

DECISION

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

FILE: B-181193

DATE:

AUG 24 1976

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MATTER OF: Insurance on commercially leased vehicles

DIGEST: 1. The General Accounting Office (GAO) will not object to reimbursement of Government employee for costs of vehicle leased by employee on long-term basis for period of temporary duty in Germany, in light of apparent official determination that long-term use of vehicles was necessary due to extensive travel required and that long-term lease of vehicle was more advantageous to Government than rental arrangement, cost and other factors considered.

2. Government employee may be partially reimbursed for costs of insurance purchased on vehicle commercially leased on long-term basis to extent necessary for hire and operation of motor vehicles on German roads. Excess coverage not required by statute and regulation or by industrial custom to enable commercial hire of vehicle and operation of vehicle on German roads is considered personal to employee and may not be certified for payment.

This is in response to a request for advance decision from an authorized certifying officer for the National Bureau of Standards, U.S. Department of Commerce, concerning reimbursement to a Government employee for the cost of insurance purchased on a vehicle leased for the purpose of carrying out official business while on temporary duty in the German Federal Republic (Germany).

Pursuant to Travel Order No. 035826, dated April 10, 1975, Paul L. McQuate was authorized to travel from Boulder, Colorado, to Heidelberg, Germany, to participate in the installation and continued observation of an automated data collection system developed by the Institute for Telecommunication Sciences, U.S. Department of Commerce. Travel was expected to begin on or about June 1, 1975, and to terminate August 31, 1976. It is now anticipated that Mr. McQuate's duties in Germany will not end until December 31, 1976.

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Mr. McQuate's duties require him to travel to military installations located in Worms, Karlsruhe, Heidelberg, Koenigstuhl, Stocksberg, Stuttgart, and Vaihingen on a regular basis. We have been informally advised that he visits each of these stations about once every three days. Because extensive travel was required, his travel orders provided for the rental of a vehicle while in Germany for travel between these points. The total estimated cost for travel for the entire period of temporary duty was \$1,000, which was apparently intended to cover the costs of a rental vehicle as well as transportation to and from Heidelberg.

Upon arrival in Germany, it was determined by Mr. McQuate and his superiors that it would be more advantageous to the Government, in terms of cost and convenience to Mr. McQuate, as well as the prompt and efficient carrying out of Mr. McQuate's duties, to lease a vehicle on a long-term basis rather than to enter into the usual short-term rental contract, because of the extensive travel required and because rental companies in Germany, such as Hertz and Avis, do not have special long-term (6 months or more) rental contract rates. The total cost of leasing an automobile on a long-term basis from the Ford Motor Company, Auto-Joncker KG, Heidelberg, including the purchase of insurance, was determined to be 46.3 percent lower than the cheapest rental contract otherwise available.

Accordingly, Mr. McQuate, in his own name, executed a contract with Auto-Joncker KG for a 1-year term beginning August 11, 1975, at a rate of DM 555 per month. (Depending on exchange rates, this amounted to about \$212.) This rate included up to 30,000 kilometers (approximately 18,000 miles) for the year term. Each kilometer driven beyond this amount would be charged at the rate of 4 PF.

The auto leasing agreement with Auto-Joncker KG required that insurance be carried on the vehicle. In this regard, section 12 of the agreement (as translated in the submission) provides, in pertinent part, as follows:

"Section 12 Insurance

- "(1) Basically, insurances are contracted for by the lessor on order of and under the name of the lessee.

"(2) In the exceptional case that the lessee contracts for the insurance himself, the lessee is obligated to contract for the following insurances under the general conditions for the motor vehicle traffic insurance (AKB) and under the currently applicable tariff irrevocably for the leasing period stated in paragraph 1, item 2:

"a) Liability insurance, inclusive coverage DM 1,000,000, per damage occurrence.

"b) Full "kasko" (Insurance against all damage) insurance, DM 500. -, self participation."

Although referred to elsewhere in the submission as "Comprehensive" coverage, we have been informed by the Embassy of the German Federal Republic that "kasko" actually constitutes an approximate equivalent to a combination of both "Collision" and "Comprehensive" coverage in the United States.

