

SOFA CLAIMS – INFORMATION PAPER

What are SOFA Claims?

The Status of Forces Agreement (SOFA) between the United States and the Republic of Korea permits residents of the Republic of Korea (ROK) to file claims for loss or injury caused by the negligence of U.S. Armed Forces personnel. This includes damage caused by maneuvers and traffic accidents. The claims should be filed with the Korean District Compensation Commission (DCCs) located nearest the site of the incident or nearest the claimant's home address. The District Compensation Committees are co-located with regional prosecutors' offices in major cities throughout Korea. In the Pyeongtaek & USAG Humphreys region, SOFA Claims should generally be forwarded to:

Suwon District Compensation Committee
Suwon District Prosecutors' Office
69 Beopwon 1-gil, Yeongtonggu, Suwon 443-703
Phone#: (031) 210-4416

Proper Claimants

Proper claimants include anyone who is an actual resident of Korea, regardless of citizenship. Service-members, USG civilian employees, and family members are generally *not* proper claimants (however, retirees might be). Intergovernmental claims are treated as exceptions.¹

Types of SOFA Claims

There are two types of SOFA claims: scope and non-scope. Scope claims are those damages arising out of the acts of USFK service members [including KATUSAs and civilian employees] done in the performance of official duty.² Non-scope claims arise out of acts of USFK personnel [excluding KATUSAs] done outside the performance of official duty.

Payment Scheme

SOFA scope claims are governed by ROK law as it is applied to ROK forces.³ For SOFA scope claims, payments are decided and initially paid for by the ROK Treasury. The US has discretion on whether or not to accept payment. When the US is solely liable, we reimburse 75% of the settlement amount to the ROKG. For joint liability, the US reimburses 50% to the ROKG. Awards are reduced on a percentage basis for claimant's own negligence. The statute of limitations is set at three years from the date of the incident.

¹ For military property, both the ROK and USFK have waived all claims for damage to military property if the damage was caused in performance of official duties. Nonmilitary government-owned property is waived up to \$1400. Finally, injury or death of a soldier is waived if engaged in the performance of official duties.

² Damages caused by the actions of a Non-Appropriated Fund (NAF) employee's actions are treated as "scope" claims.

³ Exceptions: golf course claims, fuel spills, floods

With non-scope claims, the U.S. has sole settlement authority based on a recommendation from the ROK. The statute of limitations is set at two years from the date of the incident.

Advance Payments

Advance payments not exceeding \$100,000 are authorized in cases resulting in immediate financial hardship. For scope claims, the DCC may make advance payments of up to 50% of medical expenses, plus 100% of funeral expenses. For non-scope claims, the Foreign Claims Office has the authority to make an advance payment up to \$10,000. Requests over this amount must be forwarded to the U.S. Army Claims Service (USARCS).

Resources

SOFA Claims Packets are available for distribution to potential claimants at the USAG Humphreys Consolidated Legal Center (Bldg. 734).

- US-ROK Status of Forces Agreement (SOFA), Article XXIII.
- Foreign Claims Acts, 10 USC 2734.
- International Agreement Claims Act, 10 USC 2734(a)
- Army Regulation 27-20, Ch. 10 SOFA Claims, 8 Feb 2008.
- DA PAM 27-162, Ch. 10 Claims Procedures, 21 March 2008.
- DOD Directive 5515.9, Settlement of Tort Claims, 31 Oct 2006.
- USFK Regulation 1-27, Appendix B, Advance Payment in Nonofficial Cases

Points of Contact

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| <ol style="list-style-type: none">1. USAG Humphreys: Ms. Mi Yon Kim (753-8747) or Client Legal Services (753-6245)2. USFK/USAG Yongsan: Mr. Cha (738-8159) or Ms. Choe (738-8201) |
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