

THE SIGNIFICANCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) FOR INTERNATIONAL NUCLEAR SAFETY AND THE POSITIONING OF SERBIA

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Abstract: The International Atomic Energy Agency (IAEA) was created in 1957 in response to the fear created by the different uses of nuclear technology, with the aim of promoting the safe, secure, and peaceful use of nuclear technology. The safety standards of the IAEA, although not legally binding, are developed to ensure that the peaceful uses of nuclear energy and of radioactive materials enable States to meet their obligations under generally accepted principles of international law. The IAEA does not control all nuclear facilities in the world, but only those that the Member States have subjected to such supervision. The IAEA works in close partnership with the Member States (173 according to data from April 2021) in order to maximize the contribution of nuclear science and technology to development. In October 2001, our country re-joined the membership of the IAEA, the world's leading organization for solving problems related to nuclear energy. What role nuclear energy will play in the future depends on what goals we intend to use it for. The Law on Radiation and Nuclear Safety and Security from 2018 establishes the Serbian Radiation and Nuclear Safety and Security Directorate for performing regulatory control of activities regulated by this law.

Keywords: Nuclear safety, IAEA, Serbia, law, world

INTRODUCTION

A long time ago, Seneca wrote that no life is safer than another and that no one is safe for tomorrow. Now, we are more than 24 months into the pandemic, and more than 270 million people worldwide have been infected

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with the coronavirus. There are many challenges in the post-COVID-19 period, and environmental matters are high on the agenda. When we talk about the most serious risks that threaten the environment from activities in the field of energy, we have in mind the consequences of human activities that affect climate change, on the one hand, and possible disasters caused by the failure of ultra-risky installations (primarily nuclear) or in other ways (Tomić-Petrović, 2003). We live in a time of general uncertainty. There is a war in Ukraine, and the rapid development of the use of nuclear energy for peaceful purposes and the danger of its use in war have created numerous problems that require legal regulation of everything directly related to the use of nuclear energy. Technology is the one that always escapes the law, at least one step. The world's top experts in nuclear law are meeting at the IAEA headquarters this week to examine the current nuclear law framework in the changing landscape of technology, opportunities, and challenges – and chart a vision for the future. Although nuclear power plants, when in good condition, do not pollute the atmosphere, they are potentially ultra-risky plants in the event of an accident. Another problem is the disposal of radioactive waste from these plants. (Vukasović, 2005, p. 643). The probability that a radiation accident will happen is small, but still, during the period from 1940-1984, approximately 250 radiation accidents were reported, involving over 600 exposed persons. (Conklin J, 1987, p. 348). After the nuclear accident that happened in 2011, six young Japanese filed a lawsuit against the owner of the Fukushima nuclear plant after they got cancer¹. The plaintiffs were between 6 and 16 years old when the worst nuclear disaster in Japan occurred, which happened after the strong earthquake on March 11, 2011, which caused a tsunami. In March 2022, an earthquake struck again near Fukushima. When it comes to nuclear energy, environmental disasters spread beyond states' borders, and any pollution of the environment of a country or a region would endanger the population in much wider areas. Have you ever wondered how safe and reliable nuclear power plants are in the environment of our country? Our country, although without nuclear power plants, is in a nuclear ring. Regarding the legal norms that should regulate and prevent the danger of environmental pollution, the question arises whether modern technology can be controlled by law, which, on the one hand, provides great benefits to man, but on the other hand, threatens his survival.

¹ All of them have been diagnosed with thyroid cancer. The lawsuit is seeking \$ 5.4 million in damages from the Tokyo Electric Power Company (TEPCO).

