Analyses OSW

CENTRE FOR EASTERN STUDIES 29.06.2011 www.osw.waw.pl

Germany: RWE and E.ON contest the obligation to pay the nuclear fuel tax

On 22 June, RWE and E.ON contested the law imposing the obligation to pay the tax on nuclear fuel at the Federal Constitutional Court, claiming it was contrary to the German constitution and European law. A day earlier, RWE also brought a complaint to the Central Customs Office and the Revenue Office in Munich. Vattenfall and EnBW are also likely to lodge similar complaints. It seems certain that the courts will find in favour of RWE and E.ON, which will mean lifting the tax and a reduction of the budget revenues by almost 7 billion euros until 2016 (the tax was to apply until that date).

In October 2010, the federal government and German energy companies struck a deal, according to which the companies would agree to pay some taxes, including the nuclear fuel tax and the tax for supporting renewable energy sources (RES), in exchange for extending the period of operation of nuclear reactors until 2036. In May 2011, the government decided to shorten the operation period of the reactors without having lifted the taxes. The companies stopped paying the taxes to support renewable energy and contested the obligation to pay the nuclear fuel tax. If the complaints of all the companies (EnBW and Vattenfall are to decide whether to bring complaints by 15 July) are upheld, the budget may be short of another 7 billion euros, which is necessary for example to develop the transmission networks. Moreover federal budget is smaller by around 15 billion euros due to the fact that companies have stopped paying taxes for supporting RES. If the companies' complaints are granted, the government will either appeal against the decisions or will have to look for other sources to finance its new energy strategy, including for example sale of CO_2 certificates and increased subsidies for climate protection policy in the EU budget. <koma>