

A summary of the doctoral dissertation entitled: „ Liability rules in nuclear law”

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The subject of the doctoral dissertation is the issue of liability rules in nuclear law.

The main reason influencing the choice of the research topic was the absence of comprehensive studies on nuclear law in the legal sciences. Moreover, additional grounds for undertaking this research topic were the plans to build a nuclear plant in Poland.

The issue of liability in public nuclear law has not been the subject of a monographic study, and the existing scientific studies presenting the subject are scarce. Therefore, there is a need for a comprehensive examination of the applicable regulations on nuclear energy and address the gap in the literature in this area.

The significance of the subject of nuclear energy and nuclear law has not weakened over the years, on the contrary, interest in the broadly understood atom is increasing at all levels of science as well as in such fields as politics and economy.

Nuclear energy provides much higher security of energy supply than low- and zero-emission technologies (wind, solar energy, sea waves) due to large fluctuations in the occurrence of primary energy and small scale of production, and gas technologies due to the instability of gas supplies. In addition, nuclear energy is a technology that ensures climate protection in terms of carbon dioxide emissions.

The author mainly aimed to examine the entire system of nuclear law, to look at the law from the perspective of serving the civilian population and secure usage of the benefits of the atom. The next goal of the doctoral dissertation was to describe the characteristics of liability and illustrate the concept of liability in the broadest possible context. Furthermore, the presentation of liability and its specificity on the basis of nuclear law, and afterwards highlighting the principles of liability in nuclear law and finally naming and classifying them. In the doctoral dissertation, the analysis of the issues of liability rules in nuclear law was combined with general considerations regarding the nuclear law system and its structure.

The main research problem was formulated in the form of the question of what liability in nuclear law means and whether it can be defined in legal terms and classified in the form of

principles. In addition, an auxiliary research problem was to find an answer to the question regarding the current regulations in the field of nuclear law and their sufficiency and satisfactory applications for all subjects of legal relations from the perspective of liability in nuclear law.

A considerable influence on the formulation of the original research hypothesis, i.e. the statement that the applicable legal regulations are insufficient for the protection of the population, and even if they are due to the lack of jurisdiction law in this area and the principles verbalized in the doctrine, which would indicate the direction of interpretation, they may be incorrectly applied, had the so-called nuclear accidents, including the largest in history from the perspective of Poles at the Chernobyl power plant.

This approach of the doctoral dissertation allowed to create a research area and direction of analysis that focused on the legitimacy of protecting the population and enabling activities in the field of nuclear energy. In the course of the work, the author tried to prove that, despite the lack of regulations or the lack of clear regulations, certain precedent ideas of the nuclear law can be formulated.

The aim of the work was a comprehensive analysis of all those standards that are directly or indirectly related to the subject of the case study. The author intended to conduct the analysis in accordance with the interpretation rules adopted in the science of law, taking into account the achievements of the doctrine and jurisprudence. The author sought to clarify certain legal concepts related to nuclear law, create certain axioms of nuclear law and try to reflect on the place of liability rules in the nuclear law. Consequently, the author wanted to develop socially acceptable paradigms concerning the nuclear law, which would take into account the prospects of legislative changes in the field of international nuclear law, or even more broadly in the system of the entire nuclear law. The relations between the principles and other legal institutions along with proposals for possible changes to the applicable regulations as well as *de lege ferenda* proposals were also presented.

The subject of the analysis created in this particular way became the starting point for the implementation of research tasks, i.e., taking into account technological and economic development in the nuclear law and ensuring the safety of humanity during the analysis, which raised further questions regarding the quality of the current law in the field of nuclear energy.

The considerations in the work focus mainly on the regulations of the Convention on Liability for Nuclear Damage, international agreements and the Polish Atomic Law. The author wondered if this Polish normative act, despite many defects and faults, meets the hopes placed in it in the system layer. In addition, executive acts and regulations in the field of civil law

(mainly the Civil Code) were examined. During the research, the author also used documents of the so-called soft law.

The concept of nuclear law was understood by the author in the doctoral dissertation as overall spectrum of legal norms regulating the relations occurring in the process of using nuclear energy. The author claims that the nuclear law can be defined in its material layer as a set of standards related by a certain common idea of security and serving a certain common goal - the security of humanity.

The author believes that the system of liability rules in nuclear law consists of general principles of public law and consequently more detailed rules of administrative law, as well as specific rules of liability in nuclear law.

The most representative views of Polish science and representatives of the foreign language doctrine were used in the work. Not only did the author use legal literature, but also texts concerning technical, natural and even military fields.

The principle of responsibility, or - as some prefer - the institution of responsibility, is an interesting construct, providing a basis for formulating some general remarks and thus worth a more thorough analysis. Therefore, the author attempted to examine both the issue of liability and liability in the nuclear law.

The work was divided into four substantive chapters as well as an introduction and a summary.

