



21ST TSC LEGAL INFORMER



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European Exit/Entry System (EES) Takes Effect on 6 October

By LTC Justin Evison

On 6 October 2024 the European Union is scheduled to implement a new automated system for entry and exit into Europe: the European Exit/Entry System (EES). It replaces any entry stamps and operates digitally, allowing for better tracking of arrival and departure dates. EES is a digital, on-arrival registration system and will be in operation in 30 countries. It will apply to all non-EU citizens, including Americans, unless they are ordinary residents with an alien resident permit, or long-term visa. However, U.S. military and civilian personnel and their dependents on orders should be exempt from the system. This system is in addition to the European Travel Information and Authorization System (ETIAS), described in the next article (a new pre-travel authorization system scheduled to become effective in 2025).

Travelers (non-permanent residents) may stay no more than 90 out of every 180 days inside the “Schengen” area in Europe. EES will register the person’s name, type of travel document, biometric data (fingerprints and captured facial images) and the date and place of entry or exit. It will also record refusals of entry. EES will replace the current system of manually stamping passports, which is time consuming, does not provide reliable data on border crossings and does not allow a systematic detection of those who exceed the maximum duration of their authorized stay.

U.S. Forces (including military, civilian employees, contractors and family members) stationed in Europe will be exempt from EES for their travel to the country where they are stationed. Due to variations in identification and orders for those accompanying the force, putting this exemption into practice will be difficult. Furthermore, EU legislation, at this point, does not allow leave travel to other countries inside or outside of the Schengen area. No mechanism yet exists which provides an opportunity for registration in EES from one Schengen country to another. The EU’s position is that U.S. Forces personnel become visitors in another EU country if they travel there on leave. Without EES registration, they would then be out of compliance with EU and local law. Furthermore, traveling to a non-Schengen country in Europe could be problematic as the EES system does not provide a way to properly record entry/exit dates for U.S. Forces at this point. U.S. officials are currently working on a solution to ensure that personnel with NATO SOFA status will be able to take leave travel around, in and out of Europe without having to register in the new EES.



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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 Kaiserslautern and Baumholder, Germany, Mons, Belgium, Brunssum, the Netherlands and Camp Bondsteel, Kosovo.

Copies of this and previous newsletters may be found at: https://armyeitaas.sharepoint-mil.us/sites/21TSC_SJA.

U.S. Citizens Will Be Required to Apply Online to Enter Europe in 2025: European Travel Information and Authorization System (ETIAS)

By Joerg Modellmog



Europe will soon introduce a new electronic system that tourists will need to use before they travel. The United States already has such a system, called ESTA (Electronic System for Travel Authorization) and Korea recently introduced such a system, called K-ETA (Korean Electronic Travel Authorization). The European Union will implement its own system, called ETIAS (European Travel Information and Authorization System); the new system is scheduled to become effective in 2025. The system will generally NOT apply to U.S. Forces personnel and their dependents stationed in Europe on orders, but will apply to family from the U.S. who come to Europe to visit. This system is DIFFERENT FROM AND IN ADDITION TO THE EUROPEAN EXIT/ENTRY SYSTEM (EES) described in the previous article.

What is an Electronic Travel Authorization (ETA)? An ETA, whether issued by the U.S. (through ESTA), Korea (through K-ETA) or the European Union (through the new ETIAS), does not constitute a visa. Quite the opposite, ETAs target visa-free travelers. Persons from a country who do not need a visa to visit Europe will soon need such an ETA. Whether the purpose of the short-term travel is for tourism, business or merely transit, the traveler will need to obtain an ETA before actual entry into Europe. The ETA process allows for data comparison and matching allowing the effected countries to do a security check.

Under ordinary circumstances the ETIAS authorization happens quickly. Travelers will be directed to a web site to obtain the authorization online. Once obtained, the authorization is valid for up to three years for multiple entries up to 90 days in a 180-day period. However, ETIAS clearance has to be obtained online BEFORE the travel happens (see, <https://www.etiasvisa.com/etias-news/etias-europe-similar-us-esta>). A fee will be charged to obtain the clearance.

