

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Recommendation 71 (1999)¹ on model agreements on transfrontier co-operation in the field of nuclear safety

*(Extract from the Official Gazette of the Council of Europe
– November 1999)*

The Congress,

1. Having regard to the report presented by Mr Jirsa (Czech Republic) on “Model agreements on transfrontier co-operation in the field of nuclear safety” on behalf of the CLRAE Working Group on Environmental Protection and Sustainable Development ;
2. Having regard to Recommendation 1311 (1997) of the Parliamentary Assembly, which invites the governments of all member states to “establish greater international transparency in the whole spectrum of activities relating to nuclear energy. Accordingly, inspections of various nuclear sites by the authorities of countries other than the host country should be encouraged. The international community must be made aware of and be able to analyse any incidents or accidents which might occur, in order to ensure that they can be prevented in a general way in the future” ;
3. Having regard to Recommendation 42 (1998) of the CLRAE, which calls on the governments of member states “to strengthen democratic and participatory processes for planning and operating nuclear facilities so as to involve all concerned social groups at the local, regional, national and international levels” ;
4. Recalling CLRAE Resolution 64 (1998) on nuclear safety and local/regional democracy, which instructed the Working Group on Environmental Protection and Sustainable Development “to draw up a model agreement on interregional and/or intermunicipal transfrontier co-operation on nuclear power related issues” ;
5. Considering that environmental issues are often stumbling blocks for transfrontier co-operation, as they give rise to a host of problems and are often thought to encroach on prerogatives linked to the national territory ;
6. Stressing that environmental consequences do not end at national borders, and hence border regions face the necessity to co-operate for the mutual benefit of their citizens ;
7. Considering that the nuclear energy problem may become a taboo subject and be ignored in institutionalised transfrontier co-operation, as energy problems and most of

1. Debated and adopted by the Standing Committee of the Congress on 24 November 1999 (see Doc. CG (6) 15, draft recommendation, presented by Mr T. Jirsa, rapporteur).

all nuclear energy problems rest entirely with the sovereign national authorities ;

8. Convinced that the only way to transcend this outlook is for transfrontier institutions to be backed by unrestricted operation of local liaison committees and also by better co-ordination of national plans to block or supervise such projects in frontier areas ;

9. Stressing that transfrontier co-operation between national and regional nuclear authorities and local liaison committees is essential for effectively protecting their populations against nuclear risks and damage caused by nuclear emissions, and to ensure that people living near the border have the necessary access to information ;

10. Convinced that all available information and proposals related to siting, construction, operation and decommissioning of nuclear facilities should be precise, accurate, reliable and openly presented to the local and regional authorities concerned, including the authorities in neighbouring countries potentially affected, as well as those affected by the transportation of radioactive material ;

11. Recalling that international or bilateral treaties can enable local and regional authorities to enter into transfrontier co-operation and internal administrative rules may permit local and regional authorities to conclude individual contracts with parties abroad ;

12. Considering that the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities outlines the general, legal and common bases on which bilateral co-operation could be founded ;

13. Considering that the graduated system of models and outlines appended to the Outline Convention (but not forming an integral part thereof) is designed to provide states on the one hand, and territorial communities on the other, with a choice of forms of co-operation best suited to their problems ;

Invites the Committee of Ministers of the Council of Europe :

14. To examine the draft model agreements on transfrontier co-operation in the field of nuclear safety, with a view to appending them to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

APPENDIX

A. Draft model agreement on intergovernmental co-operation in the field of nuclear safety

Inter-state agreement

The Government of
and the Government of

- bearing in mind the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 1980) ;

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- bearing in mind the UN Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991);
- bearing in mind the UN Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Århus, 1998);
- anxious to promote and facilitate co-operation on the safety of nuclear installations which can have transfrontier impacts;

have agreed as follows:

Article 1

A joint nuclear safety commission (hereinafter referred to as “the Commission”) shall be appointed.

Article 2

The Commission shall comprise members:

- ... members from the side and
- ... members from the side;

In accordance with its terms of reference, the Commission shall be made up as follows:

Party A: [from the side:]

- ... members designated by national authorities
- ... members designated by regional authorities
- ... members designated by local authorities;

Party B: [from the side:]

- ... members designated by national authorities
- ... members designated by regional authorities
- ... members designated by local authorities;

Article 3

Within the framework of nuclear activities undertaken by the parties, the Commission shall be responsible for ensuring co-operation between the frontier regions concerned by these activities, for co-ordinating safety measures in this field between those regions and for developing concerted action by all appropriate means within the scope of current legislation and regulation.

