

CROATIA

Act on Liability for Nuclear Damage*

adopted on 9 October 1998

I. GENERAL PROVISIONS

Scope of Application

Article 1

This Act governs liability for nuclear damage, which results from peaceful uses of nuclear energy, insurance and other financial security covering such liability.

Definitions

Article 2

The terms used in this Act have the following meaning:

1. "Operator" means the person licensed for the construction or operation of a nuclear installation by the competent state authority.
2. "Competent state authority" is the authority of the Republic of Croatia competent for nuclear safety.
3. "Nuclear material" means:
 - a) nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other material; and
 - b) radioactive products or waste.
4. "Nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission.
5. "Radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to the production or utilisation of nuclear fuel,

* This is an unofficial translation kindly provided by the Croatian authorities.

but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose.

6. "Nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.
7. "Nuclear installation" means:
 - a) any nuclear reactor other than one with which a means of sea or air transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;
 - b) any factory using nuclear fuel for the production of nuclear material, or any factory for the processing of nuclear material or for reprocessing of irradiated nuclear fuel;
 - c) any facility where nuclear material is stored, other than storage incidental to the carriage of such material.
8. "Nuclear damage" means:
 - a) loss of life, any personal injury or any other damage to a person's health, any loss of or damage to property, which arises out of or results from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or radioactive products or waste in, or of nuclear material sent to, produced in or coming from, a nuclear installation;
 - b) loss of life, any personal injury or other damage to a person's health, any loss of or damage to property which arises out of or results from other ionising radiation emitted by any other source of radiation inside a nuclear installation.
9. "Nuclear incident" means any occurrence or series of occurrences of the same origin which causes nuclear damage.
10. "Contracting Party" means any State that is Party to the Vienna Convention on Civil Liability for Nuclear Damage, adopted on 21 May 1963.

Several Installations of One Operator

Article 3

Several nuclear installations of one operator that are located at the same site shall, for the purposes of this Act, be considered as a single nuclear installation.

Reciprocity

Article 4

In respect of nuclear damage suffered on the territory of another State for which the operator of a nuclear installation located on the territory of the Republic of Croatia is liable, this Act is applicable to the extent that the legislation of the foreign State concerned applies to nuclear damage suffered on the territory of the Republic of Croatia, and for which the operator located in its territory is liable, or to the extent that such compensation is established by a multilateral or bilateral agreement which reciprocally binds the State in question and the Republic of Croatia.

II. LIABILITY

Liability for Nuclear Damage

Article 5

- (1) The operator is liable for nuclear damage caused by a nuclear incident if the damage originated:
 1. in his nuclear installation;
 2. in relation with nuclear material sent from his nuclear installation or which is stored incidental to its carriage, if the nuclear incident occurs before the operator of another nuclear installation has assumed liability with regard to nuclear incidents caused by this nuclear material, pursuant to the express terms of a contract in writing, or in the absence of such terms, before the operator of another nuclear installation has taken charge of this nuclear material;
 3. in relation with nuclear material sent to his nuclear installation or which is stored incidental to its carriage, if he has assumed liability with regard to nuclear incidents caused by the nuclear material from the operator of another nuclear installation, pursuant to the express terms of a contract in writing, or in the absence of such terms, from the moment he has taken charge of this nuclear material.
- (2) The operator is liable for nuclear damage caused by a nuclear incident involving material which has been sent from the Republic of Croatia to a person on the territory of a non-Contracting Party, up to the moment when the nuclear material has been unloaded from the means of transport by which it has arrived on the territory of that State.
- (3) The operator is liable for nuclear damage caused by a nuclear incident involving nuclear material which, with the written consent of the operator within the territory of the Republic of Croatia, has been sent by a person from the territory of a non-Contracting Party, from the moment when the nuclear material has been loaded on the means of transport by which it is to be carried from the territory of that State.

- (4) The provisions of paragraph (1), subparagraph 1 of this Article do not apply when nuclear damage is caused by a nuclear incident occurring in a nuclear installation and involving nuclear material stored therein incidental to the carriage of such material, if the operator of another nuclear installation or another person is solely liable pursuant to the provisions of paragraph (1), subparagraph 2 and 3, or paragraphs (2) and (3) of this Article.

Carrier's Liability

Article 6

A carrier of nuclear material may, with the approval of the competent state authority and the written consent of the operator who, pursuant to the provisions of this Act, would otherwise be considered liable for nuclear damage, take his place. In such a case, the carrier is considered as the operator liable, in accordance with this Act.

