



PRIORITY RULES ON COMPENSATION FOR NUCLEAR DAMAGE IN NATIONAL LEGISLATION

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Austria	No priority rules. ¹
Belgium	No priority rules. ²
Bulgaria	The Bulgarian Act of 2002 ³ on the Safe Use of Nuclear Energy provides that loss of life and physical injury shall be compensated first. Article 132 paragraph 5 provides as follows : “When satisfying claims for compensation for nuclear damage, claims for loss of life or physical injury shall be compensated with priority.”
Canada	No priority rules in the 1985 Canadian Nuclear Liability Act. ⁴ However, in the event of a major incident, the Governor in Council may issue a proclamation that would stay all court proceedings and require all claims to be heard by a Nuclear Damage Claims Commission. In such case, the government has the power under paragraph 28(1)(c) of the Act to make regulations “establishing priorities among persons claiming compensation, on the basis of classes of persons, categories of injury or damage, or any other basis that he considers appropriate.” However, no regulations have been made.
Czech Republic	No priority rules. ⁵
Denmark	No priority rules. ⁶
Finland	No priority rules. ⁷
France	The French Act of 1968 ⁸ on Third Party Liability in the field of Nuclear Energy provides priority rules, if the maximum amount available under this Act is likely to be insufficient to compensate for the whole of the damage sustained by the victims (Article 13).

¹ The Austrian Atomic Liability Act adopted on 7 October 1998 is reproduced in the supplement of the *Nuclear Law Bulletin* No. 63: <http://nea.fr/html/law/nlb/NLB-63/austria.pdf>.

² The 1985 Belgian Act on Third Party Liability in the Field of Nuclear Energy, as amended in 2000 is reproduced in the supplement of the *Nuclear Law Bulletin* No. 66: <http://nea.fr/html/law/nlb/Nlb-66/075-080.pdf>.

³ The text of this law is available on the Bulgarian Nuclear Regulatory Agency website, at the following URL: <http://bnsa.bas.bg/legislate/acts.html>.

⁴ The text of this law is available on the website of the Department of Justice in Canada: <http://www.nea.fr/html/law/legislation/canada.html>.

⁵ The 1997 Czech Act on the Peaceful Uses of Nuclear Energy and Ionising Radiation is reproduced in the supplement of the *Nuclear Law Bulletin* No. 61: <http://nea.fr/html/law/nlb/NLB-61/czech.pdf>.

⁶ The 1972 Danish Act on Compensation for Nuclear Damage is available in at the following in *Nuclear Law Bulletin* No. 15 (<http://nea.fr/html/law/nlb/NLB-15-EN.pdf>) with amendments reported upon in NLBs No. 43 and 54.

⁷ The Finnish Nuclear liability Act, as amended in 1989, is reproduced in the supplement of the *Nuclear Law Bulletin* No. 44: <http://nea.fr/html/law/nlb/NLB-44-SUP.pdf>.

⁸ The text of the Act as amended is reproduced in the supplement of the *Nuclear Law Bulletin* No. 46: <http://nea.fr/html/law/nlb/NLB-46-SUP.pdf>.

Article 13 provides: “If at the time of a nuclear incident, it appears that the maximum sums available under this Act are likely to be insufficient to compensate for the whole of the damage sustained by the victims, a Decree deliberated by the Council of Ministers and published not later than six months after the date of the incident shall recognise this exceptional situation and specify the manner in which the sums referred to in Sections 4 and 5 are to be disbursed. [...]”

Germany	No priority rules. However, Section 35 of the German Atomic Energy Act ⁹ provides that the Government can issue a provisional ordinance – until Parliament passes an Act – which may establish other criteria for the distribution of compensation in case of a catastrophic incident that exhausts the means for compensation available.
Greece	<i>No information available</i>
Hungary	No priority rules. ¹⁰
Ireland	<i>No information available</i>
Italy	No priority rules. ¹¹
Japan	No priority rules. ¹²
Lithuania	No priority rules. ¹³
Mexico	No information available
Netherlands	The Dutch Nuclear Third Party Liability Act of 1979, ¹⁴ as amended, contains priority rules for claims with respect to loss of life and personal injury. ¹⁵

In this event, the sums available under the present Act shall be allocated as follows:

- (a) priority shall be given to the compensation of bodily injuries, in a manner to be determined by analogy with the legislation concerning industrial accidents;
- (b) any sums remaining after payment of the aforesaid compensation shall be allocated among the victims in proportion to any bodily injury left uncompensated and to property damage, assessed in accordance with the principles of common law.

