

PRIORITY RULES ON COMPENSATION FOR NUCLEAR DAMAGE IN NATIONAL LEGISLATION

Updated January 2022

Unofficial Document

This table aims to gather information on the priority rules on compensation for nuclear damage in national legislation that have been adopted by the NEA member countries and partner countries.

ACRONYMS OF INTERNATIONAL INSTRUMENTS IN THE FIELD OF NUCLEAR THIRD PARTY LIABILITY






- BSC:** 1963 Brussels Convention Supplementary to the 1960 Paris Convention (“Brussels Supplementary Convention”).
- CSC:** 1997 Convention on Supplementary Compensation for Nuclear Damage.
- JP:** 1988 Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention.
- PC:** 1960 Paris Convention on Third Party Liability in the Field of Nuclear Energy (“Paris Convention”).
- RVC:** 1997 Protocol to Amend the Vienna Convention (“Revised Vienna Convention”).
- VC:** 1963 Vienna Convention on Civil Liability for Nuclear Damage (“Vienna Convention”).
- ():** When between brackets, it means that the country has signed but not yet ratified the convention.





BACKGROUND INFORMATION







The [Revised Vienna Convention](#) is the only international instrument that establishes a priority rule in the distribution of the compensation in respect of loss of life or personal injury. The Revised Vienna Convention provides in paragraph 2 of Article VIII:





“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 Revised Vienna Convention is available [here](#). The only countries mentioned in the table that are parties to the Revised Vienna Convention are: Argentina, Poland, Romania and the United Arab Emirates.




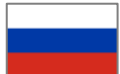
State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
Argentina 	VC, RVC, CSC, (JP)	No available information	October 2020
Australia 	(CSC)	No priority rules	December 2017
Austria 	(PC), (BSC)	No priority rules	December 2017
Belgium 	PC, BSC, (JP)	No priority rules According to Article 20, paragraph 2 of the Act of 22 July 1985 on Third-Party Liability in the Field of Nuclear Energy, as amended, when the claims exceed 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
Canada 	CSC	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.	April 2018



State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
Czech Republic 	VC, (RVC), JP, (CSC)	No priority rules	December 2017
Denmark 	PC, BSC, JP	No priority rules	March 2016
Finland 	PC, BSC, JP	No priority rules According to Section 20 of the Nuclear Liability Act, as amended (484/1972), if the maximum amount of liability of an operator of a nuclear installation situated in Finland or another Contracting State or the maximum amount of the aggregate liability referred to in Section 19, subsection 1 is not sufficient to satisfy in full the claims of those who have suffered nuclear damage and are entitled to compensation, their compensation and any interest accruing thereto payable from the insurance of the operator shall be reduced proportionally. If, following a nuclear incident, it is likely that a reduction pursuant to subsection 1 will prove necessary, the Financial Supervisory Authority shall have the right to decide that until further notice, the compensation payable shall be reduced to a fixed percentage.	January 2022
France 	PC, BSC, JP	<p><i>There are priority rules</i></p> <p>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. 	January 2022




State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
Germany 	PC, BSC, JP	No priority rules Section 35 of the German Atomic Energy Act, as amended, 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.	January 2022
Greece 	PC, JP	No available information	October 2020
Hungary 	VC, (RVC), JP	<i>There are priority rules</i> 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.	December 2017
Iceland 		No available information	October 2020
Ireland 		No priority rules	October 2017
Italy 	PC, BSC, (RVC), JP, (CSC)	<i>There are priority rules</i> Article 25 of Law No. 1860/1962, as amended, 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.	January 2022





State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Japan</p> 	CSC	No priority rules	December 2017
<p>Korea</p> 		No priority rules	June 2017
<p>Luxembourg</p> 		No priority rules	June 2017
<p>Mexico</p> 	VC	<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. 	June 2017

State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Netherlands</p> 	<p>PC, BSC, JP</p>	<p><i>There are priority rules</i></p> <p>Pursuant to the Act of 17 March 1979 containing rules on liability for damage caused by nuclear accidents, as amended (the “Act”), if the total amount of the claims submitted exceeds the 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;</p> <p>b) where the claims relate only to damage other than that referred to in paragraph (a) above, the claims shall be reduced proportionately;</p> <p>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 EUR 3.2 billion. Pursuant to Section 27(2) of the Act, when applying 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>January 2022</p>
<p>Norway</p> 	<p>PC, BSC, JP</p>	<p><i>There are priority rules</i></p> <p>Under Section 32(1) of the Norwegian Atomic Energy Act of 1972, as amended, 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>January 2022</p>