THE ROLE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

The International Atomic Energy Agency (IAEA) is the world's center for cooperation in the nuclear field and was established with the aim of promoting the safe, secure, and peaceful use of nuclear technology. The IAEA was created in 1957 in response to the fears and expectations generated by the discoveries and different uses of nuclear technology. The Agency was set up as the world's "Atoms for Peace" Organization within the United Nations family. In the same year, Queen Elizabeth II inaugurated the world's first commercial nuclear plant in England, and 81 member states of the United Nations accepted the Statute of the International Atomic Energy Agency. The objectives of the IAEA's dual mission – to promote and control the Atom – are defined in Article II of the IAEA Statute. The IAEA's headquarters were established in Vienna, Austria in October 1957. The IAEA also has two regional offices located in Toronto, Canada (since 1979) and Tokyo, Japan (since 1984), as well as two liaison offices in New York City, the United States of America (since 1957) and Geneva, Switzerland (since 1965). The Agency runs laboratories specializing in nuclear technology in Vienna and Seibersdorf, Austria, which was opened in 1961; and since 1961, in Monaco. Total membership of the organization represents 173 members (as of April 7, 2021), and eighteen ratifications were required to bring the IAEA's Statute into force on July 29, 1957. Serbia became a member of the organization in 2001. The IAEA works in close partnership with the member states, the United Nations agencies, research organizations, and civil society to maximize the contribution of nuclear science and technology to development. The IAEA's policy-making bodies comprise the General Conference of all member states and the 35-member Board of Governors. The General Conference meets in a regular annual session to consider and approve the IAEA's budget and to decide on other issues raised by the Board of Governors, the Director General, and the member states. The Board of Governors considers applications for membership, approves safeguards agreements and approves the publication of the IAEA's safety standards. It also appoints the Director General of the IAEA, with the approval of the General Conference. The Board meets five times per year, also in Vienna. Effective detection of radioactive contaminants, prevention of environmental contamination and removal of such substances from the environment is one of the basic missions of ecology. In the case of radioactive contamination due to a nuclear accident, the limits of radioactive contamination prescribed by the IAEA are applied. Decontamination of people and the environment is also performed according to the

methodology prescribed by the IAEA. The harmonization of solutions for protection from ionizing radiation has been achieved, especially in the internal legislation of the member states of the European Union, and is based on the basic rules of Euratom (Tomić-Petrović, 2011). In different countries, the solutions to the problem of control in the field of nuclear energy use are very different and are related to the position and the level of development of each country, because some have a sufficient number of experts, while others have only a few people with the necessary specialist knowledge. For some, the development of nuclear science has become a symbol of progress and an instrument for overcoming backwardness, while for others it is still a symbol of power and strength, one of the instruments of economic domination. China alone is building 16 nuclear reactors. After the urgent suspension of work, the only Iranian nuclear power plant, "Bushehr", was put into operation again, and its work is supervised by the IAEA. In January this year, North Korea launched 6 missiles, while the announcement of the moratorium lifting on conducting nuclear tests causes concern. And during March, Iran will be negotiating with the representatives of the world powers on the renewal of the Agreement on the Iranian nuclear program in Vienna. The International Atomic Energy Agency is implementing a program intended for the general advancement of nuclear and related technologies for peaceful uses. The invisible (gamma) radiation used in archeological research in China as a scientific procedure has also been accepted during restoration in the largest museums in Europe and the United States (see: Broad, 2006, p. 8). Partnerships in education are essential and the IAEA continues to provide support to the member states, including through the IAEA research program's doctoral mechanism. By joining forces in education for cancer diagnosis and treatment with almost 30 global and national partners, the IAEA facilitates the development and sharing of the latest knowledge, data, technology, skills, and research in these specialized areas. (Dojcanova, 2022, p. 12).

