SPP Guiding Case No. 255: People's Procuratorate of Jinan, Shandong Province v. T Hospital, et al. (civil public interest litigation for environmental pollution)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Decided at the 69th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on January 23, 2026; issued on February 26, 2026.

Keywords

Civil public interest litigation / radioactive pollution / major risk / joint and several liability / injunction / advance execution

Holding

For pollution of the environment, damage to the ecology, and other conduct with a major risk of harming the social public interest, people's procuratorates may, by filing civil public interest litigation and recommending that the court apply measures such as injunctions and advance execution, eliminate the major risk of environmental pollution. Where there are multiple violators, the people's procuratorate shall lawfully, objectively, and comprehensively investigate the role played by each violator's conduct in the occurrence of the risk of harm, so as to accurately determine the subjects of tort liability.

Basic Facts

In 2008, T Hospital imported a set of gamma knife medical equipment from abroad, containing 201 Co-60 Class II radioactive sources. W Hospital had a cooperative business relationship with T Hospital. During the cooperation period, W Hospital entered into a "Medical Equipment Lease Agreement" with J Hospital, leasing the gamma knife medical equipment to J Hospital for use. The lease agreement was later terminated early; from August 2016 onward, the equipment was left idle in J Hospital for a long time, and because neither T Hospital, W Hospital, nor J Hospital disposed of the equipment in accordance with law, a major risk of radioactive pollution was created, harming the social public interest.

Procuratorate Performance of Duties

Case filing and investigation. On December 28, 2021, the Jinan Municipal Ecology and Environment Bureau of Shandong Province transferred the case clues to the People's Procuratorate of Jinan City (hereinafter referred to as the Jinan Procuratorate). Upon preliminary investigation, the gamma knife equipment involved had been idle for many years, could no longer be used for normal treatment, and its storage site no longer met the relevant national requirements. According to the relevant provisions of the "Measures for the Classification of Radioactive Sources" issued by the former State Environmental Protection Administration, Co-60 Class II radioactive sources used in aggregation reach the activity of Class I sources and are managed as Class I sources, i.e., extremely high-risk sources; improper management could seriously endanger personal health and environmental safety. On January 18, 2022, the Jinan Procuratorate filed the case as civil public interest litigation.

Through on-site inspection, review of files, and questioning of relevant personnel, it was found that in May 2005, W Hospital cooperated with a company to establish T Hospital. In December 2008, T Hospital imported the gamma knife medical equipment in its own name and obtained a radiation safety license. During the cooperative operation period, W Hospital entered into a "Medical Equipment Lease Agreement" with J Hospital, agreeing to lease the medical equipment to J Hospital for a lease term of five years (from May 1, 2013, to April 30, 2018), with the two parties drawing income based on the gross project revenue; W

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Hospital bore the relevant expenses and operating costs of the leased equipment and was responsible for handling the relevant use, environmental assessment, protection, and other licenses and permits for the equipment. From May 2013 to July 2016, J Hospital actually possessed and used the equipment and paid income share payments to W Hospital as agreed. On July 27, 2016, W Hospital and J Hospital terminated the medical equipment lease agreement early. According to the “Measures for the Safety and Protection Administration of Radioactive Isotopes and Radiation Devices,” units using Class I, Class II, and Class III radioactive sources shall, within three months after the radioactive sources are idle or discarded, return the discarded radioactive sources to the producer or the original exporter in accordance with the return agreement for discarded radioactive sources, or send them to a qualified radioactive waste centralized storage unit for storage. The three hospitals, W, T, and J, failed to dispose of the radioactive sources involved in accordance with the provisions, causing long-term idleness and a major risk of environmental pollution. Through market price inquiry and written inquiry with the equipment importer, the procuratorial organ determined the disposal cost of the radioactive sources to be 2.9 million yuan.

Upon investigation, after the ecological environment department discovered the idle radioactive sources involved, it had issued a “Decision Ordering Rectification of Illegal Conduct” to T Hospital, requiring T Hospital to complete the disposal of the radioactive sources within 20 days; T Hospital failed to dispose of them by the deadline. On March 12, 2021, the ecological environment department designated a qualified third-party institution to dispose of them on its behalf, but the third-party institution was unable to handle the disposal because T Hospital refused to cooperate, and the major risk of environmental pollution persisted. Although the ecological environment department had taken strict prevention and control measures at the storage site of the gamma knife medical equipment involved, because radioactive environmental pollution is unpredictable, the radioactive sources involved had not been properly disposed of, and their storage environment, carrier containers, and related safeguard facilities, when encountering uncontrollable factors, posed a major risk of possible leakage causing serious environmental pollution.

First-instance procedure for civil public interest litigation. The Jinan Procuratorate lawfully issued an announcement; upon expiration of the announcement period, no qualified subject filed civil public interest litigation.

On March 28, 2022, the Jinan Procuratorate lawfully filed civil public interest litigation before the Jinan Intermediate People’s Court, requesting that T Hospital, W Hospital, and J Hospital bear the disposal cost of 2.9 million yuan for the medical equipment involved, and that T Hospital perform the obligation of handling the disposal formalities. On May 30, the Jinan Intermediate People’s Court ruled to transfer the case to the Jinan Railway Transport Intermediate Court (hereinafter referred to as the Railway Intermediate Court) for trial.

To prevent radiation accidents caused by improper disposal of the radioactive source equipment involved, on August 9, 2022, the Jinan Procuratorate issued an injunction recommendation to the Railway Intermediate Court, recommending that the three defendants be prohibited from disposing of the gamma knife and the radioactive sources contained therein without the permission of the court or the competent authority during the litigation. On August 10, the Railway Intermediate Court issued an injunction ruling.

