



Belgian Laws and You



Headquarters, 21st Theater Sustainment Command
Northern Law Center
Unit 21420
APO AE 09705
DSN 314-423-4868
COM +32 65-44-4868



[This page intentionally left blank.]

BELGIAN LAWS AND YOU

**This pamphlet supersedes USAG BENELUX Pam 27-3, dated 1 November 2009, which is obsolete.*

FOR THE COMMANDER

OFFICIAL:

JOSEPH P. MANNING
Deputy to the Garrison Commander

Summary: This pamphlet provides a quick reference for some common Belgian law issues. It provides an overview of many of the common Belgian laws that apply daily to military personnel, members of the civilian component, and their family members living in Belgium.

Applicability: This pamphlet applies to United States (US) Servicemembers, civilian-component employees, and family members stationed in Belgium who receive legal support from the Northern Law Center.

Supplementation: Organizations will not supplement this pamphlet.

Records Management: Records created as a result of processes described by this regulation must be identified, maintained, and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information Management System website at <https://www.arims.army.mil>.

Proponent: The proponent of this pamphlet is Headquarters, 21st Theater Sustainment Command, Northern Law Center, Unit 21420, APO AE 09705, DSN 314-423-4868 (Commercial +32 65.44.4868).

Suggested Improvements: Suggestions to improve this pamphlet must be sent on a DA Form 2028 (Recommended Changes to Publications and Blank Forms) to USAG BENELUX, ATTN: Admin Services Division, Unit 21419, APO AE 09708-1419, DSN 314-361-5617.

Distribution: Distribution of this publication is made IAW USAG BENELUX Reg 25-51, Block D, plus 5 copies to the ASD. This publication can be downloaded from: <https://portal.eur.army.mil/sites/imcom-e/usag/benelux/dhr/Lists/USAG%20benelux%20Publications/AllItems.aspx>.

TABLE OF CONTENTS

Introduction: *Belgian Laws and You*, page 1

Chapter One: *Family Law*

- 1-1 Marriage, page 2
- 1-2 Births, page 2
- 1-3 Adoption, page 3
- 1-4 Vaccination, page 3
- 1-5 Visa Requirements In Belgium For Family Members, page 3
- 1-6 Divorce, page 4
- 1-7 Liability Of And For Minors, page 6
- 1-8 Deaths, page 6

Chapter Two: *Leases*

- 2-1 Leases Generally, page 7
- 2-2 Leasing Quarters, page 7

Chapter Three: *Other Contractual Matters*

- 3-1 Basic Principles: Your Contracts, page 11
- 3-2 Sales Contracts, page 11
- 3-3 Leasing Personal Property, page 12
- 3-4 Remedy For Defective Merchandise, page 12
- 3-5 Binding Effect Of Purchase And Service Orders, page 12
- 3-6 Repossession And Turnback of Property, page 12
- 3-7 Independent Contractors, page 12
- 3-8 Insurance Contracts, page 13
- 3-9 Some Final Considerations, page 16

Chapter Four: *Fiscal Matters*

- 4-1 Customs And Value-Added Tax, page 17
- 4-2 Road Tax, page 20
- 4-3 Local And Municipal Taxes, page 21
- 4-4 Income Taxes, page 21

Chapter Five: *Administrative Matters*

- 5-1 Privately Owned Vehicles, page 22
- 5-2 Accident Reporting, page 24
- 5-3 Identification Documents, page 25
- 5-4 Change of Residence, page 25
- 5-5 Rationed Or Controlled Items, page 26
- 5-6 Commissary And Post Exchange Purchases, page 26
- 5-7 Running A Home-Based Business Or Obtaining Off-Post Employment In Belgium, page 27
- 5-8 Being A Good Neighbor, page 28
- 5-9 Liability for Animals, page 28
- 5-10 Organ Donation, page 29
- 5-11 Civilian Misconduct, page 29
- 5-12 Unauthorized Wireless Devices, page 30

Chapter Six: *Belgian Courts*

- 6-1 Organization, page 32
- 6-2 Court Jurisdiction, page 33
- 6-3 Court Procedures, page 35
- 6-4 Police Reports (*Procès Verbal*), page 35
- 6-5 Default Judgments, page 35
- 6-6 Execution of Judgments, page 36
- 6-7 Attachment Orders (*Saisies Conservatoires*), page 37
- 6-8 Service of Court Process, page 37
- 6-9 Court Costs, page 37
- 6-10 Attorney Representation, page 38
- 6-11 Attorney Fees, page 38
- 6-12 English-speaking Attorneys, page 38

Chapter Seven: *Belgian Criminal Law and Procedure*

- 7-1 Individual Rights, *page 39*
- 7-2 Rules of Detention And Arrest by Belgian Authorities, *page 40*
- 7-3 Searches, *page 40*
- 7-4 Alcohol-Abuse Test And The Belgian Traffic Code, *page 41*
- 7-5 Trial Safeguards, *page 42*
- 7-6 Trial In Abstentia, *page 42*
- 7-7 Confinement, *page 43*
- 7-8 Transactional Fines, *page 43*
- 7-9 The Belgian Traffic Code, *page 43*
- 7-10 What to Expect if You Violate Belgian Law, *page 46*

Chapter Eight: *Retirees*

- 8-1 Retiring In Belgium, *page 48*
- 8-2 Retiree Council, *page 48*

Chapter Nine: *Legal Assistance*

- 9-1 Functions of the Legal Assistance Office, *page 50*
- 9-2 Generally, *page 50*
- 9-3 Specific Services, *page 51*
- 9-4 Lawsuits In US Courts, *page 54*
- 9-5 Lawsuits In European Courts, *page 54*

***Contact Information*, page 55**

Introduction

BELGIAN LAWS AND YOU

Bonjour et Bienvenue en Belgique! (Hello and welcome to Belgium!)

At the crossroads of Germanic and Latin cultures, Belgium has been a battlefield for famous generals from Caesar to Marlborough to Wellington to Patton. This diverse culture developed over nearly two millennia of occupation by Roman, Spanish, German, Austrian, French, and Dutch forces.

Living in Belgium should be fun and exciting. Here you will find a different culture, many interesting places to visit, and new people of many nationalities. You will experience many differences from the familiar way of life you left in the United States. One of the most important differences you may encounter is the Belgian legal system. Fortunately, the everyday rules are not difficult. Taking a few minutes now to review the information here may save you countless headaches and money later.

We have prepared this pamphlet on selected Belgian legal issues to provide basic information on general legal matters that you may face daily. Please take the time to familiarize yourself with its contents now and remember to refer to it later. As US citizens and members of the Force, we enjoy the privileges and protections of the North Atlantic Treaty Organization (NATO) Status of Forces Agreement (SOFA). At the same time, we are obligated to observe Belgian laws.

Of necessity, this information is general in nature and does not specifically address all situations. Please keep this in mind as you review this pamphlet. Our general treatment may not answer your specific questions, or your situation may involve additional issues that are not completely covered. Please contact the *Northern Law Center, Legal Assistance Office, DSN 423-4868 or commercial (0)65.44.4868* to schedule a consultation with a US Army Legal Assistance Attorney or a Belgian Legal Advisor if you have questions or concerns that are not addressed in the pamphlet or if you need legal advice.

Disclaimer: The information contained in this pamphlet is meant to provide general information on personal legal affairs and preventative law to members of the USAG BENELUX community. The information here is NOT LEGAL ADVICE. Please contact our office to see an attorney for legal advice based on your specific legal matters.

Chapter One

FAMILY LAW**1-1. *Marriage.***

a. Marriage is essentially a matter of contract and requires the capacity to contract. All military personnel are subject to military regulations when marrying overseas. Military personnel should consult their chain of command or servicing personnel center to ensure applicable regulatory requirements are satisfied.

b. Whether a person has such capacity to contract, and therefore to marry, depends upon one's personal status. In Belgium, the law of the individual's nation determines personal status. For US citizens, you look to the law of the individual's domicile. The question of where a person is domiciled, however, is not always easily answered – a Servicemember's home of record is not necessarily his domicile. Doubts about domicile and residency should be resolved with an attorney. For questions pertaining to this matter, please call the Legal Assistance Office.

c. In Belgium, US personnel desiring to marry should consult the Legal Assistance Office to obtain an information paper on the process. The individuals will be required to submit to a medical examination, produce copies of birth certificates, certificates of residence, certificates of legal freedom to marry, parental consent (if appropriate), and other documents. Once all the documents have been compiled and translated, they must be presented to the Civil Status Office in the commune (city hall) where the marriage will occur. Military personnel at SHAPE (or elsewhere in Belgium) are considered to reside in Mons. A civil ceremony will be held at the commune. A religious ceremony, though not required, may be held after the civil ceremony.

1-2. *Births.*

a. Births of Americans in Belgium **must be registered** with the US Consulate and at the commune of the town in which the birth took place **within 15 calendar days** of the birth. Failure to register the birth with the commune is a violation of Belgian law and could result in a criminal citation and fine. Late registration with the commune can occur only after approval of the Belgian Court of First Instance (*Tribunal de Première Instance*), which may refuse to allow the registration until a fine is paid. It is also important to ensure that all names on the Belgian birth certificate are correct because any changes will require court action to correct.

b. US Consulate registration is as important as the Belgian birth registration, because, without it, questions can arise later as to the nationality of the child. Although citizenship is not determined by registration with the US Consulate, registration is strong evidence of citizenship. A child born to a US Servicemember in Belgium will be a

natural US citizen. Registration with the US Consulate will provide proof of this citizenship. The child will not be considered a citizen by Belgium, unless one of the parents is a Belgian citizen. The United States does not recognize dual citizenship.

c. You can consult the SHAPE Healthcare Facility (Bldg 410, 423-5820) for assistance on the steps needed to register a birth.

1-3. Adoption.

a. The Northern Law Center (NLC) provides only limited services with respect to adoption – principally liaison work. No office of the US Forces may act as an adoption agency or obtain children for adoption. Additionally, Belgian adoption agencies frequently place applicants on waiting lists for several years before granting them custody of a child.

b. No adoption in Belgium is automatic – it is the sovereign prerogative of the Belgian courts to make the final decision as to whether any adoption is in a child's best interests.

1-4. Vaccination. Unless exempted for good medical reasons, every newborn child must be inoculated against poliomyelitis (better known as polio) before the age of 18 months. Proof of inoculation must be presented to the commune in which the child resides. The failure to do so is a criminal infraction punishable by a maximum of one month of confinement and/or a fine.

1-5. Visa Requirements In Belgium For Family Members.

a. Belgium is part of the Schengen Area, which is comprised of 26 European countries, encompassing most, but not all of the European Union, that have abolished passport and other types of border control along their common borders. All of the countries in the Schengen Area have a common visa policy for foreign nationals entering their territory.

b. Family members listed as dependents on a Servicemember's orders can stay in Belgium with the Servicemember for the duration of that Servicemember's tour and will be issued a no-fee passport prior to . For any family member of a Servicemember not listed on orders, only a **valid passport is required** to enter Belgium legally, if the family member is a citizen of the United States. These family members are permitted to stay in Belgium using only their passport for 90 days during any 180-day period. Once a family member exceeds the 90-day limit without an appropriate visa, he or she is in Belgium illegally and could face fines and difficulties in obtaining visas to the Schengen area in the future. If you would like for your family member to remain in Belgium for longer than 90 days in any 180-day period, it is recommended that you contact the

closest Belgian Consulate as soon as possible before the trip to arrange for a visa of the appropriate length.

c. **If the family member is not a citizen of the United States**, then the family member may be required to have a valid passport **and** a pre-issued visa. To check the visa policies for citizens of specific countries, visit http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm. Be aware that the visa policy for the Schengen Area can be affected by the type of passport (i.e., standard or biometric) used and that the list of countries that do not require a pre-issued visa for entrance to the Area can potentially change on very short notice. If you have questions about what is required for a family member or other person to visit you in Belgium, especially if he or she is not a citizen of the United States or of a Schengen Area member state, please contact the Legal Assistance Office for specific information.

1-6. Divorce.

a. It is generally not in the best interest of a US citizen to get a divorce in Belgium if the parties have children or if they do not agree on all the terms of the divorce. However, getting a divorce in Belgium might be a good option in the following two scenarios:

(1) There is no alimony or child support at issue and both parties agree on everything, including division of property.

(2) The parties are planning to stay in Europe for a long period of time after the divorce.

b. There are two types of divorce in Belgium: divorce by mutual consent and irreconcilable disunity.

(1) *Mutual Consent*. Divorce by mutual consent can be obtained when both of the spouses show the desire to bring their marriage to an end. This is allowed only when the couple has been married for at least two years and they have made provisions for the determination of mutual accounts or property, each party's residence, care of children and any relevant alimony arrangements.

(2) *Irreconcilable Disunity*. A divorce in Belgium can also be granted on the basis of irreconcilable disunity. According to Belgian law, the grounds for a divorce on this basis are related to de facto separation. This does not require the agreement of both spouses. It may be imposed on one spouse by the other if they have been separated for twelve months and there is no mutual agreement or for six months if there is a mutual agreement.

c. Divorce in Belgium has many effects on personal relations, the division of property, the custody and support of children, and the obligation to pay alimony that are different than in the US.

(1) *Personal Relations.* A divorce breaks the bond of marriage for the future. Consequently, the ex-spouse may no longer use the name of the other. An exception to this rule can be made in special conditions, such as a when one spouse has a business or trade name.

(2) *Division Of Property.* Only the spouse obtaining the divorce is considered the faulty party and, therefore, loses the right to any property that could be obtained from the other spouse, such as rights to the other spouse's pension or other earned benefits.