The statutes of the German Federal Republic upon which the foregoing section 12 is based is entitled "Gesetz über die Pflichtversicherung für Kraftfahrzeughalter (Pflichtversicherungsgesetz)" (Law regarding obligatory insurance for motor vehicle holders (obligatory insurance law)). Sections 1 and 6 of this statute have been translated in the submission, in pertinent part, as follows:

"Law regarding obligatory insurance for motor vehicle holders
(Obligatory Insurance Law)

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"The Holder of a motor vehicle or trailer being regularly based inland is obligated to contract and maintain for himself, the owner, and the driver liability insurance for coverage of personal, material, and other property damage caused by use of the vehicle in accordance with the following requirements if the vehicle is used on public thoroughfares or localities (Paragraph 1 of the law concerning road traffic).

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"(1) Who uses by intent or negligence a vehicle on public thoroughfares and localities, or permits its use, although the liability insurance contract for the vehicle in accordance with Paragraph 1 does not, or does not any more exist, will be punished by imprisonment for up to one year and by a monetary fine, or by one of these punishments.

"(2) If the action has been committed intentionally, the vehicle may be confiscated if it is property of the violator or the participant at the time of the decision."

It is clear, therefore, that liability coverage is required for the operation of vehicles on German roads. Moreover, failure to carry such coverage may subject the operator of a motor vehicle to criminal sanctions, including imprisonment. We have been informally advised by the Embassy of the German Federal Republic that internal regulations require the following minimum liability coverages:

Property damage	DM	50,000
Personal injury or death	DM	250,000 (lump-sum)*
Personal incapacity	DM	15,000 (annual payment until death or termination of disability)

There is apparently no legal requirement that "kasko" be acquired.

Pursuant to section 12 of the contract with Auto-Joncker KG, Mr. McQuate obtained motor vehicle insurance through Gerling-Konzern,

* Liability coverage in Germany is apparently different than insurance in the United States, in that both maximum lump-sum and annual payments are provided for. The legally required liability coverage will be referred to in this decision, henceforth, as DM 250,000.

with liability coverage not to exceed DM 2,000,000, and DM 300 deductible "kasko." This coverage exceeded not only the minimum coverage legally required by German statute and regulation, but also the minimum amount required pursuant to the rental contract with Auto-Joncker KG. The total quarterly cost of the insurance purchased was as follows:

Liability	DM 238.50
Kasko	<u>DM 145.00</u>
Total quarterly cost	DM 383.50

Depending upon exchange rates, the total quarterly cost was approximately equal to \$152.

The cost of leasing the vehicle was allowed on Mr. McQuate's travel vouchers, but the cost of insurance was disallowed on Travel Voucher Partial No. 9, and further made retroactive to include two previous claims on Partial Vouchers Nos. 4 and 5, on the basis of the restriction in the Federal Travel Regulations (FTR101-7) para. 1-3.2c (May 1973) against the reimbursement for the costs of the collision damage waiver, which is part of the usual rental agreements.

The total amount disallowed was \$444.34. An authorized certifying officer of the National Bureau of Standards now asks for an advance decision as to whether the travel vouchers for insurance costs may properly be certified.

We would first point out that individual employees are generally restricted in their recovery for travel expenses to expenses authorized on their Travel Orders, which we understand do not generally authorize the long-term leasing of vehicles. Cf. 31 U.S.C. § 638(a) (1970). Nevertheless, in light of the authorization of the Travel Order for Mr. McQuate to hire a vehicle, and the apparent subsequent determination that a long-term lease arrangement would be more advantageous to the Government than rental based on short-term rates, we will not object to reimbursement to Mr. McQuate of the costs he incurred in leasing the automobiles.

As to whether Mr. McQuate may be reimbursed for the costs of insurance purchased on the subject vehicle, FTR para. 1-3.2c (May 1973), cited as the reason for disallowance, provides as follows:

"c. Damage waiver or insurance costs. In connection with the rental of vehicles from commercial sources, the Government will not pay or reimburse employees for the cost of the collision damage waiver or collision damage insurance available in commercial rental contracts for an extra fee. The waiver or insurance referred to is the type offered a renter to release him from liability for damage to the rented vehicle in amounts up to the amount deductible (usually \$100) on the insurance included as a part of the rental contract without additional charge. Under decisions of the Comptroller General, the agency in appropriate circumstances is authorized to pay for damage to the rented vehicle up to the deductible amount as contained in the rental contract should the rented vehicle be damaged while being used for official business. The cost of personal accident insurance is a personal expense and is not reimbursable."