NUCLEAR ENERGY CLIMATE-ACCEPTABLE INVESTMENT

This year, there is a lot of discussion about the controversial decision of the European Commission to include gas and atomic energy in the transitional climate-acceptable energy sources. "Greenpeace" called Brussels' decision to award a green label to gas and nuclear energy the biggest demonstration of eco-manipulation, while the European Commission explains that it is a transitional solution for achieving climate neutrality in the Old Continent by 2050. Although Germany, Austria, and

Spain consider nuclear energy dangerous, they probably will not be able to stop the European Commission's proposal to classify it as a climate-friendly investment. On the last day of 2021, Germany closed three of the six remaining "Brockdorf" nuclear power plants. Britain plans to build eight new nuclear reactors and expand wind energy production. The government announced that it intends to almost triple its nuclear power production capacity to 24 gigawatts by 2050. Jan Haverkamp from the World Energy Information Service believes that the future should be renewable and clean, and that there is no place for nuclear power plants in it. The main problems are: the gap in financial resources for the decomposition of radioactive waste; the lack of funds for waste management (according to the European Commission's estimate of more than 500 billion Euros); and the lack of trained people to deal with this problem. In its opinion, nuclear power plants and nuclear energy are too small, too late, and too expensive to contribute to climate policy. Many, like Austrian Chancellor Karl Nechamer, believe that nuclear energy is neither green nor sustainable. There is a possibility of a lawsuit before the European Court of Justice over a controversial regulation created as a result of a compromise to satisfy France, which is heavily dependent on nuclear energy, and Germany, which shuts down its nuclear power plants but needs gas in the period of transition to green energy sources. Despite the disasters at nuclear power plants, it seems that the global panic over climate change has reduced the fear of nuclear energy. According to the IAEA, only 10% of the world's total electricity today comes from 445 nuclear reactors located in more than 30 countries. Although 193 nuclear reactors were shut down between 2005 and 2020, the trend has begun to change. In 2021, 54 new nuclear reactors were being built in the world, mostly in China (16), India (6), and South Korea (4), while new reactors are being built in Russia, Great Britain, Turkey, and the United Arab Emirates. In 2021, five new reactors were completed in China, India, Pakistan, and the United Arab Emirates, and the construction of seven more began (China, India, Russia, and Turkey). The United States has the largest number of active nuclear reactors in the world – 93 – but it has shut down 39 nuclear reactors so far, and the construction of two new reactors in Georgia is underway. Announcements about the importance of the role of nuclear energy in reducing carbon dioxide emissions into the atmosphere are coming from many countries. According to the IAEA report, 106 nuclear reactors are operating in 13 EU member states, which provide 26% of the total electricity produced in the Union. And more than half of the electricity obtained from nuclear power plants in the EU is produced by only one country – France. That is why Paris, with the support of 9 other EU

members, asked the European Commission to assign a “green label” to nuclear energy because nuclear power plants have a carbon footprint at the level of wind farms. However, according to V. Alison, nuclear energy is not a “vaccine for climate change” but is a component in the process of reducing carbon dioxide emissions.²

SERBIA IN THE NUCLEAR WORLD

In October 2001, Yugoslavia, i.e., the Institute for Nuclear Sciences in Vinča, returned to the IAEA, the world’s leading organization for solving problems related to nuclear energy. In 2003, the IAEA implemented projects in Serbia that were expected to last four years when a cyclotron/accelerator plant was set up at the Vinča Institute near Belgrade, and the results were expected to contribute significantly to public health services. Until today, the Vinča Institute has developed international cooperation with scientific institutions all over the world, as well as over 60 international projects classified in the following programs: EU FP7, EU H2020, COST, IAEA, Bilateral, EUREKA, and ERASMUS. In Serbia, nuclear technologies have not been studied at technical faculties for more than 25 years. The law banning the construction of nuclear power plants, i.e., the moratorium on the construction of such facilities, in Yugoslavia was passed in 1989, after the disaster that occurred in April 1986 at the Chernobyl nuclear power plant. Representatives of the Directorate for Radiation and Nuclear Safety and Security of Serbia (SRBATOM) say that the moratorium stopped the education of staff at the Faculties of Mechanical and Electrical Engineering in Belgrade, who would monitor the construction and operation of these plants, due to the low interest of students who did not have employment prospects. At the Faculty of Electrical Engineering, there is a Department of Physical Electronics, which a few decades ago dealt much more with nuclear energy. There is now one major in biomedical and environmental engineering. At the Department of Thermal Power Engineering of the Faculty of Mechanical Engineering in Belgrade, they are still educating personnel in nuclear engineering. However, *inter arma silent musa* (Neither art nor science is nurtured during the war). In December 2021, Serbia signed an agreement with the state-owned Russian corporation “Rosatom” to build a Center for Nuclear Medicine. It is planned to build a Center for Nuclear

² The carbon footprint represents the total quantity of energy obtained from sources that create greenhouse gases.