State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Poland</p> 	<p>VC, RVC, JP</p>	<p><i>There are priority rules</i></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>PC, (JP)</p>	<p>No priority rules</p>	<p>December 2017</p>
<p>Romania</p> 	<p>VC, RVC, JP, CSC</p>	<p><i>There are priority rules</i></p> <p>If in the actions against the operator the damage to be compensated exceed the amounts stipulated above, the cases of loss of life or injury caused by the nuclear accident or as a result of the accident have priority in the repartition of damages.</p>	<p>October 2017</p>
<p>Russia</p> 	<p>VC</p>	<p>No available information</p>	<p>October 2020</p>

State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p style="text-align: center;">Slovak Republic</p> 	<p style="text-align: center;">VC, JP</p>	<p><i>There are priority rules</i></p> <p>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"> 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; 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; c) Further 20% 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 25th month until the end of the tenth year from the date of the nuclear incident, which resulted in nuclear damage. 	<p style="text-align: center;">April 2018</p>
<p style="text-align: center;">Slovenia</p> 	<p style="text-align: center;">PC, BSC, JP</p>	<p><i>There are priority rules</i></p> <p>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 style="text-align: center;">December 2017</p>

State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p style="text-align: center;">Spain</p> 	<p>PC, BSC, (VC), (JP)</p>	<p><i>There are priority rules</i></p> <p>Article 11 of Law 12/2011 of 27 May on civil liability for nuclear damage or damage caused by radioactive materials provides for priority rules for compensation of nuclear damage, as follows:</p> <ol style="list-style-type: none"> 1. <i>first</i>: death or bodily injury to persons for claims lodged within the first 3 years from the date on which the incident occurred. 2. <i>second</i>: the cost of measures of reinstatement of impaired environment, the cost of preventive measures and any loss or harm caused by such measures, for claims lodged within the first 3 years calculated from the date on which the incident occurred, payable without further priority between such claims. 3. <i>third</i>: loss of any property; financial losses arising out of damage to persons or loss of life and damage to or loss of property; and loss of income directly related to the use or enjoyment of an environment that has been significantly impaired. Claims must be lodged within the first 3 years from the date on which the incident occurred. Compensation will be payable without further priority between such claims. 4. <i>fourth</i>: claims lodged after 3 years from the date on which the incident occurred will elapse; payable without further priority between such claims and up to the maximum limit of liability established. 	<p>January 2022</p>
<p style="text-align: center;">Sweden</p> 	<p>PC, BSC, JP</p>	<p>No priority rules</p> <p>Section 48 of the Law on Liability and Compensation for Nuclear Damage (SFS 2010:950) provides that if the funds to be used for the payment of insurance under this Law are insufficient for the full payment of compensation to all claimants, 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. Furthermore, Section 49 of the Law stipulates that if, following a nuclear incident, it is anticipated that the funds for paying compensation under this Law will be insufficient for the full payment of compensation to all claimants, compensation shall be paid in instalments divided proportionally in the manner specified in Section 48.</p>	<p>January 2022</p>
<p style="text-align: center;">Switzerland</p> 	<p>PC, BSC, JP</p>	<p>No priority rules</p> <p>Article 25 of the Federal Nuclear Energy Liability Act 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, not subject to referendum.</p>	<p>January 2022</p>

State	International Liability Convention	Priority Rules on Compensation for Nuclear Damage	Last Updated
<p>Turkey</p> 	<p>PC, JP</p>	<p>No priority rules</p>	<p>December 2017</p>
<p>United Arab Emirates</p> 	<p>RVC, JP, CSC</p>	<p><i>There are priority rules</i> According to Article 8.4 of the Federal Law by Decree No. 4 of 2012 Concerning Civil Liability for Nuclear Damage (the “Nuclear Liability Law”), where in respect of claims brought against the operator the damage to be compensated under the Nuclear Liability Law exceeds, or is likely to exceed, the maximum amount made available pursuant to the aforementioned Law, priority in the distribution of the compensation shall be given to claims in respect of loss of life or personal injury.</p>	<p>July 2021</p>
<p>United Kingdom</p> 	<p>PC, BSC, (VC), (JP)</p>	<p>No priority rules However, if Parliament determines to meet established claims by making funds available under section 16(3E) of the Nuclear Installations Act 1965, as amended, as sufficient funds are not available under the other applicable provisions of that Act, then section 16(3F) of that Act provides that Parliament may make different provision for different sorts of claims.</p>	<p>January 2022</p>
<p>United States of America</p> 	<p>CSC</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 (NRC) 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 prioritisation 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>