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# **IRAN'S ATTEMPTED DENUCLEARIZATION AND THE LEGALITY OF NUCLEAR WEAPONS USE UNDER INTERNATIONAL LAW**

## **INTRODUCTION**

The phenomenon of proliferation of weapons of mass destruction is a constant threat to international security. For this reason, the growth in the number of nuclear states and the dynamic development of their nuclear arsenals is causing widespread concern and forcing international actors to take specific restrictive measures. These include the establishment of a series of laws for the peaceful use of nuclear power allowing the free use of their knowledge and infrastructure to expand their own nuclear capabilities, or the establishment of specific entities working for their safe use. However, based on historical experience to date, some states are deliberately violating accepted standards, raising concerns in the international community.

One such state is Iran, which, after the 1979 Islamic Revolution, moved away from Western structures and began to use its own nuclear potential to gain advantage in the Middle East region. With the prospect of a serious threat to international security in mind, preventive measures based on economic restrictions were decided by the West. As a result, after more than a decade of sanctions, a final nuclear agreement was reached.

The purpose of this study is to characterize and evaluate the effectiveness of economic sanctions in the process of denuclearization of Iran. According to the adopted research objective, the main research problem was reduced to answering the question: to what extent did economic sanctions affect the process of Iran's denuclearization? In accordance with the established research problem, the hypothesis was put forward that economic restrictions were an effective tool in this regard. This was evidenced by the progressive economic regression of the country, as a result of which the government in Tehran decided to reduce its nuclear potential. The paper is theoretical and empirical in nature. It uses non-reactive qualitative and quantitative methods, which include content analysis, case study analysis, statistical data analysis and comparative analysis. The first part of the work focuses on the years 1979–2002, when despite long-standing attempts to establish an international dialogue, no tangible results were achieved. The second part of the work characterizes the years 2003–2023. Their characterization is based on strong economic sanctions.

## I. LEGALITY OF THE THREAT OR USE OF NUCLEAR WEAPONS UNDER PUBLIC INTERNATIONAL LAW

Nuclear weapons for a small number of states (those that possess them) are a guarantee of security and an indicator of a strong position on the international stage, while for the rest they pose a serious threat. The consequences of a nuclear explosion are up to tens of thousands of times greater than the detonation of conventional explosives weighing the same amount. The world became aware of the tragic consequences of the use of nuclear weapons after the US carried out the atomic attacks on Hiroshima and Nagasaki in 1945. These events, as well as the growing number of states possessing nuclear weapons, as well as the ineffectiveness of political measures and public concerns about the consequences of the use of nuclear weapons were the reasons for the creation first of an institutional control system,<sup>1</sup> and then the introduction of appropriate legal regimes on the subject of prohibition of production, dissemination, experimentation with nuclear weapons. In the light of the existing acts of international law, among others:

- only underground experiments with nuclear weapons are allowed;<sup>2</sup>
- it is forbidden to transfer either directly or indirectly both nuclear weapons and nuclear explosive devices, and it is forbidden for non-atomic states to seek to acquire such weapons;
- it is an obligation to negotiate in good faith to take effective measures aimed at the cessation of the nuclear arms race and complete disarmament under international control;
- nuclear energy may be produced and used only for peaceful purposes;<sup>3</sup>
- there are no restrictions on conducting research, development, modernization of nuclear warheads.

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<sup>1</sup> In early 1946, the Atomic Energy Commission began operating at the UN, with representatives from the US, the USSR, France, the People's Republic of China, the United Kingdom and Canada. It was established to control the production of nuclear weapons, their development and ongoing research into the peaceful use of the atom. By design, it was to have possession of all the world's fissile material resources and uranium ore. However, it was the establishment of the Vienna-based International Atomic Energy Agency (IAEA) on July 29, 1957, that laid the groundwork for establishing a stable basis for effective control over the production and use of atomic energy.

<sup>2</sup> This follows from the norms of, among others, the Treaty on the Prohibition of Nuclear Weapons Tests in the Atmosphere, Outer Space and Underwater drawn up in Moscow on August 5, 1963 (OJ.1963.52.288), hereinafter PTBT, the Treaty on the Prohibition of the Placement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed of the Seas and Oceans and its Substrate, drawn up in Moscow, Washington and London on February 11, 1971 (OJ 1972.44.275 annexed), the Agreement on the Principles of the Activities of States in the Exploration and Use of Outer Space including the Moon and Other Celestial Bodies, drawn up in Moscow, London and Washington on January 27, 1967 (OJ 1968.14.82 annexed). In doing so, it should also be noted that the prohibitions normalized in these acts do not apply to North Korea or the People's Republic of China, as they are not parties to them.

