



PRIORITY RULES ON COMPENSATION FOR NUCLEAR DAMAGE IN NATIONAL LEGISLATIONS

(Last updated: April 2018)




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Note: The information provided for some Contracting Parties to the 1960 Convention on Third Party Liability in the Field of Nuclear Energy (the Paris Convention) will only apply once the 2004 Protocol to amend the Paris Convention will enter into force. The Contracting Parties to the Paris Convention are identified by an **asterisk (*)**.




The [1997 Protocol to amend the Vienna Convention on Civil Liability for Nuclear Damage](#) provides in its Article 10 that a new paragraph 2 is added to Article VIII of the 1963 Vienna Convention as follows:






“Subject to application of the rule of sub-paragraph (c) of paragraph 1 of Article VI, where in respect of claims brought against the operator the damage to be compensated under this Convention exceeds, or is likely to exceed, the maximum amount made available pursuant to paragraph 1 of Article V, priority in the distribution of the compensation shall be given to claims in respect of loss of life or personal injury.”



The list of the parties to the 1997 Protocol is available [here](#).



State	Priority Rules on Compensation for Nuclear Damage	Last Updated
Australia 	No priority rules	December 2017
Austria 	No priority rules	December 2017
Belgium* 	No priority rules The implementing law of the 2004 Protocol amending the Paris Convention provides that when the claims exceeds or are likely to exceed the liability cap, the King, in agreement with the Council of Ministers, establishes the criteria for an equitable compensation.	March 2016


State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Canada</p> 	<p>No priority rules There is a provision under the Nuclear Liability and Compensation Act for priority rules to be established. 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 Tribunal. In such a case, the Government has the power under paragraph 80 (a) of the Canadian Nuclear Liability and Compensation Act to make regulations, which can: a) establish priorities for classes of damage, b) reduce the compensation award on a pro rata basis for specific classes and fix a maximum amount for a given class of damage, c) establish classes of damage that will not be compensated. However, no such regulations have been made.</p>	<p>April 2018</p>
<p>Czech Republic</p> 	<p>No priority rules</p>	<p>December 2017</p>
<p>Denmark*</p> 	<p>No priority rules</p>	<p>March 2016</p>
<p>Finland*</p> 	<p>No priority rules</p>	<p>April 2018</p>



State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>France*</p> 	<p>There are priority rules Article L. 597-14 of the French Environmental Code provides that if, as a result of a nuclear accident, it appears that the maximum amounts available are likely to be insufficient to compensate all damage suffered, a decree adopted in the Council of Ministers, published within six months of the date of the accident, shall record this exceptional situation and determine the arrangements for distributing the amounts.</p> <p>In that case, the amounts available shall be allocated as follows:</p> <ol style="list-style-type: none"> 1. priority shall be given to the compensation of bodily injuries in a manner to be determined by analogy with the legislation on occupational accidents and professional diseases; 2. the remaining amounts after this first compensation, if any, shall be allocated among the victims in proportion to any bodily injury still to be compensated and the other nuclear damage suffered. 	<p>December 2017</p>
<p>Germany*</p> 	<p>No priority rules Section 35 of the German Atomic Energy Act 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.</p>	<p>March 2016</p>
<p>Hungary</p> 	<p>There are priority rules Section 56 (2) and (3) of the Act CXVI of 1996 on Atomic Energy (the Atomic Act) provides that if it is probable that the nuclear damage caused by the nuclear accident will exceed the amounts defined in the Atomic Act, then on the basis of the Government's decision, until further action, only a specified portion of the amount of compensation of nuclear damage may be used to satisfy those entitled to receive compensation for nuclear damage. If the amount available for compensation is not enough to satisfy all those injured in full, the amount of compensation due to all of them is proportionately reduced.</p>	<p>December 2017</p>





State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Italy*</p> 	<p>There are priority rules Article 25 of Law no. 1860/1962 provides that in case of multiple court proceedings and when it is expected that the amount of compensation may exceed the financial guarantees referred to in this Law, the President of the Court of First Instance, which has jurisdiction for the actions for damages caused by nuclear accidents, shall order a competition procedure and appoints for that purpose a delegated judge to that competition procedure. In the event that the financial guarantees are found to be insufficient, the Court of First Instance shall reduce by a proportional ruling the amount for each injured.</p>	<p>December 2017</p>
<p>Japan</p> 	<p>No priority rules</p>	<p>December 2017</p>
<p>Korea</p> 	<p>No priority rules</p>	<p>June 2017</p>
<p>Luxembourg</p> 	<p>No priority rules</p>	<p>June 2017</p>
<p>Mexico</p> 	<p>No priority rules However, in accordance with Article 18 of the Act on Third party liability for Nuclear damage, the following cases of nuclear damage should be compensated on a priority basis:</p> <ul style="list-style-type: none"> a) Loss of life; b) Loss of total capacity; and c) Partial disability. 	<p>June 2017</p>

