

Ministers' Deputies

CM Documents

[CM\(2002\)10 Addendum II](#) 5 February 2002

(see also [CM\(2002\)10 Addendum II Corrigendum](#))

785 Meeting, 27 February 2002

10 Legal questions

10.1 Steering Committee on Local and Regional Democracy

28th meeting, Strasbourg, 10-12 December 2001

Draft Recommendation of the Committee of Ministers to member states on transfrontier co-operation in the event of natural and technological disasters occurring in frontier areas and explanatory report

Recommendation Rec(2002) ... of the Committee of Ministers to member states on transfrontier co-operation in the event of natural and technological disasters occurring in frontier areas

The Committee of Ministers, in accordance with Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve ever greater unity between its members

Considering that this aim cannot be achieved by co-operation between the central governments of the member states and that co-operation between territorial authorities and communities is also necessary;

Considering that such co-operation, in particular as developed under the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities of 21 May 1980, is an essential part of good-neighbourly relations between member states and contributes to the stability in Europe;

Noting that transfrontier co-operation has spread to all areas in which territorial authorities or communities have been able to achieve remarkable results, not least in civil protection and the organisation of relief in the event of natural and technological disasters;

Concerned about the difficulties sometimes encountered in putting effective transfrontier co-operation into effect in the event of natural and technological disasters and anxious to help overcome such difficulties;

Without prejudice to the commitments entered into by member states which are parties to the aforementioned agreements between states and between territorial communities or authorities;

Recalling the existence of the Open Partial Agreement on the Prevention of, Protection against, and Org

Disasters (EUR-OPA Major Hazards Agreement) created by virtue of Resolution (87) 2 of the Committee of Ministers on the provision of effective assistance in case of major natural or man-made disasters;

Recalling the existence of the Tampere Convention of 18 June 1998 on the Provision of Telecommunications Services in the Event of Natural or Man-made Disasters;

Recommends that governments of member states:

1. have regard to the measures set out in the appendix to this recommendation when formulating and carrying out measures in the event of natural and technological disasters affecting a frontier area;
2. involve territorial communities or authorities, if they have the appropriate devolved powers under domestic law, in the measures recommended in the appendix to the present recommendation;
3. take all the necessary measures to enable their territorial communities or authorities to engage in co-operation across the border, for the purpose of implementing the measures enumerated in the appendix to this recommendation, where the measures or communities differ according to domestic legislation;
4. consider acceding to the EUR-OPA Major Hazards Agreement for those who have not already done so, and to take effectively the consequences of a major natural or man-made disaster, including in their frontier areas.

Appendix to Recommendation Rec(2002)...

Prevention measures

1. The fullest information should be supplied to the territorial communities or authorities and the general public in the border areas, and the plans and procedures that should be followed in the event of a disaster, and the organisation of rescue operations and the mobilisation of resources from the neighbouring state. Extensive information should equally be given by the competent authorities in the border areas, the procedures used to alert the public and the rescue operations liable to be put in place.
2. Joint exercises between the neighbouring cross border organisations and/or local authorities should be carried out regularly to check that procedures are effective, that the technical resources and equipment used are mutually compatible and that necessary linguistic and professional training is available.
3. The lessons of these exercises should be analysed jointly by the authorities of the states concerned and the results of the exercises or pitfalls implemented without delay.

General measures

4. As part of their general policy for prevention and protection against major natural and technological disasters, member states should prevent, combat effectively and limit the consequences of natural and technological disasters affecting their territories.

These action plans should take specific account of the consequences of such disasters for the inhabitants of the border areas and therefore be drawn up with the help of the relevant authorities in the neighbouring state.

5. The action plans should be based in particular on the results of a risk assessment and a survey identifying the areas likely to be affected, the relevant emergency and rescue procedures, the number of rescue workers and amount of resources available for operation.

Member states should define the prevention, intervention and rescue capacities of the relevant authorities and services in their territories and the neighbouring state that is likely to be affected by the disaster or to offer assistance should a disaster occur.

The budget and human and technical resources allocated for civil protection should take account of the needs of the border areas and the relief to be mobilised, where necessary.

