnaire is intended to provide the violator a chance to respond to the allegation. Questionnaires look similar to administrative fine orders but contain no fine, only a description of incident. It will be addressed to the registered owner unless the German authority has already determined the owner was not the driver. If you were not the one driving, this is your opportunity to identify the driver and provide contact information. You are not required to make a statement; providing a response is completely voluntary. However, German authorities will likely issue an administrative fine order if there's no response.



If you receive a notice requesting you to come to the legal office to retrieve a ticket/administrative fine order or if it is sent to you by email, do not ignore it. The legal office will follow up through your supervisor, first sergeant or commander if necessary. Failure to pay the fine may result in the German Court ordering jail time to induce payment of an overdue fine. Jail time is not a substitute for the fine.

Questions concerning German traffic tickets should be raised with your local legal assistance office; that office is in the best position to provide confidential legal advice on these matters.



Limitations on Political Activities

By John Jakubowski

William Butler Yeats; one of the great poets of the 20th Century referred to the troubles in Ireland as “a terrible beauty.” The process leading up to, and during the Irish uprising in 1921 was a paradox; both frightening and wonderful. Our own American revolution might be viewed similarly. Democratic processes; from electing officials to represent us, through the “sausage-making” of crafting legislation can be terrible beauties in their own right. As fall approaches, the beautiful storm of electing representatives will soon be upon us.



As Department of Defense (DOD) employees and Service Members, there are restrictions on engaging in political discourse. As election season approaches you should be aware of some of the various political activities that are prohibited in the Federal workforce, during duty hours, or while on Federal property.

The Hatch Act and DOD Instruction 1344.10 basically seeks to ensure that Federal employees and Service Members do not engage in activities that result in the success or failure of a political party, candidate, or group. The law endeavors to ensure that the Government operates fairly and without preference toward any party or individual, that employees and Service Members are insulated from political coercion in the workplace, and that promotions (or demotions) are based on merit (or performance) rather than on any particular political affiliation.

Per longstanding DOD policy, active duty personnel may not engage in partisan political activities, and all military personnel should avoid the inference that their political activities imply or appear to imply DOD sponsorship, approval, or endorsement of a political candidate, campaign, or cause. Members on active duty may not campaign for a partisan candidate, engage in partisan fundraising activities, serve as an officer of a partisan club, or speak before a partisan gathering. However, active duty Service Members may express their personal opinions on political candidates and issues, make monetary contributions to a political campaign or organization, and attend political events as a spectator when not in uniform.

Personal opinions, however, may not be contemptuous. Article 88 of the Uniform Code of Military Justice (UCMJ), prohibits commissioned officers from using “contemptuous” words against the President, Vice President, Congress, the Secretary of Defense, the Secretaries of the military departments, the Secretary of Transportation, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which the officer is on duty or is present.

As for civilian employees, generally, the law and implementing policy, and regulation prohibit most from being a candidate for nomination or election to public office in a partisan election. Civilian employees may not use their official authority to influence or interfere with the results of an election. This would include using an official title or position while engaged in political activity, inviting subordinate employees to political events, or otherwise suggesting to subordinates that they attend political events or undertake any partisan political activity. (Continued on Next Page)



Limitations on Political Activities (continued)

Civilian employees may not knowingly solicit or discourage the participation in any political activity of anyone who has business before their employing office. Further, a civilian employee may not during duty solicit, accept, or receive a donation or contribution for a partisan political party, or candidate for partisan political office.

Civilian employees are not permitted while on duty to distribute or display campaign materials or items, or perform campaign related chores. You also may not, on duty, wear or display partisan political buttons, t-shirts, signs, or other items, nor make a political contribution to any partisan political party, or candidate for partisan political office. Posting a comment to a blog or any social media site that advocates for or against a partisan political party is also not permitted on duty.

Civilian employees may be a candidate in a nonpartisan election, they may register and vote as they choose, and assist in voter registration drives. Participation in nonpartisan campaigns, making contributions to political campaigns, parties, or partisan political groups is permissible as is attending political fundraising functions, attending political rallies and meetings, and joining political clubs or parties while not on duty. Further, there is no prohibition against expressing opinions about candidates and issues as long as the expression is made while off duty, and it is not made in any Federal room or building. Political expression while wearing a uniform or official insignia, or while using any Federally owned or leased vehicle is not allowed.

There are lots of “do’s and don’ts” to consider. You should try to be generally aware of the provisions noted as that terrible, beautiful storm of the democratic process rages around you. And, if you have questions, or concerns please ask your supervisor to raise them through the appropriate chain of command to your servicing Office of the Staff Judge Advocate.