Joint and Several Liability

Article 7

- (1) Where nuclear damage engages the liability of more than one operator, the operators involved shall, in so far as the damage attributable to each operator is not separable, be jointly and severally liable.
- (2) Where a nuclear incident occurs in the course of carriage of nuclear material in the same means of transport, involving nuclear material belonging to two or more operators, or in the case of storage incidental to its carriage, all operators shall be jointly and severally liable for such nuclear damage, up to the highest amount established in respect of any one of them.
- (3) In the cases referred to in paragraphs (1) and (2) of this Article, the operator of a nuclear installation located on the territory of the Republic of Croatia shall not be liable for nuclear damage which exceeds the amount established pursuant to Article 8 of this Act, except in the case as provided for under Article 4 of this Act.

Amount of Liability for Damage

Article 8

- (1) The operator is liable for nuclear damage up to the amount of 320 million Kuna for each nuclear incident.**
- (2) The amount established in paragraph (1) of this Article does not include any interest or costs awarded by a court in the course of actions for compensation of damage.

** Translator's note: this amount corresponds to approximately 48 million USD.

Liability for Other Damage

Article 9

Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent that it is not separable from the nuclear damage, for the purposes of this Act, be considered as nuclear damage.

Exclusive Liability of the Operator

Article 10

The operator is liable for nuclear damage caused by a nuclear incident.

Strict Liability for Damage

Article 11

The liability of the operator for nuclear damage shall be strict.

III. LIMITATION AND EXCLUSION OF LIABILITY

Armed Conflicts and Natural Disasters

Article 12

No liability shall attach to an operator for nuclear damage caused by a nuclear incident directly due to an act of armed conflict, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character.

Damage to the Nuclear Installation and Means of Transport

Article 13

The operator shall not be liable for nuclear damage:

1. to the nuclear installation itself or to any property on the site of that installation which is used or to be used in connection with that installation; or
2. to the means of transport on which the nuclear material involved was situated at the time of the nuclear incident.

Fault of the Person Suffering Damage

Article 14

- (1) The operator shall not be liable for nuclear damage upon proof that the person suffering the damage caused it intentionally.
- (2) If the operator proves that the nuclear damage resulted wholly or partly from the gross negligence of the person suffering the damage, the court may relieve the operator wholly or partly from his obligation to pay compensation in respect of the damage suffered by such person.

Liability of One and the Same Operator with regard to Several Nuclear Installations

Article 15

Where several nuclear installations of one and the same operator are involved in one nuclear incident, such operator shall be liable in respect of each nuclear installation involved up to the amount established in Article 8 of this Act.

IV. INSURANCE AND OTHER FINANCIAL SECURITY

Insurance of Liability

Article 16

- (1) The operator is obliged to provide and maintain insurance or other financial security covering his liability for nuclear damage of an amount, which shall not be lower than that specified in Article 8 of this Act.
- (2) If the liability of the operator for nuclear damage, which may occur during the carriage of nuclear material, is not covered by the insurance or other financial security referred to in paragraph (1) of this Article, such liability shall be covered by a separate insurance policy or financial security.

Cancellation of Insurance Policy

Article 17

- (1) The insurer or financial guarantor is not entitled to cancel the insurance or the financial security without giving notice in writing three months prior to such cancellation to the operator and the competent state authority.

- (2) If such insurance or financial security relates to the carriage of nuclear material, the insurer or financial guarantor is not entitled to cancel the insurance or the financial security during the carriage of such material.

Certificate of Insurance or Financial Security

Article 18

- (1) The operator of a nuclear installation shall provide the carrier, before the consignment of nuclear material for carriage, with a certificate of insurance or financial security, issued by the insurer or the financial guarantor, pursuant to this Act.
- (2) The certificate referred to in paragraph (1) of this Article shall state: the firm or name and the residence of the operator; the amount, type and duration of the insurance or financial security; a description of the nuclear material in respect of which the insurance or financial security applies, and a statement by the competent state authority that the person named in the certificate is an operator pursuant to this Act.

Import or Transit of Nuclear Material into or through the Territory of the Republic of Croatia

Article 19

Nuclear material may be imported into the Republic of Croatia, or transported through its territory, only if the carrier undertaking carriage of such material has obtained the certificate referred to in Article 18 of this Act which covers liability for nuclear damage on the territory of the Republic of Croatia, up to an amount not less than that established in Article 8 of this Act, and only if such certificate contains the statement referred to in Article 18 of this Act, issued by the competent authority of the State from which such material originates.