This paragraph does not prohibit the reimbursement of a Government employee of the cost of insurance purchased on a rental vehicle, except to the extent that the coverage purchased constitutes a waiver of responsibility for all collision damage costs. This is customarily referred to as a collision damage waiver. Full insurance coverage, except for the first \$100 (or some other amount) of collision damage is customarily included in rental agreements.

However, reimbursement would be normally precluded by the long-standing policy of the Government to self-insure its own risks of loss. See, e.g., 39 Comp. Gen. 145 (1959); 19 id. 793 (1940). In B-181193, June 25, 1974, we indicated that at least insofar as the collision damage waiver is concerned, we might waive this policy where foreign statutes or regulations compel purchase of insurance. Moreover, in a decision to the General Services Administration (GSA), B-178342, August 11, 1976, 55 Comp. Gen. ____, we overruled 39 Comp. Gen. 145 and 19 Comp. Gen. 793, to the extent that they would preclude GSA from promulgating regulations to provide for the purchase of insurance by the Government or reimbursement for insurance costs incurred by a Government employee while operating a motor vehicle in foreign countries where legal requirements or procedures make purchase of liability insurance necessary for the use of the country's roads and where purchase is determined to be in the best interests of the Government.

These cases do not completely decide the issue at hand for three reasons. First, GSA has not yet regulated in this area; second, neither

of the above cases deals with the issue of purchase of insurance on hired vehicles, except for the collision damage waiver; and third, the cited cases do not involve the purchase of collision and comprehensive coverage.

However, the usual rental contract includes insurance on the vehicle, except for the costs of the first \$100 (or some other stated amount) of collision damage. Mr. McQuate could have rented such a vehicle for his use on these terms. If he had done this, the cost of insurance on the vehicle would have been included in the rental rates charged. In this event there would have been no question as to the propriety of reimbursement, at least insofar as the rental was authorized. Mr. McQuate, and his superiors determined, however, that the cost of a rental contract would have far exceeded the cost of a long-term leasing arrangement, even including the costs of securing insurance, and that therefore, leasing a vehicle would be more advantageous to the Government. As noted above, we have indicated that we would permit reimbursement for the cost of the collision damage waiver where foreign statutes require such purchase for use of the roads. Accordingly, we are of the view that since the leasing arrangement, including insurance, was less costly to the Government than a commercial rental agreement, and since purchase of insurance was necessary for operation of a vehicle on Germany's roads, reimbursement for the costs of necessary insurance may be made.

It remains to consider, however, how much of the costs of insurance incurred by Mr. McQuate may be properly certified for payment. In this regard, we note that the insurance coverage purchased by Mr. McQuate exceeded not only the legally required minimum but also the minimum amount provided in the rental contract with Auto-Joncker KG.

We indicate in our decision to GSA, B-178342, supra, that insurance may be purchased by the Government or the costs thereof may be reimbursed to a Government employee where legal requirements or procedures make purchase necessary for the use of a foreign country's roads. While Mr. McQuate was only legally required to purchase liability insurance on the vehicle, and then only with DM 250,000 coverage, he could not have leased a vehicle from Auto-Joncker KG unless he contracted for liability insurance with a maximum amount payable of DM 1,000,000 and "kasko" coverage with a deductible amount of DM 500. Moreover, we have been informally advised that custom in the leasing industry is to require that insurance on vehicles be carried in amounts higher and coverage broader than the legally required minimums. Under the circumstances it is reasonable to conclude that Mr. McQuate could not have leased a vehicle for operation on the German roads without such coverage and therefore the costs of the coverage required in the lease agreement

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may properly be certified for payment, when Mr. McQuate provides information as to the costs of such insurance from Gerling-Konzern.

Mr. McQuate, however, secured insurance coverage exceeding even the amount required in the lease agreement. The difference between the amount required in the lease agreement and the costs of the coverage actually obtained, must be considered personal to Mr. McQuate, and may not properly be certified for payment.

R.F.KELLER

Acting

Comptroller General
of the United States