

Bulgarian MoD provided summary of National Legislation impacting on CMs, their transportation and disposal as at April 2018.

1. National legislation in force concerning CMs and their transportation for destruction:

- "Convention on Cluster Munitions" (ratified by a law adopted by the National Assembly on 10.02.2011 - SG 16/2011);
- "Law on the Implementation of the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction" (SG № 95 of 08.12.2015; last amended, SG, № 10 of 30.01.2018);
- "Law on Weapons, Ammunition, Explosives and Pyrotechnic Products" (prom., SG. № 73 of 17.09.2010; last amended and supplemented, SG, № 103 of 27.12.2016);
- "Ordinance on the conditions and procedure for carrying out activities related to weapons, ammunition, explosives and pyrotechnic items and control over them in and by the Armed Forces of the Republic of Bulgaria", adopted by Council of Ministers Decree № 278 / 30.11.2010.;
- "Defence-Related Products and Dual-Use Items and Technologies Export Control Act" – promulgated. SG, № 26 of 29.03.2011; last amended SG, № 101 of 19.12.2017;
- „Regulation on implementing the Defence-Related Products and Dual-Use Items and Technologies Export Control Act” – promulgated. SG, № 57 of 26.07.2011; last amended SG, № 40 of 02.06.2015;
- "Law of the State Property" - prom. SG., № 44 of 21.05.1996.
- „Закон за автомобилните превози“ (Обн. ДВ бр.82 от 17.09.1999 г., последно изм. и доп. ДВ бр.93 от 21.11.2017 г.) *Law of Automobile Transportation (Prom. SG 82 / 17.09.1999, last updated SG 93 / 21.11.2017)*
- „Наредба № 40 от 14.01.2004 г. за условията и реда за извършване на автомобилен превоз на опасни товари“ (Обн. ДВ бр.15 от 24.02.2004 г., последно изм. и доп. ДВ бр.76 от 19.09.2017г., попр. ДВ бр.77 от 26.09.2017 г.) *Regulation № 40 / 14.01.2004 about conditions and procedures for transportation of dangerous goods.*
- Закон за митниците, Закон за данъка върху добавената стойност (ЗДДС) и Правилника за неговото прилагане. - *Customs Act, Law on value added tax (VAT) and VAT and its implementing rules.*
- Регламент (ЕС) № 952/2013 на Европейския парламент и на Съвета от 9.10.2013 г. за създаване на Митнически кодекс на Съюза. *Regulation (EU) № 952/2013 of the European Parliament and of the Council of 9 October 2013 Laying Down the Union Customs Code.*
- Регламент за изпълнение на (ЕС) 2015/2447 на Комисията от 24.11.2015 г. за определяне на подробни правила за прилагането на някои разпоредби на Регламент (ЕС) № 952/2013. *COMMISSION IMPLEMENTING REGULATION (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) № 952/2013 of the European Parliament and of the Council laying down the Union Customs Code*
- Делегиран регламент на Комисията (ЕС) 2015/2446 от 28.07.2015 г. за допълнение на Регламент (ЕС) № 952/2013 *Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) № 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code*

Important Notice: *Посочения списък с нормативни документи, не отменя задължението на Изпълнителя да познава българското законодателство и да подготви необходимите документи, касаещи детайлите по реализиране на проекта (транспортиране на касетъчните боеприпаси, евентуален износ извън България и др.) The above-mentioned list of regulations does not revoke the obligation of the Contractor to know the Bulgarian legislation and to prepare the necessary documents concerning the details of the implementation of the project (transport of cluster munitions, eventual export outside Bulgaria, etc.)*

2. Existing regulation for CMs and their interpretation by the Ministry of Defense, the Ministry of Foreign Affairs and the Ministry of Interior:

– Joint Order of the Minister of the Interior and of the Minister of Defense of the Republic of Bulgaria, No144 / 18.04.2016 and 8121-355 /15.04.2016, establishing an Interdepartmental Commission under Article 9 of the Law on the Implementation of the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction;

- i. The following amendments and supplements have been made to the Implementation Act of the Convention on Cluster Munitions and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (prom. State Gazette. 95/2015).
 1. Art. 6. (1) (Previous Article 6, SG No. 2 of 2018) Cluster munitions and anti-personnel mines shall be destroyed by:
 - a. Blasting;
 - b. Incineration;
 - c. Demilitarisation with irreversible conversion by disintegration of individual constituents with subsequent use of waste explosives, empty packaging and metals.
 - ii. Art 6, (2), In case of destruction of cluster munitions of the Armed Forces of the Republic of Bulgaria which takes place outside the territory of the Republic of Bulgaria, waste explosives, empty packaging and metals shall be transferred to the person's property under Art. 8, para. 1.

