

# NUCLEAR REGULATORY LAW

NUMBERED 7381

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## SECTION FIVE

### Civil Liability Regarding Nuclear Damages

#### Liability of the Operator

**ARTICLE 12-** (1) Provisions of Paris Convention shall be applied in the event there are no provisions of this Law to nuclear damages resulting from nuclear incidents.

(2) This Section shall not cover to the damage caused by radioisotopes used or to be used outside a nuclear installation and have reached the final stage of fabrication so as to be usable for any industrial, commercial, agricultural, medical, scientific or educational purpose or from nuclear substances which quantity and activity are below the thresholds determined in the frame of Paris Convention.

(3) Regarding nuclear damages resulting from nuclear incidents; legal entity authorized by the Nuclear Regulatory Authority or the authorities in their country to operate a nuclear installation, legal entity who established the nuclear installation in the period before the license of operating the nuclear installation is granted, legal entity whose license is canceled and is operating the nuclear installation still until a new operator is established after the revoking of license shall be deemed as the operator.

(4) The operator shall be liable for nuclear damage and shall pay compensation without regard to whether itself, its personnel and the suppliers of technology, goods and services for the installation contributed to the occurrence of the nuclear incident, or without regard to fault.

(5) The operator shall not be liable for nuclear incidents directly caused by armed conflicts, hostile acts, civil war or insurrection.

(6) The operator shall be liable only within the scope of the provisions of Paris Convention and this Section regarding the compensation of nuclear damages caused by a nuclear incident.

(7) Cancellation, suspension or restriction of the authorization obtained by the operator from the Nuclear Regulatory Authority shall not extinguish the operator's liability under this Section.

(8) If the operator proves that the nuclear incident causing the nuclear damage has occurred due to the intentional acts or gross negligence of the person suffering by nuclear damage, the operator may partially or wholly fully be exempt from responsibility the order of competent court in respect of the damage suffered by such person.

(9) Within the scope of implementation of this Section, more than one nuclear installation being operated at the same site by one operator shall be treated as a single nuclear installation.

#### The limitations of the operator's liability

**ARTICLE 13-** (1) For each nuclear incident within the scope of this Section, the liability amounts for the operators shall be limited to the following;

a) Seven hundred million Euros for nuclear reactors that have a thermal power above ten megawatts and other nuclear installations to be determined by the Nuclear Regulatory Authority through an assessment performed before granting a license to operate a nuclear installation,

b) Seventy million Euros for nuclear installations that are not within the scope of subparagraph (a),

c) Eighty million Euros for the transportation of nuclear substances,  
d) Seven hundred million Euros for the transit pass of nuclear substances which occurs within the territory of Republic of Türkiye.

(2) Regarding the damages occurring in other countries, the amounts of liability determined in the first paragraph, within the framework of the principle of reciprocity, shall be applied as limited to the amount of liability established for nuclear damages arising from the nuclear incident in that country.

#### **The operator's obligation to have insurance or financial security**

**ARTICLE 14-** (1) The operators shall be obliged to have insurance or financial security in the amount of the upper limit for each nuclear installation or transportation as specified in the Article 13 and in accordance with the time frame and conditions established by the Nuclear Regulatory Authority.

(2) The operator shall have insurance or financial security for the amount of 80 million Euro during the transit of nuclear substances within the sovereignty of Republic of Türkiye.

(3) The operator shall not commence its operations unless the documents they submitted concerning the insurance contracts or financial security have been approved by the Nuclear Regulatory Authority.

(4) The operator shall have a new insurance or renew financial security before the expiry date of this insurance or financial security, instead of the expiring insurance or financial security. The Nuclear Regulatory Authority shall be informed of the renewed insurance or financial security. The conditions regarding the termination of the obligations of the Operator within this context shall be determined by the Nuclear Regulatory Authority.

