



21ST TSC LEGAL INFORMER



FALL 2021

Unexpected Customs Fees on Shipments Delivered to Your Home

By Holger Blug

When you order goods from outside the European Union, you may get an unwanted surprise after the delivery: a customs bill. While American military personnel stationed in Europe are exempt from customs fees under the NATO Status of Forces Agreement and various supplemental agreements, these protections do not always apply to goods delivered to your home address in Europe by Federal Express, UPS, DHL or a similar delivery service. Those companies may try to make you liable for customs fees. Unfortunately, it is not standard practice to collect these fees prior to the delivery, so they may come as an unwelcome and unexpected surprise weeks after your goods are delivered.



Goods coming from outside the European Union must be released by German customs before they are delivered to your home address. The delivery service has to pay customs fees and import taxes, even though you may be exempt from paying such fees had you used the appropriate form (in Germany, an AE Form 550-175A can be used to exempt you from customs fees). Later, the delivery service will send you a bill for those fees including a handling fee. The problem is that the delivery service is not allowed to pick up and deliver goods without paying customs fees and import taxes, and the customs exemption forms (such as an AE 550-175A) are only accepted if you personally show up at the host nation customs office and provide the original form. The delivery service is not allowed to represent you or present the form on your behalf. The delivery service probably will not even know that you are a member of the US forces or are entitled to an exemption from paying the customs fees. You have to indicate your SOFA status when ordering the goods, and ensure that the shipping documents include corresponding information about your SOFA status to help the delivery service identify the customs exemption. The shipping documents should also include your phone number or email, so that they can contact you to discuss further processing.

If you order goods from outside the European Union for delivery to your home address, you should plan on paying the customs and handling fees on those goods. In order to avoid those fees you need to be ready to drive to the competent customs office at the airport to pick up the goods and present the appropriate forms. If you have questions, contact your nearest legal assistance office.

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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>

Army No Longer Pays Claims For Flood Damage

By Noel Van Zandvoort

The floods in Germany, Belgium and the Netherlands this past summer affected many military families. Unfortunately, the Army no longer pays claims for damage caused by floods and similar natural disasters. On May 29, 2019, the Secretary of the Army published a memorandum that changed the long-standing policy of paying for such damage. The memorandum stated, “the Army will no longer pay claims for unusual occurrences under the Personnel Claims Act when the damage is caused by flood, hurricane, earthquake, or other acts of nature or weather phenomena.” The memorandum explained that the “policy change encourages individual responsibility for personal property” and that Soldiers should “ensure they maintain private insurance against personal property losses caused by adverse weather and other hazards insurance normally covers.” While the Secretary of the Army can grant waivers to the policy, such waivers are extremely rare. As a result, it is critical to have proper insurance to cover flood and other natural disaster damage.



When your rental quarters becomes uninhabitable as a result of a flood that is not caused by the tenant (e.g. inclement weather), the landlord is required to remedy the situation by cleaning or renovating. It is up to the landlord to restore the original condition of the quarters. It is not your responsibility to clean up flooded quarters, but you are obliged to notify the landlord of all damages, so that he or she can react as soon as possible. However, it may be in your best interest to cooperate with and help the landlord so you can move back in as soon as possible.

If renovation is uneconomical, because the repair costs are greater than the value of the quarters, the landlord may terminate the lease. However, this happens only in exceptional cases, such as when the structure of the house is severely damaged. If renovation cannot be completed in the near future, you (the tenant) may be able to terminate the lease due to “non-performance.”

If you cannot use part of the rental property, you may ask the landlord to reduce the rent. For example, if a basement has been flooded, the house above it may remain usable. The rent reduction may amount to the full amount of rent if the house is temporarily uninhabitable, if you have been evacuated or if the dwelling is not usable because it contains mud or other debris. The military housing office can assist you in communicating with your landlord. If the landlord does not agree to lower the rent, you can ask a court to lower the rent; in this case, you should contact your local legal office for information and assistance.

If the rent is reduced, you can use the rent you saved to pay for a hotel or temporary quarters. If these costs exceed your rent, you may be able to obtain additional compensation from your landlord if he or she did not take precautions against a well-known issue or if the landlord does not complete renovations in a timely fashion. However, you have a legal obligation to mitigate your damages, so you should not look for the most expensive hotel available. Your household goods insurance might also cover hotel costs, but as a rule this is limited to a specific per diem rate and a specific time period, as stated in the fine print of your insurance contract.

The costs to replace furniture damaged or destroyed during a flood generally will have to be borne by you (the tenant). As mentioned above, the Army no longer pays claims for this type of damage. Only “rented” things like a built-in kitchen, which are the landlord’s property and included in the rent, must be fixed or replaced by the landlord.

Winter Tire Requirements in Germany

In Germany, a federal law provides very specific rules on the requirements to have winter tires. It contains specific requirements for what constitutes a winter tire and also doubles the fines for drivers caught without proper tires when they have an accident or an incident on the public roads during winter conditions.