<sup>3</sup> *Ibid*, Articles IV and V. These provisions pose a threat because it is theoretically possible and consistent with the NPT for a country to gain access to nuclear technology for peaceful purposes, then use it to produce nuclear weapons under the guise of pursuing an energy program, and then exit the NTP while invoking overriding security interests. Iran's policies indicate that this is the path it has chosen.

There is no standard prohibiting the possession of nuclear weapons. Moreover, the Nuclear Non-Proliferation Treaty (NTP for short) divides states into nuclear and non-nuclear states, so one would assume that there are states that legally possess nuclear weapons and states that do not possess nuclear weapons at all. Although it would seem more accurate to distinguish between states with and without nuclear technology (Bryła, 2006: 88). Legitimate nuclear powers would be, according to the NTP: US, Russia, UK, France, China. *De facto* nuclear states are India, Israel, and Pakistan (which were not and are not a party to this international agreement), North Korea (withdrew from the NTP in 2003) and until 1991 South Africa (joined the NTP in 1992, destroying its nuclear weapons and related documentation), and Iran. To threshold countries (with technically advanced nuclear programs) would include: Argentina, Australia, Belgium, Brazil, the Netherlands, Japan, Germany, New Zealand, Sweden, Switzerland, Taiwan, Italy. Potentially threshold countries (having the technological capability to produce nuclear weapons, but not taking steps in that direction) would classify: Algeria, Libya, South Korea (Bryła, 2006: 88–89). Such a division would certainly be more appropriate – among other things, it would impose additional prohibitions and obligations on threshold or potentially threshold states, and which only “official” nuclear states currently have to comply with.

The question of the legality of the threat or use of nuclear weapons has long been a dispute in doctrine. The 1996 opinion of the International Court of Justice (hereafter ICJ) on the legality of the threat or use of nuclear weapons appears to be important in this regard. It was issued in connection with a question from the UN General Assembly: is it ever permissible under international law to resort to the threat or use of nuclear weapons?

The ICJ stated that there is no specific, clear norm in international law that allows or absolutely prohibits the threat or use of nuclear weapons. Although, according to Professor R. Bierzanek, the regulations on the prohibition of the use of asphyxiating gases or similar, and bacteriological agents (OJ 1929, No. 28, item 278) are sufficient to consider nuclear weapons prohibited, because it is absurd to think that any new weapon is only prohibited when a special convention is concluded in this regard (Bierzanek, 1982: 220). Although General Assembly Resolution 1653/XVI/z 1961 questioned the legality of the use of nuclear weapons, it was not adopted unanimously (Góralczyk, Sawicki, 2009: 429), which weakened its significance especially since three nuclear powers – France, Great Britain, the United States – voted against the resolution (Flemming, 1998: 13). Thus, we are dealing with the so-called material vagueness in international law.

According to this ICJ opinion, it will be a tort to use (or threaten to use) nuclear weapons while violating:

- the principle of humanity contained in the introduction to the Fourth Hague Convention of 1907 (OJ 1927, No. 21, item 161); international law dictates its absolute application by belligerent parties;
- the principle that armed combat is carried out only against the military, the armed forces of the enemy, and not against the civilian population (and yet there is a high probability that civilians will be affected by the effects of nuclear weapons);
- prohibiting the bombing of non-defense facilities or allowing the destruction of military facilities only; one should also point to Article 27 of the Hague Regula-

- tions (OJ 1927, No. 21, item 161), which prescribes sparing temples, hospitals, schools, among others, if possible, and yet a state deciding to use nuclear weapons “agrees” to this type of destruction;
- the prohibition of the use of means of warfare that cause undue suffering (the use of nuclear weapons undoubtedly causes, among other things, many diseases, death, injuries, burns);
  - the principle that neutral states must not suffer as a result of the effects of enemy action – it cannot be certain that the effects of nuclear weapons will not affect third countries not involved in the conflict (OJ 1927, No. 21, item 161);
  - the principle of proportionality – with regard to planning and decision-making regarding the choice of, among other things, the target of an attack, taking into account the proportion between potential military benefits and humanitarian considerations. It can also be considered in terms of the proportionality of the forces and means used by the belligerent parties;
  - the obligation imposed on all UN members to refrain in their international relations from using the threat or use of force against the territorial integrity or independence of any state (OJ 1947.23.90).