Medicine on the basis of a cyclotron complex in the next three years, as well as facilities for the production of radiopharmaceuticals. Thus, Serbia returns to the map of European countries that have the capacity for scientific research in the field of nuclear technology. The Radiopharmaceutical Complex and the Center for Nuclear Medicine will provide accessible, high-tech medical care for the citizens of Serbia, aimed primarily at solving problems in the fight against oncological diseases. Within a maximum of 400 kilometers from the borders of Serbia, there are the "Kozloduy" nuclear power plants in Bulgaria, where work is underway on the "Belene" power plant, the "Paks" in Hungary, the "Krško" in Slovenia, and the "Cherne Vode" in Romania. The mentioned Law on banning the construction of nuclear power plants does not prohibit the possibility for the state of Serbia to be a co-owner of some of the nuclear power plants outside our territory. In recent months, we heard about the possibility of Serbia buying 10% of the "Paks II" nuclear power plant in Hungary and becoming a minority co-owner (if Hungary agrees) and thus providing the missing megawatts to purify the air of carbon dioxide and other lignite combustion products. By signing the Declaration on the Green Agenda for the Western Balkans from November 2020, Serbia has committed itself to completely stopping the use of coal by 2050. Not so long ago, the public in Serbia was informed that, within the study on the possible localization for the construction of a nuclear power plant in our country, the place of Kostolac, on the territory of the municipality of Požarevac, was selected. The public was quite upset in 2002 and the tension is still present when it comes to this issue. *Homo quantum scit, tantum potest* (As much as a man knows, that much he can). The discussion about the levels of radioactivity here and in the European Union became relevant when the famous Fructal blueberry juice was delivered to Serbia and Montenegro, which was "enriched" with cesium, a radioactive element that was found in large quantities in nature after the Chernobyl accident. Therefore, it is necessary to act preventively and protect citizens from those who would try to import radioactive food, and the value of allowed radioactivity in food and beverages should be harmonized with the values of the World Health Organization due to its traditional objectivity. Control of illicit and illegal trade of radioactive and nuclear materials across the border of the Republic of Serbia is performed by members of the Customs Administration at border crossings in accordance with the Regulation on the Control of Radioactivity of Goods in Import, Export, and Transit with the expert support of the Agency for Protection against Ionizing Radiation and Nuclear Safety of Serbia, which was established in 2009 (Official Gazette of the Republic of Serbia, 2011, 2018, 2019). In the Republic

of Serbia, the Law on Radiation and Nuclear Safety and Security regulates measures of radiation and nuclear safety and security, conditions for performing activities with radiation sources, and acting in the situation of planned, existing, and extraordinary exposure to ionizing radiation in order to protect individuals, the population, and the environment from the harmful effects of ionizing radiation, now and in the future (Official Gazette of the Republic of Serbia, 2018, 2019a). This Law establishes the Directorate for Radiation and Nuclear Safety and Security of Serbia for the purpose of performing regulatory control of activities regulated by this Law. The Criminal Code of the Republic of Serbia regulates the criminal offense of illicit construction of nuclear facilities and imprisonment from six months to five years for anyone who approves or starts the construction of a nuclear power plant, nuclear fuel production plant, or spent nuclear fuel reprocessing plant (Official Gazette of the Republic of Serbia, 2005, 2009, 2012, 2013, 2014, 2016, and 2019b).³ Natural resources are not evenly distributed in the world, and some countries do not have the opportunity to choose. It seems that our country has not fully used its natural resources and does not have to hurry with the construction of a nuclear power plant.

