

## **European Court of Justice decided: EURATOM makes nuclear state aid for Hinkley Point C possible**

### **European NGOs call upon EU governments to abolish the EURATOM Treaty**

Luxembourg/Vienna, July 12 2018: Almost exactly three years after Austria has filed its action against the European Commission in the case of state aid for Hinkley Point C at the European Court of Justice<sup>1</sup>, the decision was published today. The Republic of Austria has asked the ECJ to annul the EC decision to allow the state aid granted by the UK for building the nuclear power plant Hinkley Point C (RS T-365/15). The UK government intends to award the project 17 billion pound in guarantees and a Contract for Difference for 35 years.

### **Making use of the post Brexit discussion on EU reform to abolish EURATOM**

The EURATOM Treaty as the second founding treaty of the EU with its single goal of promoting nuclear energy is an anachronistic left-over from 1957. The European Commission used it over and over again to argue that building new nuclear power plants is an EU common interest, e.g. in the Hinkley Point C state aid decision (October 8 2014) and also state aid decision for Paks II in Hungary (March 3 2017).<sup>2</sup> However, this is wrong, because the EURATOM Treaty is being mixed up with the Lisbon Treaty, thus the wrong legal basis was used for granting state aid.

“EURATOM turns the European Union into a nuclear union, allowing tax payers’ money to be used for hugely uneconomic new nuclear power plants. Austria will most likely appeal against this decision. However, the time is ripe to start the EURATOM reform or rather abolishment,” said Patricia Lorenz for the Joint Project.

Joint Project member organizations welcomed the fact that the Austrian government programme explicitly mentions the goal of a EURATOM Treaty review, as does the current German government programme. “There is no need to have an EU Treaty to promote a dying industry, the large majority of the remaining 27 EU member states don’t plan on building new plants. Those few who are still considering new nuclear – Czech Republic with planned reactors at Dukovany and Temelin, Romania at Cernavoda – need state aid to pay for the most expensive way of electricity generation. We need to build an alliance of the large majority of EU member states with no interest in new nuclear and abolish the EURATOM Treaty after Brexit. Austria, Germany and Luxembourg should take the lead in this effort”, said Lorenz.

The EJC press release, which provides the court’s views on the case, can be found here:

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2018-07/cp180104en.pdf>

The ECJ summary of the action which was filed against the EC decision:

<https://eur-lex.europa.eu/legalcontent/en/TXT/PDF/?uri=uriserv%3AOJ.C.2015.337.01.0014.01.ENG>

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<sup>1</sup> Summary: <https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv%3AOJ.C.2015.337.01.0014.01.ENG>

<sup>2</sup> „As recognised in previous Commission decisions, the Commission concludes that the promotion of nuclear energy is a key objective of the Euratom Treaty, and therefore the Union.“ p 70 5.3.3. Objective of common interest, (292). Commission Decision of 6.3.17 on the Measure / Aid Scheme / State Aid SA. 38454 – 2015/C (es 2015/N) which Hungary is planning to implement for supporting the development of two new nuclear reactors at Paks II nuclear power station (Text with EEA relevance) published 6.10.17, EU official journal published on December 1 2017.