The first six principles are principles of international humanitarian law of armed conflict that apply to the aggressor and the defending party.

It should be assumed, according to the ICJ, that in general the threat or use of nuclear weapons is incompatible with international law. However, there may be such a state of facts that would “condone,” constitute an extraordinary circumstance for the use of nuclear weapons – it is about such, one might say, an extreme threat to the existence of a state (its being), which could be the basis for the exercise of the right to self-defense with the use of nuclear weapons. The right to self-defense itself has its origin in international custom. However, it is affirmed, enshrined in the UN Charter, in Article 51. This norm applies not only to individual self-defense, but also to collective self-defense. From the perspective of the subject under discussion, this is an important statement, since it allows the defense of a state that does not possess nuclear weapons by states that do possess such weapons. The conditions for the use of self-defense are: direct armed attack (aggression), informing the Security Council, and necessity and proportionality (confirmed in the ICJ judgment on Nicaragua in 1986) (ICJ Judgment 1986). Thus, it can be deduced that the legality of exercising the right of self-defense can only take place if the attacking state uses nuclear weapons and the existence of the attacked state is threatened. Analyzing the strategies and military doctrines of states that legally possess a nuclear arsenal, it can be concluded that only the Russian Federation assumes the possibility of using nuclear weapons first.<sup>4</sup>

Interestingly, the panel of judges of the International Court of Justice in 1995 on the topic of legality was divided (seven to seven and the decisive vote “in favor” was given by the ICJ President). This confirms that the issue of the threat or use of nuclear weapons is highly controversial. Unanimously, on the other hand, the ICJ recognized that there is an obligation in international law to pursue in good faith the conclusion of the negotiations conducted on nuclear disarmament, which will certainly be difficult,

<sup>4</sup> [https://www.pism.pl/publikacje/Rosyjska\\_polityka\\_w\\_zakresie\\_odstrazania\\_jadrowego](https://www.pism.pl/publikacje/Rosyjska_polityka_w_zakresie_odstrazania_jadrowego).

because, after all, the possession of nuclear weapons determines the strong position of a state in the international arena. And possession of nuclear weapons for the time being is legal (Hippler Bello, Bekker, 1997: 127).

It should be remembered that the advisory opinion of the ICJ (in opposition to the judgments) is not legally binding. It does not directly constitute a source of law, but because of the authority that the ICJ has, it certainly influences both the current state of international law and the practice of the courts of many countries. One can also note the important role of judges in interpreting incomplete and inaccurate normalized issues. They give an opinion based on appropriate reasoning, analogy and their own practical and moral intuitions (Wyrozumska, 2014: 6).

In conclusion, it should always be borne in mind that states pursue nuclear weapons with the intention of using them like North Korea, Iran, Russia. Under international law, it will be permissible to resort to the threat or use of nuclear weapons if and only if: it will be necessary (there will be a direct armed attack, aggression, the existence of the state will be “extremely” threatened) and it follows from the principle of proportionality (in response to the use of mainly, but not only, nuclear weapons). Both prerequisites must be met cumulatively. International law creates a kind of non-proliferation regime for nuclear weapons. It should be remembered that nuclear weapons are an opportunity to create defensive self-sufficiency, and therefore an opportunity for security. Therefore, some states (but also terrorist organizations) will continue to pursue its acquisition – such a goal has been set by Iran and North Korea, for example, according to the author. And as new “possessors” of nuclear weapons emerge, they thus begin to pose a threat to more states whether neighboring or politically hostile. Therefore, these threatened states, in order to strengthen their security, will also seek to acquire nuclear weapons – a domino effect will be created, so to speak. The law, which so far regulates the “exception” of possession of nuclear weapons by a small number of states, will not fulfill its role with the possession of these weapons “as a rule,” moreover, such norms will not be needed. In addition, all the above restrictions do not apply, in the author’s opinion, to nuclear weapons of the so-called fourth generation,<sup>5</sup> produced thanks to highly developed technology, recent scientific advances and computer simulation techniques, using, most likely, the hafnium element Hf – 178 m<sup>2</sup> with an atomic number of 72.