IAEA SAFETY STANDARDS - GUARANTEE FOR THE FUTURE

The IAEA safeguards are technical measures embedded in safeguards agreements, which are implemented by the IAEA to provide the international community with assurances that nuclear material remains in peaceful use. Under the terms of Article III of its Statute, the IAEA is authorized to establish standards of safety for protection against ionizing radiation and to provide for the application of these standards to peaceful nuclear activities. The IAEA's safety standards are not legally binding on the member states but may be adopted by them, at their own discretion, for use in national regulations in respect of their own activities. The standards are binding on the IAEA in relation to its own operations and on states in relation to operations assisted by the IAEA. However, it should be recalled that the final decisions and legal responsibilities in any licensing procedure belong to the states. Although the safety standards establish the basis for safety, the incorporation of more detailed requirements, in accordance with national practice, may also be necessary. Moreover, there will generally be special aspects that need to be assessed by experts on a case-by-case basis.

³ Article 267. of the Criminal Code of the Republic of Serbia.

The development of safety standards is overseen by the Advisory Commission for Safety Standards, the Nuclear Safety Standards Advisory Committee, the Radiation Safety Standards Advisory Committee, the Transport Safety Standards Advisory Committee, and the Waste Safety Standards Advisory Committee, and the member states are widely represented in these bodies. Safety standards are also submitted for comment to all member states before approval by the IAEA in order to ensure the broadest international consensus. According to the Requirements for Legal and Governmental Infrastructure for Nuclear, Radiation, Radioactive Waste and Transport Safety, the prime responsibility for safety shall be assigned to the operator. The operator shall have the responsibility for ensuring safety in the siting, design, construction, commissioning, operation, decommissioning, close-out or closure of its facilities, including, as appropriate, rehabilitation of contaminated areas; and for activities in which radioactive materials are used, transported or handled. Organizations which generate radioactive waste shall have responsibility for the safe management of the radioactive waste that they produce. Aware of the enormous danger posed by the transport of radioactive materials, it seems to us that the norms of the IAEA are most often respected in practice. Since during the transport of radioactive material, primary reliance for safety is put on the use of approved packaging, it is the responsibility of the consignor to ensure the appropriate selection and use of packaging. Compliance with the requirements imposed by the regulatory body shall not relieve the operator of its prime responsibility for safety. The International Commission on Radiological Protection (ICRP) is the world's leading organization for radiation protection, and the ICRP recommendations form the basis of national regulations and standards that have been accepted by a majority of countries in order to more effectively implement radiation protection measures. Based on the basic recommendations of the ICRP, the IAEA elaborates them in more detail and turns them into standards (in the form of recommendations) used in the process of regulating the work and handling of ionizing radiation sources. The radiation protection system recommended by the ICRP implies that: 1) any action must bring more benefits than harm, and the reduction of harm must be such as to justify the harm, including the social value of the achievement; 2) the manner, scope, and duration of the action must be optimized, and the benefit in order to reduce the radiation damage must be obviously greater than the damage that the action produces. (Župančič, 1993, p. 49). The fact that the International Agency did not have insight into the operation of the plant leaves open the question of whether international

