
Nuclear state liability for damage resulting from nuclear activities

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Nowadays much is discussed about issues related to the preservation of the environment, what can be done to improve it, what should be avoided. In this discussion comes the question of the potential of nuclear energy. One of them is the potential for electric power generation, more cheaply and with less impact to the environment. However, much has already been seen in the world as regards damages that may result from an accident in these plants. In the event of an accident that causes effective damage, either to the environment or to the population, both the Brazilian and foreign standards as predict liability for remedying. The Brazilian Federal Constitution of 1988 determines the competence of the Union to operate nuclear services and installations, being State monopoly activities related to nuclear material and its derivatives. Besides that, CF/88 attributed liability *strictu sensu* for nuclear damage. The Vienna Convention on Civil Liability for nuclear damage, dated May 21, 1993, which was promulgated in Brazil by Decree No. 911/1993, provides that the operator is responsible for nuclear damages, in the case of Brazil, the operator is the State entity (Federal Autarchy) responsible for the operation. Thus, in cases of nuclear damage the State should be held liable objectively. And here issues begin to arise such as: Is the State always responsible? Is there any possibility of exclusion the State liability? This paper aims to analyze the constitutional text and the infra-constitutional rules, correlating the nuclear and environmental legislation to respond to these and other questions.

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