## **II. A PERIOD OF MODERATE SANCTIONS AND DIALOGUE – THE ACTIONS OF THE US AND WESTERN EUROPEAN COUNTRIES**

The country that began the process of sanctioning Iran even before the disclosure of secret nuclear facilities was the United States. This was because cutting off that country’s oil supply was a blow to Washington’s prestige. Moreover, the deterioration of bilateral relations between the two countries was triggered by the seizure of the U.S. embassy in Tehran in 1979 and the imprisonment of U.S. citizenship hostages there. In

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<sup>5</sup> Nuclear weapons in the literature are often defined by indicating their generation. Thus, it is: atomic weapons (first generation), thermonuclear weapons (so-called hydrogen weapons; second generation weapons), neutron weapons (third generation) and precisely fourth generation nuclear weapons. See J. Kubowski, *Broń jądrowa: physics, construction, actions, effects*, Warsaw 2003: 8–12.

the following years, there were further tensions between Tehran and Washington, but they did not strictly concern Iran's nuclear program. The conflicts were caused, among other things, by Iran's suspected complicity in the preparation of the October 23, 1983 terrorist attack (Hizballah killed 241 U.S. military personnel, including 220 Marines, 18 sailors, and three soldiers in a terrorist bombing of the Marine Corps barracks in Beirut, Lebanon) and Tehran's failure to respect the UN Security Council's ceasefire resolution with Iraq (Fiedler, 2013: 114).

However, U.S. economic sanctions were associated with failure due to the lack of practical support from Western European countries. Their passivity led Iran to attempt to normalize relations with European countries. They created an opportunity to legitimize the Iranian regime, acquire modern technology and to modernize the economy (Ćwiro, 2009: 108). The attempt at dialogue was initially met with approval by the governments of these countries, as they appreciated Iran's geostrategic position and its oil export capabilities. Thus, in 2000 the EU countries began to implement a policy of "critical dialogue."

In the following years, this concept was transformed with the election of a reformist president – Mohammad Khatami in 1997. His leadership was the premise for the evolution of Iran's domestic and foreign policies. As a result of this event, the Union launched a policy of "constructive dialogue." Its result was progress in the bilateral relations of the two entities, both politically and economically. However, the above-mentioned strategies did not contribute to curbing the nuclear program by the government in Tehran but were merely an attempt to normalize international relations. The dialogue policy objectives of Western European countries at the time were:

- the need to safeguard the interests of EU countries in Iran;
- showing approval of the evolutionary process of internal reform in Iran;
- constructively engaging Iran in resolving the Middle East crisis;
- engaging the authorities in Tehran in the implementation of the international anti-terrorism campaign and WMD non-proliferation processes (Ćwiro, 2009: 111–112).

### **III. PERIOD OF ECONOMIC SANCTIONS – US, EU AND UNSC ACTIONS**

The disclosure of clandestine nuclear facilities and awareness of the Tehran government's nuclear capabilities led to a nuclear crisis and exacerbated existing relations. The first reaction of the international community was related to the demand for disclosure of Iran's nuclear program plans. As a result of negotiations, the European Union offered Iran the possibility of a permanent supply of nuclear fuels in exchange for the suspension of uranium enrichment processes (Wolska, 2012: 244). Eventually, diplomatic efforts allowed the conclusion of the October 21, 2003. Tehran Declaration, in which Iranian authorities pledged to sign an additional protocol to the nuclear non-proliferation agreement (Wolska, 2012: 244). The new arrangement was based primarily on the possibility of unannounced inspections of Iran's nuclear infrastructure by IAEA inspectors. This allowed representatives of the European Union to believe that the latter would exercise direct supervision over Iran's subsequent nuclear endeavors.

The consensus turned out to be only a seemingly great success for EU foreign

policy, when a year later the IAEA announced the Iranian side's failure to fulfill its October commitments. Objections included the arbitrary start of construction of new uranium enrichment facilities, the concealment of the real level of purchases of nuclear equipment and materials, and the concealment of further nuclear installations (Wolska, 2012: 245). As a result of the growing international threat, the European Union countries decided to present a new nuclear offer, which was considered by the government in Tehran to be a "carrot and stick" strategy (Ćwiro, 2009: 114). The main elements of this agreement included:

- commitment of the parties to implement the provisions of the WMD Non-Proliferation Treaty;
- Iran's guarantee of its rights under the Treaty on the peaceful use of nuclear energy;
- Iran's declarations that it does not intend to acquire nuclear weapons;
- joint anti-terrorism activities;
- Iran's commitment to voluntarily cease uranium enrichment activities (Klimowicz, 2014: 68–69).