(3) *Children.* Each of the spouses must contribute, in proportion to his or her ability to do so, to the costs of housing, keeping, caring for, and providing education for the children. This contribution is usually made in the form of maintenance, which is fixed by a court. This contribution lasts until the children reach the age of majority, which in Belgium is 18 years old, or, if their education is not complete at the time they turn 18, until it has been completed.

(4) *The Obligation To Pay Maintenance Or Alimony To The Other Spouse.* If the couple cannot agree on spousal maintenance, the court may grant the spouse who has obtained the divorce an allowance from the other spouse's assets and income, the total amount of which should allow the person to live under conditions equivalent to those they had enjoyed while living together.

d. Petitions for divorce, separation or annulment in Belgium are filed with the judge for the most recent conjugal residence or the defendant's domicile. The spouses must introduce at trial court a petition with the details of their mutual agreement. The request must be signed either by both spouses or by one spouse and a lawyer or notary. If the spouses can prove that they have lived apart for more than six months, the divorce will be granted. Otherwise they must appear again after an interval of three months.

e. In Belgium, it is possible to appeal against a decision concerning divorce, separation or annulment. An appeal against a granting of divorce may be brought within one month of the decision of the trial court to the court of appeal. However, once a divorce has been granted it becomes final after one month, if no appeal is lodged.

f. Special issues are presented when there is a divorce between two spouses who do not live in Belgium or who have different nationalities. If one spouse is not a Belgian national, that spouse may still file a divorce petition in Belgium, but only if he or she has lived in Belgium for at least one year before the filing. If one spouse now lives outside Belgium, a petition should be filed in the country where the couple last lived together, provided one spouse still lives there. Where a couple is filing a joint application this

may be done in either of the countries where one of the spouses lives. If there is no mutual agreement the spouse who files may do so in the country where the other spouse is living. Alternatively, a petition may be filed in the country of which both spouses are nationals.

g. It is important to remember that obtaining a divorce is not necessarily the end of the process. A person seeking a divorce should also consider the consequences if one party does not comply with the divorce decree and how the decree will likely be enforced. If a divorce decree is issued by a US court, it will be easier to enforce it in the United States than a Belgium court decision rendered in a foreign language, and vice versa.

h. Depending upon individual circumstances, divorcing US citizens will usually find it better to obtain a divorce from a court in the United States. Before filing for a divorce, you should consult with a Legal Assistance Attorney or a Belgian Legal Advisor to ensure that you are making the best decisions for your situation.

1-7. *Liability Of And For Minors.*

a. Capacity Of Minors To Contract. Whether or not a minor can enter into a binding contract depends on the law of his or her home state. Even if the minor does not have the capacity to enter into a contract under the law of his or her home state, the contract may still be binding if the other party to the contract could reasonably assume that the minor had the implicit consent of his or her guardian to enter into such a contract (e.g., purchase of a book, of a sandwich, or of some clothing).

b. Civil Liability For Minors' Torts Or Legal Wrongs. As a general rule, parents are liable for the torts or legal wrongs of their minor children. Unless they can prove that at the time of the commission of the tort another adult person had the responsibility for the minor's actions (for instance, a teacher or grandparents), the parents will be liable. If another person is responsible, it is that third party's personal negligence which a court will consider to be the proximate cause of the tort. If your child is involved in an accident of any kind, seek legal assistance immediately.

1-8. *Deaths.* Deaths must be registered at the local commune. Although failing to do so is not a criminal infraction, the remains can neither be removed from the commune in which the death took place nor be interred until the death has been registered.

Chapter Two

LEASES

2-1. Leases Generally. A lease is a contract in which the lessor (landlord or owner) puts at the disposal of the lessee (tenant or customer) an item (e.g., house, apartment, car, TV, etc.) for a specific period of time and the lessee agrees to make periodic payments (usually rent) for the use of the item. While the parties may agree to other terms and conditions, generally speaking, it is the obligation of the lessor to provide the item in question for the specified period of time. The item must be in a usable condition and must remain so for the duration of the contract. Conversely, the lessee is obligated to make specified payments in a timely manner and use the property in accordance with the terms of the lease. Further, the lessee must protect the condition of the item and return it at the expiration of the lease in the same condition as it was received, minus fair wear and tear.

2-2. Leasing Quarters. The USAG BENELUX Housing Office offers a standard lease incorporating provisions that are closer to standard leases in the United States, meaning that most of the provisions discussed below will not apply to leases obtained through the Housing Office. The information contained in this section is primarily intended for individuals choosing not to use the standard SHAPE lease, as well as to explain some unique Belgian lease requirements.

a. Selected Features of Belgian Leases.

(1) *Duration Of Leases.* Property leases in Belgium normally last nine years. A lease may also be made for a set period of time up to three years, in which case termination is only possible with the consent of both parties. Under a typical Belgian nine-year lease, termination is possible based on the following:

(a) The tenant may terminate a lease by giving three months' advance notice to the landlord and payment of an indemnification equal to three, two, or one month of rent, depending upon whether the termination occurs in the first, second, or third year of the lease.

(b) The landlord may terminate the lease with six months' advance notice if he or a member of his family wishes to occupy the premises. Landlords desiring to do building work may also end the lease after three years or six years with six months' advance notice. In addition, the landlord may terminate a lease after three or six years, with six months' advance notice and payment of an indemnification amounting to nine months' rent, if the lease is terminated after three years, or six months' rent, if the lease is terminated after six years.

(2) *Lease Assistance.* In most cases, the USAG BENELUX Housing Office (Housing Office) (Bldg 209, 366-6387) will assist you with your lease. In negotiating leases, be especially careful about the duration language of the lease. When entering long-term leases, remember that events may occur which make continued residency impossible (e.g., reassignment or death). When such events occur, you or your family may be forced to break the lease and pay damages to the landlord. Conversely, in the case of year-to-year leases, there is the danger that your landlord will not extend the lease on the existing terms.

(3) *Security Deposits.* Most landlords will require from one to three months rent as a deposit to cover possible damage to the premises during occupancy under the lease. This deposit cannot be used as rent, so do not plan on paying the deposit and using it for your last month's rent. Under Belgian laws governing leaseholds, the tenant must put a deposit in a bank account in which neither the landlord nor tenant have access (a so-called blocked account). The tenant is entitled to any interest on the account. Once blocked, the only way the tenant can draw upon or close the account is with the signature of the landlord. An alternative to the blocked account is to have a bank issue a letter guaranteeing against damages, meaning that in the event of damage to the premises for which the tenant can be held liable, the bank pays the landlord (up to a specified amount). To be released from such a guarantee, the tenant must furnish the bank with a release from the landlord. Not every bank offers this service.

(4) *Rent Indexing.* The Belgian government controls rent indexing. Under no circumstances should you, the tenant, accept a clause without understanding how and when rent can be raised and whether the increase complies with governmental controls. Contact the Housing Office for specific information on indexing.

(5) *Inspection of the Premises.* In the first month of the lease, a landlord may conduct an inspection of the contents and condition of the premises. It is this inspection, when matched against the condition of premises and its contents when the lease is terminated, which supports or refutes claims for damages. Tenants should therefore conduct the inspection very carefully. Note such things as cracked tiles, windows, tubs, walls, stained surfaces, scratched floors, and chipped furniture. Rules regarding inspections and the condition of the premises differ in Brussels and other areas that are not near Mons, so consult with the Legal Assistance Office if you have specific questions or concerns. Under Belgian law, there is a presumption that, in the absence of an inspection, buildings under lease were received by tenants in the same condition as when the tenants vacated them. If the landlord presents adequate evidence to the contrary, the presumption fails. In most cases, a representative of the Housing Office will conduct the inspection in privately-owned quarters.

(6) *Sweeping Chimneys and Maintaining Central Heating.* Most leases require the tenant to sweep the chimneys annually. Even if the lease is silent on this point, it is still a good practice to have the chimney swept annually. Chimneys used solely as exhaust for central heating units can become a fire hazard when dirty. Keep a

receipt for any chimney cleanings as it can be used as evidence of due care in the event of fire. Belgian law requires that central heating systems be maintained annually.

(7) *Charges For Services.* Leases of apartments usually have a provision dealing with charges associated with apartment living. These charges may be paid monthly or periodically and cover the cost of a number of services common to all tenants of a building (e.g., concierge service, garbage removal, cleaning hallways, etc.). The payment can be significant and subject to periodic change. Every tenant should understand fully what services are covered and whether the charge is subject to change without consent.

b. Terminating Your Lease. Terminating a lease legally in Belgium is more complicated than in the United States. As a general rule, the tenant customarily notifies the landlord before the first calendar day of the month before the month the tenant intends to terminate. For example, if the lease contract provides for a one month notice requirement, to terminate on 1 November, you must notify your landlord no later than 30 September. If you do not notify the landlord by the first of the month, the notice will be deemed to be effective only from 1 November, meaning you will owe the landlord rent for the month of November. Tenants anticipating orders requiring a move in November, therefore, should be prepared to notify the landlord before 30 September even though they have not received orders by that date. If you fail to do so, and you notify late (e.g., on 3 October), you could be liable for an extra month of rent. **For matters of proof, you should give written notice by Belgian registered mail.**

(1) Tenants who intend to notify the landlord without orders in hand have to balance the risk of early termination against late termination. In other words, because there are limits to the temporary living allowances (TLA) available upon reassignment from SHAPE (10 days for US Servicemembers), tenants may find themselves staying in a hotel without government reimbursement if they terminate their leases too early. That means they will pay money out-of-pocket to stay in a hotel when they could have paid their landlord less money out-of-pocket (i.e., an extra month of rent) to stay in their rented accommodations. The best way to balance TLA entitlements and termination dates is to discuss the problem with the landlord. Let the landlord know about the TLA problem and ask if you can extend your lease – at the last minute, if necessary – until ten days before the departure date listed on the orders. When doing this, you should document any verbal agreement in writing, via letter, email, or text message and you should do so in a language that your landlord understands.

(2) You should, for your own protection, specify in the lease that it shall terminate upon reassignment, death of a family member, finding more adequate premises, or other factors that may cause you to want to end your lease. To cover all contingencies, of course, you may negotiate a lease granting the right to terminate at any time for any reason. However, the chances of finding a landlord who will accept such a lease in Belgium are extremely poor. At a minimum, insist upon a lease that

terminates upon reassignment (even within Belgium) or death of a member of the family. The standard SHAPE lease has such a provision.

c. Registering Your Lease. Belgian law provides that all written leases must be registered. When registered, the private lease contract becomes a matter of public record, protecting the interest of the tenant upon sale by the landlord. Unrecorded leases are not binding upon new owners of the premises, meaning a lease could be terminated suddenly upon the landlord's sale of the property. Registering the lease is the responsibility of the landlord, but you should confirm registration of the lease to protect your interests. The expense of registering your lease may be reimbursable if you receive a move-in housing allowance (MIHA). Be sure to check with the Housing Office or Finance for specific information on whether MIHA will cover this expense.

d. Rent Refunds. Rents in Belgium are typically paid in advance. Tenants who vacate the leased residence before the end of the month normally will not receive a partial rent rebate even though the landlord rents the property to someone else. You may, of course, occupy the premises until the end of the month. If you quit or permanently leave the premises, however, your right to occupy under the lease is extinguished and a refund is not normally available. Additionally, most Belgian leases will require a full month of rent be paid for the first month, even if you only occupy the residence for part of the month. Leases negotiated through the Housing Office, though, usually include a clause that will require that the first and last months of rent will be prorated.

Chapter Three

OTHER CONTRACTUAL MATTERS**3-1. Basic Principles: Your Contracts.**

a. A contract is a legally enforceable agreement between two or more competent parties to do or to refrain from doing something. **Forewarned is forearmed: Under Belgian law, oral contracts are binding and enforceable to a much greater extent than under US law. Exercise the utmost caution before making any oral agreement with a Belgian businessman or contractor.**

b. The expectations of the contracting parties, namely that each party will fulfill their promise under the contract, is similar to those under US legal principles, but actual enforcement of contracts in Belgium is not. More specifically, if one party does not honor his or her obligations, the other party may not void the contract, but must seek enforcement through a civil suit. Only after a judge decides that one party cannot fulfill his contractual obligation may he authorize cancellation of the contract and allow damages to compensate the innocent party for any resulting loss.

c. In general, the validity of a contract does not depend upon the use of any particular form or document. In certain cases, just as in the United States, oral contracts are valid and are generally more likely to be enforced in Belgium. Be aware, however, that proving its existence, and more particularly its terms, will be very difficult – perhaps impossible – without some writing setting out the agreement. Once a writing evidencing the contract has been shown to exist, testimony that qualifies or modifies the written terms of that document will seldom be admitted.

d. In contractual matters, ignorance of the laws, the language, or the meaning of words is seldom an excuse for nonperformance. A rule of thumb should be that one should not agree to the terms of a proposed contract, much less sign it, when there is the slightest doubt as to the exact nature of the obligations involved. Resolve all doubts with legal counsel prior to signing or agreeing to a contract. You may have the contract reviewed at the Legal Assistance Office.

3-2. Sales Contracts. Although there are too many types of sales contracts to cover here, be aware that your signature on an order form is legally binding. You may have a right to cancel within seven days in exceptional circumstances, but you may also be required to pay a substantial penalty to the seller for doing so. Additionally, no party may cancel a sales contract without the agreement of the other contracting party. You should consult with the Legal Assistance Office as soon as possible if you require assistance with a sales contract.

