

EIA - Transboundary procedure

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Directive 2011/92, Article 7

Provision practically unchanged since Directive 85/337

Provision practically not discussed by Court of Justice

Commission proposal COM(2012) 628 suggests to make Article 7(5) a bit more specific

History

- 1. Concept of projects which are constructed close to a border and may affect the environment in another country.**
- 2. France: apprehension of impact assessment for nuclear power plants and citizen participation**
- 3. Solution: directive 82/501 on accident prevention
directive 85/337 Article 7 on EIA,

Intergovernmental cooperation**

Environment and individual rights

1. The environment knows no frontiers
2. Right of access to environmental information
 - not limited to national authorities
 - organized as a human right
3. Right of participation in decision-making
 - Example: UK-Ireland information on new nuclear power plant
 - The Irish minister does not transmit the information
4. - Article 6 and Article 7 cumulative or alternative?
 - NL – BE – DE: cumulative
 - FR (in the past) alternative

Multinational projects

Examples: Nordstream pipeline, Desertec
TGV Paris - Bratislava (Stuttgart)
Trans-European networks (transport, energy)

1. Can *one* Member State organize the EIA procedure?
Or does a multinational project need a multinational EIA procedure?
Desertec -
2. Who is affected by such a project?
3. What happens, if a project is rejected in *one* Member State?

Citizens, NGOs and transboundary EIA

- 1. Are citizens/NGOs prepared to participate in transboundary EIA?**
 - local/regional interest vs. European interest**
 - climate – biodiversity are not national problems**
 - transboundary concertation and cooperation (seals in the Baltic)**
- 2. Language: who translates? (Nordstream: some 20.000 pages) Into which language(s)?**
- 3. Organizing of meetings with citizens: Where? By whom? Which language?**

Concluding remarks

- 1. Citizens and NGOs do not perceive, at present, participation as a fundamental right.**
- 2. No change to the intergovernmental nature of Art.7 is suggested or claimed.**
- 3. Directive 2011/92 is conceived under the perspective of an installation; is not conceived for multinational projects**
- 4. Public administrations are easily overstretched with multinational projects; steering by private interests is likely to increase**
- 5. NGOs/citizens need transboundary (ad-hoc or continued) structures to bring environment protection to the negotiating table (climate, biodiversity)**
- 6. EU energy planning goes for regional structures (priorities, financing); NGOs must organize them also at a transnational/regional level.**