

Strengthening Legal Framework for the Role of BAPETEN's Inspector for the Law Enforcement and Nuclear Security Inspection

Abstract:

According to the Law Number 10 Year 1997 the main tasks of the Indonesian Nuclear Energy Regulatory Agency (BAPETEN) covers developing the regulation, issuing the license, and conducting the inspection. The implementation of inspection is to conduct law enforcement in the nuclear safety matters. However, the law enforcements are merely for any violations of the absence of the license and/or any administrative matters. For the necessity in the case of nuclear security event and nuclear forensics, it is also important to have the provisions for the law enforcement and nuclear security inspection for any violations regarding to the nuclear security events.

We use juridical empirical methods by emphasizing legislation and regulation aspects to analyze the Law Number 10 Year 1997 on Nuclear Energy, the Law Number 10 Year 2014 on the Ratification of International Convention for the Suppression Acts of Nuclear Terrorism, the Law Number 5 Year 2018 on Amendment of Law Number 15 Year 2003 on Enactment of Government Regulation in lieu of Law Number 1 Year 2002 on the Suppression of Terrorist Act, as the Law, Code of Conduct on the Safety and Security of Radioactive Source, and the Bill of the Replacement of the Law Number 10 Year 1997 on Nuclear Energy. This paper is intended to settle the best solution from legal approach on how to strengthen legal framework for the role of BAPETEN's Inspector in the law enforcement and combating any violations in case of nuclear security events and nuclear forensics.

We found that the Law Number 10 Year 1997 did not sufficiently regulate for combating any nuclear security events and nuclear forensics. There were not enough authorization for BAPETEN's Inspector to conduct law enforcement in the case of nuclear security event. For strengthening the legal framework, Indonesia has ratified some international conventions and has obligation to harmonize with national legislation and regulation. Indonesia has ratified the International Convention for the Suppression Acts of Nuclear Terrorism by the Law Number 10 Year 2014. Indonesia has also already signed the Code of Conduct on the Safety and Security of Radioactive Source. The Law Number 5 Year 2018 on Amendment of Law Number 15 Year 2003 on Enactment of Government Regulation in lieu of Law Number 1 Year 2002 on the Suppression of Terrorist Act, as the Law has authorized Badan Nasional Penanggulangan Terorisme –BNPT (National Agency for Combatting Terrorism) to combat the terrorist acts. Therefore the nuclear forensics has significant role in the investigation process. However, the Bill of the Replacement of the Law Number 10 Year 1997 on Nuclear Energy was comprehensively developed to sufficiently regulate the provisions of authorization to conduct nuclear security inspection as well as to combat any violations in case of nuclear security events and nuclear forensics. This bill also regulate the authorization of the BAPETEN's Inspector as Penyidik Pegawai Negeri Sipil –PPNS (Civil Servant as Investigator). It means that the BAPETEN's Inspector has the same position as police investigator for investigating any violations, both in nuclear safety and nuclear security matters. BAPETEN's Inspector has also a significant role in the nuclear forensics in the term of coordination in establishing the investigation with the National Police of Republic of Indonesia.

In conclusion, the bill of the Replacement of the Law Number 10 Year 1997 on Nuclear Energy is developed to regulate any provisions to conduct nuclear safety and nuclear security inspection as well as to combat any violations in case of nuclear safety matters and nuclear security events. The bill acts as a national bridge to adopt the International Convention for the Suppression Acts of Nuclear Terrorism into national legislation. The coordination with ministry and/or agency is also an important measure to overcome any obstacles and difficulties in managing the nuclear security events and the nuclear forensics.

State

Indonesia

Gender

Male

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