3-3. *Leasing Personal Property.*

a. Penalty Clause. You can lease virtually anything in Belgium (e.g., TVs, cars, furniture, electrical appliances, etc.). The lease terms often vary as much as the nature of the items themselves. You should, however, pay particular attention to the duration of the lease and the conditions under which you may cancel the contract. It is quite common, for example, to find a “penalty clause” which becomes effective should you cancel the lease short of the full duration. Be certain you understand the nature of the penalty, if any, before signing a lease. Furthermore, insist that your lease allows cancellation before the scheduled termination date if you are reassigned.

b. Option To Purchase. Some commercial firms lease property and also grant the lessee an option to buy (e.g., an automobile lease). Periodic payments under these leases are usually applied to purchase price, but the lessee must take steps to exercise the option. In such a case, be aware of the date by which you must make your election.

3-4. *Remedy For Defective Merchandise.* All sellers must deliver what they promise. Unless a written guarantee covers the item sold, once you, the buyer, pay the purchase price and accept delivery, the seller is not responsible for any noticeable defect. Remember the maxim “*caveat emptor*” (buyer beware). Buyers must beware in Belgium even more so than in the United States.

3-5. *Binding Effect Of Purchase And Service Orders.* A purchase or service order is fully binding upon the buyer and, after acceptance of the order by the seller, is also fully binding upon the seller. Because the seller usually prepares such orders and uses pre-printed forms, the buyer is often disadvantaged by the terms of an order. Often, the forms stipulate that the buyer will pay punitive damages if he does not complete performance (i.e. pay for the order when agreed). The forms also usually state that the seller is exculpated or forgiven for failures to perform (i.e. because of undue delay of delivery, no matching color, etc.), meaning that a buyer may have little or no recourse if the seller does not fully live up to the terms of the order. Read and understand each form before signing.

3-6. *Repossession And Turnback of Property.* Some sales contracts have a provision that the seller (or financing agent) retains a lien over any property until a buyer pays in full. Such property may neither be sold nor exported without the financier’s or seller’s consent. Sale or exportation before consent or completion of performance (i.e., full payment) is a criminal offense.

3-7. *Independent Contractors.*

a. When contracting with an independent contractor (e.g., repairmen, mechanics, plumbers, electricians, etc.), request an estimate (*devis*) before ordering the work. Although very few contractors will commit themselves in advance (because they do not

know exactly how much time will be spent on the work), the estimate may serve as a foundation for a civil suit over an exaggerated bill.

b. Unless otherwise stated in the contract or purchase order, there is no specific time requirement for the delivery of an item or the performance of a service by an independent contractor. Normally, the keeper of an item to be repaired is responsible for its loss, unless he can prove that the loss is due to someone else's negligent act or the contract exculpates him from such responsibility. Like a finance company, an independent contractor has a lien over the items placed in his workshop for the payment of his fees.

c. As for any dispute about the performance of a contract (e.g., inflated bill, unsatisfactory work, etc.), the only remedy except mutual agreement on a settlement between the parties is through a civil suit involving the Trade Court or a Justice of the Peace.

3-8. Insurance Contracts. By its nature, an insurance contract is nothing more than a wager. You bet that a specified event will occur, and the insurance company bets that it will not. If you lose the bet (i.e., the event does not occur), you forfeit the premium; the company does not refund it. If you win the bet and a loss occurs, the insurance company must compensate or indemnify you and, potentially, third parties. As always, pay particular attention to exceptions and situations which are excluded from coverage. You should also know the duration of the contract and reasons for cancellation. Covered below are several types of insurance policies:

a. Fire Insurance.

(1) *Occupant's Responsibilities.* Although Belgian law does not require you to have fire insurance, the great majority of leases require the tenant to insure the premises against loss or damage due to fire. Indeed, in the absence of other proof, Belgian law presumes that the occupant or tenant of a building is responsible for damage by fire. In other words, it is often a contractual obligation to have fire insurance.

(2) *Amount Of Coverage.* Whether furnished or unfurnished, quarters should be insured against loss. When choosing the amount of coverage, remember these two very important things:

(a) First, any insurance you buy for fire or water damage to the premises usually covers only the landlord's property; you must buy additional insurance (usually called renters' insurance) to cover the replacement of your property within the premises.

(b) Second, and often more important, you should purchase insurance in an amount sufficient to reconstruct the property, rather than merely an amount equal

to its market value. When a loss occurs, the landlord will expect you, the tenant, to replace the home exactly as it was, for example, to replace the burnished wood floors, the antique fireplaces, or whatever else it takes to create an exact replacement of what was lost or damaged. The cost to replace can be substantially higher than the market value of the premises. Failure to insure for the replacement value has the disastrous consequence of leaving the tenant uninsured for the difference between replacement and market value that can often be several hundred thousand euros. The problem can be compounded further if the home has appreciated in value since the date of initial coverage.

(3) Consider this cautionary tale of a US family living near SHAPE who underinsured the rental house they were living in. They purchased insurance based on the market value, €50,000, and not the replacement value of their house, €100,000. When a loss occurred in their home due to fire, they breathed a sigh of relief when the appraisers told them that the fire caused only €25,000 worth of damage. They assumed that their insurance would cover the loss completely since they had a policy limit of €50,000 and a loss of only €25,000. The insurance company disagreed, however. Even though the family had a €50,000 policy-limit, the insurance company would pay only a fraction of that amount to cover the loss. Because the family only insured one-half (€50,000) of the €100,000 replacement cost of the home, the company would pay for only half of the fire damage – €12,500. The family paid the additional €12,500 out of their own pocket to repair the house.

(4) *Combination Policies.* Fire insurance policies are very often combined with other types of insurance coverage (e.g., damage caused by water, storm, explosion, theft, glass breakage, etc.). The policies can differ significantly from one company to another. Pay close attention to the extent of the coverage and excluded risks. Seek the advice of an attorney if you do not understand what the policy says.

b. Vehicle Insurance.

(1) *Compulsory Insurance.* Every vehicle owner must have unlimited coverage against damage or injury to third parties. Members of the insured's family living under the same roof are considered third parties only if the insured entered an extended insurance contract ("*R.C. plus*" or "civil liability plus"). Such additional insurance became mandatory for all contracts on 1 January 1989, and usually costs an additional three percent above the standard premium.

(2) *Duration.* Belgian vehicle insurance policies usually cover a one-year term. To stop or cancel your insurance contract, you must send a registered letter to the insurance company at least three months before the end of the coverage period. Failure to do so will likely result in automatic renewal.

(3) *Combination Policies.* In addition to liability coverage, you may purchase additional types of coverage (e.g., collision, comprehensive, and legal aid, etc.).

Belgian companies calculate the premium for collision coverage using the “book value” of the car. For minor damage, the insurance company will reimburse for necessary repairs. Should the cost of repairs exceed the book value of the vehicle at the time of the accident, the insurance company has the right to “total” the vehicle and pay only the book value of the car. When taking out collision coverage on an older vehicle, remember that its book value may be significantly lower than its replacement cost. If a vehicle is financed, the financing agreement may require collision coverage without regard to the age of the vehicle. Note that collision coverage does not have to be written by the same company which writes the policy for liability coverage.

c. Personal Liability. Under both Belgian and US law, courts may order persons to compensate others for personal injury or property damage caused by that person’s negligence. Negligence is defined as failure to use the degree of care that a reasonable and prudent person would display under the circumstances. In the past, for example, courts have found the following to be negligent:

- (1) Driving while intoxicated;
- (2) Driving with bad tires;
- (3) Driving without a valid driver’s license; and
- (4) Driving a vehicle which has not passed or could not pass the *Contrôle Technique* (CT) automobile inspection.

d. Head Of Household Policies.

(1) *Family Insurance*. Family insurance is a cheap form of comprehensive coverage indemnifying third parties for damage or injury that a member, servant, or pet of a household causes.

(2) *Employee Insurance*. Persons employing domestic servants must insure those servants against injuries which occur as a result of employment. The scope of coverage includes, but is not limited to, in-home accidents and accidents occurring while en route to or departing from the home.

e. Recommendations Regarding Insurance.

(1) You should not sign any contract with an insurance company which refuses to furnish a full and complete text of the policy before you sign the agreement.

(2) For your own protection, ensure that the following clauses are included in any insurance contract:

(a) Automatic termination of the policy upon departure from Belgium, with reimbursement of a partial premium for unused insurance. Such reimbursement should be without any withholding or extra charge for administrative costs.

(b) Automatic termination of the policy in case of a change in the risk covered (e.g., sale of the car in case of automobile insurance, or change of residence in case of fire insurance).

(3) If possible, purchase coverage on your residence from the same insurer who covers the landlord.

3-9. *Some Final Considerations.*

a. Currency Fluctuations. Virtually all contractual arrangements made in Belgium require payment in euros. In the absence of a contract provision to the contrary, any fluctuation in the value of the dollar vis-à-vis the euro will not be cause for modification or cancellation of the contract.

b. Signing Contracts. Signing contracts in an unknown language is foolhardy. If the party with whom you deal is reputable, but unable to furnish a copy of the contract in English, that seller should wait while you seek adequate legal counsel. If the seller refuses to wait, take your business elsewhere!

Chapter Four

FISCAL MATTERS**4-1. Customs and Taxes.**a. Household Goods And Personal Effects.

(1) *Initial Importation.* The NATO SOFA allows members of a force and its civilian component duty-free importation of household goods and personal effects, provided that the member or his or her dependents import those articles pursuant to their initial arrival in Belgium. Were a dependent to arrive later than that of the member (e.g., under non-concurrent travel orders), those items brought or shipped by the dependent also enter duty free.

(2) *Later Importation.* While stationed in Belgium, members of a force or civilian component may import items from another country. Whether this will be duty-free or not depends upon the ultimate exportation of the items from Belgium and certain formalities. Address specific questions to the SHAPE Customs/VAT Office, (Bldg 210, 366-6292 – US Community Services).

(4) *Value-Added Tax (VAT).* The VAT (which is also sometimes abbreviated as TVA for its French spelling) is like a sales tax, except that it is factored into the the cost of producing a product or service, instead of being added to the cost at the time of sale. Except for some local purchases discussed below, purchases of goods and services in Belgium are subject to VAT. The amount of VAT depends upon the item or service. As a general rule, most items are taxed at 21% of their value, while the tax rate at restaurants is 12%, and more essential items, such as foodstuffs, books, pharmaceuticals, newspapers, and hotel accommodations, are taxed at a reduced rate of 6.5% of their value. For the percentage applicable to the merchandise in question, ask the merchant or a customs official.

(3) *VAT Refunds.* SHAPE members may be eligible for a refund of the VAT they pay, but only for certain items. In broad terms, items exempted from VAT include: durable goods such as furniture, bicycles, personal computers, lawn mowers, and electrical appliances (e.g., microwaves, washing machines, dishwashers, etc.). Items not exempted from VAT include non-durable products (e.g., food and drinks), items to be installed in or on a house (e.g., flooring, sinks, alarm systems, kitchen cabinets, etc.), leisure items (e.g., cell phones, musical instruments, sports equipment, cameras, etc.), personal items (jewelry, clothing, beauty products, etc.), or services (e.g., hotel bills, bank or notaire fees, cable bills, etc.). The full list of VAT exemptions can be found at <http://shape2day.com> by clicking on Newcomers, Customs and VAT in Belgium, then Exempted Goods. The SHAPE Customs/VAT Office (Bldg 210, 366-6292 – US Community Services) also maintains a current list of VAT-free items. You should visit

this office before making any major purchases that maybe VAT-exempt or if you have any questions. VAT-exempt purchases are only for personal use. VAT-exempt purchases must be exported from Belgium when you leave and you may not sell these items in Belgium without paying the VAT to the Belgian authorities.

(4) *Procedure For VAT Reimbursement.* It is important to know how to submit the forms to receive the appropriate refunds when eligible. To receive a VAT refund for eligible exemptions, there is a specific procedure to follow. First, make sure to get an invoice (*une facture*) issued to the sponsor when buying the item; a sales receipt will not be accepted, and the invoice must include the VAT number, the store address, and a description of the goods bought. Next, the VAT Form 151 (previously Form 1510) must be filled out in the sponsor's name. The form be found online at <http://shape2day.com/tva-vat.aspx>. Note that the form will only be accepted if it is printed as a two-sided document on a single page. Two original forms are needed, filled in with the corresponding information from the invoice. The crucial piece of information on the form is the VAT number, which is nine digits in Belgium. After completing this documentation, take the two copies of the VAT form to be stamped, dated and signed by the US National Military Representative (USNMR) or corresponding official. Next, take the two stamped VAT forms, as well as the invoice, to the SHAPE Customs/VAT Office (Bldg 210, Room 103 – US Community Services). That office will approve and stamp the Form 151 and give the SHAPE member a sealed copy of the form. This sealed form must be returned to the store where the purchase was made. The merchant will then reimburse you for the VAT and keep the form. Be aware, though, that **SHAPE members do not qualify for exemptions during the last six months of their stay**. Also, the goods must be used in Belgium while the SHAPE member is living in Belgium. Although this general procedure works most of the time, there are more details, rules, and exceptions that could apply to your specific situation. Any questions should be addressed to the SHAPE Customs/VAT Office.

b. Privately-Owned Vehicles (POV). The NATO SOFA, Article XI, expressly authorizes members of a force or civilian component to import POVs duty-free into Belgium on a temporary basis. As with household goods and personal effects, the duty-free exemption is temporary, meaning that it is contingent upon your ultimate exportation of the vehicle. Consequently, should you dispose of a POV imported under this provision, you can expect to pay duty, depending upon the type of importation document covering the POV and the status of the person to whom the POV is given, traded, or sold. Before transferring ownership of any POV which entered Belgium duty-free, consult the Vehicle Registration Office (Bldg 210, 423-4148). SHAPE members may also, under some circumstances, purchase new cars exempt from VAT. Again, consult the SHAPE Vehicle Registration Office for details.

c. Returning Residents.