Negotiations ended with the so-called Paris Agreement, which was scrapped anyway in 2005 by the government of conservative Mahmoud Ahmadinejad (Wolska, 2012: 246). As a result of the lack of tangible results and the ineptitude of the EU structures, the issue of Iran's nuclear program was referred to the UN Security Council.

The Alliance's first step was a package of proposals presented to Tehran on June 6, 2006. It included, among other things, an economic offer, an announcement of assistance in the construction of a light water reactor, and a pledge to lift previous sanctions (Fiedler, 2013: 118). In response to Iran's passivity, the UN Security Council passed a series of resolutions to halt further nuclear energy development in the country:

- Resolution 1696 of July 31, 2006 – asked for a halt to uranium enrichment and threatened sanctions if it did not comply;
- Resolution 1737 of December 23, 2006 – banned all UN members from selling to the Iraqi state materials and technology with which it can expand its nuclear or missile program;
- Resolution 1747 of March 24, 2007 – expanded the scope of sanctions from the previous resolution;
- Resolution 1803 of March 3, 2008 – expanded the list of individuals and institutions subject to financial sanctions and administrative restrictions;
- Resolution 1835 of September 27, 2008 – called for compliance with the previous resolution and expressed a desire for dialogue with the Iranian government;
- Resolution 1929 of June 9, 2010 – imposed a ban on Iran's acquisition of an interest in any foreign commercial activity in uranium mining, production and use of nuclear materials and technology or ballistic missile technology. In addition, the possibility of inspecting shipments headed to and from Iran was introduced, as well as an obligation to prevent the provision of financial services that could contribute to Iran's nuclear activities (Fiedler, 2013: 117).

The tools of economic warfare resulting from successive UNSC resolutions have hit the Islamic Republic of Iran to varying degrees. The most severe of these were in the latest resolution and were strictly financial sanctions. Table 1 shows the problems of the Iranian economy in the period 1995–2013.

Table 1

## Problems of the Iranian economy in the period 1995–2013

Indicators	1995	2000	2005	2008	2009	2010	2011	2012	2013
Investments	29,196	32,977	30,721	37,765	37,621	36,727	42,626	38,360	37,257
Savings	37,065	45,938	38,306	44,278	40,248	42,758	55,083	41,771	38,590
Inflation	25,200	58,200	110,400	183,358	203,161	228,353	277,449	347,366	423,092
Volume of imports of goods and services as a % of GDP	-0,928	15,446	5,758	12,276	5,418	0,966	-4,977	-9,111	1,723
Volume of imports of goods	-1,078	13,108	7,816	13,247	5,032	0,299	-4,402	-8,420	1,802
Volume of exports of goods and services as a % of GDP	-17,899	11,243	2,276	-1,837	5,696	8,126	3,286	-34,298	-1,563
Volume of exports of goods	-21,537	5,400	5,330	-2,257	4,709	7,871	4,832	-35,118	-1,563
Volume of oil imports	n/a	n/a	2,418	5,646	3,564	1,685	1,066	0,000	0,000
Volume of oil exports	15,103	24,280	55,791	86,619	69,956	86,713	120,765	70,913	62,004
Unemployment rate	10,000	16,046	12,100	10,449	11,912	13,479	12,341	14,099	15,606

Source: Książczopoliski K. M., *Wojny ekonomiczne w stosunkach międzynarodowych, in: Spoleczeństwo a wojna. Paradoxy wojny we współczesnym ładzie międzynarodowym*, (eds.) M. Bodziany, Wrocław 2013: 52.



It is worth noting that the progressive problems of the Iranian economy began in the second half of 2009. Piotr Krawczyk points to 3 main reasons for this trend:

- the impact of the international economic and financial crisis with a particular focus on the fall in oil prices;
- sanctions imposed by various international actors – the US, the European Union and the UN Security Council;
- ineffective and inconsistent economic policies of the administration of President Mahmoud Ahmadinejad (Krawczyk, 2009: 102).

