

# ROMANIA

## Law on Civil Liability for Nuclear Damage\*

adopted on 3 December 2001

### Chapter I

#### GENERAL PROVISIONS

##### *Article 1*

The objective of this Law is to regulate civil liability for the compensation of damage resulting from activities involving the utilisation of nuclear energy for peaceful purposes.

##### *Article 2*

The provisions of this Law are applied without discrimination based upon nationality, domicile or residence.

##### *Article 3*

In this Law:

- a) *nuclear accident* means any occurrence or series of occurrences having the same origin which causes nuclear damage or, from the perspective of preventive measures, creates a grave and imminent threat of causing such damage;
- b) *the competent national authority* is the National Commission for Nuclear Activities Control;<sup>1</sup>
- c) *nuclear fuel* means any material or mechanical assembly containing raw material or special fissionable material designed for the production of energy by a chain reaction of nuclear fission in a nuclear reactor;

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\* Unofficial translation kindly provided by the Romanian authorities.

1. *Comisia Nationala pentru Controlul Activitatilor Nucleare (CNCAN).*

d) *nuclear damage* means:

1. any loss of life or personal injury;
2. any loss of or damage to property;
3. any economic loss resulting from damage referred to in sub-paragraphs 1 and 2, insofar as is not included in these provisions, if it affects a person entitled to claim indemnification in respect of such loss;
4. the cost of measures of reinstatement of impaired environment pursuant to the occurrence of a nuclear accident, if such damage is significant, if such measures are actually taken or are to be taken and insofar as they are not included under the provisions of sub-paragraph 2;
5. any loss of income deriving from an economic interest in any utilisation of the environment, due to a significant impairment of the environment, insofar as such loss is not included under the provisions of sub-paragraph 2;
6. the costs of preventive measures and any loss or damage caused by such measures;
7. any other economic loss, other than any resulting from the impairment of the environment, if provided under the legislation on civil liability of the competent court.

Loss or damage provided under sub-paragraphs 1-5 and 7 are deemed to be nuclear damage provided that such loss or damage:

- arises from ionising radiation emitted by any source of radiation located in a nuclear installation or emitted from nuclear fuel, radioactive products or radioactive waste in a nuclear installation or from nuclear material originating in, coming from or sent to a nuclear installation;
- results from the radioactive properties of such material or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such material;

e) *radioactive waste* means those materials resulting from nuclear activities for which no utilisation has been assigned, which contain or are contaminated by radionuclides in concentrations exceeding the exemption limits;

f) *Special Drawing Right*, hereinafter referred to as SDR, means the unit of account defined by the International Monetary Fund and used by it for its own operations and transactions;

g) *nuclear installation* means:

1. 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 it is designed for propulsion purposes or for any other purpose;
2. any plant using nuclear fuel for the production of nuclear material and any plant processing nuclear material, including any plant for the reprocessing of irradiated nuclear fuel;

3. any installation in which nuclear material is stored, except for storage with a view to transport of nuclear material;

Nuclear installations belonging to one operator and located at the same site shall be considered as a single nuclear installation;

- h) *the competent court* is the county court whose territorial area hosts the main place of business of the operator of the nuclear installation;
- i) *nuclear material* means:
  1. any nuclear fuel, other than natural or depleted uranium, capable of producing energy through a chain reaction of nuclear fission outside a nuclear reactor, either alone or in combination with other materials;
  2. any radioactive product or waste, in compliance with the limits established by the Board of Governors of the International Atomic Energy Agency;
- j) *reasonable measures* means any measures which are adequate and proportional to the extent of the damage meant to reduce the consequences of nuclear accidents;
- k) *preventive measures* means any reasonable measures taken by any person after the occurrence of a nuclear accident, in order to prevent or minimise damage referred to under paragraph d), sub-paragraphs 1-5 and 7, in compliance with the decisions of the competent national authority;
- l) *measures of reinstatement* means any reasonable measures approved by the competent national authority, and which aim to reinstate or restore damaged or destroyed components of the environment and to introduce, wherever possible, the equivalent of these components into the environment;
- m) *operator* means the holder of the licence issued according to the provisions of Law No. 111/1996 on the Safe Deployment of Nuclear Activities,<sup>2</sup> republished;
- n) *person* means any natural or legal, private or public person, any international organisation with a legal personality according to law and any state or any of its constituent subdivisions;
- o) *radioactive product* means any radioactive material produced in or resulting from, or any material acquiring radioactive properties by exposure to the radiation incidental to, the production or utilisation of nuclear fuel but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any peaceful purpose other than the production of electrical energy;
- p) *nuclear reactor* means any structure containing nuclear fuel in such arrangement that a chain reaction of nuclear fission can occur therein without an additional source of neutrons.