On November 17, 2022, the Railway Intermediate Court held a hearing in this case. The procuratorial organ, around the disputed focus issues, presented evidence in groups, cross-examined, and debated the relevant documentary evidence, questioning records, audiovisual materials, inspection records, and other evidence collected in the investigation. The procuratorial organ held that, according to the Radioactive Pollution Prevention and Control Law of the People’s Republic of China and the relevant regulations, T Hospital, as the holder of the radiation safety license and the legal user, bore the statutory responsibility for safety protection and idle disposal of the radioactive sources involved. W Hospital and J Hospital, as professional medical institutions and the de facto users and managers of the radioactive sources involved, failed to dispose of the radioactive sources in accordance with the provisions after terminating the lease agreement,

causing the social public interest to remain exposed to a major risk of harm, and should also bear the responsibility of eliminating the danger. On December 30, 2022, the Railway Intermediate Court rendered a first-instance judgment supporting all of the procuratorial organ's litigation claims.

Second-instance procedure for civil public interest litigation. J Hospital and T Hospital, dissatisfied with the first-instance judgment, appealed. On March 2, 2023, the second-instance trial was held. During the trial, the procuratorial organ expressed opinions on whether civil public interest litigation could be filed for a major risk to environmental safety and on the issue of responsibility for the disposal of the radioactive sources involved. The procuratorial organ held that damage includes both actual damage and potential danger. The irregular idleness of the radioactive sources in this case already constituted a major risk of harming the social public interest; under Article 58 of the Civil Procedure Law of the People's Republic of China and Article 1 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases, the procuratorial organ could file civil public interest litigation. The three hospitals failed to perform the statutory obligation of disposing of the idle radioactive sources, and the inaction of each hospital was sufficient to cause the occurrence of the radioactive pollution risk; under Article 1171 of the Civil Code of the People's Republic of China, they should bear joint and several liability for eliminating the danger; the cost of 2.9 million yuan required for the disposal of the radioactive sources was transformed from the liability for eliminating the danger and should be jointly and severally borne by the three hospitals. On June 30 of the same year, the Shandong Higher People's Court rendered a second-instance judgment, holding the three hospitals jointly and severally liable for the disposal cost of 2.9 million yuan, and holding that T Hospital should perform the obligation of assisting in handling the disposal formalities.

Because the radioactive source equipment involved had been stored for a long time and its condition was unstable, during the second-instance period, to avoid the occurrence of a radioactive pollution accident, the Jinan Procuratorate proposed advance execution to the court. On March 13, 2023, the Shandong Higher People's Court issued an advance execution ruling. On March 17, the Railway Intermediate Court lawfully froze and transferred 2.9 million yuan from the bank deposits of the three defendants. The Jinan Procuratorate coordinated with the ecological environment department to select a qualified third-party institution for disposal, and supervised the entire disposal process. At the end of March, the third-party institution initiated the disposal procedure for the radioactive sources involved, and the court paid the disposal costs to the third-party institution in installments according to the implementation progress of the disposal plan. On July 8, the third-party institution transported the radioactive sources involved to the original design unit abroad in accordance with the provisions, and all disposal work such as the dismantling, transfer, and export of the idle radioactive sources was completed, thoroughly eliminating the environmental pollution risk.

Guiding Significance

(1) For environmental pollution problems with a major risk of harming the social public interest, people's procuratorates may, on the basis of accurately determining the "major risk," file civil public interest litigation in accordance with law. In handling environmental civil public interest litigation cases, attention shall be paid to both ex post relief for environmental damage and ex ante prevention of environmental risks. In handling cases, the major risk shall be comprehensively determined from such aspects as the possibility of the occurrence of the damage, the irreversibility and severity of the consequences of the damage, and the illegality of the conduct, in light of the facts of the case and by consulting the opinions of professional departments or institutions, and civil public interest litigation shall be filed in accordance with law.

(2) Where the same public interest harm fact or major risk involves two or more violators, the people's procuratorate shall analyze the role played by each violator's conduct in the occurrence of the harm or risk, so as to accurately determine the subjects of liability. Where two or more persons separately commit tortious conduct, in determining the subjects of liability in civil public interest litigation, emphasis shall be placed on

analyzing the causal relationship between the tortious conduct and the consequences of the damage, and ascertaining the role played by each violator's tortious conduct in the occurrence of the risk of harm. Where the tortious conduct of each violator is sufficient to cause the occurrence of the risk of harm, the two or more violators shall be treated as subjects bearing joint and several liability.

(3) For a realistic and urgent major risk of environmental pollution, people's procuratorates may recommend that the court take measures such as injunctions and advance execution. Eco-environmental protection adheres to the principle of "protection first and prevention first." In response to illegal conduct by which a violator may cause the continued expansion of environmental pollution risks, the procuratorial organ may recommend that the people's court apply injunctive preservation measures to prevent the occurrence or continued expansion of eco-environmental damage. For emergency circumstances with a major risk of seriously endangering environmental safety or harming the social public interest, it may recommend that the people's court lawfully apply advance execution, so as to eliminate the risk in a timely manner and give play to the pre-protection role of advance execution for the eco-environment.

Relevant Legal Provisions

Article 58(2) and Article 109 of the Civil Procedure Law of the People's Republic of China (2023 Amendment).

Articles 179, 1167, 1171, and 1235 of the Civil Code of the People's Republic of China (effective 2021).

Article 32 of the Radioactive Pollution Prevention and Control Law of the People's Republic of China (effective 2003).

Articles 1 and 18 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases (2020 Amendment).

Articles 1 and 2 of the Several Provisions of the Supreme People's Court on the Application of Injunctive Preservation Measures in Eco-environmental Tort Cases (effective 2022).

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