⁹ The text of the Act is reproduced in the supplement of the *Nuclear Law Bulletin* No. 70: <http://nea.fr/html/law/nlb/nlb-70/supplement.pdf>.

¹⁰ The 1996 Hungarian Atomic Energy Act is reproduced in the supplement of the *Nuclear Law Bulletin* No. 60: <http://nea.fr/html/law/nlb/60-hungary.pdf>.

¹¹ The Italian Act on the Pacific Use of Nuclear Power, adopted in 1962, is reproduced in the supplement of the *Nuclear Law Bulletin* No. 16: <http://nea.fr/html/law/nlb/NLB-16-SUP.pdf>.

¹² The 1961 Law on Compensation for Nuclear Damage, as amended, is reproduced in the supplement of the *Nuclear Law Bulletin*: No. 45; <http://nea.fr/html/law/nlb/NLB-45-SUP.pdf>.

¹³ The 1996 Lithuanian Nuclear Energy Act is reproduced in the supplement of the *Nuclear Law Bulletin* No. 60: <http://nea.fr/html/law/nlb/60-lithuania.pdf>.

¹⁴ The text of the Act is reproduced in the supplement of the *Nuclear Law Bulletin* No. 49: <http://nea.fr/html/law/nlb/NLB-49-EN.pdf>.

¹⁵ The Act foresees State intervention of supplementary funds, if nuclear damage caused by a nuclear accident on Dutch territory exceeds the liability amount of the operator [see Section 18(1)].

Section 27 provides:

1. If the total amount of the claims submitted exceeds the maximum liability of the operator pursuant to Section 5 of this Act, the amount referred to in Article 3(a) of the 1963 Brussels Supplementary Convention, or the amount referred to in Section 18, subsection 1 of this Act, the following rules shall apply to the claims in each case in so far as they can be met out of these amounts:

- a) where the claims relate only to damage to persons, the claims shall be reduced proportionately;
- b) where the claims relate only to damage other than that referred to in (a) above, the claims shall be reduced proportionately;
- c) where the claims relate both to damage as referred to in (a) and to damage as referred to in (b), two-thirds of the amount in question shall be allocated solely for the payment of the claims as referred to in (a) (which claims shall, if necessary, be reduced proportionately), while the remainder shall be allocated for the payment of the claims as referred to in (b) and of the claims as referred to in (a), in so far as the latter claims would otherwise not be paid.

Norway	Under the Section 32(1) of the Norwegian Atomic Energy Act of 1972, ¹⁶ if the amount of the operator liability will not cover the claims of all victims, the compensation shall be reduced proportionally. Under Section 32(2), the Minister of Health and Care Services may decide that loss of life and personal injury shall be given priority over other types of claims if the operator liability amount cannot fully cover all claims. These provisions apply for additional compensation provided under the 1963 Brussels Supplementary Convention as well [see Section 41 (3)].
Poland	The priority rules on compensation for nuclear damage are established under Articles 103 and 105.1 of the Polish Atomic Law. The operator's liability is limited to 150 million SDR. 10 % of the corresponding financial security is to be ear-marked for the settlement of claims involving nuclear damage resulting in personal injury, for a period of at least 5 years, after which this amount can be used as well for the settlement of claims relating to property damage, economic loss or environmental damage. If the corresponding financial security is not available or is insufficient to satisfy all nuclear damage claims, then the National Treasury will guarantee the payment up to the limit of 150 million SDR. As far as claims for the compensation of personal injury are concerned, the amount of National Treasury funds that would be made available is not limited in amount. Also these particular claims shall not be barred by limitations in time. ¹⁷
Romania	No priority rules. ¹⁸
Slovak Republic	No priority rules. ¹⁹
Slovenia	No priority rules in the 1978 Act on Third Party Liability for Nuclear Damage, as amended in 1979. ²⁰ However a new draft Act on Third Party Liability for Nuclear Damage is being prepared, based on the Paris Convention and the Brussels Supplementary Convention, which will contain such provisions. The basic principle on priority rules will be set as follows: if the claims are based on different heads of damage, i.e. on the loss of life or personal injury and on other heads of damage, then 2/3 of the available amount for compensation should be allocated for claims for the loss of life or personal injury, and the rest for compensation of other heads of damage.