The first chapter is an introduction to the research issue as well as an explanation and characterization of the concept of liability on various levels. The development of legal liability and its sources are presented, and a legal and historical analysis is made, which constitute an important aspect when creating international standards. In the first chapter, the author wanted to present how we have historically arrived at today's understanding of legal liability and how it is currently developing in all fields of law. In addition, the first chapter considers the most essential axiological and theoretical issues of the assumptions of liability.

The second chapter presents the genesis of liability in nuclear law, further the development of nuclear law in the perspective of technical risk and energy security is discussed. Afterwards, the author presented the sources of liability in the nuclear law and characterized the liability in the nuclear law.

The first two chapters constitute a theoretical and legal foundation, taking into consideration a broad philosophical, historical, environmental and even technical aspect, to extract the principles of nuclear law and then classify them.

In the third chapter, the concept of a principle is presented in its initial part, and then the author focuses on explaining the division of principles into dominant and supplementary ones (in accordance with the analogous division in criminal procedural law by M. Cieślak). In this chapter, the author distinguished four dominant principles, which, in her view, are the most characteristic of liability in nuclear law. The principles include: the principle of almost absolute liability, the principle of liability for nuclear damage, the principle of causation, the principle of pecuniary liability.

The fourth chapter describes the complementary principles in the nuclear law, which, by definition, in atypical situations may be perceived as contradictory to the dominant principles. The rules are as follows: taking into account the so-called hard case, the principle of protection of the weaker party, the principle of non-expiration in time, the principle of good neighborliness.

The dominant (prevalent) principles, which act as the main principles, mean specific general norms for liability in the nuclear law against the background of the entirety of regulations. Therefore, the guiding principles protect, in a certain sense, the interests of all parties related in a legal relation or facilitate their implementation. Complementary rules, on the other hand, are directives that contradict the dominant rules and complement them in certain exceptional circumstances.

In each of the chapters, apart from theoretical considerations, which were based on the views of the doctrine and some common practice of countries, current problems related to the application of the principles were indicated. In addition, the chapters end with a summary of considerations specific to each chapter topic.

In the theoretical analysis of the legal principles of liability in nuclear law, the author focused on presenting the basic regularities that answer the question: how is the specificity of liability shaped in the matter of law, which is the nuclear law. The basic concept presented in chapters 3 and 4 of the work was to examine the multifaceted connections between the principles. They prove that, first of all, the principles of liability shape and influence the system of legal norms that constitute the nuclear law. In conclusion, it should be stated that these principles make a significant contribution also in shaping the content of many norms that belong to other branches and areas of law, apart from the nuclear law itself and are a part of, for example, the so-called soft law.

The last part of the dissertation is a summary of the researches carried out so far and draws general conclusions as well as answers to research questions.

In the course of consideration of individual chapters, it was established that the approach to the nuclear law must be based on a systemic understanding of the law and take place through the prism of the safety of people and the environment.

The choice of the principles of liability in nuclear law as the topic of the doctoral dissertation determined the use of mainly the formal-dogmatic method as a means and method of examining the main directives of conduct on the basis of nuclear law. In addition, the legal and comparative, analytical, axiological and historical methods were used in the work.

The analytical method made it possible to specify the scientific problem and put forward a hypothesis. The formal-dogmatic method allowed to examine and interpret legal norms. On the other hand, the legal-comparative method granted possibility to find exemplary solutions. The historical method enabled to effectively search for a cause-and-effect relationship in the development of the nuclear law.

The dogmatic analysis itself was used to indicate the nature of liability in general as well as liability in nuclear law. Due to the adopted goal and subject matter, legal regulations were analyzed using methods of dogmatic interpretation. On the other hand, the method of axiological analysis made it possible to evaluate the law in the light of the values that guided or should have guided the legislator.

The implementation of the main goal, i.e. which was defining the principles in the public nuclear law, took into account the auxiliary historical analysis, which was used in the initial part of the doctoral dissertation on the presentation of the development of liability. Such an approach was not only to show the changes being introduced, but also to be an impulse to reflect on the need and direction of further changes.

The author paid attention that the set of rules corresponding to the title of the doctoral thesis should not be too extensive. Principles should play the role of an instrument enabling the proper understanding of legal regulations, they should justify the application of a possible broadening or narrowing interpretation, and not be a response to every casuistic legal case.

The author would like the dissertation to be an attempt to organize and systematize the principles governing the determination of liability in nuclear law. Therefore, the very purpose of the work was to catalog the principles governing liability in nuclear law. The author would like this modest contribution to become the beginning of a more extensive discussion on broadly understood liability in the nuclear law in Poland and in the world, and not only whether to build or not a nuclear power plant in Poland. At the same time, the doctoral dissertation should help in the discussion on the construction of the power plant and weighing the arguments of "those" brave, but also "those" cautious.