Note: As a result, waste explosives, empty packaging and metals - resulting from the destruction of CMs outside the territory of Bulgaria, are transferred to the Contractor.

– Rules for organizing the activity of the Interdepartmental Commission established on the basis of Art. 9, para.11 of Law on the Implementation of the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, No 81213-518 /18.05.2016 and 30-10- 51/27.05.2016.

3. Ownership of the CMs after being received by the contractor, including residual products after their demilitarization.

Destruction of a CM is a type of service in which the ownership of the CMs are not transferred from the military units (the place of storage) to the contractor (its representative, registered on the territory of the Republic of Bulgaria). The documentary formalization of their transmission / reception is done with primary accounting and explanatory documents, according to the requirements of the "Documentary Return in the Ministry of Defense, the Bulgarian Army and the structures of the direct subordination of the Minister of Defense", MO № OX-137 / 06.03.2012.

Documents on the transfer of cluster munitions from military units, in addition to accounting, also certify the transfer to the Contractor of the risk of loss / damage to the CMs and causing damage to third parties in connection with the transportation or subsequent treatment.

4. Location of execution of demilitarization services:

– Place for implementation of the project may be within Bulgaria or abroad. Трансфер на касетъчни боеприпаси с цел тяхното унищожаване извън територията на България се допуска единствено в друга държава / страна по Конвенцията по касетъчните боеприпаси (чл. 3, ал. 7 от Конвенцията). Трансфер на посочените в Анекс А – 8 броя касетъчни бойни части 9H123K/9Я236 извън територията на България не се допуска“.Transfer of cluster munitions for the purpose of their destruction outside the territory of Bulgaria shall be allowed only in another State Party to the Convention on Cluster Munitions (Article 3, paragraph 7 of the Convention). (Note for Warheads 9H123K/9Я236- Transfer of the 8 warheads 9H123K/9Я236 out of the territory of Bulgaria is not allowed)

- Use of subcontractors is permitted.
- Possibility to execute the project by several subcontractors and at several locations.

5. Authorization process:

The Bulgarian Authorities require a clear description of the requirements for the contractor to hold certificates / authorizations (prior to the conclusion of the contract, at the moment of the conclusion of the contract and thereafter).

Изпълнителят се задължава да подпише с българската страна споразумение за прилагане относно детайлите по реализиране на проекта. The Contractor assumes the obligation to sign an Implementing Agreement with the Bulgarian party on the details of the implementation of the project.

According to national legislation, the contractor should have:

– Permit for destruction of the CMs and a Permit for transportation issued under the procedure of the "Law on the Implementation of the Convention on Cluster Munitions and the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction" (SG No. 95 of 08.12.2015);

– A License for export, import and transfer and a Permit for each contract, issued under the "The Law on Export Control of Defense Products and Dual-Use Goods and Technologies" - promulgated, SG, No. 26 of 29.03.2011; last amended SG, No. 14 of 20.02.2015.

The Ministry of Defense of the Republic of Bulgaria takes the responsibility of loading of the cluster munitions from the bases in which they are stored. This is a normal practice in implementing contracts for demilitarization and / or ammunition destruction.

All other activities accompanying the contract for the destruction of cluster munitions shall be carried out by and on behalf of the contractor, including the provision of all permits by Bulgarian authorities and the exporting of the ammunitions during their transportation.

Important Notice: МО не е възложител на дейностите по унищожаване на касетъчните боеприпаси и посочването му в текстовете на SOW не следва да се разбира като права и/или задължения на МО и не води до отговорности за МО. The MoD is not a contracting authority for cluster munitions destruction activities and its reference to SOW texts should not be understood as rights and / or obligations of the MoD and does not entail responsibilities for the MoD.

This guidance is provided in the SoW to assist potential contractors. It is provided by the MoD as at April 2018. NSPA cannot be held responsible for the content. Contractors are advised to confirm the legislative situation with the Bulgarian Authorities.