Most Germans switch from summer tires (which are designed for fast travel on the Autobahn) to winter tires (with softer rubber and tread designed for snow and ice) in October and switch back to summer tires at Easter. The German law does not set any time limits for when you must change from summer to winter tires, but it does clearly state that if there is snow, ice, slush or frost on the roads, you must not drive without winter tires on your vehicle. Since it is difficult to predict the weather, it is best to follow the German recommendation and use winter tires between October and Easter.

The German law also spells out what a “winter tire” is. All weather tires with an “M+S” marking (mud and snow) made before 2018 will qualify as a winter tire in Germany until September 30, 2024. Unfortunately, these tires do not provide the best traction during winter conditions because they do not have rubber specifically designed for winter driving. As of January 2018, newly fabricated winter tires must be marked with a three-peak-mountain symbol. Tires with the three-peak-mountain symbol provide much better traction during winter driving conditions and are an indication of “real” snow tires that meet the highest standards.



The German Road Traffic Ordinance (Straßenverkehrsordnung or “StVO”) requires a minimum tire tread depth of 1.6 mm (1/16 inches) for winter tires. However, the German automobile club, ADAC, recommends a tire tread depth of at least 4.0 mm (5/32 inches).



If the police catch you driving in winter conditions without winter tires, you’ll have to pay a fine of approximately 40 Euros (\$50 -\$55). If you are involved in an accident or you block traffic in snow, ice, slush, or frost conditions without winter tires, the fine goes up to 80 Euros (\$100 -\$110) and a point against your driving license.

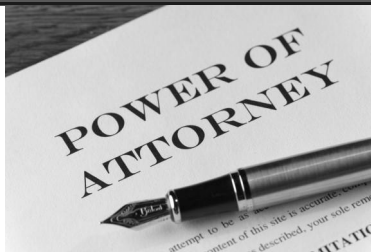
The winter tire law applies to all drivers, even if they do not own the vehicle. That means if you are renting a car in Germany or borrowing a car in the winter, make sure it has winter tires. The law also applies to motorbikes, trucks and buses.

In Austria winter tires are mandatory from November 1 to April 15. The minimum required tire tread depth is 4.0 (5/32 inches). Fines in Austria for failure to have winter tires are between 35 and 5,000 Euros. Other countries, especially those with severe winter weather, have similar rules.

Powers of Attorney

By Mark Christensen

Powers of attorney (POAs) continue to be the most commonly requested document at legal assistance offices. A POA is a grant of authority to someone to do something in your name. If you grant a POA, anything the person does in your name is your responsibility.



There are two types of POAs: a General POA and a Special POA. A Special POA is limited to a specific purpose; for example, it may authorize someone to sell your car for you. A General POA gives someone the power to complete nearly any legal act that you are authorized to do.

Our normal advice is never to give someone a General POA. If you do decide to sign a General POA, you should only give it to someone you fully trust. In addition, you should only give someone a POA, regardless of whether it is General or Special, for something you know is necessary. Always limit the POA with a realistic expiration date.

Misuse of a POA often involves a spouse or parent who uses the POA contrary to the intentions of the grantor (the person signing and giving the POA). Unfortunately, the misuse legally binds the grantor. There is often no legal recourse to undo what was done, and you are legally bound by the actions of the person you gave the POA to as if you conducted the transaction in person.

Although a POA is a valid legal instrument, there is nothing to require any person or agency to accept the authorization. For instance, even though you may possess a validly executed POA from someone else, a Government or commercial agency can refuse to accept the authorization, and require the physical presence and signature of the person who gave the POA. Always check to make sure a power of attorney will be accepted. Most transactions involving Army finances or real estate transfers require a special POA, or a POA provided by the company.

Giving a power of attorney to someone can be a very convenient legal tool. Your agent can transact your affairs in your absence and take care of matters on your behalf. But the power of attorney can be abused. Decide what you need, and talk to an attorney or paralegal specialist before signing a POA.

21st TSC Legal Offices

Kaiserslautern

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Tax Assistance: DSN 483-8848

Claims: DSN 483-8968

International Law: DSN 483-8854/8859

Trial Defense Service: DSN 483-8397

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

Panzer Kaserne, Bldg. 3004

Administrative Law: DSN 523-0470

Criminal Law: DSN 523-0488

Special Victim Team: 523-0526

(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)



Defender 21 Legal Support

In April and May CPT Nirali Shah deployed to Albania to provide legal support during the Defender 21 Exercise. CPT Shah is pictured in front of a fuel hose during a ship-to-shore fuel transfer operation at the Port of Durres. There is a "pig" in the hose, which scrapes the remaining fuel out of the hose through air pressurization and transports the remnants into the bladder collecting fuel on the shore.



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 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.

