

Lawyer Insights

COP26: THERE MAY BE LEGAL COMPLICATIONS AHEAD points out George Borovas

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The past few weeks have been astonishing with respect to the prospect of seeing a wave of new nuclear build around the world. There seems to be an emerging consensus that nuclear is absolutely necessary for the world to tackle climate change but also sustainable development.

In the past few weeks, a number of countries appear to be moving forward with national plans to develop new nuclear. For example, Romania just signed an agreement to build a Small Modular Reactor (SMR) with NuScale of the US, France is expected to announce an ambitious EPR new build programme alongside the development of its own SMR technology and the UK government has announced an investment in the Rolls Royce SMR consortium, as well as establishing a new financing model for nuclear projects, the Regulated Asset Base (RAB).

But are there legal challenges that may delay this new build in the UK and elsewhere?

One important challenge, especially for the emerging SMR and Advanced Reactor (AR) technologies, will be the application of the international conventions and national regulatory frameworks to these technologies so that they may be licensed without delays. As these new technologies were not contemplated when most of the nuclear conventions and regulatory frameworks were drafted, these would need to be reviewed and appropriately modified. A significant difficulty with these novel designs will be to demonstrate and approve their safety case which will be based on passive safety features as well as reduced off-site emergency planning zones (EPZs). In addition, possible changes to the fuel and coolant may require new licensing approaches, as well as the need to develop new expertise within regulatory organisations.

While these challenges are all manageable, it would be important for SMR and AR developers to identify these issues early on and proactively address them with the relevant regulatory authorities.

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