

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: L-182100

DATE: AUG 19 1975

MATTER OF: Reimbursement for shipping of motorcycle -
Mr. George H. Meier

- DIGEST:
1. Military member entitled to shipment of motorcycle under 10 U.S.C. 2634 (1970) who was erroneously advised that Government could not ship such vehicle because it had previously been taken out of the foreign country, thus exhausting his entitlements under NATO Status of Forces Agreement, under which imported vehicles could be removed from country without payment of customs fees, is entitled to reimbursement of cost of shipment of the motorcycle, which did not exceed cost the Government would have incurred. See 51 Comp. Gen. 833 (1972).
 2. Military member stationed in Turkey who upon discharge takes his motorcycle out of Turkey, exhausts his privilege to exemption from customs and duty. When thereafter vehicle is reintroduced into Turkey applicable customs fees are payable by the former member. Such customs fees which are not transportation costs, are not payable by Government under 10 U.S.C. 2634.

This action is in response to a request for reconsideration of Transportation and Claims Division settlement of March 12, 1974, which disallowed the claim of Mr. George H. Meier for reimbursement for transportation of his motorcycle from Turkey to the United States incident to his discharge from the U.S. Air Force.

The record indicates that while stationed with the U.S. Air Force in Turkey, then Staff Sergeant Meier acquired from an American noncommissioned officer, a 1952 BMW motorcycle which had been brought into Turkey illegally. Mr. Meier was discharged from the U.S. Air Force on July 19, 1972, at Karamursel Common Defense Installation, Turkey.

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Mr. Meier has stated that he was advised by a Turkish national, a customs liaison man, that it would be absolutely necessary to leave Turkey and re-enter and have the motorcycle "picked up on my passport", in order to have the motorcycle shipped home by the U.S. Air Force. He stated that he then made a special trip into Greece for the purpose of clearing the motorcycle from the customs declaration and having the motorcycle put on his passport. After he returned from Greece he was discharged. Thereafter, Mr. Meier went on a trip outside of Turkey with the motorcycle returning to Istanbul, Turkey, where he attempted to have his motorcycle shipped to the United States at Government expense.

Mr. Meier has stated that he was denied shipment at Government expense because he could not obtain a North Atlantic Treaty Organization (NATO) customs clearance from Turkey, since that privilege was exhausted when he left Turkey after his discharge.

Mr. Meier thereafter, on October 6, 1972, shipped his motorcycle to the United States by Lykes Bros. Steamship Co., Inc., at a cost of \$76.52. Reportedly, he also incurred charges of \$71.48 for Turkish customs clearance. He is now claiming reimbursement for these amounts which total \$148.02.

The record contains a memorandum dated December 12, 1972, signed by Captain James E. Lipp, USAF, Chief, Transportation Division, Detachment 94, TUSLOG, which contains the following statement:

"2. SSgt Meier was counselled concerning his entitlements for shipment of a POV upon separation from the military in an overseas area. During the counselling period, member stated that he intended to ride his motorcycle through Europe and ship the POV from a European port at government expense. Member was cautioned that once he cleared his POV through Turkish customs he would exhaust his NATO privilege in accordance with the Status of Forces Agreement, and, upon reentry into Turkey, POV would be picked up on his passport and could not be shipped at Government expense."

Section 2634 of title 10, U.S. Code (1970), provides that when a member of an armed force is ordered to make a change of permanent

station, a motor vehicle owned by him for his personal use may be transported to his new station or such other place as the Secretary concerned may authorize:

"(1) on a vessel owned, leased, or chartered by the United States;

"(2) by privately owned American shipping services; or

"(3) by foreign-flag shipping services if shipping services described in clauses (1) and (2) are not reasonably available."