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2. The text of this Law is reproduced in the Supplement to *Nuclear Law Bulletin* No. 59.

## Chapter II

### LEGAL REGIME APPLICABLE TO CIVIL LIABILITY FOR NUCLEAR DAMAGE

#### *Article 4*

- (1) The operator of a nuclear installation is objectively and exclusively liable for any nuclear damage proved to have been produced by a nuclear accident:
  - a) occurring in this nuclear installation;
  - b) involving nuclear material originating in this nuclear installation, and occurring:
    1. before liability for the nuclear damage regarding such material has been assumed, pursuant to a written agreement, by another operator;
    2. in the absence of an express provision in this respect contained in the agreement mentioned under sub-paragraph 1, before another operator has taken charge of the material;
    3. if the nuclear material was sent to a person within the territory of another state, before it has been unloaded from the means of transport by which it arrived on the territory of that state;
  - c) involving nuclear material sent to this nuclear installation, and occurring:
    1. after liability for the nuclear damage regarding such material was transferred to him by the operator of another nuclear installation pursuant to a written agreement;
    2. in the absence of an express provision in this respect contained in the written agreement, after he has taken charge of such material;
    3. if such nuclear material was sent, upon the written consent of the operator, by a person on the territory of another state, only after the material has been loaded on the means of transport by which it is to be carried from the territory of that state.
- (2) If the nuclear damage is caused by a nuclear accident occurring in a nuclear installation and involves nuclear material stored therein with a view to its transportation, the provisions of paragraph (1), sub-paragraph a) shall not apply where another operator or person is solely liable under the provisions of paragraph (1), sub-paragraph b) or c).
- (3) In the event of a nuclear accident occurring during the transport of nuclear materials, the civil liability for nuclear damage lies entirely with the carrier, who shall be considered as an operator for all the purposes of this Law, at the request of and with the consent of the operator concerned.
- (4) In the event that nuclear damage engages the liability of several operators, they are jointly and severally liable for the damage, insofar as the damage attributable to each operator is not reasonably separable. The liability of each operator may not exceed the amount applicable with respect to him pursuant to Article 8.

- (5) Subject to the provisions of paragraph (3), where several nuclear installations belonging to the same operator are involved in a nuclear accident, such operator shall be liable in respect of each nuclear installation involved up to the amount applicable with respect to him pursuant to Article 8.

#### *Article 5*

- (1) If the operator proves that the nuclear damage resulted, in whole or in part, either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage, the competent court may relieve the operator, in whole or in part, from his obligation to pay compensation in respect of the damage suffered by such person.
- (2) The operator shall be exonerated from liability if he proves that the nuclear damage is the direct result of an act of armed conflict, civil war, insurrection or hostilities.
- (3) Whenever both nuclear damage and non-nuclear damage have been caused by a nuclear accident or jointly by a nuclear accident and one or more other occurrences, the non-nuclear damage, to the extent that it is not reasonably separable from the nuclear damage, shall be deemed, for the purposes of this Law, to be nuclear damage caused by that nuclear accident.
- (4) The operator shall not be liable for nuclear damage caused to the nuclear installation itself or any other nuclear installation, including a nuclear installation under construction, on the site where that installation is located, or to any property on that same site which is used or to be used in connection with any such installation.
- (5) An individual who has caused nuclear damage by an act or omission done with intent to cause damage and for which the operator is not liable according to the provisions of paragraph (1), shall be liable for the nuclear damage caused.

#### *Article 6*

- (1) The nature, form and extent of the compensation, as well as the equitable distribution thereof, are established by the competent court, including when the nuclear accident has occurred in the exclusive economic zone of Romania.
- (2) If the damage to be compensated in respect of claims brought against the operator exceeds the amounts established in Article 8, priority in the distribution of the compensation shall be given to claims in respect of loss of life or personal injury caused by or resulting from a nuclear accident.