Obligations of the Republic of Croatia

Article 20

- (1) The Republic of Croatia shall ensure the means for compensation of nuclear damage up to the amount established in Article 8 of this Act:
1. if the operator fails to provide or maintain insurance or financial security pursuant to the provisions of Article 16 of this Act; or
 2. if the insurer or financial guarantor is not liable to compensate the nuclear damage, pursuant to the terms of the insurance or financial security contract; subscribed or
 3. if the insurer or financial guarantor becomes insolvent and therefore cannot fulfil his contractual obligations.

- (2) In cases referred to in paragraph 1 of this Article, the Government of the Republic of Croatia has a right of recourse against the insurer or the financial guarantor, or against the operator, up to the amount paid during a period of five years from the date on which each payment of compensation was made.

V. THE COMPENSATION OF NUCLEAR DAMAGE AND THE RIGHT OF RECOURSE

Competent Court

Article 21

- (1) Jurisdiction over compensation for nuclear damage shall lie only with the court on whose territory the nuclear installation of the operator liable is located.
- (2) Where nuclear damage occurs during the carriage of nuclear material, jurisdiction over such actions shall lie with the court on whose territory the nuclear damage occurred or on whose territory the nuclear installation of the operator liable is located.

Right of Direct Action

Article 22

Any action for compensation for nuclear damage caused by a nuclear incident may be brought directly against the insurer or the financial guarantor referred to in Article 16 of this Act.

Distribution of Compensation for Nuclear Damage

Article 23

If it is established or justifiably assumed that the nuclear damage exceeds the amount specified in Article 8 of this Act, the procedure for establishing the nuclear damage and its compensation shall apply in a manner consistent with the provisions of the Maritime Act which relate to the procedure of limitation of the ship operator's liability.

Prescription Periods

Article 24

- (1) The right to compensation for nuclear damage shall be extinguished after expiry of ten years from the date of a nuclear incident.

- (2) Where nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the nuclear incident was stolen, lost, jettisoned or abandoned, the prescription period shall be 20 years, which runs from the date of the theft, loss, jettison or abandonment.
- (3) The person suffering damage may bring an action for compensation of nuclear damage within a period of three years from the date on which he or she had knowledge of the damage and of the operator liable for the damage, provided that the period established pursuant to paragraphs (1) and (2) of this Article shall not be exceeded.
- (4) Any person who has brought an action for compensation of nuclear damage within the period applicable pursuant to paragraphs 1 to 3 of this Article may extend his or her claim to take into account any aggravation of the damage, even after the expiry of that period, provided that the final judgement has not yet been delivered.

Operator's Right of Recourse

Article 25

The operator shall have a right of recourse only:

- a) against another party, if this is expressly provided for by a contract in writing;
- b) against an individual who has acted or omitted to act with intent to cause nuclear damage, where the nuclear incident is a consequence of that act or omission to act.

Right of Recourse against the Operator

Article 26

- (1) Bodies which, on the basis of public health insurance, pension insurance, disability insurance or other insurance funds, have used funds entirely or partly for the payment of compensation for nuclear damage, for which the operator is liable pursuant to this Act, have a right of recourse against the operator, up to the amount actually paid.
- (2) Where, as in the case referred to in paragraph 1 of this Article, another person paid compensation instead of the liable operator, such person has a right of recourse against the operator up to the amount actually paid.

VI. PENAL PROVISIONS

Penal Provisions

Article 27

- (1) The operator shall be fined between 30 000 and 3 million Kuna if he fails to provide and maintain insurance or other financial security to cover his liability for nuclear damage (Article 16).
- (2) The insurer or financial guarantor shall be fined between 30 000 and 3 million Kuna if he cancels the insurance or the financial security before giving notice in writing to the competent state authority or during carriage (Article 17).
- (3) In cases referred to in paragraphs (1) and (2), the operator's, insurer's or financial guarantor's responsible officer shall be fined between 5 000 and 50 000 Kuna.

VII. FINAL PROVISIONS

Application of Other Regulations

Article 28

Those matters that are not regulated by this Act shall be governed by the provisions of the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963.

Repeal of Existing Act

Article 29

On the date of entry into force of this Act, the Act on Liability for Nuclear Damage (Official Gazette No. 53/91) will cease to have effect.

Entry into Force

Article 30

This Act shall enter into force eight days after its publication in the Official Gazette.