

RESOLUTION

Adopted by the ELD/LDE Congress in Venice, 7 May 1982

LEGISLATIVE AND ADMINISTRATIVE MEASURES RELATING TO TRANSFRONTIER POLLUTION.

The Congress of the European Liberals and Democrats,

- Whereas in many places within the community activities are carried out which can have transfrontier implications for the environment, without the people and the authorities on the other side of the border being involved;
- whereas these problems have their effects mainly in border areas;
- whereas this situation gives rise to serious concern on the part of the people and the authorities on the other side of the border;
- whereas activities on one side of the border can have important consequences for the environment on the other side;
- notes that a growing number of nuclear installations is being built in border areas and that - without playing down the importance of other causes of pollution - problems of transfrontier pollution will be concentrated thereupon;
- whereas the European Communities' 1973 action programme on the environment is concerned in particular with the protection of the environment in border areas, and whereas consideration should be given among the Member States to important measures to be taken in this area and mutual agreement should be reached if one of the Member States concerned considers it necessary;
- whereas differences between the regulations in force in the Member states on certain activities can give rise to unequal conditions of competition in various countries and thus can affect the operation of the Common Market;
- whereas it is desirable for economic and other activities to be able to develop harmoniously, while guaranteeing that full account is taken of environmental aspects as well in border areas;
- whereas it is desirable, in cases where an activity can have important transfrontier effects, for other Member States concerned to be informed of the project and the possible consequences of this activity and for consultations to be held with the competent authorities of the Member States, so that care is taken, firstly, to ensure that as far as possible activities especially in border areas are treated equally and, secondly,

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detrimental effects for the environment on the other side of the border are avoided;

- whereas the EEC directive approved by the Council of Ministers of the Environment of 3 December 1981 on the risks of major accidents of certain industrial activities, and particularly Article 8 thereof, is a first step at the level of Community law;

- whereas it is desirable of this mutual information and consultation to take place between the authorities which are responsible under the legislation of the Member States, for a specific aspect of environment policy;

- whereas all Member States in May 1980 in Madrid signed the European Outline Convention on Transfrontier cooperation between Territorial Communities or authorities drawn up by the Council of Europe, this convention being designed to foster cooperation between the competent authorities on either side of the border;

- whereas it is of fundamental importance to the people for there to be adequate measures to protect the environment on either side of the border in the case of activities which can have transfrontier consequences for the environment, and for the people to be able to provide information to the competent authorities, and whereas it is advisable for the competent authorities to give the people on the other side of the border the opportunity to make their views known so that due account can be taken of them ;

- whereas all Member states have cooperated in the recommendations on information, consultation and equal access to law which have been in existence since 1974 within the framework of the Organization for Economic cooperation and Development ;

1. Urges the Community institutions to arrange for procedures relating to information, consultation and equal access to law to be incorporated, whenever appropriate, in directives and other rulings by the Council concerning decisions on activities, particularly in border areas, which can have transfrontier consequences for the environment, if possible by means of a general community recommendation concerning such procedures, to be drawn up by the Council.

2. Is of the opinion that community procedures concerning information, consultation and equal access to law should have priority, however pending the necessary Community legislation Member States should conclude bilateral agreements in these matters, in order to avoid that voids in legislation are created.

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3. Considers that in such procedures account should be taken of the following elements

(a) a Member State in which an activity is projected, especially in the border area which can have transfrontier consequences for the environment, must inform the other Member States concerned of the project and provide them with access to the relevant documents;

(b) this information must be provided at least six months before a decision of principle taken so that account can be taken of any comments and remarks by the other Member States concerned, but without this decision being unnecessarily delayed;

(c) one of the other Member States concerned considers it desirable there should be a consultation on the necessary measures to limit the effects on man and his environment of the proposed activity;

(d) the Member States must work to ensure that this process of information and consultation can take place between the authorities on either side of the border which are responsible, under the national legislation, for a specific aspect of environment policy;

(e) the Member states shall be able to further the creation of joint committees on the environment in their border areas (in general or for a specific sector of environment policy) to accompany and evaluate the information and consultation procedures;

(f) the Member States in which there is a licensing procedure for a new activity or a change in an activity shall give the people over the border the opportunity to have access, in the same way and to the same extent, to the information which it provides for its own people, the governmental authorities of the neighbouring state rendering assistance where necessary;

(g) the Member States must ensure that the licensing authority deals in the same way with comments received at the proper time from the people over the border as it does with those from its own people;

(h) the Member States must give the people over the border the same opportunity as its own people to attend hearings or other meetings where the people can submit or explain orally their reactions. Insofar as such meetings are not provided for, the organization of such meetings should be encouraged;

(i) the Member States must inform the people over the border in the same way as they inform their own people of the decisions taken, the government authorities over the border rendering assistance where necessary;

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(j) the Member States will have to consider further, if possible in consultation with the governmental authorities over the border, how they can provide the people over the border with the same access as their own people to the legal or administrative procedures for appealing against the decision taken;

(k) if, after carrying out the above-mentioned procedure, no agreement is reached, a mechanism of arbitration within the community institutions should be created;

4. Considers therefore that not only security standards in the Community as a whole are necessary but that the Member States should be asked as well to compare and harmonize their emergency and disaster plans. The exchange of such plans for each form of pollution that could endanger the population of a neighbouring state is necessary.

5. Considers that an assessment of the effects of the activities on the environment must be an essential instrument for an environmental policy and that an assessment of the effects on the environment made in one Member state must take into account the effects over the border of the proposed action;

6. Instructs its President to forward this resolution to the European parliament, and to the Council and Commission of the European Communities and, for information, to the governments and parliaments of the Member states.

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