(1) *Nonsensitive Items.* Persons who temporarily reside in Belgium, like other residents, may import items (limited by number or value) into Belgium on a duty-

free basis. Limitations depend upon the origin of the items in question. Items from countries in the Schengen Area are duty-free during travel within this area, as long as they were taxed when they were bought and are for personal use (i.e., not for any type of resale or trade). As of the date of this publication, the 26 countries comprising the Schengen Area are: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands (Holland), Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland. Note that the United Kingdom and Ireland are not members of this area and operate their own customs regimes that are very different from the system used in the Schengen Area.

(2) *Sensitive Items*. There are no limits on what private persons can buy and take with them when they travel between Schengen Area countries, as long as the products are for personal use and are not for resale. Taxes (VAT and excise) are included in the price of the products in the Schengen Area country of purchase and no further payment of taxes can be due in any other Schengen Area country. However, special rules apply in the case of goods subject to excise duty, such as alcoholic beverages and tobacco products. If a private person purchases such products in one Schengen Area country and takes them to another, no excise duty has to be paid if the goods are for personal use and transported by the person. Several factors are at play when determining whether the items are for personal use; however, there are presumptive limits, above which there is a presumption that the goods are not for personal use. The presumptive limits for personal use for goods transported between Schengen Area countries are contained in Table 4-1 on the next page. Items from non-Schengen Area countries may be imported duty free by every individual who is 17 years of age or older upon re-entry into Belgium, for personal use only, up to the quantities indicated in Table 4-1.

Selected Items	Presumptive Limits for Personal Use within the Shengen Area	From non-Shengen Countries
Tobacco Products*		
Cigarettes	800	200
Cigarillos	400	100
Cigars	200	50
Pipe tobacco	1 kilogram	250 grams
*Each of these amounts represents 100% of the total allowance for tobacco products and any combination of those products must not exceed 100% of the allowance in the aggregate. E.g., 100 cigarettes + 50 cigarillos = 100% of the allowance for a person entering from a non-Shengen country		
Alcoholic Beverages**		
Distilled/spirituous beverages exceeding an alcohol content of 22%	10 liters	1 liter
Distilled/spirituous beverages with an alcohol content of 22% or less, sparkling wines, and liquor	20 liters	2 liters
Wines (still)	90 liters	4 liters
Beer	110 liters	16 liters
**Each of these amounts represents 100% of the total allowance for alcoholic beverages and any combination of those products must not exceed 100% of the allowance in the aggregate. E.g., 2 liters of wine + 8 liters of beer = 100% of the allowance for a person entering from a non-Shengen country.		
Fuel		
Contained in any means of motor transport	95 milliliters	The fuel contained in a standard fuel tank of a vehicle
Contained in a portable container	0.375 liter	10 liters
Other Goods (including perfume, coffee, tea, electronic devices, etc.)		
Air and sea travelers	n/a	€430
Other travelers	n/a	€300

Table 4-1

4-2. Road Tax. The NATO SOFA has no exemption from road taxes, but an agreement between SHAPE and the Belgian Government exempts members of SHAPE from the road tax on one vehicle if it is properly registered. All other vehicles are taxed regardless of registration. Such tax, if due, is based upon the CV rating of the vehicle, which is calculated using the horsepower rating and engine size of a vehicle. If you own

two or more cars while in Belgium, you will receive an exemption from the road tax for the vehicle that would be taxed at the higher rate, regardless of the order in which the vehicles were purchased or registered.

4-3. Local And Municipal Taxes.

a. The NATO Status of Forces Agreement exempts US military and most civilian-component personnel from Belgian income taxes (see paragraph 4-4 for more information). The same treaty exempts personal property of US personnel (such as radios, televisions, and satellite dishes) from taxation. If you receive a tax statement from the *Administration des Impôts sur les Revenus* (the Belgian counterpart of the Internal Revenue Service), the *Directeur des Radio/Television Redevances* (Radio and Television Tax Office), or the *Deputation Permanente du Conseil Provincial du Hainaut* (Satellite Tax Office) requesting that you pay taxes, you should visit the Central Processing Facility and request that a tax-exemption letter be prepared for you. This letter will remind the relevant office that under the NATO Status of Forces Agreement, US Servicemembers and civilian-component personnel are exempt from these taxes.

b. On the other hand, US personnel are obligated to pay certain county and municipal fees for services. A few examples of these include fees for *Enlevement des Immondices* (garbage pickup), *Tri de Dechets/Recyclage* (fee for processing recycled waste) and *Egouttage* (sewage/wastewater removal). If you have any questions regarding whether you are obligated to pay a fee, contact the Housing Office or the Legal Assistance Office for advice. **Above all, do not simply ignore bills that arrive in the mail. Failure to address the issue could lead to fines and penalties as well as seizure of your personal property by a court bailiff.**

4-4. Income Taxes. Under the NATO SOFA, pay and salary received from the US Government by Servicemembers and DoD civilian employees stationed in Belgium are not subject to Belgian income tax. Income derived from the following sources, however, is subject to Belgian taxation: any employment on the local economy, self-employment (even if goods or services are provided only to US personnel), and employment with US employers in Belgium (other than the US Government or one of its agencies or instrumentalities, or a US contractor with NATO SOFA status).

Chapter Five

ADMINISTRATIVE MATTERS

5-1. Privately Owned Vehicles. Once again, status has a considerable effect on rules and regulations which apply to POVs. Persons at SHAPE have certain privileges not available to other US personnel stationed in Europe. Most of these provisions apply to SHAPE members only, and not to retirees or US embassy personnel.

a. Registration. Every SHAPE member must present an application accompanied by proof of membership at SHAPE, proof of vehicle ownership, and proof of valid insurance to register a POV at SHAPE. Additionally, if a vehicle is more than three years old, it will need to be inspected by a *Controle Technique* and have a certificate issued that it has passed inspection prior to registration.

b. Customs Documents. Under the NATO SOFA and SHAPE-Belgium agreements, members of SHAPE may import their vehicles for personal use into Belgium without paying import duties (see paragraph 4-1b above). Contact the SHAPE Customs/VAT Office (Bldg 203, Room 103, 366-6292) for the most current details.

c. Driver's License. To operate a SHAPE-registered vehicle, the operator must be in possession of a SHAPE driver's license. This license is valid only in Belgium. Therefore, individuals wishing to drive in other European countries must also get a Belgian driver's license or International Driver's Permit (IDP) (see paragraph 5-1c(4) for more information).

(1) Two US/Belgian agreements govern SHAPE driver's licenses for SHAPE members and their families. One agreement (an exchange of notes between the United States and Belgium) allows US citizens temporarily residing in Belgium to drive with a license issued by any state in the United States. The term "temporarily residing" is, however, somewhat restrictive. Persons residing in Belgium who possess Belgian identity cards are not temporary residents if they have been in the country at least six months. Therefore, it is especially important for all dependents and civilian-component members to obtain their SHAPE driver's licenses prior to being in Belgium for six months. Failure to obtain a SHAPE driver's license by that time may result in a challenge of the US license by Belgian police authorities.

(2) Permanent residents (those not covered by the SOFA) should obtain a SHAPE or Belgian license. Pursuant to the Geneva Conventions (to which both the United States and Belgium are signatories), individuals may obtain a Belgian license by presenting a valid US license at the appropriate commune (city hall), paying the appropriate fee, and passing a test.

(3) In the event that members of SHAPE or family members do not possess a valid US license, they must undergo driver training before the Belgian Government will issue them licenses. Such training includes both a written and road test.

(4) Members of SHAPE wishing to drive in other countries may obtain an International Driver's Permit (IDP). If you did not obtain an International Driver's License prior to departing the United States, you can visit the Driver's Testing Division (Bldg 220, 366-6603) to obtain information on where and how to obtain an IDP through a Belgian issuer. This office will also assist you in filling out the necessary paperwork. The cost for an IDP is currently €21 and most IDPs are issued within a week from the time the application is submitted. Applicants should be prepared to present a valid US driver's license and a passport-size photograph. An IDP is recognized or honored in all EU nations. If traveling outside of the EU, you should consult with the Northern Law Center or the US Embassy in the country you are visiting to see if an IDP is valid for driving in that country. **Remember, an IDP is just a translation of your US driver's license and is not valid for driving without possession of your US driver's license.**

d. POV Technical Inspection. All SHAPE-registered vehicles more than three years old must pass *Controle Technique* annually. In order to determine the age of your vehicle, look at the registration document, and you will find the date the vehicle was first registered. If you have difficulty understanding your registration document, bring it to the Vehicle Registration Office (VRO) (Bldg 210, 423-4148) for assistance.

(1) A technical inspection must also precede the sale of any used car in Belgium, including SHAPE-registered vehicles. The seller is responsible for conducting the inspection, which is valid for two months. When buying a used car, pay nothing until a current certificate showing successful completion of technical inspection is produced. If a car does not pass the technical inspection after a person has purchased a car, this is generally not grounds for rescinding the sale.

(2) Any POV which has undergone substantial modification or alteration or has undergone repairs to the chassis, steering, brakes, or suspension due to a traffic accident must be re-inspected prior to being operated on public roads. In the event that your vehicle requires such repair, be sure to conduct the inspection before operating the vehicle. Failure to do so subjects the owner to a substantial fine.

e. Safety Equipment. All POVs now registered under the Belgian or SHAPE system must have the following safety equipment:

- (1) Warning triangle;
- (2) First-aid kit;
- (3) Seat belts;

(4) Fire extinguisher marked "*Benor*"; and

(5) A reflective safety vest for all occupants of the vehicle to be worn for visibility in case of accident or breakdown.

f. POV Export. Whether the export of the POV is to another European country or the United States, the POV owner must clear the SHAPE Vehicle Registration Office (VRO) (Bldg 210, 423-4148), located in the Central Processing Facility. Belgian license plates may be retained until the owner registers the car elsewhere, at which time the owner must destroy the Belgian license plates and return the registration certificate (*carte grise*) to the VRO. At the border (in case of export by land) or through shipping agencies (in case of export by sea or air), the owner must also clear with the customs officials. Failure to clear either VRO or customs officials will result in a substantial penalty.

g. POV Theft Or Destruction In Belgium. **In order to avoid being assessed customs duties and fines, immediately report the theft of a POV to the Belgian police and to the insurance company.** When SHAPE members have their POVs stolen or destroyed, they may be responsible for customs duties. The rationale behind this seemingly harsh rule is that there is little or no proof that the owner did not export the POV from Belgium. The lack of proof gives rise to suspicion and possible demand for payment of customs duties. Naturally, in cases of destruction by force or accident, the remains of the POV would be available to show that its value is essentially zero, which could result in no assessment of duties. Conversely, in the case of a reported theft, there is no proof that the POV was not removed from Belgium. In that case, liability for duties can be avoided only if the theft is promptly reported to the Belgian police. At the same time, the insurance company should be notified and supplied with a copy of the complaint (*plainte*) made in conjunction with the Belgian police.

h. Sale Of POV As Junk Or Scrap Metal. The sale in Belgium of a POV as junk requires the clearance of the customs document, the BENELUX Form 4, and the return of the vehicle registration (*carte grise*).

i. International Identification Symbol. International law requires that POVs operated in countries other than the country of registration bear a symbol on the back of the POV showing the country of registration. For Belgium the symbol is a black "B" on a white oval disc. However, current license plates issued at SHAPE have a "B" affixed, so no additional sticker is required. Should you wish to drive outside Belgium after your POV has been delivered from the United States but before your SHAPE plates have been issued, you must affix a decal or sticker bearing the letters "USA" to the rear of your vehicle.

5-2. Accident Reporting. The Judge Advocate Officer-in-Charge (OIC) of the Northern Law Center serves as liaison between the United States Representative for Belgium (Commander, USAG BENELUX) and the Belgian judicial authorities. In that

capacity, the OIC makes requests for waiver of criminal jurisdiction for all accidents involving US personnel in Belgium. Accordingly, the Northern Law Center must be aware of any and all accidents. In addition to any reporting requirements set forth by SHAPE, any US person attached to SHAPE must file Form 550-50-A-R with the NATO SOFA Branch Civil and International Law Division, Northern Law Center (Bldg 318, 423-5480). Failure to notify the Northern Law Center may result in the Belgian authorities investigating the accident, which sometimes works to the detriment of those involved. Refer any questions on this matter to the Chief, International Law Division, Northern Law Center (Bldg 318, 423-5480).

5-3. Identification Documents.

a. Military Personnel. While stationed in Belgium and subject to the NATO SOFA, military personnel must have a valid US military identification card and must carry it at all times. This identification card must be presented to host-country authorities upon demand. Military regulations require that Servicemembers possess a pass, border-crossing document, or similar military document, such as TDY orders, to cross any international border. Within most of Europe (not including the United Kingdom or Ireland), your military identification card is often sufficient for travel, but you should travel with both your passport and military identification any time you are traveling outside of Belgium. At a minimum, a US passport (and perhaps a visa) is required to travel to a non-NATO country. A passport is also required to enter the United Kingdom and Ireland when in a leave status because those countries are not members of the Schengen Area and they have a customs and immigration regime different from the Schengen Area countries.

b. Family Members And DoD Civilians. In addition to possessing a passport, all dependents and DoD civilians must obtain a Belgian Identification Card (*Carte d'Identité du Protocol*) while residing in Belgium. This card is normally valid for two years. There are exceptions, however, which may result in a card being valid for three or five years. US personnel at NATO, who are supported by the US Embassy, should seek renewals of these identification cards through the US Embassy. US personnel at SHAPE may seek renewals from the Belgian Police (Bldg 210, 423-5165). All personnel must surrender their Belgian identification card immediately before departure from Belgium. Each sponsor is responsible for surrendering cards that his or her family members hold. Any cost of obtaining the card may be reimbursed when settling the Permanent Change of Station move as a miscellaneous dependent expense, but usually no fee is involved. Contact the Finance Office (Bldg 212, 423-4687) for more information about this reimbursement.

