

Financial compensation in connection with deep geological repositories

Initial situation

At the beginning of August 2019, the Swiss Federal Office of Energy (SFOE) published a fact sheet entitled “Financial compensation in the sectoral plan for deep geological repositories” (“Abgeltungen im Sachplan geologische Tiefenlager”) ¹. This fact sheet relates to the third stage of the sectoral plan procedure for deep geological repositories. The sectoral plan procedure determines one to two sites for a deep geological repository. These sites will have the task of storing radioactive waste from the facilities of the waste producers². Site cantons or regions can be considered as locations. In recognition that they are helping to solve a national task, they are to be paid compensation by the waste producers on a contractual basis.

Financial compensation

Such compensation shall mean payments received by the siting region for its contribution to the solution of a national task. Compensation is to be used for municipal and regional purposes within the scope of the impact perimeter. In particular, compensation is not to be regarded as indemnification which would have to be paid on the basis of statutory provisions. However, compensation is not a settlement that can take the form of financing and/or implementation of measures to compensate for the demonstrably negative effects of a deep geological repository on a contractual basis.

Lack of legal basis

Since the end of the 1990s, compensation (as well as settlement) has been recorded in the Federal Department of the Environment, Transport, En-

ergy and Communications (DETEC)'s cost studies, even if there is no legal basis for it. For the 2021 cost study, an amount of CHF 800 million was assumed and decreed for compensation. CHF 300 million is to be made available for a storage facility for low- and intermediate-level waste and CHF 500 million for a storage facility for high-level waste. These funds are to be paid into the disposal fund by the waste producers.

The operators of nuclear facilities lodged an appeal against DETEC's decision. In essence, they argue that this amount is too high and that it should be taken into account that the compensation is voluntary, that it is not yet negotiable and that not all possible risks need to be fully financed.

Negotiations

The parties to the future compensation negotiations have already agreed on the rules and the subject of the negotiations in a guideline. However, negotiations will not begin until the site has been selected for the preparation of the general licence application for a deep geological repository by the National Cooperative for the Disposal of Radioactive Waste (Nagra), which, according to the fact sheet, should take place in 2023/2024. If a negotiated contract exists, it requires the approval of 60 percent of the municipalities in the siting region or the infrastructure municipalities within two years.

According to the SFOE fact sheet, compensation negotiations or payments should have no influence on the examination of the general licence application by the security authorities and the decision of the Swiss Federal Council.

¹ <https://www.bfe.admin.ch/bfe/de/home/ver-sorgung/kernenergie/radioaktive-abfaelle/weitere-publicationen.html> of 9 August 2019

² These are: Axpo Power AG, BKW Energie AG, KKW Gösgen-Däniken AG, KKW Leibstadt AG, Swiss Confederation, Zwiilag Zwischenlager Würenlingen AG

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