State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Netherlands*</p> 	<p>There are priority rules Pursuant to the Act of 17 March 1979 containing rules on liability for damage caused by nuclear accidents, if the total amount of the claims submitted exceeds the maximum amount of liability of the operator according to the Act (the “nuclear liability amount”), the amount stated in Article 3 (a) of the Brussels Supplementary Convention, or the amount to be provided by the State according to the Act, the following rules shall apply to the claims in each case in so far as they can be met out of these amounts:</p> <p>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 paragraph (a) above, the claims shall be reduced proportionately; c) where the claims relate both to damage as referred to in paragraph (a) and to damage as referred to in paragraph (b):</p> <ul style="list-style-type: none"> • 2/3 of the nuclear liability amount shall be allocated solely for the payment of the claims as referred to in paragraph (a) (which claims shall, if necessary, be reduced proportionately), • the remaining 1/3 shall be allocated for the payment of the claims as referred to in paragraph (b) and of the claims as referred to in paragraph (a), in so far as the latter claims would otherwise not be paid, • if an amount is left over after full payments of the claims referred under (a) it will be used for the payments for claims referred to under (b) if not already compensated. <p>Pursuant to Section 18 (1) of the Act, if on the territory of the Netherlands as a result of a nuclear accident damage is suffered for which compensation is required to be paid under the Brussels Convention or the Act, and the funds available are inadequate to compensate for damage, the State shall make available the public funds required to pay compensation for that damage up to an amount of 2,268,901,080.45 Euros. Pursuant to Section 27 (2) of the Act, when applying the Section 18 the compensation for claims in respect of damage to persons instituted after a period of ten years has elapsed since the date of the nuclear accident shall be at least ten per cent of this additional amount to be made available by the State.</p>	<p>April 2018</p>
<p>Norway*</p> 	<p>There are priority rules Under Section 32(1) of the Norwegian Atomic Energy Act of 1972, if the amount of liability available under the Paris Convention and the Brussels Supplementary Convention 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 available funds cannot fully cover all claims.</p>	<p>March 2016</p>


State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Poland</p> 	<p>There are priority rules</p> <p>The priority rules on compensation for nuclear damage are established under Articles 102 and 103c of the Atomic Law of Poland. In accordance with the Atomic Law, the operator’s liability for nuclear damage is limited to the amount equivalent to SDR 300 million (Article 102.1). In the event the claims for nuclear damage exceed this amount, the operator shall establish a limited liability fund, of which the procedures for the establishment and distribution shall be regulated, as appropriate, by the provisions of the Sea Code on the limited liability for sea claims subject to Articles 102 (3) to (5) of the Atomic Law. If, apart from the damage to the property or environment, nuclear incident causes also loss of life or personal injury, 10% of the corresponding insurance guarantee shall be earmarked for settling the claims involving nuclear damage resulting in loss of life or personal injury (Article 103c.1). If within 5 years from the date of nuclear incident the claims against the operator involving nuclear damage resulting in loss of life or personal injury do not exceed the total amount of the guarantee earmarked exclusively for settling such claims, then the remainder of this guarantee shall be used for settling the claims involving damage to the property or environment, and also the claims for loss of life or personal injury brought up not later than within 10 years from the date of the nuclear incident (Article 103c.2). 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 SDR 300 million. Claims for the compensation of personal injury shall not be barred by limitations in time (Article 105.1).</p>	<p>December 2017</p>
<p>Portugal*</p> 	<p>No priority rules</p>	<p>December 2017</p>

State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p data-bbox="230 587 338 651">Slovak Republic</p> 	<p data-bbox="387 320 667 347">There are priority rules</p> <p data-bbox="387 392 1686 488">Para 5 of Section 7 of Article 1 of the Act No. 54/2015 Coll. On Civil Liability for Nuclear Damage and on its Financial Coverage (adopted by the Parliament on 19 March 2015 and effective on 1 January 2016) provides that:</p> <ul style="list-style-type: none"> <li data-bbox="439 536 1686 667">a) 50% of the financial volume intended to cover the liability for nuclear damage in accordance with section 5, par. 1, 2 or 3 [of the Act] shall be allocated to full or pro rata compensation for nuclear damage, which was applied to the end of the sixth month following the date of the nuclear incident, which resulted in nuclear damage; <li data-bbox="439 679 1686 847">b) Another 30% of the financial volume intended to cover liability for nuclear damage in accordance with Section 5, par. 1, 2 or 3 and the unused portion of the volume under subpar. a) shall be allocated to full or pro rata compensation for nuclear damage, which has been applied from the beginning of the seventh month until the end of the 24th month from the date of the nuclear incident, which resulted in nuclear damage; <li data-bbox="439 860 1686 1027">c) Further 20% of the financial volume intended to cover liability for nuclear damage in accordance with Section 5, par. 1, 3 or 3 and the unused portion of the volume under subpar. a) shall be allocated to full or pro rata compensation for nuclear damage, which has been applied from the beginning of the 25th month until the end of the tenth year from the date of the nuclear incident, which resulted in nuclear damage. 	<p data-bbox="1805 660 1928 687">April 2018</p>