Chapter 11, Volume 1, Joint Travel Regulations (1 JTR), "Transportation of Privately Owned Motor Vehicles" (change 220, May 1, 1971), implementing the above statute, in effect at the time of Mr. Heier's discharge, provided in para. M11002-1 that a member of an appropriate rank or grade who is ordered to make a permanent change of station to, from, or between places outside the United States is entitled to have one motor vehicle owned by him and for his personal use shipped to his new duty station or other place authorized via designated shipping facilities. Reimbursement for commercial transportation procured at personal expense was not authorized except for a circumstance not here applicable.

Paragraph M11000-2, change 220, May 1, 1971 (now contained in "Shipment of Privately Owned Motor Vehicles", Appendix J), of the regulation provided that customs and other fees and charges required to effect entry of a vehicle into a country are not part of shipment and that such costs must be borne by the member.

The term "permanent change of station" as defined in para. M3003-1a, 1 JTR, change 234, August 1, 1972 (now contained in Appendix J), includes the change from last duty station to home or place from which ordered to active duty upon separation from the service.

In accordance with the NATO Status of Forces Agreement, June 19, 1951 [1953] 4 U.S.T. 1792 and the implementing agreement between the United States and Turkey, June 23, 1954 [1954] 5 U.S.T. 1465, a member of one of the Armed Forces of the United States is entitled

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to export duty free a motor vehicle imported by such member. Upon leaving a NATO country a member is entitled to take out of such country (here, Turkey) his imported motor vehicle free of any customs or duty.

However, when a member of one of the U.S. Armed Forces incident to his discharge from military service takes his vehicle out of the country, he exhausts his entitlement under the NATO treaty. If thereafter he reintroduces the vehicle into the country he would then be liable for any duty or custom that might be imposed. While he is liable for duties or customs of that country, his entitlement to shipment of the motor vehicle at Government expense, if otherwise proper, would not be affected; i.e., he still would be entitled to shipment at Government expense in accordance with section 2634 of title 10, U.S. Code.

Thus, when Mr. Meier took his motorcycle out of Turkey free of any Turkish customs or duty, he exhausted his rights under the above-cited treaties. When he subsequently re-entered Turkey with his motorcycle he became liable for applicable Turkish customs charges when, at a later date, he desired to have his motorcycle returned to the United States.

Since Mr. Meier was allowed to ship his motorcycle to the United States after payment of the Turkish customs fees, there would appear to have been no restriction on the shipment of his motorcycle from Turkey, only a requirement that he pay the necessary customs fees before it could be shipped. Consequently, it would appear that he received erroneous information from a Government representative when he was informed that his vehicle could not be shipped at Government expense.

Prior to June 30, 1972, a member of one of the Armed Forces stationed outside the United States who was entitled to have a motor vehicle owned by him shipped to the United States at Government expense, but whose vehicle was shipped at personal expense, was not entitled to be reimbursed for the cost of shipping such vehicle. However, in 51 Comp. Gen. 838 (June 29, 1972) this Office modified prior decisions and held that if a member otherwise eligible did not have his privately owned motor vehicle shipped overseas due to erroneous advice furnished by a representative of

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the Government, he could be reimbursed for the expense incurred not to exceed the cost the Government would have incurred for the shipment.

Thus, in accordance with 51 Comp. Gen. 838, supra, Mr. Meier is entitled to reimbursement for the cost of shipping his motorcycle from Turkey to the U.S. on October 6, 1972, not to exceed the cost the Government would have incurred for such shipment.

The record indicates that the cost to the Government for shipping Mr. Meier's motorcycle would have been \$87. Mr. Meier has submitted a copy of the paid bill of Lykes Bros. Steamship Co., Inc., in the amount of \$76.59. Thus Mr. Meier may be reimbursed for the sum of \$76.59, the actual cost of shipment. His claim for Turkish customs charge of \$71.43 is denied, since as indicated in para. M11900-2, 1 JTR, referring to vehicles being brought into a foreign country, customs and similar charges are not considered to be transportation costs which are borne by the Government under 10 U.S.C. 2634.

R. F. KELLER

~~James~~ Comptroller General
of the United States