



The Legal Regime Governing Compensation for Nuclear Damage in Iran and its Prospects

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Abstract

At present, the legal system governing nuclear activities in Iran is the general legal regime of civil liability. According to this system, the person/persons who causing damage are liable for compensation and the damage incurred must be fully compensated. The persons involved in nuclear activities have no duty to provide insurance for potential damages arising from their nuclear activities. Causes of actions regarding incurred nuclear damages are not subject to any time limit. Like other nuclear countries, the general legal regime of civil liability would not be appropriate to compensate such damages, and this was the main reason that, led Atomic Energy Organization of Iran, as the competent governing body, put drafting of a special law on civil liability for nuclear damage on its agenda and to this end formed a special working group. Now the draft is in approximately final phase of its preparation and it is scheduled to be sent to the cabinet in the form of a bill in the near future and if approved will submit to the parliament for its ratification.

Keywords: General rules of civil liability, Iran, Nuclear accident, Nuclear compensation, Draft law on civil liability for nuclear damage.

Introduction

Nuclear activities, like many other activities, contain Potential hazards and may cause losses to people, property and the environment. The specific nature of nuclear damages (the magnitude of its potential and the complexity of its proof) has led countries to deviate from general rules of civil liability and to adopt special laws to compensate such damages[1]. at present, most countries with nuclear activities have enacted and implemented these special laws. Iran is one of the countries with nuclear activity that date backs to nearly six decades[2]. what are the current rules of the country`s legal system regarding liability for nuclear damage and to what extent these rules are compatible with the relevant international norms are the main questions that has been studied and discussed by this article.

1. Legal rules governing compensation for nuclear damage

At the present situation, the rules governing compensation for damages caused by nuclear activity in Iran are the general rules of civil liability enshrined in the Civil Code adopted in 1307 HS(1928) and the Civil Liability Act adopted in 1339 HS(1960). According to these laws, in cases of nuclear damage, except in limited cases, The principle of proof of fault prevails and injured person entitled to compensation if he or she proves fault of damaging person. also, according to these laws, except in exceptional cases, damages must be fully compensated. Those engaged in nuclear activities have no duty to provide insurance for their liability for possible damages and there is no time limit for causes of actions[3]. Given the special nature of nuclear damage, these laws could not be considered as an appropriate legal mechanism for compensating such damages, and the adoption of a special law is necessary and inevitable.

2. Towards drafting a special law on civil liability for nuclear damage.

In 2020 The Atomic Energy Organization(AEOI), as a competent authority, giving the fact that the general rules of civil liability are not sufficient and appropriate to compensate nuclear



damages, established a special working group to draft a special law on nuclear liability. The draft that is in finalization phase contains five chapters and thirty articles and after approval in AEIOI will be sent to the cabinet for further discussions and approval and then to Parliament for review and ratification. The draft has taken into consideration the respected rules of the international regime on nuclear civil liability and the laws of some other countries and contains specific principles of nuclear civil liability. These principles include strict liability, fanatical limitation of nuclear operator liability, exclusive liability of the nuclear operator, the compulsory insurance of liability of nuclear operator, time limit in nuclear damage claims. of course, in some cases(extension of draft to all radiation sources and duty of government to compensate nuclear damages beyond the liability of the nuclear operator) the draft law differs from the norms of the international nuclear liability conventions.[4]

Conclusion

Although some of the principles governing nuclear civil liability contained in this draft may inconsistent with the general principles of law and the logic of justice, but it doesn't seem this inconsistency would be considered contrary to the requirements of the Iranian Constitution on the enactment of national laws. In practice, the Iranian parliament has already adopted these principles in maritime law area through the ratification of relevant international treaties and in principle approval of them in civil liability for nuclear energy could not be regarded contrary to the constitutional law requirements.

References

- [1] C. stober etal. *Handbook on Nuclera law*, IAEA, Vienna, 2003, p.107.
- [2]. .Daniel Joyner, *Iran Nuclear Program and International law*, Oxford University press, London, 2016 pp.4-5
- [3]. Seyed Hossein Safai, PhD, Habibollah Rahimi, *civil liability (Extra-contractual obligation)*, Publisher: SAMT, 1st edition 2010 Tehran
- [4]. AEIOI, International, Legal and Parliament department, Special Working Group for draft law on civil liability for nuclear damage, SWC-DR-04; <https://aeoi.org.ir/File/ShowFile.aspx?ID=58def0f7-199b-457c-be3a-314233627fb9>