State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Slovenia*</p> 	<p>There are priority rules Under Article 16 of the Act on Liability for Nuclear Damage, if the amount of the operator's liability for nuclear damage is not sufficient to provide for the full compensation to the injured parties, the following must be taken into account in the settlement of compensation claims:</p> <ul style="list-style-type: none"> • if the claims relate in part to damage arising from the loss of life or a personal injury and in part to other damage; <ul style="list-style-type: none"> a. 2/3 of the available resources shall be allocated immediately to cover the damage arising from the loss of life or a personal injury in its entire amount or in proportion to the available resources, b. 1/3 shall be allocated to cover the claims for other damage, • if the damage arising from the loss of life or a personal injury is fully or in part compensated for by the resources of the social or health insurance, the right of recourse of those paying the compensation shall be considered as claims for other damage. 	<p>December 2017</p>
<p>Spain*</p> 	<p>There are priority rules</p> <p>The Nuclear Energy Law (only applicable until the entry into force of the 2004 Protocol amending the Paris Convention) provides priority rules for compensation of nuclear damage:</p> <ol style="list-style-type: none"> 1. <i>first</i>: Injury to persons, which shall be compensated, depending on the cases, at least, with the quantity that would correspond by the application of the Industrial Insurance tables. The individual compensations shall in no case be liable to apportionment, and in case the coverage is not sufficient to bring satisfaction, the State shall arbitrate the legal methods to cover the difference. 2. <i>second</i>: Damages to the estate of persons, which shall be compensated for, once all the personal injury claims have been satisfied. In case the coverage should not be sufficient an apportionment shall be carried out, taking into account the extent of the injuries suffered by each estate. 	<p>April 2018</p>

State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Sweden*</p> 	<p>No priority rules The implementing law of the 2004 Protocol amending the Paris Convention provides that the payment shall be divided proportionally so that the ratio between each claimant’s claim and the compensation paid is the same for all claimants; and payments shall be paid in instalments divided proportionally.</p>	<p>March 2016</p>
<p>Switzerland^{i*}</p> 	<p>No priority rules The implementing law of the 2004 Protocol amending the Paris Convention provides that in case of major damage (i.e. if financial resources of the person liable, the private insurer and the Federal insurance, available for covering the damage, are likely to be insufficient to satisfy all claims) the Federal Assembly may establish a compensation ordinance to ensure an equitable distribution of the available funds by means of a Federal Order of general application, not subject to referendum.</p>	<p>April 2018</p>
<p>Turkey</p> 	<p>No priority rules</p>	<p>December 2017</p>
<p>United Kingdom*</p> 	<p>No priority rules</p>	<p>June 2017</p>

ⁱ On 9 March 2009, Switzerland deposited its instrument of ratification of the 1960 Paris Convention as amended by the 1964, 1982 and 2004 amending Protocols (the revised Paris Convention) and on 11 March 2009 it deposited its instrument of ratification of the 1963 Brussels Supplementary Convention as amended by the 1964, 1982 and 2004 Protocols (the Revised Brussels Supplementary Convention). As ratifications are effective only with respect to the conventions as amended by all the respective amending protocols, entry into force for Switzerland of the RPC and RBSC will only take place once the 2004 Protocols to amend them have themselves entered into force.

State	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>United States of America</p> 	<p>No priority rules The federal legislation on nuclear indemnity and limitation of liability in the United States, the Price-Anderson Act (Section 170 of the Atomic Energy Act of 1954), does not provide priority rules concerning the indemnification of victims of nuclear damage. However, Section 170.o(1)(C) of the PAA provides that, when a plan of distribution is required because the liability limit may be exceeded, the US Nuclear Regulatory Commission must propose a distribution plan, including an allocation and prioritisation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims. The court can approve, modify or disapprove the NRC distribution plan and prioritisation. While not an express rule for prioritization of nuclear damage claims, this requirement suggests some prioritisation of claims based on the type of nuclear damage is contemplated in the PAA.</p>	<p>December 2017</p>