#### *Article 7*

No person shall be entitled to recover compensation under the provisions of this Law to the extent that he has recovered compensation in respect of the same nuclear damage under another international convention on civil liability for nuclear damage.

### Chapter III

#### NUCLEAR DAMAGE INDEMNIFICATION SYSTEM

##### *Article 8*

- (1) The liability of the operator is limited to not less than the equivalent in ROL (Romanian Lei) of 300 million SDRs for any one nuclear accident.
- (2) Based upon the approval of the competent national authority, the liability of the operator for any one nuclear accident may be limited to less than the equivalent in ROL of 300 million SDRs, but not less than the equivalent in ROL of 150 million SDRs, provided that the difference up to at least the equivalent in ROL of 300 million SDRs shall be made available by the State from public funds, with a view to covering nuclear damage under the terms of this Law.
- (3) For a ten-year period from the date of entry into force of this Law, upon the approval of the competent national authority, the liability of the operator may be limited to less than the equivalent in ROL of 150 million SDRs, but not less than the equivalent in ROL of 75 million SDRs in respect of a nuclear accident occurring within that period, provided that the difference up to the equivalent in ROL of 150 million SDRs shall be made available by the State from public funds, with a view to covering nuclear damage under the terms of this Law.
- (4) In the case of research reactors and installations for the storage of radioactive waste or spent nuclear fuel, the liability of the operator pursuant to the provisions of paragraphs (1) and (2) shall be at least the equivalent in ROL of 30 million SDRs, with the possibility of further reducing this sum to the equivalent in ROL of 10 million SDRs, provided that the difference up to at least the equivalent in ROL of 30 million SDRs shall be made available by the State from public funds, with a view to providing compensation for nuclear damage under the terms of this Law.
- (5) With respect to the transport of nuclear materials, the liability of the operator pursuant to Article 4, paragraph (3) is limited to the equivalent in ROL of 5 million SDRs; with respect to the transport of the nuclear fuel used in a nuclear reactor, the liability of the operator pursuant to Article 4, paragraph (3) is limited to the equivalent in ROL of 25 million SDRs.
- (6) The provisions of paragraphs (1)-(5) do not include interest and court costs.
- (7) The provisions of paragraphs (1)-(6) shall be explicitly set out in the operator's licence issued pursuant to Law No. 111/1996 on the Safe Deployment of Nuclear Activities, republished.

##### *Article 9*

The compensation ordered by the competent court in relation to nuclear damage, interest and court costs shall be expressed in ROL in compliance with the provisions of Article 8.

### ***Article 10***

Persons suffering nuclear damage may enforce their rights to compensation by one single action, without having to bring separate proceedings according to the origin of the funds provided for such compensation.

## **Chapter IV**

### **RIGHTS OF RECOURSE**

### ***Article 11***

- (1) The operator shall have a right of recourse only:
  - a) if this is expressly provided for by a contract in writing; or
  - b) if the nuclear accident results from an act or omission done with intent to cause damage, against the individual who has acted or omitted to act with such intent.
- (2) The right to recourse shall also extend to the State, insofar as it has provided public funds pursuant to the provisions of this Law.

## **Chapter V**

### **PRESCRIPTION OF COMPENSATION CLAIMS**

### ***Article 12***

- (1) The right to claim compensation from the operator shall be extinguished if an action is not brought within:
  - a) with respect to loss of life and personal injury pursuant to Article 3, paragraph d), sub-paragraph 1, 30 years from the date of the nuclear accident;
  - b) with respect to other nuclear damage pursuant to Article 3, paragraph d), sub-paragraphs 2-5 and 7, 10 years from the date of the nuclear accident.
- (2) The right to claim compensation from the operator shall be extinguished if an action is not brought within three years from the date on which the person suffering damage had knowledge or ought reasonably to have had knowledge of the damage and of the identity of the liable operator, provided that the periods established pursuant to paragraph (1) shall not be exceeded.
- (3) Any person who has suffered nuclear damage and who has brought an action for compensation, pursuant to the provisions of paragraph (1) may amend his claim to take into account any aggravation of the damage, even after the expiry of that period, provided that an irrevocable and irrefutable judgement has not been entered by the competent court.