5-4. Change Of Residence. Under most circumstances, US civilian-component personnel or military family members who change their place of residence in Belgium must notify the Belgian Police at SHAPE (Bldg 210, 423-5165) and the local commune of that change. Here are three situations requiring some action or notification:

a. Belgian Identification Card. When US civilian-component personnel or military family members hold a Belgian identification card, every change of residence must be shown on the card. The failure to have a card showing a current address can result in a fine ranging up to €250, in accordance with Belgian law.

b. Notifications To Losing And Gaining Communes. When US civilian-component personnel or military family members hold a Belgian Identification Card and move from one local municipality or city to another within Belgium, they must notify the first local municipality or city and request that their name be removed from the local registry. This must be done within eight days of the change, or the US civilian-component personnel or military family members may be subject to a fine in accordance with Belgian law. The first municipality or city will then instruct the US civilian-component personnel or military family members to notify the gaining municipality or city of the change. On occasion, the municipality or city will notify the gaining municipality or city of the change of residence. In addition, if the US civilian-component personnel or military family members fail to notify the losing municipality or city of the change, they may be subject to the payment of several residential fees such as garbage fees and certain utility charges. On occasion, the municipality or city will hire a property bailiff to collect from the US civilian-component personnel or military family members payment of delinquent fees and taxes. The US civilian-component personnel or military family members will be liable for the bailiff's fees as well, and they can be quite expensive. Failure to pay these fees could result in the bailiff forcibly inventorying and levying the property of US civilian-component personnel or military family members.

c. Belgian POV Registration (*carte grise*). Each Belgian vehicle registration must show the current address of the owner. In the event that a vehicle's owner changes residence without obtaining a corrected registration card, that owner may be liable for a fine of €125. A corrected registration card is not necessary when the address shown on the *carte grise* is SHAPE or NATO, which is normally the case for vehicle registration of military personnel. In that instance, the Servicemember's official address continues to be SHAPE or NATO without regard to the actual place of residence.

5-5. Rationed Or Controlled Items. All rationed items, such as alcohol, tobacco, and gasoline, are for the personal use of the person entitled to the ration and that person's family. **The sale or gift of such items can result in the suspension or revocation of privileges, the imposition of a fine, and/or other criminal punishment.**

5-6. Commissary And Post Exchange Purchases.

a. The sale or gift of purchases to persons not entitled to commissary or post exchange privileges is prohibited, with very few exceptions, by regulation. In the case of military personnel, a violation of any of these regulations may result in disciplinary action under the Uniform Code of Military Justice, as well as suspension or revocation of commissary and exchange privileges. Violations by Department of Defense civilians

could subject them to disciplinary action authorized under pertinent military regulations and civilian misconduct regulations, such as the suspension or revocation of privileges. In addition, all personnel are subject to Belgian criminal prosecution.

b. Exchange patrons are allowed to sell or give purchases to persons not authorized to make exchange purchases if they consume the items in the home of the authorized patron. Additionally, exchange patrons are specifically authorized to give, as bona fide gifts, exchange purchases to anyone authorized exchange privileges and to persons not authorized exchange privileges, provided that such persons reside in the United States. **No regulation authorizes the gift of exchange purchases to Belgian nationals.** Gifts to local nationals may result in criminal prosecution by the Belgian or US governments.

5-7. Running A Home-Based Business Or Obtaining Off-Post Employment In Belgium

a. The Effect On SOFA Status. In any military community, spouses and family members may want to run a small business from their home or may want to take a job that is not associated with the US Government or its instrumentalities. In Belgium, there is no bilateral SOFA or supplemental agreement to the NATO SOFA, like there is in Germany. Article II of the NATO SOFA requires US personnel to respect host nation law and Article X, paragraph 2, of the NATO SOFA provides that any profitable enterprise will be subject to taxation in the receiving state. Additionally, Article XI, paragraph 7, of the NATO SOFA establishes that no customs exemption will be granted for a commercial activity. The result of this is that US personnel cannot have both NATO SOFA status and be engaged in a commercial activity, whether that activity involves a home business or local off-post non-US Government-related employment. It also does not matter if the business takes place in US-owned/leased housing or in privately-leased housing or buildings. US dependents engaging in a commercial activity lose their NATO SOFA status and are immediately treated as an ordinary resident of Belgium. Please note that dependents will still retain most privileges as those privileges come from a sponsor and not from SOFA status.

b. Consequences Of Running A Home Business Or Obtaining Off-Post Employment. If you decide to run a home business or engage in off-post employment, and lose your SOFA status, this will result in losing many of the exemptions from taxation that are enjoyed under the SOFA.

(1) Your home business or employment wages will be subject to all Belgian and other local taxes, as well as any Belgian regulations and requirements.

(2) You will be subject to visa and work-permit requirements under Belgian law. You also will lose your Belgian Protocol Identification Card and you will have to apply for a Resident Belgian Identification Card at your local commune (city hall).

(3) You will not be eligible to take a job with the US Forces in Belgium (i.e., AAFES, the commissary, USAG BENELUX etc.)

c. Helpful Resources. If you or your spouse are thinking of starting a home business here in Belgium be sure and review the costs and benefits of running that business before starting it. The resources provided below can be helpful in answering many of your questions.

(1) American Chamber of Commerce in Belgium: www.amcham.be. This organization assists people starting a business activity in Belgium.

(2) SHAPE Customs/VAT Office (Bldg 210, 366-6292).

(3) The Northern Law Center Belgian legal advisor can provide basic information concerning visa and work permit issues, and offer referral information for the appropriate consulate.

(4) For forms and other information on working in Belgium contact the Belgian Foreign Affairs, Foreign Trade and Development Office at www.diplobel.be. Click on travel for forms and other useful documents.

5-8. *Being A Good Neighbor.* Each community has its own laws, customs, and unwritten rules which may sometimes appear strange or irrational to a foreigner, but which are in fact well-founded and adapted to the conditions of the life of the community they govern. Some of the more common rules in Belgium are:

a. No noise after 2200 hours. After 2200 hours, all persons should lower the volume of any radio or television. If a party is planned, notify neighbors in advance.

b. Cut thistles before the flowering season.

c. Keep dogs under control; be sure to acquire adequate family insurance coverage for the damage they can cause if loose (see paragraph 5-9 below).

d. Do not mow your grass or perform other loud yard work on Sundays.

e. Keep the sidewalks around your home swept and clear of debris.

f. Never be afraid of the language barrier. Belgians appreciate your efforts to speak French or Flemish, even if you are far from fluent.

5-9. *Liability For Animals.* Owners of animals are responsible for the damage that their animals do. As is the rule for children, the owner remains responsible for his pet's actions unless he or she can prove that, at the time the damage occurred, the

animal was under the control of another person (e.g., dog trainer, kennel helper, etc.). Negligence of the victim, however, may exculpate the animal owner or keeper.

5-10. *Organ Donation.* In Belgium, the organs of individuals who die are automatically available as donations for persons needing transplants, unless the potential donor files a written protest with the commune where he or she is registered. All persons registered in a community for at least six months, including civilian employees and family members of Servicemembers and civilian employees stationed in Belgium, are viewed as potential organ donors. Servicemembers on active duty in Belgium are not potential donors, because they are not registered in a community. To file an objection to the automatic donation of your organs, you must complete an objection form, which is available from the Northern Law Center with an English translation, and file it in the community in which you are registered. Parents may file objection forms on behalf of their minor children. SHAPE members registered in the Mons area may file objection forms with the SHAPE Police. Another way of opting out is by utilizing a living will, also known as an advanced medical directive, that directs that your organs not be used for transplant purposes. In this case, copies of your living will should be filed with your medical records and at any nearby hospitals where you could be treated in case of an emergency. Even if you have a living will, it is a good idea to file a protest with your local commune if you do not wish to be an organ donor.

5-11. *Civilian Misconduct.*

a. AE Regulation 27-9, *Misconduct by Civilians*, establishes policy and procedures for taking administrative action for misconduct by civilians eligible to receive individual logistic support and by other persons seeking access to facilities operated by the United States.

b. Civilians receive individual logistic support on condition of good behavior. Individual logistic support may be suspended or revoked when civilians commit misconduct.

c. The Commander, USAREUR, has delegated authority to the Civilian Misconduct Action Authority (CMAA) to determine appropriate administrative action. (In peacetime, Belgian authorities exercise exclusive criminal jurisdiction over US civilians in Belgium for criminal offenses. See paragraph 6-2d(4).) The Deputy to the Garrison Commander, USAG BENELUX, is the CMAA for Belgium and has further delegated authority to the Deputy Garrison Manager in Brussels.




d. The CMAA reviews civilian misconduct matters such as shoplifting, fighting, and any conduct which violates Belgian law, the United States Code, or the rules, regulations, and directives of military authorities to determine what, if any, administrative action is appropriate under the circumstances.

e. The CMAA has broad discretion and may decide to take no administrative action or impose administrative suspension or revocation of specific privileges. For example, privileges to the Post Exchange, commissary, or other facilities may be suspended for abuse or other misconduct in these facilities. In serious cases, the CMAA may seek withdrawal of command sponsorship and early return of family members.

f. Before imposing adverse administrative measures such as suspension or revocation of privileges, the CMAA will notify the accused individual of the intended administrative action, summarize the facts on which the action is based, afford the accused individual an opportunity to examine the supporting documentation, and provide the accused offender an opportunity to respond orally or in writing to the CMAA within three working days. Oral counseling or letters of warning may be given without advance notice.

5-12. *Unauthorized Wireless Devices.* Not all wireless electronics from the United States are authorized for use in Belgium. Frequencies between 49 and 50 MHz, between 900-960 MHz, and at 1900 MHz are banned for private use in Belgium. Often baby monitors, wireless home phones, and speakers from the United States operate on these frequencies. The Belgian Frequency Management Department actively monitors frequency disruptions and may come to your house if interference on these frequencies is detected.

a. Wireless Device Symbols. You can check your wireless devices for compliance with Belgian regulations by looking for the following symbols:

- (1)  Permitted in Belgium.
- (2)  Check operating frequency to see if the device operates at one of the unauthorized frequencies.
- (3)  Restricted device (permitted in Belgium).

b. Penalties. Penalties for operating unauthorized wireless devices can include the following:

- (1) Confiscation of the wireless devices;
- (2) A fine ranging from €50 to €5,000; and/or
- (3) Confinement of up to one year.

c. What To Expect If You Operate Unauthorized Devices. If unauthorized transmissions are detected at your home, you will be visited by agents of the Belgian

Institute of Postal Services and Telecommunications (BIPT). They will come to your door in civilian clothes and ask to confiscate any unauthorized wireless devices. You should not let them in until you can verify their identity. You can do this by contacting the Military Police Desk at 423-3334. Remember, though, you are subject to Belgian laws and you should follow the instructions of the Military Police or local Belgian police.

Chapter Six

BELGIAN COURTS

The Belgian court system is in many respects not dissimilar to our own. It consists of administrative courts, judicial courts, and military courts. In this chapter, we focus on the judicial courts because you will more likely have contact with them than you will with the administrative or military courts.

6-1. Organization.

a. The highest Belgian court is the Supreme Court (*Cour de Cassation*). Although it does not exercise constitutional control over the laws that the Parliament passes, it is roughly equivalent to the United States Supreme Court. The Belgian Supreme Court does not try cases; it reviews judgments of lower courts for legal errors. The Belgian Supreme Court has three chambers, each including two sections. The first chamber hears civilian and commercial cases, the second hears criminal cases, and the third hears labor matters.

b. The Belgian judicial system is further divided into five geographic areas: Brussels, Antwerp, Gent, Liège, and Mons. Each geographic area has one Court of Appeal (*Cour d'Appel*) and one Labor Court of Appeal (*Cour du Travail*). Unlike our Federal Courts of Appeal, the Belgian Courts of Appeal retry all cases *de novo*; that is they rehear and consider cases in their entirety that the lower courts have already tried without any deference to the lower court's decision. Each court has civil, criminal, and youth chambers. The Labor Court of Appeals hears only appeals of judgments rendered by lower labor courts.

c. The jurisdictional area of each Court of Appeals is, in turn, divided into a number of lesser judicial districts, that division depending on the size and population of the area covered. Belgium has 26 districts, each with one Court of First Instance (*Tribunal de Premiere Instance*), one Labor Court (*Tribunal du Travail*) for labor disputes, and one Trade Court (*Tribunal de Commerce*) for commercial disputes. In addition, an District Court (*Tribunal d'Arrondissement*), composed of the Presidents of the First Instance Court, Labor Court, and Trade Court, decides which court will hear cases that do not fit precisely within the competence of any one court.

d. The Court of First Instance has one or more civil chambers, correctional chambers, and youth chambers. Each Chamber serves as an appellate court for judgments rendered by Justices of the Peace (*Justice de Paix*) and Police Courts (*Tribunal de Police*). It hears cases *de novo*.

e. Each judicial district is further divided into several cantons, that division again depending upon the size and population of the district. Each judicial canton has one

Justice of the Peace (*Justice de Paix*). Some, depending on population, possess their own Police Court (*Tribunal de Police*). Others have a single judge who hears both civilian and minor criminal matters.

6-2. Court Jurisdiction.

a. Criminal Matters.

(1) *Police Court*. This court has jurisdiction over minor criminal offenses which are punishable by a maximum sentence of seven days confinement and a €125 fine. Trials in this court are without jury and involve trial by a single judge. A Police Court has special jurisdiction for all traffic violations, including speeding tickets. Decisions heard in a Police Court must be appealed to the Correctional Court, which is a chamber of the Court of First Instance.

