



St. Gallen, 13 September 2018

Press Release

regarding judgment A-5647/2016 of 6 September 2018

Nuclear installations: safety margin is lawful

The safety margin of 30 per cent on the payments which the owners of nuclear installations must contribute to the Decommissioning Fund and the Disposal Fund, introduced by the Federal Council in 2015, is lawful. This is the conclusion the Federal Administrative Court has come to, rejecting the appeal filed against it.

The Nuclear Energy Act (NEA) earmarks a Decommissioning Fund and a Disposal Fund (lower court). Both funds aim to ensure the financing of the decommissioning and the disposal of radioactive waste of disused nuclear installations. The owners of Swiss nuclear power stations and other nuclear installations are obliged to make contributions to both of these funds. The regulation of details is incumbent upon the Federal Council in accordance with the NEA. The Council established the assessment basis for levying contributions in the Decommissioning and Disposal Funds Ordinance (DDFO), which has been in force since 2008.

New flat-rate safety margin

An amendment to the DDFO came into effect at the beginning of 2015, stipulating that an additional flat-rate safety margin of 30 per cent shall now be paid as well as the costs calculated to date. This sets out to reduce the risk of the Swiss Confederation ultimately having to bear a portion of the decommissioning and disposal costs. To that effect, the lower court determined the final annual contributions for 2015 and 2016 on 5 August 2016. Axpo Power AG, BKW Energie AG, Kernkraftwerk Leibstadt AG and Zwiilag Zwischenlager Würenlingen AG filed a joint appeal against this to the Federal Administrative Court (FAC). They considered the safety margin to be unlawful.

No breach of the principle of legality

In its judgment, the FAC concluded that the NEA contains sufficient legal basis to introduce the safety margin. The Federal Council also did not exceed the legislative powers delegated to it.

No violation of the principle of proportionality

The safety margin is a suitable, necessary and reasonable means for the owners of the nuclear installations liable for contributions to reduce the liability risk of the Swiss Confederation. However, it is not the role of the FAC to express an opinion

on the financial or political appropriateness of the safety margin. As the further complaints are also unfounded, the FAC is rejecting the appeal.

This judgment may be appealed to the Federal Supreme Court.

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About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 357 employees (307.65 FTE) and its 76 judges (68.2 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgments every year.