The following years of negotiations were no longer characterized by a common foreign policy of all sanctioning actors, but entered a stage of unilateral restrictions. The country that continually opposed to Iran's nuclear program was the United States. Their footsteps were followed by the European Union, which introduced sanctions under a 2010 UNSC resolution (Fiedler, 2013: 135). What's more, in October of the same year, a broader package of restrictions was introduced in accordance with an EU Council regulation, and it applied to the sector:

- trade, along with so-called dual-use goods;
- financial services;
- oil and gas industry;
- transportation to and from Iran;
- related investments within the disputed areas (OJ L 281, 27.10.2010).

However, the embargo of January 23, 2012 had much more serious consequences for Tehran. In accordance with the European Union's decision, it banned the import of Iranian oil through the entire organization. An additional blow was the decision not to renew contracts for the purchase of Iranian oil until July 1, 2012. As a result of this decision, the decline in Iran's oil exports reached almost 25%.<sup>6</sup>

Moreover, through the European Union, the SWIFT company decided to block financial transactions with Iranian banks on the so-called "black list"<sup>7</sup>. As a result of this decision, 14 of them were denied access to this system. In addition, on October 15, 2012, due to the continued lack of progress in negotiations, the European Union imposed a series of further bans on Iran. These included financial transactions with banks within the organization, short-term loans, guarantees and insurance, as well as the sale of steel and aluminum. The tools of economic warfare employed by the European Union have proven to be very harsh on Iran. In early 2013, Iran's oil minister admitted that the EU embargo and the blockade of transactions with Iran's central bank had led to a 40% drop in the country's oil exports.

The comprehensive application of sanctions against Iran brought the first positive results on November 24, 2013. At a meeting in Geneva, representatives of the 5+1 concluded an interim agreement in which the government in Tehran pledged to curb its nuclear program in exchange for a partial lifting of sanctions (Soja, 2014). The first EU restrictions were lifted on January 20, 2014, and included a ban related to oil shipments, petrochemical trade and gold, among others. Another step toward an agreement was made by the United States, which decided to resume the transportation of spare

<sup>6</sup> <https://www.reuters.com/article/iran-crude-exports/iran-crude-exports-to-hit-lowest-since-sanctions-sources-idUSL4N09G1R620121206>.

<sup>7</sup> SWIFT – the Society for Worldwide Interbank Financial Telecommunication.

parts for passenger aircraft operated by Iranian airlines three months after the agreement came into force.

Another significant breakthrough in Iran-West relations was the Lausanne summit (Milewski, 2015). At the beginning of April 2015, the detailed terms of the nuclear agreement were set, which would be reached less than three months later. It showed that Tehran was committed to reducing its uranium enrichment capacity by more than two-thirds. This was to be achieved by, among other things, stopping the construction of new uranium enrichment facilities and destroying or placing a heavy water reactor outside the country. As a result of the fulfillment of the commitments, the six powers declared gradual removal of all sanctions from Iran.

In the months that followed, the authorities in Tehran delayed fulfilling the April commitments, shrugging off the obligation to prioritize their implementation at the expense of the US. Eventually, under the July 14, 2015 agreement, Iran decided to limit its nuclear program to peaceful purposes only. Under it, sanctions were lifted on January 16, 2016.

## SUMMARY

Although the West has reached a nuclear agreement with Iran, the latter has drastically violated its terms and has never been as close to developing nuclear bombs as it is now. Tehran is dangerously approaching a critical point and crossing it could lead to a new war, the consequences of which could be tragic.

A new threat to world peace are uranium particles found deep in the heart of a mountain range in Iran by International Atomic Energy Agency (IAEA) inspectors. That traces of the element were found at Iran's underground Fordo uranium enrichment plant is not surprising. However, the degree of enrichment of the uranium particles found is 83.7%. These are atoms of the U-235 isotope, which means they are easily fissionable. Such a high level of enrichment is not needed to operate nuclear power plants – just 3.5% is enough for that. However, from 83.7% it's close to 90% – and that's the level of enrichment needed to create a nuclear bomb. If Iran reaches this threshold, war is likely to break out in the Middle East, which Europe will certainly feel, at least indirectly ([www.welt.de](http://www.welt.de)).

In 2015, however, five powers with veto power in the UN and Germany reached an agreement with Tehran. The nuclear deal, the so-called Joint Comprehensive Plan of Action (JCPOA) lifted sanctions, but provided for expanded inspections of the nuclear program, as well as limits on the amount of enriched uranium Iran could keep in storage. It also set a maximum level for its enrichment – 3.67% ([www.europarl.europa.eu](http://www.europarl.europa.eu)).