(5) The insurance or financial security specified in the first and second paragraphs, shall not be suspended or revoked by the means of the insurance company or nuclear insurance pool or the guarantor without notifying the Nuclear Regulatory Authority in written form at least two months ago. If such insurance or other financial security is related with the transportation of nuclear substances, the insurance or financial security shall not be suspended or revoked during the transportation.

(6) The insurance or the financial security provided shall be used only for the compensation of nuclear damage in the event of a nuclear incident.

(7) The operator may be exempt from the obligation of having insurance or financial security if the operator is a public administration under the scope of central administration pursuant to Public Financial Management and Control Law dated 10/12/2003 and numbered 5018 or if his/her capital is wholly-owned by the State. In this situation, procedures and principles relating to how the State will undertake for the nuclear damage resulting from the nuclear incident shall be established by the decision of the President.

(8) The procedures and principles relating to implementation of this Article shall be established by the regulation to be prepared jointly by the Nuclear Regulatory Authority and Insurance and Private Pension Regulatory and Supervision Agency.

#### **Nuclear insurance pool**

**ARTICLE 15-** (1) A nuclear insurance pool shall be established in order to insure the obligations of the operator established in this Section. The procedures and principles relating to the process of the nuclear insurance pool shall be established by the regulation to be prepared by Insurance and Private Pension Regulatory and Supervision Agency, in consultation with the Ministry of Energy and Natural Resource and the Nuclear Regulatory Authority.

(2) The operator may provide the insurance or guarantee obligations established in this Section from the national or international markets partially or fully, or they may demand to be insured with the nuclear insurance pool.

(3) If the operator is not able to find an insurance or a guarantee or the insurance or guarantee provided by the operator is less than the amount specified in the Article 13, the shortage amount shall be covered in accordance with the procedures and principles to be determined by the President.

(4) If the existing insurance or guarantee is not able to cover the amounts specified in the Article 13 after a nuclear incident, the shortage amount shall be covered in accordance with procedures and principles to be determined by the President and shall be recourse to the operator.

#### **Compensation of nuclear damage**

**ARTICLE 16-** (1) The form and amount of the nuclear damage, based on the principles of absolute and exclusive, shall be assessed in accordance with Turkish Code of Obligations numbered 6098 dated 11/1/2011.

(2) The payments made separately to the persons suffering nuclear damages in accordance with the legislation on social insurance, private insurance and general health insurance shall be deducted from the compensation amount to be received by the persons suffering nuclear damages in accordance with the provisions of this Section.

(3) The right of recourse provisions of the social insurances, private insurances and general health insurances shall be reserved.

#### **Right of direct claim or action**

**ARTICLE 17-** (1) Person suffering nuclear damage, without prejudice to the provision of the second paragraph of Article 18, may claim compensation directly from the insurers, nuclear insurance pool and other financial guarantors as well as operator within the limits of liability.

(2) An action for compensation may be filed directly against the persons referred to in the first paragraph, without prejudice to the provisions of the second paragraph of Article 18.

(3) The person who acquire the rights within the scope of this Section by subrogation or assignment of claim may exercise the rights that are under the first and second paragraph.

#### **Nuclear Damage Determination Commission**

**ARTICLE 18-** (1) In the events where nuclear damage is expected to exceed the limits of liability amount specified in the Article 13, within two months at the latest from the date of the nuclear incident occurred, the President shall establish a Nuclear Damage Determination Commission (Commission) to evaluate the applications made by those who suffered nuclear damage for the compensation of the nuclear damage caused by the nuclear incident and to decide on the applications and this matter shall be announced in the Official Gazette and other appropriate instruments. The expenses of the Commission shall be covered from the budget of the Ministry of Energy and Natural Resources.

(2) In the event of the Commission being established pursuant to first paragraph, the nuclear damages arising from the nuclear incident shall be compensated through the Commission. The amount, which is within the liability limit of the operator, shall be collected by the Ministry of Treasury and Finance from the operator or his/her insurer or by converting financial security, which is provided by the operator, into money.

