

**IMPLEMENTING ARRANGEMENT
REGARDING
CLAIMS PROCEDURES
IN IMPLEMENTATION OF THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
ON DEFENSE COOPERATION**

Pursuant to Article VIII of the "Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces," signed in London on June 19, 1951, (hereinafter "NATO SOFA"), and Article XV of the "Agreement between the Government of the Republic of Bulgaria and the Government of the United States of America on Defense Cooperation," signed in Sofia on April 28, 2006 (hereinafter "the Agreement"), it is agreed as follows:

1. This Implementing Arrangement sets out the procedures for initiating, processing, adjudicating and paying damage claims against the United States forces in the Republic of Bulgaria.

2. Definitions.

a. The definitions in Article I of the NATO SOFA are applicable to this Implementing Arrangement unless otherwise specified in the Agreement.

b. For the purposes of claims arising out of the acts or omissions of members of the force or civilian component done in the performance of official duty only, the definition of "civilian component" will be as stated in Article XV of the Agreement.

3. Claims Structure.

a. United States Claims Office: The United States Army Claims Service Europe (USACSEUR) will act as the United States Claims Office for all non-contractual claims against the United States forces in the Republic of Bulgaria. Contact information for the United States Claims Office is included in Appendix 3.

b. Host Nation Claims Office: The Bulgarian Ministry of Defense shall receive and process claims on behalf of the United States forces in the Republic of Bulgaria. Claims against the United States forces in the Republic of Bulgaria should be filed at the office listed in Appendix 3.

c. A bilingual claims form that may be used by claimants is at Appendix 1.

4. Third Party Claims.

a. The Bulgarian Ministry of Defense is competent to receive all claims against the United States forces in the Republic of Bulgaria for compensation under the NATO SOFA, Article VIII, Paragraphs 5, 6, and 7. Should a claim be filed directly with an entity of the United States forces, such entity shall forward the claim to the Bulgarian Ministry of Defense, providing a copy to the United States Army Claims Service Europe, using the addresses in Appendix 3, and notify the claimant accordingly.

b. Claims filed by members of the United States force or civilian component arising from acts or omissions of other members of the United States forces, or from other acts, omissions or occurrences, for which the United States forces are liable, shall not be dealt with under the NATO SOFA, Article VIII. If any such claim is received by the Bulgarian Ministry of Defense, the Bulgarian Ministry of Defense shall forward it to the United States Army Claims Service Europe using the address in Appendix 3, and notify the claimant accordingly.

c. Claims for damages stipulated in NATO SOFA, Article VIII, Paragraph 5 shall be processed in accordance with the NATO SOFA, Article VIII, using the following procedures:

i) The Bulgarian Ministry of Defense shall determine whether any claim received is properly filed within the time limits imposed by Bulgarian law. The Bulgarian Ministry of Defense shall provide a copy of each properly filed claim against the United States forces to the United States Army Claims Service Europe at the address in Appendix 3, with a written request for an official duty certificate. The official duty certificate will generally state whether the United States forces were involved and if the claim arose from acts or omissions done in the performance of official duties.

ii) The United States Army Claims Service Europe shall assign a claim number, investigate the claim, gather documentation from United States sources, and verify whether the United States forces were or were not involved in the incident that resulted in the claim. After determining whether or not the United States forces were involved, the United States Army Claims Service Europe will submit to the Bulgarian Ministry of Defense an appropriate certificate similar to the bilingual form at Appendix 2. The official duty certificate will be provided as expeditiously as possible taking into account information provided to the United States forces and the complexity of the matter. When the claim is the subject matter of a court suit and the duty certificate has not yet been issued, United States Army Claims Service Europe, at the request of the Bulgarian Ministry of Defense, shall provide a written document stating that the United States inquiry of the case is still pending. By issuing a positive certificate, the United States forces does not prejudice the question whether there exists a causal connection between the act or omission and the damage, nor does it thereby admit any liability of the United States forces for the alleged damage; nor does such a certificate prejudice the decision as to whether the asserted claim is payable. The certificate is sufficient proof of whether any United States forces were involved and whether any United States forces involvement was within the scope of duty. If Bulgarian authorities believe the circumstances of the case require review of the duty certificate, the United States and Bulgarian authorities will consult immediately. In all cases, Article XV, paragraph 4 of the Agreement shall apply.

iii) If the United States forces were involved and that involvement was within the scope of duty, the Bulgarian Ministry of Defense shall adjudicate the claim and either deny it or pay an appropriate amount in damages. Following payment of damages, the Bulgarian Ministry of Defense shall send to the United States Army Claims Service Europe a request for reimbursement. Such request should contain the following information:

- a) The claim number assigned by the Bulgarian Ministry of Defense, if any;
- b) The United States claim number,
- c) The name of the claimant;
- d) The full amount paid to the claimant by the Bulgarian Ministry of Defense; and
- e) The amount of reimbursement requested in Euros or Bulgarian currency.