In the event of an amount remaining, in accordance with the provisions of the preceding sentence, after payment of the claims as referred to in (a), the amount thus remaining shall be allocated for the payment of the claims referred to in (b), in so far as the said claims would not otherwise be paid.

2. Where Section 18 is applied, the compensation available in respect of claims relating to damage to persons which are submitted at least ten years after the date on which the nuclear incident in question occurred shall not be less than 10 per cent of the amount made available by the State.

¹⁶ The text of the 1972 Atomic Energy Act, as amended in 1985, is reproduced in the supplement of the *Nuclear Law Bulletin* No. 41: <http://nea.fr/html/law/nlb/NLB-41-SUP.pdf>.

¹⁷ See the Act of Parliament of 29 November 2000 - *Atomic Law*, Chapter 12 and Regulation of the Minister of Finance of 23 April 2004 on compulsory third party liability insurance for the operators of nuclear devices of 23 April 2004. The text of the *Atomic Law* (consolidated version published on 14 February 2007) and the text of the 2004 Regulation are available on the Polish National Atomic Energy Agency website, at the following URL respectively: http://paa.gov.pl/en/doc/atomic_law/2006-act.pdf and http://paa.gov.pl/en/doc/atomic_law/2004-909.pdf.

¹⁸ The text of the 2001 Act on the civil liability for nuclear damages, as amended in 2004, is reproduced in the supplement of the *Nuclear Law Bulletin* No. 69: <http://nea.fr/html/law/nlb/nlb-69/Romania.pdf>.

¹⁹ The text of the 1998 Act on the Peaceful Use of Nuclear Energy is reproduced in the Supplement to the *Nuclear Law Bulletin* No. 62: <http://nea.fr/html/law/nlb/Nlb-62/slvklaw4.pdf>. It has been amended in 2004.

²⁰ The text of the Act is available on the Slovenian Nuclear Safety Administration website, at the following URL: http://ursjv.gov.si/en/legislation_and_documents/legislation_in_force/

Spain	<p>Article 51 of the 1964 Spanish Nuclear Energy Act²¹ provides that compensation for damage caused by a nuclear accident shall be subject to priority rules : first, personal injury and, secondly, property damage.</p> <p>This provision is further developed in the 1967 Regulation for Coverage of Nuclear Risks. If there is extensive personal injury and the liability of the operator is not sufficient to cover it, the State shall procure legal means to provide the additional compensation required (Article 23).</p>
Sweden	No priority rules. ²²
Switzerland	<p>No priority rules.</p> <p>However, the 1983 Act on Nuclear Third Party Liability²³ provides that if there are grounds for anticipating that the financial resources of the person liable, the private insurer and the Confederation, available for covering the damage, will not be sufficient to satisfy all claims, the Federal Assembly shall establish an indemnity scheme by means of a Federal Order of general application, not subject to referendum.</p>
Turkey	No information available
Ukraine	No information available
United Kingdom	No priority rules. ²⁴
USA	The Federal law in the United States does not provide priority rules concerning the indemnification of victims of nuclear damage. ²⁵

²¹ The text of the 1964 Energy Act is partly reproduced in the *Nuclear Law Bulletin* No. 2: <http://nea.fr/html/law/nlb/NLB-02-EN.pdf>.

²² The Swedish Nuclear Liability Act, as amended in 1982, is reproduced in the supplement of the *Nuclear Law Bulletin* No. 33: <http://nea.fr/html/law/nlb/NLB-33-SUP.pdf>.

²³ The text of the Act is reproduced in the supplement of the *Nuclear Law Bulletin* No. 32: <http://nea.fr/html/law/nlb/NLB-32-SUP.pdf>.

²⁴ See the 1965 Nuclear Installations Act, as amended in 1983 by the Energy Act (reproduced in the *Nuclear Law Bulletin* No. 33: <http://nea.fr/html/law/nlb/NLB-33-SUP.pdf>) and the 1989 Atomic Energy Act, (see *Nuclear Law Bulletin* No. 44, p. 48: <http://nea.fr/html/law/nlb/NLB-44-EN.pdf>).

²⁵ See the 1957 Price-Anderson Act as amended in the *Nuclear Law Bulletin* No. 74, p. 66: http://nea.fr/html/law/nlb/nlb-74/039_070.pdf.