(2) *Correctional Court*. This court has jurisdiction over criminal offenses which are punishable by a maximum sentence of five years confinement (in exceptional cases, 10 years). Trials in this court are also without jury; either a single judge or a panel of three judges, depending upon the nature of the offense to be tried, will decide issues of both fact and law. An appeal from a decision rendered by this court must be taken before the Court of Appeal.

(3) *Court Of Assizes*. This court has non-permanent special jurisdiction for the trial of criminal offenses punishable by more than five years confinement. This is the only Belgian court with a jury. Only matters of law, not of fact, are subject to appeal from these courts, and then, only to the Supreme Court.

(4) *Supreme Court*. This is the highest appellate court in Belgium. It reviews only questions concerning the application of the law; it does not retry cases on the facts.

b. Civil Matters.

(1) *Justice Of the Peace*. This justice has jurisdiction over civil disputes for which the amount in litigation does not exceed €1,850, or involving matters such as disputes between lessors and lessees, farm leases, and ownership of property, without regard to the amount of money involved.

(2) *Court Of First Instance*. This court has primary jurisdiction over civil disputes which are outside the competence of the Justice of the Peace and has appellate jurisdiction over cases tried by the Justice of the Peace.

(3) *Court Of Appeal*. This court hears appeals from the decisions that the Court of First Instance renders.

(4) *Supreme Court*. As the supreme appellate court, it is the highest and final level of appeal from decisions rendered by lower courts in Belgium.

c. Selected Other Courts.

(1) *Labor Court And Labor Court Of Appeal*. These courts exercise exclusive jurisdiction in all cases involving disputes between employees and employers, and other labor problems, such as disputes over social security rights and obligations such as workers' compensation and unemployment compensation.

(2) *Commercial Courts*. These courts exercise jurisdiction in cases involving disputes between or against tradesmen in matters relating to their businesses when the amount in controversy exceeds €1,850, or in matters such as bankruptcy. Appellate jurisdiction over these courts rests with the Court of Appeal.

(3) *Youth Courts*. These special chambers of the Court of First Instance exercise exclusive jurisdiction for criminal matters involving children, Belgian or foreign, who were under the age of 18 at the time of the offense. (In cases involving minor children between 16 and 18, however, the Youth Court may refer the case to an appropriate adult criminal court.) In the exercise of such jurisdiction, the Youth Court imposes only appropriate corrective measures, not criminal sanctions. In making its decision, the Court considers the gravity of the offense, the age of the minor, and all the circumstances surrounding the case. The Youth Court is also competent to handle matters related to the protection of minors (e.g., abandoned children, mistreated children, adoption, etc.).

d. Belgian And United States Criminal Jurisdiction Over US Military And Civilian Personnel.

(1) The NATO Status of Forces Agreement defines the legal status of US military personnel serving or stationed in Belgium. If a US Servicemember commits a criminal offense, it will fall into one of these categories:

(a) *Exclusive US Jurisdiction*. This category includes any offense that is a violation of the Uniform Code of Military Justice, but not of Belgian law (e.g., absence without leave, disobeying a lawful order, etc.).

(b) *Exclusive Belgian Jurisdiction*. This category includes any offense that is a violation of Belgian law, but not of the Uniform Code of Military Justice (e.g., most traffic or parking offenses, violation of Belgian hunting laws, etc.).

(c) *Concurrent US/Belgian Jurisdiction*. This category includes any offense that is a violation of both the Uniform Code of Military Justice and Belgian law (e.g., assault, rape, murder, theft, drunken driving, etc.). In these cases, either Belgium or the United States will have the primary right to exercise jurisdiction depending on the

facts of the case. In principle, the primary right belongs to Belgian authorities, but by exception, it belongs to the United States when the offense occurred in the performance of official duty or when it involves or affects only US personnel or property of the United States.

(2) The nation with exclusive jurisdiction may take disciplinary action without regard to the other nation. Many incidents, however, fall under the concurrent United States/Belgian jurisdiction category. In such cases, the United States attempts to maximize jurisdiction. The United States almost always requests that Belgian authorities waive jurisdiction in favor of the United States. When granted, the United States may process the case.

(3) Specific US procedures implementing the NATO SOFA criminal jurisdiction provisions are in AR 27-50, *Status of Forces Policies, Procedures, and Information*, and AE Regulation 550-50, *Exercise of Foreign Criminal Jurisdiction over US Personnel*. The Northern Law Center coordinates jurisdiction determinations with Belgian authorities.

(4) US civilians are subject to primary Belgian jurisdiction for criminal offenses. The United States, however, may take administrative action up to employment termination for civilian employees and loss of individual logistic support for family members. (See paragraph 5-11 for a discussion of the Civilian Misconduct Action Authority.)

6-3. Court Procedures. Belgian court procedures differ greatly from those in a US court. Normally, a claim for civil damages resulting from a breach of law (for instance, a traffic accident in which injuries or property damage occurs and the driver is cited for a violation of the Belgian traffic code) is joined with a criminal action maintained by the public prosecutor (*Ministère Public*) in a criminal court. Such a claim may, however, be pursued separately in a purely civil procedure before a civil court. As in the United States, the claimant in a civil action bears the burden of proof. Any allegation by either the plaintiff or the defendant must be supported by evidence presented before the court. Unlike the well-known rule of US courts, hearsay is very often admissible in Belgian courts. Further, certain types of evidence, including notarized instruments, official documents, and other types of written documents, are afforded special weight.

6-4. Police Reports (Procès Verbal).

a. Belgian police officers are under a duty to make written reports (called *procès verbal* or PV's) pertaining to any incident in which they are called. Since a PV is made for every action taken by the Belgian police officers in regard to an incident or accident, there may be many PVs in a case.

b. After an investigating officer writes a PV, a copy goes to the local King's Prosecutor (*Procureur du Roi*) as the judicial authority. A copy also goes to the SHAPE

National Representative of the Belgian Police (RNPF), if applicable. The RNPF then summarizes the PV and sends it to the Northern Law Center for review.

c. The King's Prosecutor advises the Officer-in-Charge (OIC) of the Northern Law Center about the alleged offense. The OIC responds by announcing the position of the US Government regarding whether the alleged offense falls under exclusive Belgian jurisdiction, exclusive US jurisdiction, or concurrent Belgian/United States jurisdiction and, when appropriate, requests the King's Prosecutor to waive jurisdiction. The King's Prosecutor determines whether or not a waiver of jurisdiction will be granted and advises the RNPF thereof. Upon request, the King's Prosecutor may provide a copy of the PV to the Northern Law Center.

d. In court proceedings, a PV is evidence of what was said to the attending police officer. It is also considered evidence of what the police authority observed personally (i.e., what he saw, heard, felt, etc.). The court considers the PV a written statement by one, who by virtue of his training and status as a police officer is a privileged witness, and, therefore, the court affords greater weight to the PV than it gives to the written statement of a non-privileged witness. Of course, the content of a PV may be contradicted by any means of proof.

6-5. Default Judgments. In criminal and civil cases, if a party fails to appear at the hearing, a court will issue a default judgment (*jugement par défaut*) upon the request of the party present. A default judgment is valid and enforceable unless the defendant seeks recourse through normal appellate procedure or through the special appellate procedure of opposition. If the opposition procedure is invoked, which entails a rehearing of the case by the same court, the court will fix a date for the rehearing and issue summonses to the parties. If the opposing party again does not appear, the first default judgment will be affirmed. The affirmation of the first default judgment may, however, still be appealed to a higher court.

6-6. Execution Of Judgments. Judgments are executed under the Belgian code of criminal or civil procedure. If the judgment orders the defendant to pay a specific amount of money and he fails to do so, the plaintiff in civil cases, or the public prosecutor in criminal cases, may request that a bailiff execute the judgment by taking and selling the personal property of the defendant. To do so, however, the judgment must be final or must be declared subject to execution. The plaintiff is required to furnish the bailiff a certified copy of the judgment with a certificate from the clerk of the court showing that the judgment is final or subject to execution. While the bailiff may attach or seize most of the personal property of the debtor to satisfy a judgment, certain goods such as clothes and household necessities are specifically exempted. The list of that exempt property is enumerated in the Belgian Code of Civil Procedure. In addition, execution of the judgment may be levied upon claims the debtor may have against third parties. Attachment and garnishment of salaries, wages and pensions, however, is permissible only to a limited degree. Payments due to a member of the US Forces from

the US Government, including salaries, are subject to limited garnishment while such payments are still within the control of the US Government provided proper procedures are followed.

6-7. Attachment Orders (Saisies Conservatoires).

a. A writ of attachment may be ordered by the court pending litigation of the basic dispute. Sometimes it is issued even before a formal summons is issued to the defendant. The alleged debtor may file an objection, but this does not automatically stay or delay the execution of the writ.

b. In civil matters, Belgian law allows a writ of attachment before a complaint has been filed and a judgment rendered. To obtain an attachment, the alleged creditor must produce prima facie evidence that:

(1) He has a valid monetary claim against the debtor.

(2) There is a danger that, without a writ of attachment, execution upon a future judgment may be frustrated or made substantially more difficult if this special procedure is not permitted (e.g., because a Servicemember is about to PCS with all of his or her property).

(3) The claim is for a sum certain, or an exact figure.

c. Because a PCS move generally constitutes a situation where execution upon a future judgment would be substantially more difficult, US personnel nearing their date of departure from Belgium may find their property levied despite their good-faith intention to satisfy the judgment through less burdensome means.

6-8. Service of Court Process. Civil court procedures start by a bailiff delivering a writ of summons (*citation*) to appear. The bailiff serves a copy of the original act or complaint on the defendant either in person (*signification a personne*) or at his domicile or residence. In some cases, the bailiff may leave a copy of the order in the defendant's mail box. Individuals who do not have a domicile or residence in Belgium receive a copy of the act by registered mail at the foreign domicile (*pli judiciaire*).

6-9. Court Costs. Specific Belgian laws determine court costs in both civil and criminal cases. Attorney's fees and court costs in any particular case are highly variable and depend upon the number and identity of witnesses, translators, tests, etc., requested by both parties and the court. The more witnesses, tests, or translators required, the higher the cost to the parties.

6-10. Attorney Representation.

a. Criminal Procedure. Before a Police Court, an accused may be represented by an attorney without having to appear personally, except when accused of more serious crimes (e.g., hit and run, involuntary homicide, etc.). Before a Correctional Court (*Tribunal Correctionnel*), an accused must normally make a personal appearance even if represented by an attorney. In certain instances justified by extenuating circumstances, such as illness or onerous travel costs, an accused may be represented by an attorney without having to make a personal appearance, but only with the special permission of the court. Before the Court of Assizes (*Cour d'Assises*), the personal appearance of the accused and representation by an attorney are mandatory. If the accused does not retain counsel of his own choice, the court will appoint one at the accused's expense.

b. Civil Procedure. Before all civil courts, parties may argue their case personally. Those unfamiliar with Belgian court proceedings and the French or Flemish languages should almost always be represented by counsel. Those unable to employ an attorney may institute or defend a suit *in forma pauperis* by filing a request with the *Bureau d'Assistance Judiciaire* of the court having jurisdiction in the case and show that they are unable to pay attorney fees by producing a certified document obtained from the *maison communale* of the community in which they reside.

6-11. Attorney Fees. Unlike the practice in US civil courts, Belgian attorneys cannot charge fees contingent on the successful outcome of the case. Generally speaking, attorney fees are based on the assessed value of the litigated matter and on the specific difficulties inherent in the procedures employed. As a matter of general practice, attorneys stipulate fee arrangements before handling a case, but there is no fee schedule. While attorney fees are normally due only after completion of the services, an attorney is entitled to request an advance payment of a reasonable portion of the fees and expenses to be charged. Individuals believing an attorney's fee is excessive may register a complaint with the President of the Bar Association to which the attorney belongs. The President will then decide the amount the client must pay.

6-12. English-speaking Attorneys. Belgian attorneys are licensed as attorneys and are members of Bar Associations. They may appear before all courts except the Supreme Court where only attorneys specially licensed are admitted. You may obtain assistance in finding qualified English-speaking Belgian attorneys from the Legal Assistance Office, but the Northern Law Center Belgian attorney may not represent you in Belgian court proceedings or other legal matters.

Chapter Seven

BELGIAN CRIMINAL LAW AND PROCEDURE

7-1. Individual Rights. If you are suspected by the Belgian authorities of having committed a crime, you have several rights.

a. Right To Know. You have the right to know why you are being interviewed or arrested. If you are charged, always ask for the English translation of the notification of the charges. Always ask for copies of all papers you sign. You will either receive them immediately or within 3 months. In exceptional circumstances, the prosecutor can postpone the disclosure, but it will have to be legally justified (e.g., if it could jeopardize a pending investigation or if there is a risk of collusion).

b. Right To Remain Silent. You must provide your identity to authorities, but you do not have to incriminate yourself. You have the right to remain silent and you can make no statement at all if you wish. You may refuse to answer any question which would incriminate yourself or a close relative. If giving evidence, you must provide it to the best of your knowledge and may not obstruct the investigation by leaving out details.

c. Right To An Attorney When You Are Interviewed. You have the right to consult with an attorney prior to being interviewed for charges punishable with imprisonment of one year or more. If you are 18 years of age or older you can waive this right. There are three main exceptions to the right to an attorney when interviewed: the first is a traffic offense, the second is voluntarily damaging property, and the third is disturbance of the peace at night. For these types of offenses, you do not immediately have the right to an attorney.

d. Right To An Attorney When You Are Arrested. After being arrested, the police will contact the attorney of your choice. The attorney must be registered at the Belgian Bar Association or European Bar Association. If you do not have an attorney, you will receive a court-appointed attorney. The attorney has two hours to arrive at the police station from the time the police contact him or her. You can consult with your attorney for 30 minutes. You may choose to consult with your attorney over the phone or wait for your attorney to arrive at the police station. You can request a one-time extension of the 30 minutes consultation. Two hours after the police have called your attorney, the interview starts whether the attorney is present or not. If the attorney arrives too late (after 2 hours) the police interview will be suspended and you will have the right to consult with your attorney upon his or her arrival for 30 minutes. The attorney is not allowed to answer questions from the police on your behalf.

e. Right To Request An Investigation. You may ask that an investigative action or interview be performed. For example, you can request the police to interview a specific person. You may use documents that are in your possession and demand to include them in the report.

e. Other Rights. During the time that you are in custody, even if it is only a short time, you may ask for food and water, if needed. You may also ask for toilet breaks and for medical attention, if needed. You may also ask the police to call a relative, friend or advisor of your choice. The Belgian authorities may deny this request, but only if they can legally justify the denial.

