INTERNATIONAL NUCLEAR LAW ASSOCIATION
5th Nuclear Inter Jura Congress

Palma de Mallorca 27th September - 1st October 1981

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Communication

"Comparative aspects of procedures to authorize the siting of electro-nuclear power stations among the member countries of the European Community."
A comparative examination of the procedures to authorize the construction of nuclear plants in the various States of the European Community reveals that in those countries where executive power is strong, action is more decisive and the procedures are swifter. This is true of France, where once it has been declared that the proposed plant is in the public interest, authorization follows rapidly.

There is provision in every country for measures to settle any conflicts arising among the various authorities involved. Specific bodies are empowered to take action aimed at removing such obstacles as appear, and these bodies bear direct responsibility for the actions they take. Responsibility for the declaration of public interest in France, to which I have referred, is borne by the Ministry of Industry and Research.

In the United Kingdom authorization is granted following the decision of a public enquiry, along the lines of a trial of the issues at stake.

In the Federal Republic of Germany the Ministry for Home Affairs may issue special directives, and there is provision for appeal to the Judge on Administrative matters.

Power to authorize the construction of nuclear plants lies almost entirely with central government authorities in Belgium, Holland, Luxembourg and Denmark. Local bodies and citizens have a direct say in various phases of the procedure leading to authorization.

In Italy there is provision for an appeal to Parliament for the necessary decision. This makes the procedures much more protracted, and it also means that direct responsibility is not attributed to any body. As a result the force of public opinion is directed at the National Electricity Board (ENEL - Ente Nazionale per l'Energia Elettrica) alone.

In the German Federal Republic it is a local body which is empowered to grant authorization, while in the United Kingdom it is a national one. In both cases, though, even if matters are first subjected to public scrutiny, and objections made have to be dealt with, a final decision is taken. This
does not happen in Italy, where although there is no provision for public debate, more time elapses before a final decision is reached.

In several quarters a need has been felt for regional joint committees, composed of representatives of bodies which should rightly be consulted on the siting of nuclear plants: the Regional Authorities, the Enel, and the C.N.E.N. (National Committee for Nuclear Energy).

The Inter-regional Consultative Committee made a request to this effect in February, 1960, and regional bodies of the C.N.E.N. put forward several similar proposals.

The Enel is increasingly tending to see its role in regional terms. It has an important task of informing the public about energy, and regional offices could very effectively distribute information about the siting of electronuclear power stations.

Italy has to face another problem concerning the parts played by two separate institutional bodies, respectively legislative and executive: Parliament, and the Interministerial Committee for Economic Planning. They have to act should the regions fail to do so. Law 393 provides for these two bodies to decide firstly on the area in which to build an electronuclear power station, and then on its specific site.

This is however not supported by legal opinion. The so-called Giannini Commission, established to make good any imperfections in the workings of the regional system, supported the view that Parliament should be the political arbitrator in the case of a clash between the decisions of local communities and state interests, but it did not disguise the fact that problems are raised by the long drawn out nature of legislative procedures.

It can therefore be maintained that more power could be given to regional and local bodies to implement the procedures of law 393, but there should also be provision for the direct intervention of a central government body when a decision has to be taken on the regional area in which to site a nuclear plant.
Any appeals should be directed to the Judge on Administrative Matters.

The aforementioned interventions on the siting of electronuclear power stations should fall within the policy stipulated in the national energy plan, as approved by Parliament.

The Constitutional Court of Italy has affirmed this. Its recent ruling that a proposed referendum to abrogate the law on the siting of nuclear power stations was inadmissible recognised the existence of a European Community policy on nuclear energy, with precedence over national law. The need clearly emerges for a supranational legislative solution to the issues involved in the siting of nuclear power stations.