



Contribution ID: 58

Type: Oral

The Channeling of Liability and Small Modular Reactors: is it at all adequate?

The principle of channelling liability serves as a cornerstone of the regime for nuclear damage liability. Conventions offer limited exceptions for operators to escape liability. However, despite leveraging established technologies, SMRs present a unique scenario with first-of-a-kind commercial deployment. The question arises as to whether the aforementioned circumstances warrant an augmented scope of liability for the supplier.

Hypothetically assuming an affirmative response, crucial questions arise regarding the implementation of such enhanced liability: Should the channelling principle be abandoned in favour of joint and several liability? Alternatively, could existing recourse mechanisms be expanded, allowing operators to seek compensation beyond contractual agreements, for instance, by proving supplier negligence as a causal factor in an accident? The current regulatory landscape in the scope of the right to recourse may create negotiation impasses, potentially favouring the supplier's position and hindering the development of SMRs and its role in decarbonization. The outcome may also differ: if the technology supplier is held liable even on a recourse basis. This could significantly increase investment costs and render SMRs an uncompetitive market solution.

The issue is inextricably linked to liability limits. Current liability limits vary across conventions and national legislation. Additionally, conventions offer different possibilities for reducing liability limits based on installation characteristics. While SMRs can currently be classified as low-risk installations, it is essential to consider harmonising regulations across conventions to acknowledge this distinction and potentially adjust permissible liability limits in conjunction with compatible channelling solutions.

It is important to try to find an answer to this debate. This requires not only legal but also economic analyses of the potential costs for stakeholders. Any changes must be introduced with respect to the legitimate interest of potential victims. The impact on the process of technology development and clean energy transition must also be a determining factor.

Country OR International Organization

Poland

Email address

patrycja.nowakowska@kkg.pl

Confirm that the work is original and has not been published anywhere else

YES

Author: NOWAKOWSKA, Patrycja (Kubas, Kos, Gałkowski - Adwokaci)

Presenter: NOWAKOWSKA, Patrycja (Kubas, Kos, Gałkowski - Adwokaci)

Track Classification: Topical Group B: Legislative and Regulatory Frameworks: Track 6: International and National Legal Frameworks and SMRs