6. If it is within their remit or provided for by domestic law, territorial communities or authorities should cooperate with the territorial communities or authorities of neighbouring countries. To that end, the member states should conclude, where appropriate, on the model agreement between local and regional authorities or communities on the development of mutual assistance in the event of disasters occurring in frontier areas, which is appended to the European Convention on the Protection of Territorial Communities or Authorities.

7. The authorities of the countries concerned should make their action plans available to each other in the relevant local authorities in countries that may be affected by the disaster and update them regularly.

8. Where necessary, the countries concerned should enter into international agreements with each other bilateral co-operation in the event of major natural or technological disasters that have transfrontier effects.

Specific measures

9. The action plans should take account of the domestic legal provisions applicable to the territorial communities respect to their powers and available resources.

10. The action plans should clearly state which authorities are responsible for raising the alarm and organising the frontier.

11. It should be possible for these authorities to be reached by any direct and efficient means, such as special communications.

Measures should be undertaken in particular to ensure that the technology used is compatible with the networks exchanged in either a common language or the languages of the countries concerned, and that qualified personnel called upon should be available when the need arises.

12. The setting up of permanent telecommunication networks between the national authorities in charge of these networks should be open to the local authorities concerned. The Edrim Programme (*Electronic Disaster Relief*) within the framework of the EUR-OPA Major Hazards Agreement, could serve as a model.

13. If the action plans provide that the authorities of the state in which the disaster has occurred may request the following procedures should be taken:

– the request for assistance should be submitted directly to the relevant authority according to the action decisions that may prove necessary without having first to seek further authorisation;

– as far as possible, the request for assistance should specify the nature of the disaster, the kind of assistance requested;

– the rescue services should be allowed into the requesting state without any formalities; to that end, frontier crossing points should be authorised. Should the need arise, any formalities in the form of authorisation requested by the requesting state to be necessary for security or public health reasons should be kept to a strict minimum;

– medical staff and ambulance workers from the requested state should be authorised to administer emergency services;

– should the emergency services include military or paramilitary units, the sending state should take care to ensure the safety of the requesting state, especially as regards the protection of the personnel and equipment dispatched;

– rules should be in place for dealing with the following situations:

a. damage caused to persons or property in the requesting state by foreign emergency services;

b. damage sustained by persons or property from the requested state that provided assistance;

c. reimbursement by the requesting state of the costs incurred by the requested state and territorial communities in the event of a technological disaster or of a disaster not calling into question any clearly established individual liability;

d. payment or reimbursement by the state of the costs of assistance (receiving residents and first-aid workers) borne by the territorial communities or authorities in which the disaster occurred or which helped to provide assistance.

EXPLANATORY REPORT

14. The Report on transfrontier co-operation in civil protection and mutual assistance in the event of natural disasters, which was drawn up on the basis of a questionnaire sent to member states, contains a generally positive assessment.

15. Many transfrontier co-operation agreements have been signed (those available from the Council of Europe are mentioned in the aforementioned Report). These agreements are either intergovernmental (even multilateral, such as the 1990 Convention on the Protection of the Danube River) or concluded between the regional or local authorities concerned. Regional and local authorities are responsible for the implementation of prevention and intervention measures.

16. These agreements contain provisions on information exchange, identifying the relevant authorities, coordination of intervention plans and compensation schemes for intervening parties and third parties. In many cases, such joint exercises are organised, sometimes involving regional or local authorities.

IV. Problems noted

17. Despite the efforts listed in the previous paragraph, the following are mentioned as factors which may have a negative impact of a disaster: differences in structure and administrative culture; political, legal and customs obstacles; and the presence of a frontier.

18. The most frequently cited problem concerns border-crossing formalities: waiting times are considered excessive (e.g. for the passage of goods, visas, technical checks, etc.) too exacting and the number of authorised or open crossing points is limited. In some cases, intervention is more effective, some regional or local authorities prefer not to be bound by the terms of international agreements. Other problems over liability and compensation.

19. Very frequently, it is claimed that insufficient financial resources are allocated for transfrontier co-operation. Financial resources for the transfrontier dimension of a disaster, whether for prevention or relief, are rarely set aside in civil protection plans.

20. This lack of financial resources sometimes leads to difficulties in regulating the mechanisms for compensation of victims who are victims of prevention or relief operations.