7-2. Rules Of Detention And Arrest By Belgian Authorities.

a. If you are detained or arrested by the Belgian authorities, you can choose to provide a statement in English. If it is necessary, you may even request to write your statement in English. The Shape Federal Police will type your statement directly into English for you. For other languages, the prosecutor will appoint a sworn translator.

b. Restrictions may be placed on your movements by a Belgian judge while you are under suspicion of a crime. If you wish to travel outside of these restrictions, such as leaving Belgium for vacation or Temporary Duty (TDY), the Northern Law Center will seek the permission of the judge to enable you to do this. It is extremely important, however, that you make sure that the proper permissions have been received before you go outside of the restrictions.

7-3. Searches.

a. Of The Person By Police. Belgian police authorities can search a person whenever they reasonably suspect he or she possesses any weapon, instrument, and/or fruits of a crime. A limited search of the person (colloquially called a frisk or pat-down) must be predicated upon reasonable suspicion that the person has committed or is about to commit a crime. With regard to suspected criminal acts, unless authorized by an order from a court, there may be no search inside a person's body by examining bodily cavities or by withdrawing bodily fluids against his or her will. Such searches include blood tests, stomach pumping, and the like. Note that special rules apply to blood tests directed as a result of a violation of the Belgian traffic code, such as suspected drunken driving whether or not an accident is involved (see paragraph 7-6 below).

b. Of The Person By Customs Officials. Customs officials possess significantly broader discretion than Belgian police officers. Customs violations are not considered ordinary crimes, but violations of fiscal laws. Customs officials are therefore not bound by the rules and procedures that govern the acts of the Belgian police. Customs officials, for example, can order a person to disrobe and can conduct a body search against the person's will and without any court order. While the incidence of such searches is quite infrequent and intrusive searches are usually performed by X-ray, you should be aware of this virtually unlimited authority.

c. Of Personal Property. Personal property is protected from unlawful or arbitrary search. Probable cause, however, as that term applies under US criminal law, is not a

formal requirement of Belgian law. Thus, in certain circumstances, your car, luggage, clothes, and similar items can be searched without a warrant and against your will.

d. Of Your Residence. An official having a search warrant (*mandat de perquisition*) issued by a Belgian Judge of Instruction may search an individual's quarters. Usually, searches must be conducted between 0900 and 1700. There are instances, however, when homes are subject to search without a warrant or outside the normal time. These include when:

- (1) a person inside the quarters consents;
- (2) there is call for help from the premises;
- (3) there is a fire in the premises;
- (4) there is flooding of the premises;
- (5) there is a crime being committed on the premises; or
- (6) police authorities are in "hot pursuit" of a suspect believed to be on the premises.

7-4. Alcohol-Abuse Test And The Belgian Traffic Code.

a. Driving in Belgium with a blood alcohol concentration of 0.05 grams of alcohol per liter of blood or greater (or 0.22 mg/l breath alcohol or greater) is prohibited.

b. Current penalties.

(1) Drivers caught while driving with breath alcohol 0.22 mg/l but less than 0.35 mg/l face immediate suspension of their driving privileges for three hours and a fine of €125 to €2,500.

(2) Drivers caught with a breath alcohol level of 0.35 mg/l or greater (or who refuse the breath test or drive during a suspension period) face immediate suspension of driving for six hours, a fine of €1,00 to €10,000 and imprisonment for two to six weeks. Repeat offenders face double fines and prison terms.

c. When stopped, you must submit to a preliminary breath test. If the results are 0.22 mg/l or more, a breath-analyzer test will be administered. You can request a second breath test. If the result differs from the first, a third test is given. If the third test differs with both the first and second ones, you will take a blood test. You may demand a blood test if your breath test is at least 0.35 mg/l, but you will pay for the test if the result exceeds this limit.

7-5. Trial Safeguards. The NATO SOFA provides many trial guarantees which afford US citizens the same protections we enjoy under the US Constitution. These include the right to a prompt and speedy trial; the right to be informed in advance of trial of the specific charge or charges; the right to confront witnesses; the right to compulsory process to obtain witnesses in defense; the right to a competent interpreter when the accused considers it necessary; and the right to legal representation.

a. Legal Counsel. For Servicemembers, members of the civilian component, and dependents, the US Government may in some situations hire a Belgian attorney to protect your legal rights and interests in these cases:

(1) When the act for which you were charged occurred while performing an official duty;

(2) Where the normally imposed sentence includes confinement, whether or not such sentence is suspended;

(3) Where an appeal is made from proceedings in which there appears to have been a denial of your substantial rights; or

(4) Where the case, although not within the criteria established above, is considered to have a significant impact upon the relations of the US Forces with the Belgian government or is considered to involve a particular US interest.

If you believe that you are facing criminal charges and your case fits one of the above criteria, contact the Northern Law Center for assistance in obtaining a Belgian attorney through the US Government. Of course, in any case, you may retain counsel of your own choice at your own personal expense.

b. US Trial Observer. Whenever Servicemember, a Department of Defense civilian, or a dependent is tried in a Belgian criminal court, an official and certified US Trial Observer, usually from the Northern Law Center, will attend the trial to observe it for its conformity with US constitutional and NATO SOFA safeguards. The Trial Observer does not act as a member of the defense, nor does that person interject himself or herself into the defense strategy or trial proceedings. The Trial Observer will, when necessary, advise the retained defense counsel of your rights under applicable treaties and agreements.

7-6. Trial In Absentia. Under Belgian law it is possible to be tried *in absentia*, that is, you may be tried even though neither you nor your representative are in court. If this happens, the court's judgment is enforceable and may be executed. Representation by your counsel alone is possible in some Belgian courts but not all. Some courts, however, may grant exceptions based upon special circumstances. Serious crimes are tried before a high court where one may never appear by counsel alone. Should you

suspect that you may be tried *in absentia*, contact the Northern Law Center immediately.

7-7. Confinement. Whether confinement is adjudged depends upon the circumstances of each case. There have been several cases in which confinement was adjudged against a US citizen but the confinement was suspended. An individual found guilty of a serious crime, however, will likely be sentenced to serve confinement in a Belgian facility. In such cases, US military or consular authorities will visit the individual at least monthly.

7-8. Transactional Fines.

a. Belgian law authorizes the city police (*Police Communale*) to impose on-the-spot fines for minor violations of the Belgian Traffic Code. No one under 18 may be fined, and anyone may refuse to pay. Refusal to pay a transactional fine, however, will most likely result in the case in a Police Court for resolution. Further, in cases of violations by non-residents of Belgium, the police may impound a person's vehicle for refusal to pay.

b. For violation of any Belgian penal law, whether the Traffic Code or not, the King's Prosecutor (*Procureur du Roi*) may propose a settlement in the case by the imposition of a transactional fine. Such settlement usually will not be offered if there are personal injuries or civil damages that have not been paid.

7-9. The Belgian Traffic Code.

The Belgian Traffic Code is a penal statute. As such, violations of it are criminal infractions, whether the infraction is as minor as a parking ticket or as serious as leaving the scene of an accident. Being a penal statute, any violation of the Traffic Code subjects a person accused of an infraction to the Belgian criminal justice system.

a. Procedures In Accidents.

(1) The first driver upon the scene of an accident is obliged to stop and render assistance, including first aid. All vehicles must contain a first-aid kit and a fire extinguisher. If the accident caused no physical injuries, vehicles obstructing traffic must be moved off the roadway. Before doing so, however, it is a good practice to mark clearly the position of the vehicles. Keeping a piece of chalk in the first-aid kit is prudent. If the accident caused physical injuries, no vehicle should be moved until the Belgian police authorities direct such movement.

(2) You should never leave the scene of an accident in which you are even remotely involved. Individuals in an accident should obtain all pertinent information concerning it, including the names of everyone involved, names of insurance

companies, insurance policy numbers, license numbers, makes and models of the vehicles, accurate location of the vehicles, and place of the accident.

(3) A Word of Caution: **Even in the most minor accidents, never try to settle with the other party or parties involved, particularly if there is any property damage.** The lack of a police investigation could leave you in an awkward position if a lawsuit is instituted.

(4) *Good Samaritan Law*: Under Belgian law, you commit a criminal infraction if you do not stop to render assistance to an injured person. You should assist only commensurate with your abilities. Injuries resulting from assistance rendered in excess of your qualifications and ability, or rendered negligently, may be the subject of a civil suit.

b. Basic Traffic Rules.

(1) Unless otherwise indicated, the following speed limits apply:

- (a) 30 km/h in school zones;
- (b) 50 km/h in most construction zones;
- (c) 50 km/h in towns, cities, and incorporated communities;
- (d) 120 km/h on the Autoroutes and other four-lane roads; and
- (e) on all other roads the speed limit is 90km/h unless otherwise

indicated.

Maximum punishment for speeding: confinement for one month and/or a fine of up to €2,500.

(2) At an intersection, the right of way belongs to the driver coming from the right unless otherwise indicated. Maximum punishment: confinement for one month and/or a fine of up to €2,500.

(3) Public buses have the right to cut into traffic when departing a bus stop. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(4) No vehicle may be operated on public roads unless the driver has a valid driver's license. Maximum punishment: six months confinement and/or a fine of up to €2,500.

(5) No change of direction or traffic lane is permissible unless the road is clear from traffic in front and in the rear. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(6) On an Autoroute, you may stop along the shoulder or road side only in case of a vehicle breakdown. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(7) Use of turn signals is mandatory for any change of direction or for any lane change. Mere use of the signal does not, of course, authorize the maneuver; the road must be clear from traffic in both the front and in the rear. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(8) Use of seat belts is mandatory. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(9) Vehicles parked on streets at night must have parking lights lit, except in parking lots. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(10) Fleeing the scene of an accident is one of the most serious violations possible. The requirement to stay extends to all persons involved, be they drivers, passengers, or witnesses (even if they are not occupants of the cars involved). Maximum punishment: if no injuries occur, six months confinement and/or a fine of €5,000; if injuries or death occurs, confinement of two years, and/or fine of €25,000.

(11) A vehicle must always keep to the right side of the road. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(12) A vehicle must always have tire tread of at least 1.6 millimeter in depth over the entire surface area of the tire. Maximum punishment: one month confinement and/or a fine of up to €2,500.

(13) Drunk driving or driving while intoxicated. Maximum punishment: loss of driver's license (up to five years), six months confinement, and/or a fine of up to €10,000.

c. Liability in automobile accidents.

(1) A driver is responsible for damages caused by his or her negligence.

(2) An individual is also responsible for damages which a vehicle under his or her control causes (e.g., explosion of a parked vehicle).

(3) An owner who lends a vehicle to a third person who negligently causes damage may be similarly liable if the owner was negligent in lending the vehicle, if the owner had reason to know the driver was drunk, underage, or without a license.

(4) Insurance is a requirement in Belgium. For the types of insurance coverage available see paragraph 3-8(b).

7-10. What To Expect If You Violate Belgian Law.

a. If you are a US Servicemember in the SHAPE community and the Belgian authorities decide to prosecute you for a violation of Belgian law, here are a few things that you can expect:

(1) A Belgian court bailiff will serve you with a summons giving the court date. The bailiff contacts military personnel through the Northern Law Center. If you are a civilian or family member, the bailiff will come to your residence and hand you or a member of your household the original summons. If no one is home, you will find a notice in French, Dutch, or German telling you to go to the Central Office of Bailiffs (*Bureau Central des Huissiers de Justice*) at the town hall (*hôtel de ville*) or to the police station (*Commissariat de Police*) for the summons. **Follow the instructions carefully. If you do not pick up the summons and go to the hearing, the court can rule against you, even in your absence.**

(2) If your insurance policy includes a legal assistance insurance contract, your insurance company will provide you an attorney for the hearing if the circumstances fit the criteria provided by the policy.

(3) Depending on the seriousness of the offense, you may or may not have to attend the trial. In Police Court, an attorney may usually represent you without your presence. Consult your insurance company and attorney to determine if you need someone to represent you. In correctional court, you will have to be present, even though an attorney represents you. If you do not comply, the court can rule against you in your absence.

(4) The Belgian court will provide you an interpreter at the hearing. If the translator is not present at the hearing, notify the court and the judge will postpone the hearing. You must provide translations of any documents you give to the court. Police court judgments not involving civil interests are rendered immediately after the plea has been entered. More complex police court judgments and correctional court decisions will take longer. In this case, the judge will tell you the date the judgment will be pronounced. The bailiff will serve the judgment in the same way that you were served the summons initially. **The deadline to appeal a judgment is 15 days beginning the day following the date on which the bailiff served the judgment.**

b. If you have any question on Belgian criminal procedures, or if you are uncertain how to pay any fines, contact the Northern Law Center for assistance.