iv) The United States forces shall reimburse the Bulgarian Ministry of Defense the amount, as stated in paragraph 4.c.iii.e above, in accordance with Article VIII of the NATO SOFA. Payment will be made by check or electronic fund transfer. Payment will be made in Euros or Bulgarian currency, as requested by the Bulgarian Ministry of Defense.

v) When a draft agreement on the settlement of a claim has been negotiated by the claimant and the Ministry of Defense, the Ministry of Defense shall notify the United States Army Claims Service Europe.

d. If the United States forces were involved but that involvement was not within the scope of duty, the procedures stated in NATO SOFA, Article VIII, Paragraph 6 shall be followed. The Bulgarian Ministry of Defense shall consider the claim and deliver a report on the matter to the United States Army Claims Service Europe. The claim will be adjudicated by a claims commission appointed by the United States Army Claims Service Europe. That commission will decide whether to offer an *ex gratia* payment, and if so, in what amount. The United States forces are responsible for 100% of any such payment that may be made. If the claimant agrees in writing that the offer of the United States fully satisfies his claim, the United States forces shall pay the determined amount directly to the claimant and shall inform the Bulgarian Ministry of Defense in writing of the amount paid.

5. State to State Claims.

a. Claims for damage to Bulgarian Ministry of Defense and United States Department of Defense property are waived, in accordance with NATO SOFA, Article VIII, Paragraph 1.

b. In the event of claims filed under the NATO SOFA, Article VIII, Paragraph 2, the United States shall review the entire receiving State claim file and adjudication prior to payment or reimbursement. In the event of disagreements between the sending and receiving States on the claims of the parties, the specific procedures outlined in the NATO SOFA, Article VIII, Paragraph 2, shall apply, unless agreed otherwise.

6. General provisions.

a. If a claim is the subject matter of a court suit, the Ministry of Defense shall inform the United States Army Claims Service Europe of the court's decision in the case.

b. The United States Army Claims Service Europe will assist the Ministry of Defense by providing information which is releasable under United States law and regulation.

c. This Implementing Arrangement will be applicable to claims resulting from acts or omissions of United States forces where the aggrieved are physical or legal personalities.

d. The Appendices to this Implementing Arrangement may be amended by mutual agreement of the Legal Subcommittee and notification to the Joint Commission.

7. The Joint Commission shall oversee implementation of this Implementing Arrangement.

8. This Implementing Arrangement may be amended in writing at any time by mutual consent.

9. This Implementing Arrangement shall enter into force upon signature and remain in force unless terminated upon one year's written notice. In any event, this Implementing Arrangement shall terminate on the date the Agreement terminates, should that occur.

IN WITNESS THEREOF, the undersigned, being duly authorized, have signed this Implementing Arrangement.

DONE in Sofia, this 28th day of February 2008, in duplicate, in the Bulgarian and English languages, both texts being equally authentic.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF BULGARIA**

FOR THE UNITED STATES

APPENDIX 1

CLAIM FOR DAMAGE CAUSED BY UNITED STATES FORCES

ИСК ЗА ЩЕТИ, ПРИЧИНЕНИ ОТ СИЛИТЕ НА СЪЕДИНЕНИТЕ ЩАТИ

If you believe U.S. Forces have injured you or damaged your property, send this filled form to the following address:

Ако считате, че Силите на Съединените щати са причинили вреди на Вас или на Ваша собственост, попълнете и изпратете този формуляр на следния адрес:

MINISTRY OF DEFENSE
3, Dyakon Ignatii St.
Sofia, Bulgaria
Phone:

МИНИСТЕРСТВО НА ОТБРАНАТА
ул. "Дякон Игнатий" N 3
София, България
тел:

This form must be fully completed and submitted in triplicate.

Този формуляр трябва да бъде изцяло попълнен и представен в три (3) екземпляра.

APPLICANT / ЛИЦЕ, ПРЕТЕНДИРАЩО ОБЕЗЩЕТИЕ

Name in full / Трите ви имена

Address / Адрес

REQUESTED AMOUNT / ИСКАНА СУМА

Property damage / Имуществени щети

Personal injury / Неимуществени щети

Total amount claimed / Обща сума

INCIDENT / **ИНЦИДЕНТ**

Date / Дата

Hour / Час

Place / Място

Give a detailed description of the incident. Identify all persons and property involved. Attach all supporting evidence.

Дайте детайлно описание на инцидента. Идентифицирайте всички замесени лица и имущество. Приложете всички доказателства.

PROPERTY DAMAGE / **ИМУЩЕСТВЕНИ ЩЕТИ**

Write name and address of owner, if other than claimant. Describe and substantiate the age and condition of damaged property. Describe necessary repair and substantiate all costs.

Напишете името и адреса на собственика, ако е различен от лицето, претендиращо обезщетение. Опишете и докажете състоянието на повреденото имущество. Опишете необходимия ремонт и приложете доказателства за всички разходи.

List all insurance applicable to damaged property.

Избройте всички застраховки, приложими към повреденото имущество.