What impact will ETIAS have on persons coming to Germany? ETIAS is for visitors. If you are already an ordinary legal resident of Germany (or German citizen), ETIAS does apply to you. A military retiree residing in Germany without SOFA status, returning to Germany after a visit to the U.S. will not need to go through the ETIAS process. ETIAS also does not apply to U.S. service members and U.S. civilian personnel entering Europe on orders with a right to stay legally in the country where they are stationed. Family members of military personnel who enter the country where their sponsor is stationed are also exempt from the new rules if they have SOFA stamps in their passports. However, problems may arise if such family members enter Europe on a connecting flight through a third European country where the sponsor is NOT stationed. In addition, family members who do not have orders (such as parents traveling to Europe to visit military personnel) will clearly be covered by the new rules and need to obtain an ETIAS certificate before beginning any travel.

BOTTOM LINE: ETIAS clearance will have to be obtained by your friends and family who are not on your orders who come to visit you in Europe. ETIAS might also lead to complications for dependents if there is no direct flight to the country in which you have SOFA status. Once in Germany, concerned dependents can obtain a so-called "Schengen Travel Visa" to avoid the need for an ETIAS clearance (see the Legal Informer, Winter Edition, 2015, page 12). As we come close to 2025, there will likely be more information on this topic; you should watch for additional guidance.

Prohibitions on Political Activities

By Shawn Butler

As election season approaches Department of Defense (DOD) employees and Service Members should be aware of the 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 seek 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 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.

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, speak before a partisan gathering, engage in political activity in a Federal building, or use official equipment in political activity. Active duty personnel are also prohibited from participating in off-post demonstrations under any of the following circumstances: in a foreign country, when on-duty, when in uniform, when violence is likely to occur, or when the demonstration is a breach of law and order. 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. Contemptuous language is prohibited in certain circumstances. 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.

Similar rules apply to DoD civilian employees. Generally, the law and implementing policy prohibit civilians 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. 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 on duty may not solicit, accept, or receive a donation or contribution for a partisan political party, or candidate for partisan political office. Civilian employees on duty are not permitted to distribute or display campaign materials or items, or perform campaign related chores. Civilian employees on duty also may not wear or display partisan political buttons, t-shirts, signs, or other items, or 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. If you have questions, contact your local legal advisor.



German Law Prohibits Use of Cell Phones While Driving

By Johanna Dunzweiler

We all know that it is dangerous and prohibited to use a cellphone while operating a car, unless it is equipped with a hand-free system. Under German law it is not only illegal to use a cellphone while driving, but also any electrical device like a tablet or calculator. If you are caught using an electrical device while driving, you are looking at a Euro 100 fine. If your use of the device while driving poses a danger to others, the fine increases to Euro 150 and you will also lose your driver's license for a month. If you damaged property because of the illegal use of your electrical device, you are looking at a Euro 200 fine and one month suspension of your license.

In addition, the law prohibits using an electronic device to detect speeding cameras. The fine for this offense is Euro 75.

U.S. Forces personnel in Germany who are issued a U.S. Forces Certificate of License have additional restrictions above and beyond those contained in the German law. Under Army in Europe Regulation 190-1, U.S. Forces personnel will receive an automatic suspension of their driving privileges for 7 calendar days for "texting" or using a cell phone or computer while operating a vehicle. This suspension is in addition to the above mentioned penalties you would face under German law. If you receive a 7 day suspension for using your cell phone while driving, there is no possibility to get restricted driving privileges. That means you will not be allowed to operate a vehicle under any circumstances during the suspension.

Make sure you have a hands-free system in your car if you want to make any phone calls while operating your vehicle. If you have questions about this or any other legal matters, contact your local legal assistance office.



21st TSC Legal Offices

Kaiserslautern

Kleber Law Center

Kleber Kaserne, Bldg. 3210

Legal Assistance: DSN 483-8848/6782

Claims: DSN 483-89687690/8859

International Law: DSN 483-

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)

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)



Legal Outreach: Mock Trial at Europa Institute (University of Saarbrücken)



On 31 January our legal team hosted a mock trial for students at the Europa Institute, which is part of the University of Saarbrücken. Mr. Joerg Moddelmog, Captain Linda Aguilera and Captain Brian Brenon coached the students and Mr. Scott McDonald served as the judge.

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.