Chapter Eight

RETIREES**8-1. Retiring In Belgium.**

a. Authorization To Stay In Belgium. The conditions to remain in Belgium vary according to the personal status (nationality) of the retiree or spouse.

(1) If the retiree or the retiree's spouse is a Belgian national, no authorization is required; the retiree just has to register in the commune (city hall) of residence.

(2) If the retiree or the retiree's spouse is a citizen of a European Union country, no authorization is needed provided that one of the spouses has a job or can show means of subsistence sufficient enough not to become dependent upon the Belgian social security system. This is done at the time of registration in the commune of residence.

(3) In all other cases, the retiree must obtain an authorization or visa to stay in Belgium. The authorization must be requested from a Belgian Consulate in the country of origin. In exceptional cases only, as determined by the Belgian Ministry of Interior, the request may be presented to the Ministry of Interior through the Mayor of the commune of residence.

b. When Authorized To Remain In Belgium.

(1) A retiree is no longer covered by the NATO SOFA and, therefore, is no longer treated as a member of the Force or of the civilian component. This means that retirees do not enjoy any SHAPE privileges such as the purchase of tax free cars, exemption from road tax, tax-free gasoline, access to the SHAPE shopping center and to the rationed items store, and having a SHAPE-issued driver's license and license plates.

(2) A retiree is fully subject to Belgian taxes, except income tax on military retirement pay in accordance with the US-Belgian Tax Treaty.

c. Subject to conditions and limitations imposed by US regulations, a retiree who stays in Belgium remains entitled to legal assistance, medical care, use of military postal facilities, and use of the commissary and post exchange. Note, though, that these privileges are provided through an agreement between the United States and Belgium and are not necessarily extended to retirees living outside of Belgium.

8-2. Retiree Council. An officially established Retiree Council provides regular communication with the USAG BENELUX Commander, and a recognized Association

of Retired Members of the Armed Forces provides participation opportunities for retired members in local community affairs. Details are available from the Retirement Services Office (Bldg 253, 366-6292).

Chapter Nine

LEGAL ASSISTANCE

There are many agencies and organizations at SHAPE that can assist you. We encourage you to try those organizations for non-legal problems; if you are having a problem with your pay, check with your command or finance before seeking legal assistance. Often your chain of command is the best place to start, and they can help you get the best assistance quickly. When you need legal advice, however, do not hesitate to contact the Legal Assistance Office, Northern Law Center (Bldg 318, 423-4868). This chapter discusses legal assistance services available in Belgium.

9-1. Functions Of The Legal Assistance Office. The Legal Assistance Office:

- a. Furnishes legal assistance and advice to all service personnel, DoD civilians, their family members, and other eligible individuals concerning US and Belgian laws, and civil and legal problems in accordance with AR 27-3.
- b. Directs the community Preventive Law Program, including participating in the soldier readiness program and pre-deployment exercises.
- c. Directs community Income Tax Assistance services.
- d. Provides information on Belgian law practices and procedures, including preparing and updating USAG BENELUX Pamphlet 27-3, *Belgian Laws And You*.

9-2. Generally.

- a. Legal Assistance Attorneys assist eligible clients with their personal civil legal affairs. Services are provided in such matters as family law, wills and estates, adoption, landlord-tenant problems, the preparation and execution of legal documents (e.g., wills and powers of attorney), federal and state income tax returns, consumer protection, and most other matters of a civil legal nature.
- b. Representation often takes the form of preparing correspondence in negotiating with other parties. A Legal Assistance attorney cannot represent a client before a US or Belgian court. Once a matter is before a court, the client usually must retain a civilian attorney. A Legal Assistance Attorney, however, can provide valuable advice as well as referral to civilian attorneys in Belgium and in the United States.
- c. Authorized Legal Assistance clients in Belgium include Servicemembers and their family members, civilian employees of the US Government who are US citizens and their family members, some civilian contractor personnel, retirees and their family

members, and widows of retired Servicemembers or Servicemembers who died on active duty. In some circumstances, a Legal Assistance Attorney can assist a foreign national parent not entitled to legal assistance, but representing a US-citizen minor who is entitled to services.

d. A Legal Assistance Attorney cannot advise a client about private income-producing activities or about running a business.

e. Personnel facing actual or potential charges under non-judicial punishment (i.e., an Article 15, UCMJ) or before a court-martial should consult defense counsel at the supporting US Army Trial Defense Services office at Wiesbaden, Germany (537-0692 or 537-0691), the Air Force Trial Defense Services office at Ramstein Air Base (480-2182) and the Navy Trial Defense Services at (626-3131 or commercial +39 0815683131). In cases involving criminal charges brought by US or foreign civil authorities, Legal Assistance Attorneys may explain the procedure and assist the client in obtaining civilian counsel.

f. Appointments are usually required for attorney consultations. Notarizations, authenticated copies, and powers of attorney are normally available on a walk-in basis.

9-3. Specific Services. Eligible clients may obtain advice/assistance on these matters from Legal Assistance (among others):

a. Family Law. General advice on the legal and practical meaning of divorce, legal separation, annulment, custody, paternity, and nonsupport of family members. Please note that both parties to a domestic relation problem cannot be represented by Legal Assistance Attorneys from the same office. In the event both parties require legal assistance, referral of one party to another Legal Assistance Office is often required.

b. Wills And Estates. General advice on estate planning and preparation of wills, advance medical care directives, also known as living wills, and healthcare powers of attorney.

c. Adoption And Name Change. Adoption and name change normally require a court decree in the United States or Belgium. Legal Assistance Attorneys can advise clients as to procedures and assist in retaining counsel in the United States or Belgium.

d. Indebtedness. Servicemembers facing creditor collection actions should contact a financial counselor at Army Community Services (ACS) (Bldg 318, 423-5324). They may also contact a Legal Assistance Attorney for help in dealing directly with creditors if ACS counselors are unable to resolve issues with the creditors.

e. Landlord-Tenant Relations. The Housing Office (Bldg 209, 366-6387) can resolve the majority of landlord-tenant issues. However, in the event the Housing Office is unable to resolve an issue or you need legal advice in dealing with your landlord, a

Legal Assistance Attorney or Belgian Legal Advisor can assist you in exploring legal options.

f. Notarial Services. All judge advocates and DA civilian attorneys have the powers of a military notary public. Most notarial services can be obtained at the Legal Assistance Office on a walk-in basis with minimal wait times.

(1) A notary public may administer oaths, authenticate true copies of documents, acknowledge signatures, and perform similar services which expedite the handling of legal affairs.

(2) Individuals desiring notarial services should remember:

(a) **Do not sign any papers until in the presence of the notary;**

(b) Do not make any changes in the documents until in the presence of the notary;

(c) Documents cannot be notarized unless the person whose signature is to be notarized appears in person before the notary;

(d) Notaries cannot notarize a blank document; and

(e) Notaries will need to confirm your identity before they can acknowledge your signature – be sure to have proof of your identity with you.

(3) *True Copy*. Individuals desiring a true copy of a document must present the original document and allow it to be copied by the notary before it can be verified as a true copy. A true copy is not the same as a certified copy.

(4) *Certified Copy*. Army Regulation 27-55, paragraph 3-3a(2), prohibits notaries from certifying copies of official records, except as specifically authorized. Army Regulation 27-55, paragraph 4-5, authorizes certifying copies in these situations:

(a) The original document is neither a public record nor a publicly recorded document;

(b) The notary is a designated official in an Army agency, and the agency prepared or held the document for public review; or

(c) The certified copy will be used for military or federal administrative purposes (e.g., the Immigration and Naturalization Service, the Veterans' Administration). This exception requires that the certification state its specific, limited purpose (for instance, "Certified Copy for DFAS"). Individuals desiring certified copies

for other than federal administrative purposes must obtain a properly certified copy from the custodian of the record.

g. Powers Of Attorney. Servicemembers often use a power of attorney to authorize a spouse or other trustworthy relative or friend to act for them in the Servicemembers' absence. The Legal Assistance Office can prepare general and specific powers of attorney, usually without an appointment.

h. Taxation. The Tax Center offers preparation and electronic filing of most federal and state income-tax returns.

(1) Federal income tax regulations give overseas taxpayers an automatic 60-day extension for filing federal income tax returns. Returns filed between 15 April and 15 June must be accompanied by a signed statement that the taxpayer was overseas on the regular 15 April due date. Taxpayers owing federal income tax after 15 April will owe interest on the unpaid income tax from 15 April until the tax is paid, even though they receive the automatic extension. We encourage taxpayers in this situation to file before the 15 April deadline to avoid paying interest and potential penalties.

(2) State income taxes apply to Servicemembers, based on their state of domicile. Most States do not have an automatic extension of filing provision but are generous in granting extensions to Servicemembers stationed overseas who request extensions before the filing deadline. State and federal income tax advice is available from Legal Assistance Attorneys or from IRS-certified tax preparers.

(3) The official US pay of military members and Department of Defense civilian employees stationed in Belgium is not subject to Belgian income tax. Income derived from the following sources, however, is subject to Belgian taxation:

- (a) Full or part-time employment on the local economy;
- (b) Self-employment, even if goods or services are provided only to US personnel; and
- (c) Employment with any US employer in Belgium, other than the US Government, one of its agencies or instrumentalities, or a US contractor with NATO SOFA status.

(4) International agreements, including the NATO SOFA, generally exclude the personal property of US Servicemembers from host-nation personal-property taxes.

(5) US Government instrumentalities are exempt from Belgian value added tax (VAT), but individual US Servicemembers who make purchases on the Belgian economy are not excluded except in limited circumstances. For example, US Servicemembers may purchase furniture, radios, videocassette recorders, compact disc

players, as well as some other items, without paying the VAT. This is done by obtaining a tax statement from the Belgian Customs/VAT Office (Building 210, 366-6292) before the purchase. See paragraph 4-1a(3) for more information. List prices on AAFES items are already VAT exempt.

i. Translations. In certain instances, the Northern Law Center can translate documents from French and Flemish into English. This service is limited to documents needed for official purposes, such as birth certificates, marriage certificates, etc. Certain legal documents must be translated and reviewed by a Belgian Court before the translation can be considered certified. If you have documents that need to be translated, please contact the Legal Assistance Office (Bldg 318, 423-4868) to see if your document can be translated or to receive assistance in obtaining other translation services.

9-4. *Lawsuits In US Courts.* US citizens in Europe are subject to court summons from state and federal courts in the United States. Under the Servicemembers' Civil Relief Act, a Servicemember has a right to delay a case if military service materially affects the Servicemember's ability to appear in court. The Servicemember is not exempt from a lawsuit or other legal action nor is a delay guaranteed. A US civilian in Europe also may request a delay, but there is no law requiring a court to honor the request even if Government service or a sponsor's assignment materially affects the ability to appear in court. Anyone who receives a summons from a US court should contact a Legal Assistance Attorney immediately. Although the Legal Assistance Attorney will not be able to represent the individual before a US court, he or she may provide advice on court jurisdiction, the merits of the case, preparation of a request for delay, and assistance with referral to a civilian attorney.

9-5. *Lawsuits In European Courts.*

a. US personnel stationed in Europe and their family members are subject to host-nation civil and criminal laws and may be brought before a host-country court. Although host-country courts provide a fair means of settling disputes, the procedures are very different from the US system. In Belgium, a civil lawsuit may be combined with a criminal proceeding. Any US individual receiving a Belgian court document should contact the Northern Law Center for assistance.

b. Legal Assistance Attorneys cannot appear in Belgian courts, but they may help the client understand the process, attempt to settle a matter before it goes to court, or refer the client to a Belgian attorney. The client usually must pay for the Belgian counsel. In limited situations, however, the US Government will pay attorney fees, such as when the Servicemember or employee is being sued in a case resulting from official duty performance, or when the US Government decides it has substantial interest in the outcome of litigation.

Contact Information

All phone numbers referenced in this pamphlet are DSN, unless otherwise noted. For commercial dialing, make the following replacements: 423 becomes 065.44, 366 becomes 065.32, and 368 becomes 02.707.

Northern Law Center (Bldg 318).....	423-4868
Administrative Law.....	423-3791
Military Claims Office.....	423-4195
Legal Assistance.....	423-4868
SOFA Liaison.....	423-3773
Tax Center ¹	423-
4906	
USAG Brussels ² (staffed only on Tuesdays).....	368-9780

US Army Trial Defense Services

Trial Defense Services (Wiesbaden).....	537-0692 or 537-0691
Trial Defense Services (Kaiserslautern).....	483-8397; COM 631.411.8397
Trial Defense Services (Grafenwoehr).....	475-8861; COM 9641.83.8861

US Air Force Trial Defense Services

Trial Defense Services (Ramstein).....	480-2182 or 480-2492
--	----------------------

US Navy Trial Defense Services

Trail Defense Services (Naples).....	626-3131; COM 0815683131
--------------------------------------	--------------------------

Army Community Services (ACS) (Bldg 318).....	423-5324
Customs/VAT Office (Army Community Services) (Bldg 210).....	366-6292
Central Processing Facility (Bldg 253).....	423-7916
Federal Police (Bldg 210).....	423-5165
Finance Office (Bldg 212).....	423-4687
SHAPE Healthcare Facility (Bldg 410).....	423-5820
Housing Office (Bldg 209).....	366-6387

¹ The Tax Center runs from early February to the middle of June each year. Please contact the Legal Assistance office outside of these times for tax assistance.

² Please contact Legal Assistance for appointments at our Brussels office.

Retirement Services (Bldg 253).....366-6292

Transportation (Bldg 220).....366-6176

United States National Military Representative (USNMR).....423-4132

Vehicle Registration Office (Bldg 210).....423-4148