German Rules on Rental Security Deposits

By Joerg Modellmog

Many American personnel live off-post in rented quarters. The landlords almost always require payment of a security deposit. Under German law, landlords may ask for a deposit not to exceed three-months’ net rent. However, the tenant has the right to make the rental security deposit payments over a three-month period in three equal monthly shares.

The landlord has to keep the rental security deposit apart from his other assets and has to deposit it with a banking institution at the usual rate of interest for savings deposits with withdrawal notice of three months. The interest drawn by the deposit accrues to the tenant annually and increases the rental security deposit. However, what happens when the bank does not offer any interest but charges a deposit fee, effectively negative interest, and thus reducing the amount paid in rental security? The answer depends on the market situation, i.e., whether negative interest has become customary. As long as there are banks that do not charge a negative interest, the landlord will have to switch the account to a corresponding bank in order to comply with his statutory obligation to keep the rental security deposit in an interest accruing account. (Continued on next page)

German Rules on Rental Security Deposits (continued)

The purpose of the rental security is to cover the landlord for potential damages if the tenant fails to fulfil his obligations under the lease. Therefore, the landlord has an interest of his own to sustain the amount of the deposit and to have it increase over time by accruing interest, although he merely holds the money in escrow as it still belongs to the tenant. Likewise the tenant does not want to see his money diminished because the tenant is responsible to keep the rental security deposit at the agreed upon amount. If negative interest cannot be avoided, the tenant will be under an obligation to fill up the account to the agreed upon amount of rental security.



The tenant also has to bear the bank charges associated with maintenance and closing the account. To avoid the aforementioned fees and risks, the landlord and the tenant could mutually agree, instead of paying the rental security deposit into an escrow account, to allow the tenant to present a bank guarantee to the landlord.

A tenant is entitled to a return of the deposit only after the premises have been turned back to the landlord. And while the landlord has to be afforded a reasonable period of time for the return the security deposit - usually 6 to 12 months - the moving-out protocol should help to speed up this process and lead to at least a partial repayment of the rental security deposit; interest remains accruing on the portion still withheld. It is recommended putting a clause in the rental agreement specifying the terms of return/settlement.

If the premises have been sold, the new owner/landlord has to pay back the rental security deposit to the tenant, even if the former owner/landlord did not transfer it to him/her. In any case, the former owner remains liable as a secondary debtor if the tenant cannot obtain the rental security deposit from the new owner/landlord.

A tenant may not set off the rental security deposit against any rent payments due, unless the landlord agrees to it. An exception applies where the landlord – despite the tenant's request – fails to demonstrate his compliance with the statutory or contractual rental security rules. Before taking such action, the tenant should obtain legal advice.

21st TSC Legal Offices

Kaiserslautern

Kleber Law Center

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Claims: DSN 483-8968

International Law: DSN 483-7690/8859

Trial Defense Service: DSN 483-8397

(Civilian: +49-631-411-XXXX)

Main OSJA

Panzer Kaserne, Bldg. 3004

Administrative Law: DSN 523-0470

Criminal Law: DSN 523-0488

Special Victim Team: 523-0524

(Civilian: +49-0611-143-523-XXXX)

Baumholder Law Center

Smith Barracks, Bldg. 8680

Legal Assistance: DSN 531-2445

(Civilian: +49-611-143-531-XXXX)

Stuttgart Law Center

Kelley Barracks, Bldg. 3312

Legal Assistance: DSN 421-4152

(Civilian: +49-711-729-4152)

Northern Law Center

SHAPE (Mons, Belgium), Bldg. 318

Legal Assistance: DSN 423-4910 or

4868

(Civilian: +32-65-44-4910 or 4868)

Netherlands Law Center

USAG Benelux-Brunssum, Bldg 8

Legal Assistance: DSN 597-4182

(Civilian: +31-45-534-0182)

Kosovo Law Center

Camp Bondsteel, Bldg 1330C

Legal Assistance: DSN 781-4575

(Civilian: +383-49-774-628)



Law Day Celebration



The 21st Theater Sustainment Command hosted a Law Day event on 10 June 2022. Over 80 senior German prosecutors and judges attended. The main German speaker was the Rheinland Pfalz Deputy Minister of Justice, Dr. Matthias Frey (left). The host and main American speaker was Major General James Smith, Commander of the 21st Theater Sustainment Command (right).

KAISERSLAUTERN LEGAL ASSISTANCE OFFICE

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the Autobahn A6 in the direction of 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 Pfalz Center Mall. 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.