For this purpose, it shall:

- discuss the construction, operation and decommissioning of nuclear installations which can have transfrontier impacts, as well as the transportation and disposal of nuclear waste, make proposals and recommendations on these matters and present them to the competent bodies;
- promote the co-ordination and harmonisation of measures relating to nuclear safety, radiation protection and emergency planning;

Article 4

The Commission may set up committees and/or working parties with the task of dealing with specific questions relating to a given region or a particular problem.

Article 5

The Commission shall meet as often as necessary and shall hold at least ... meetings per year.

The chairmanship shall alternate between the two countries (every two years).

The Commission may co-opt experts.

The Commission shall adopt its own rules of procedure and the rules governing the working and funding of its Secretariat.

Article 6

Each party shall defray the expenses of its own delegation.

Article 7

The present agreement is concluded for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry.

Article 8

Each Party shall notify the other of the completion of the procedures required under its national law for the implementation of the present agreement, which shall take effect from the date of the later notification.

Done at, this day, in copies, in the and languages, each text being equally authentic.

B. Draft model agreement on interregional and/or intermunicipal transfrontier co-operation in the field of nuclear safety

(Alternative 1)

Inter-state agreement

[The Governments of and of

wishing to promote transfrontier co-operation in the field of nuclear safety, have agreed that co-operation machinery shall be set up

between the regional/local authority of and the regional/local authority of]

(Alternative 2)

Interregional and/or intermunicipal agreement

The regional/local authorities of and of

of the states of and of

- bearing in mind the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 1980);

- bearing in mind the UN Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991);
- bearing in mind the UN Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Århus, 1998);
- anxious to promote and facilitate co-operation on the safety of nuclear installations which can have transfrontier impacts;
- convinced of the need to promote co-ordination and harmonisation of nuclear safety measures in their common frontier regions;
- bearing in mind the existing national and regional mechanisms to ensure the safety of nuclear installations;

have agreed as follows:

Article 1

- Within the framework of current laws and regulations, the Parties undertake to institute and develop a procedure for mutual consultation to precede the stage of preparation of the construction of a nuclear installation which can have transfrontier impacts;
- They shall endeavour to co-ordinate objectives and to work out joint policies in the field of nuclear safety, radiation protection, emergency planning as well as the transportation and disposal of nuclear waste;
- The Parties undertake to put in hand the measures necessary for mutually providing all available information relating to the siting, construction, operation and decommissioning of nuclear installations which can have transfrontier impacts, as well as to any incidents that have occurred in such installations.

Article 2

In order to implement Article 1, the Parties shall set up a Joint Commission [a group of experts] on nuclear safety.

Article 3

The Commission [group of experts] shall comprise ... representatives, members from the side and ... members from the side.

In accordance with its terms of reference, the Commission [group of experts] shall be made up as follows:

Party A: [from the side:]

- ([... members designated by national authorities]);
- ... members designated by regional authorities;
- [... members designated by local authorities].

Party B: [from the side:]

- ([... members designated by national authorities]);
- ... members designated by regional authorities;
- [... members designated by local authorities].

Article 4

The terms of reference of the Commission [group of experts] shall be:

- to organise and conduct information exchange on all aspects of nuclear safety in the region under review;
- to devise a procedure for consultation prior to the planning stage of new nuclear installations;
- to harmonise, within their own competence, radiation protection measures and emergency plans;
- to exchange timely and up-to-date information on any incidents that have occurred in the facilities which can have transfrontier impacts.

[Article 5

The Commission shall be served by a permanent Secretariat.]

Article 6

The Commission shall meet as often as necessary, and shall hold at least ... meetings per year.

The chairmanship shall alternate between the two countries (every two years).

The Commission may co-opt experts.

The Commission shall adopt its own rules of procedure and the rules governing the working and funding of its Secretariat.

Article 7

Each party shall defray the expenses of its own delegation.

Article 8

The present agreement is concluded for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry.

Article 9

Each Party shall notify the other of the completion of the procedures required under its national law for the implementation of the present agreement, which shall take effect from the date of the later notification.

Done at, this day of, in copies, in the and languages, each text being equally authentic.