Name of insurer / Име на застрахователната компания Policy number / Номер на застрахователна полица

Dates of coverage / Дата на покритие Deductible amount / Застрахователна премия

PERSONAL INJURY / **НЕИМУЩЕСТВЕНИ ЩЕТИ**

Write name and address of injured persons. Describe and substantiate nature and extent of injury and required medical treatment.

Напишете имената и адресите на пострадалите лица. Опишете и докажете естеството и степента на нараняване и необходимото медицинско лечение.

Specify any other sources of recovery, e.g. health insurance, workmen's compensation fund, employer, or Victim Compensation Act. Describe nature and amount of compensation.

Уточнете всички останали източници на обезщетение, напр. здравна осигуровка, работнически компенсационен фонд, работодател и т.н. Опишете естеството и размера на обезщетението.

WITNESSES / **СВИДЕТЕЛИ**

Write names and addresses of known witnesses.

Напишете имената и адресите на известните Ви свидетели

CERTIFICATION / ДЕКЛАРАЦИЯ

I certify that my statements above are complete and correct to the best of my knowledge. Finally, I certify that until now I have not received any compensation for the damages, which I claim hereby. If an award is offered and if I accept that reward, I agree that such acceptance will be in full satisfaction and final settlement of any claim arising from the accident. I understand that any nondisclosure or fraudulent statement on my part may lead to denial of my request or reduction of any award.

Потвърждавам, че гореизложеното напълно отговаря на това, което ми е известно. В заключение декларирам, че до този момент не съм получил обезщетение за вредите, които претендирам с настоящия иск. Ако ми бъде предложено обезщетение и ако го приема, се съгласявам, че след приемането му ще бъде напълно и окончателно обезщетен за всяко искане, произтичащо от произшествието. Основавам, че всяко затаяване на информация или измамно изявление от моя страна може да доведе до отказ да ми бъде изплатено обезщетение или до неговото намаление.

Place / Място

Date / Дата

Signature of Applicant / Подпис на ищеца

APPENDIX 2

European Tort Claims Branch

Ministry of Defense address:
3, Dyakon Ignatii St.
Sofia, Bulgaria

Dear:

Reference: Scope Certificate/
Claimant/
Your Reference/
U.S. Reference/:

This **SCOPE CERTIFICATE** is provided pursuant to the "NATO SOFA and the Agreement".

1. The act(s) or omission(s) of the member(s) or employee(s) of the United States forces or its civilian component was (were) done in the performance of official duty.
2. ____ Use of the vehicle of the United States forces was unauthorized.
3. ____ A United States Foreign Claims Commission will adjudicate this non-scope claim upon receipt of your report.
4. United States forces were not involved in this incident.
5. The named claimant is not a proper party claimant.
6. This is not cognizable as a claim for damages because it is contractual in nature. (NATO SOFA, Article VIII, Paragraph 5.)
7. The information provided is not sufficient to make a scope of official duties determination. Request that you provide this office with more information concerning this incident within the next 15 days, specifically: (police report, an itemized list of amounts claimed).

Sincerely

John M. Smith
Chief, European Tort Claims Branch

Европейски отдел за предявяване на искиове при правонарушения

Министерство на отбраната на Република България-адрес
ул. "Дякон Игнатий" № 3
1000, София

Уважаеми _____,

Относно: Сертификат за оценка/:.....
Лице, претендиращо обезщетение/:
Вашата референция/:
Референция на САЩ/:

Това удостоверение за служебни задължения се издава в съответствие със ССВС на НАТО и ССОО.

1. Действието (ята) или бездействието (ята) на член (ове) или служител (и) на силите на Съединените щати или на цивилния компонент при изпълнение на служебни задължения.

2. _____Използването на превозно средство на силите на Съединените щати не е било оторизирано.

3. _____Американска Комисия по Чуждестранните Искове ще се произнесе относно искане, произтичащо от действия или бездействието извън обхвата на задълженията, при получаване на Вашия доклад.

4. Американските въоръжени сили не са били замесени в този инцидент.

5. Посоченото лице, претендиращо обезщетението, не е лицето, което следва да претендира обезщетение.

6. Това не представлява иск за щети, тъй като има характера на договорен иск. (ССВС на НАТО, чл. VIII, ал. 5.)

7. Предоставената информация не ми е достатъчна, за да направя оценка за обхвата на задълженията. Необходимо е предоставяне на допълнителна информация на нашия отдел, отнасяща се до инцидента, в рамките на следващите 15 дни, по-точно: (полицейски доклад, списък с изисканите суми, други

С уважение,
Джон М. Смит
Началник, Европейски отдел за предявяване
на искове при правонарушения

APPENDIX 3

CONTACT INFORMATION

Republic of Bulgaria:

Ministry of Defense
3, Dyakon Ignatii street
1000, Sofia, Republic of Bulgaria
Tel.
Fax:
E-mail:

United States:

United States Army Claims Service Europe
ATTN: European Tort Claims Branch
Postfach 410340
68277 Mannheim
Germany
Tel. (49) 621 730 6451 or 6149
Fax. (49) 621 730 6200
E-mail: claimservice@hq.hqusareur.army.mil