Iran has fairly quickly become a nuclear power and is now unpredictable. The West has not noticed this. However, many experts believe that the conditions set at the time are too lenient to prevent Iran from developing a bomb, and in 2018 U.S. President Donald Trump announced that he is withdrawing from the deal.

According to physicist and former nuclear inspector David Albright, who heads the Institute for Science and International Security in Washington, Iran's account of the finding is grossly distorted. According to Albright, it's hard to imagine that enrichment

to 60% would accidentally yield 83.4% and such a deviation would be highly unusual, and it rather looks like the Iranians conducted experiments to test enrichment of uranium to nearly 90%, perhaps for an even faster explosion if necessary. Especially since, as D. Albright pointed out, the 83.7% level is already critical and the nuclear warhead plans that Iran developed before 2003 and that Israel intercepted in an intelligence operation in 2018 were indeed designed for uranium with a 90% enrichment level. However, the same design can be used to successfully detonate uranium at enrichment levels above 80%, and Iran may have already experimentally exceeded this threshold ([www.europarl.europa.eu](http://www.europarl.europa.eu)).

The question then becomes whether a uranium enrichment level of 90% means conflict. If Iran reaches that point, the other signatories to the JCPoA would most likely reinstate all sanctions, and Israel would more than likely carry out air strikes on Iranian nuclear facilities. Admittedly, it would need U.S. support to do so, such as aerial refueling of bombers and the Persian Gulf states, which have been moving ever closer to Israel during the nuclear dispute, would have to grant it overflight rights for attacks. Then, however, they would find themselves targeted for airstrikes. Indeed, it can be assumed that in such a scenario Iran would attack tankers in the Persian Gulf and set allied militias in the region in motion. The Huthis in Yemen could attack Eurasian cargo shipments in the Red Sea, Shiite militia groups in Iraq could strike U.S. troops in Iraqi facilities, and Lebanon's Hezbollah could fire on Israel from its arsenal of more than 140,000 rockets<sup>8</sup> – an extreme challenge to even Israel's sophisticated air defenses.

What is clear is that it is in the interest of the region and all parties to revive the JCPoA, which would strengthen regional peace and security and create new opportunities for regional cooperation and dialogue with Iran. However, even a reinvigorated nuclear agreement will not be able to solve two fundamental problems: the restrictions on Iran's nuclear program, which expire in 2025, and the knowledge that the Iranian leadership has already acquired.

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<sup>8</sup> <https://www.reuters.com/world/middle-east/lebanons-hezbollah-what-weapons-does-it-have-2023-10-30/>.

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## ABSTRACT

The main research problem of the thesis was defined in the form of a question: what are the legal grounds for the use of nuclear weapons in the face of the current legal regulations at the international level? A secondary goal, however, was to identify economic sanctions in the face of Iran's disatomization. The following research methods were used in the work: definition, which allowed for the definition of the uniqueness of terms, analysis and synthesis, which allowed for appropriate interpretation of the existing data, induction and deduction, which allowed for finding answers to the research questions considered in the work. The study also uses the analysis of sources, monographs and scientific articles dealing with the studied subject.

**Keywords:** nuclear weapons, Iran, law, denuclearization, WMD

## **PRÓBA DENUKLEARYZACJI IRANU A LEGALNOŚĆ UŻYCIA BRONI JĄDROWEJ W ŚWIETLE PRAWA MIĘDZYNARODOWEGO**

### **STRESZCZENIE**

Celem przedmiotowego artykułu jest analiza i ocena obecnej wykładni prawa w zakresie legalności użycia broni jądrowej. Główny problem badawczy pracy określono w formie pytania: jakie są podstawy prawne użycia broni jądrowej w obliczu obecnych unormowań prawnych na płaszczyźnie międzynarodowej? Celem pobocznym natomiast było wskazanie sankcji gospodarczych w obliczu dezatomizacji Iranu. W artykule zastosowano następujące metody badawcze: definiowanie, które pozwoliło na określenie jednoznaczności terminów, analizę i syntezę, które pozwoliły na odpowiednią interpretację zastanych danych, indukcję i dedukcję, które pozwoliły na znalezienie odpowiedzi na rozważane w pracy pytania badawcze. W pracy zastosowano również analizę źródeł, monografii, artykułów naukowych traktujących o badanej tematyce.

**Słowa kluczowe:** broń jądrowa, Iran, prawo, denuklearyzacja, BMR