safety standards were fully respected ... when the disaster (in Chernobyl) occurred because the USSR did not immediately inform the international public about the danger to not only neighbors but also much more distant countries. (Obradović, 1986, p. 229). The safety of facilities and activities is of international concern. Several international conventions relating to various aspects of safety are in force. National authorities shall establish arrangements for the exchange of safety-related information, bilaterally or regionally, with neighboring states and other interested states in order to fulfill safety obligations and promote cooperation. Under the terms of Articles III and VIII.C of its Statute, the IAEA makes available and fosters the exchange of information relating to peaceful nuclear activities and serves as an intermediary among its member states for this purpose. The IAEA Incident Reporting System (IAEA-IRS) is ratified with an annex (established in the IAEA) by the IAEA Incident Reporting System Ratification Regulation (IAEA-IRS) adopted in the Socialist Federal Republic of Yugoslavia in 1987 (Official Gazette of SFRY, 1987). This document describes the IAEA Incident Reporting System (IAEA-IRS) for the collection, assessment, and distribution of information on irregularities of importance for safety (incidents) in nuclear power plants, including the administrative procedure for the participation of member countries in this system. As soon as the IAEA receives the incident report or supplemental report, it will forward it to all IAEA-IRS participants. All participants will appoint a coordinator who will be in charge of receiving and distributing information received from the IAEA, as well as submitting information to the IAEA according to this system. All information provided to the IAEA in accordance with the IAEA-IRS system will be distributed exclusively through the coordinator. The IAEA maintains an illicit trade database, which consists of reports of theft, smuggling, or loss of control over nuclear material. In one year alone, 149 such incidents have been reported. Fortunately, none of these incidents involved a significant amount of nuclear material or a strong radioactive source. In the last two decades, the international community has made great progress in securing these materials. (El Baradei, 2007, p. 6). It is important that the efforts of the states be focused as soon as possible on the precise regulation of the peaceful use of nuclear energy. It should be borne in mind that the IAEA does not control all nuclear facilities in the world but only those that have been subjected by the member states to such supervision of the Agency. (Obradović, 1986, p. 230).

CONCLUSIONS

The COVID-19 pandemic constraints are here to stay. The international community was not immediately aware of the dangers nuclear technology presented. That gradually changed, thanks primarily to the negative experiences gained through the practice of using them. The result of that knowledge was the need, in the name of protecting the general interest, to set certain limits to the right of states to use modern scientific achievements in their own interests and all in order to preserve the human environment. In international law, states are responsible for failing to fulfill their environmental obligations. State responsibility for environmental damage is a necessary element of every environmental protection regime, and the territory of a state must not be used in such a way as to cause damage to another state. However, the Polynesians did not receive Macron's apology for the nuclear tests. The IAEA safety standards, although not legally binding, are created with the aim of ensuring that the peaceful use of nuclear energy and radioactive materials is done in a way that makes it possible for states to meet their obligations in accordance with generally accepted principles of international law and rules like those relating to environmental protection. The IAEA serves as the global platform for nuclear security, also helping to minimize the risk of nuclear and other radioactive material falling into the hands of terrorists or nuclear facilities being subjected to malicious acts. However, legal norms that regulate protection against ionizing radiation are not enough; the relevant state and other bodies and organizations should strictly apply the prescribed legal norms. Nuclear energy in a number of countries in the world has a large share in electricity production. Despite the obtained work permits, some plants caused accidents of smaller or larger proportions and thus endangered the lives of many people, but also the quality of the protection system that still needs to be worked on. Man must live with radiation regardless of the risk. The effectiveness of protection is associated with a good knowledge of the dangers of radiation and radiological contamination and the method of protection, as well as with impeccable discipline of persons working with radioactive substances. However, accidents are always possible. Today, we are in the middle of a geopolitical crisis, when there is a war in Ukraine. Governments are concerned about nuclear power plants in the war area. In March 2022, the idea of the first man of the IAEA, Rafael Grossi, to hold a trilateral meeting with Ukraine in order to secure the Ukrainian nuclear facilities during the armed conflict, was accepted. The problem of isolation and storage of useful radioisotopes, as well as the safe storage of dangerous

ones, is a challenge because the number of nuclear reactors and their power is growing from year to year. What role nuclear energy will play in the future depends on what goals we will use it for. The effectiveness of legal solutions to the problems posed by the peaceful uses of nuclear energy will depend to a large extent on the appropriate adaptation of relevant legal areas so that legal norms are not outdated compared to scientific facts and reality. The role of the IAEA in this noble mission is obligatory. Taking into consideration the impossibility of determining responsibility for future consequences that in many cases must be calculated over the centuries, it seems obvious that the preventive character of the normative system is the only oasis that legal technique can offer to protect the lives and safety of individuals and their descendants.

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