21. Differences between the political or administrative machinery on either side of a border are also frequently mentioned. These differences sometimes make it difficult to identify the relevant foreign partners, to put to use certain resources (e.g. forces) or material resources (e.g. telecommunications) and to understand the different scope of each partner's responsibilities. This hampers effective co-ordination of prevention measures and relief operations.

22. Moreover, local authorities or communities sometimes complain that their special circumstances are not fully accommodated in the planning of prevention or relief operations. One of the problems mentioned is the place under bilateral co-operation agreements, which sometimes make it difficult to keep regional and local authorities involved in prevention or relief management.

23. Lack of competence in the languages of neighbouring countries – which is partly responsible for information exchange – is an obstacle to transfrontier co-operation. In general, some states would like to improve the training of staff for mutual assistance.

V. Scope of the Recommendation

24. In general, the data collected show that there is widespread awareness in member states of the transfrontier dimension of a disaster. There remain some problem areas which require specific measures:

(a) the allowances made for the transfrontier nature of prevention and relief operations, in terms of budget and equipment;

(b) the involvement of territorial communities and local authorities in drawing up and implementing international agreements;

(c) raising awareness among the residents of frontier areas about potential hazards originating in a neighbouring state;

(d) swift and effective adaptation - in the event of a disaster occurring in a neighbouring state – of the plans for the transfrontiers by people and equipment involved in relief operations.

25. The Council of Europe's experience in dealing with transfrontier co-operation issues enabled it to identify the following recommendations:

concerned, the areas where particular measures may be necessary, without duplication of effort or overl

26. As preventive measures, joint training in the languages, intervention procedures and administrative s

27. Local and regional authorities on either side of a frontier should also be encouraged legally, political end, states could consider, when it is necessary under domestic law, concluding bilateral agreements, po responsible involvement of local authorities in frontier areas. The draft model agreement between local framework of the European Outline Convention on Transfrontier Co-operation between Territorial Com similar interstate agreements.

28. Furthermore, where the competences of local authorities at both sides of the same frontier do not ma them if they are enabled, by domestic legislation, to play a role in disaster prevention or relief. The state that the local authorities concerned can nevertheless co-operate in an effective manner, without their dif effective implementation of successful assistance in the case of a disaster affecting the frontier area.

VI. Structure and content of the Recommendation

29. The Recommendation consists of an operative part and an Appendix. In general, it emphasises the n event of a disaster in a frontier area which allow for the fact that the site of the disaster may be in a neig conversely, the fact that a neighbouring state could be called upon to provide relief if a disaster occurs in account of the existence of frontier-area local authorities and their powers, responsibilities and potential

30. The Recommendation does not relate directly to accident or disaster prevention, in that this is govern guaranteeing the safety of people and property and the protection of the environment.

31. The operative part contains the general principle recommending that governments of member states also urges governments to involve territorial communities and authorities in drawing up and implementi Recommendation invites states which have not yet acceded to the EUR-OPA Major Hazards Open Parti

32. The Appendix to the Recommendation is made up of three parts, the first relating to prevention mea measures.

33. The recommended measures essentially relate to arrangements for organising and providing relief. T outline a general framework for co-operation applicable to relations between neighbouring states, whate fires, industrial disasters, etc.).

34. The measures recommended in the Appendix are self-explanatory. Responsibility for implementing communities or authorities, pursuant to domestic law. However, the Recommendation encourages states territorial communities or authorities in transfrontier civil protection by involving them in the preparatio organisation of relief and taking the appropriate measures in order to avoid that any difference of compe constitute a serious hindrance to the effective implementation of rescue action.

35. Where necessary, states should conclude agreements or make administrative arrangements to facilit responsibilities of territorial communities or authorities in frontier areas.

36. Specific provisions cover the defrayal of certain costs incurred in relief provision; the aim is to ensu (including its territorial communities or authorities) is as a rule free of charge, for exceptional events, ex civil action are identified. However, territorial communities or authorities which have given assistance t receive compensation for the costs incurred.

¹ List of members as at 31.01.2002: Albania, Algeria, Armenia, Azerbaijan, Belgium, Bulgaria, France, of Moldova, Monaco, Morocco, “the former Yugoslav Republic of Macedonia”, Portugal, Russia, San M <http://www.europarisks.coe.int>

Related Documents

Meetings

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Other documents

[CM\(2002\)10add3corr3 / 28 March 2002](#) 

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