(3) The Commission shall request persons suffering from nuclear damage to apply to the Commission or other authorities to be determined by the Commission, by giving a period of at least one year and determining the expiry date with announcements to be made. In lawsuits brought with the purpose of determination or compensation of the nuclear damage by those who suffered from the nuclear damage before the establishment of the Commission, it shall be awarded that there is no need for a court decision and that the expenses incurred by the parties

be left on them based on the lawsuit file, attorney's fee shall not be awarded. These lawsuit files shall be submitted to the Commission to review without a new application requirement.

(4) In the events where the total amount of compensation to be paid to those who made applications duly in accordance with the procedure exceeds the liability amount limit, the Commission shall make a payment schedule that will allocate the amount constituting the liability amount limit. In the payment schedule, the damage suffered due to death or personal injury shall be compensated first. The President shall take the appropriate measures for the part that exceeds the liability amount limit.

(5) A lawsuit can be filed in Ankara administrative courts against the decisions made by the Commission.

(6) The Commission shall consist of seven members. The members shall be designated among public servants by the President. The Commission shall elect a chairman and a deputy chairman amongst themselves. The quorum of meeting and decision of the Commission shall be four. Members continue to receive their financial and social benefits from their institutions. The duty period of the members shall be taken into account when calculating their promotion and retirement and their promotion shall be done within the original time frame without the need for any further action. The commission members shall not be assigned any other duties until the applications are finalized. An attendance fee as much as the result of the indicator number of 30,000 multiplied by the civil servant salary coefficient shall be paid monthly to the Commission members. Issues relating to the qualifications of the Commission members, working procedures and principles, secretariat, announcement and application procedures, the determination of nuclear damage, the determination of prioritization of the compensation of nuclear damages, payment of the compensation, procedures and principles regarding the urgent economic measures to be taken by the President and other matters regarding the implementation of this Article shall be determined by a Presidential regulation.

### **Right of recourse and prescription**

**ARTICLE 19-** (1) The operator, the insurer, nuclear insurance pool, other financial guarantors and the State has the right of recourse against the real person who intentionally caused the nuclear incident that led to the nuclear damage.

(2) The operator, with the condition that the contract between them explicitly states it, has the right of recourse against the person, with whom they signed a contract, if and to the extent that is so provided in that contract.

(3) Except for cases in which nuclear damages are compensated, if the prescription specified in the fourth paragraph has not yet been expired, the right to claim compensation determined under this Section shall be prescribed after three years from the date when the person suffering nuclear damage has known of both the damage and the person liable.

(4) In any case, the right to claim compensation for the damage resulting from the loss of life and the damage caused to individuals' health, shall be prescribed after thirty years from the date when the nuclear incident occurred, and the right to claim compensation for other nuclear damage shall be prescribed after ten years from the date when the nuclear incident occurred.

(5) The right of recourse shall be prescribed after three years from the date when the person having a right of recourse has knowledge of such right and the compensation is paid, and in any case, after ten years from the date when the full amount of compensation is paid.

### **Competent Court**

**ARTICLE 20-** (1) In regard to a nuclear incident occurring in the sovereignty of the Republic of Türkiye or in the events where Turkish courts have jurisdiction pursuant to the Paris Convention and Joint Protocol relating to the Application of the Vienna Convention and

the Paris Convention of 21 September 1988 to which the Republic of Türkiye is a party, the courts of the Republic of Türkiye shall have exclusive jurisdiction.

(2) In the event that the courts of the Republic of Türkiye have jurisdiction pursuant to the first paragraph, the courts of Ankara shall be the competent court exclusively.

(3) In case the Commission is not established pursuant to Article 18, the court may order temporary payment to the person suffering nuclear damage pursuant to Article 76 of the Law numbered 6098, not exceeding the liability amount established in this Section.

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