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COMMUNICATION FROM THE COMMISSION

STATE OF THE ENVIRONMENT
IN THE 6 LÄNDER OF THE FORMER EAST GERMANY

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Summary

In accordance with Council Directive 90/656/EEC Germany had to implement EC legislation on the protection of the environment in the 6 new Länder within a specified timetable and by 31 December 1995 at the latest.

As regards Directive 90/656/EEC Germany informed the Commission of the measures which have been taken, difficulties which have been met and the improvements which have been achieved as regards the environmental situation in the 6 new Länder.

Legislation has been implemented and measures have been taken in time to meet the obligations provided for by Directive 90/656/EEC, except as regards a range of Directives in the water sector.

There has been a failure to implement correctly the range of EC legislation as regards the setting up of systematic plans of action for surface water used for drinking water, and the implementation of legislation as regards bathing water, the discharge of dangerous substances and the quality of fish-farming waters. There are particular difficulties as regards the quality of drinking water in two Länder, SO₂ emissions in one and lead emissions in three specific areas.

I. Introduction

Council Directive 90/656/EEC on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment lays down in its Articles 1 to 16 a specific timetable for the implementation of Community environmental legislation in the Länder of the former East Germany: Berlin, Brandenburg, Saxony, Saxony-Anhalt, Thuringia and Mecklenburg-Western Pomerania. Further provisions are contained in Council Directive 90/660/EEC on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment in connection with the Internal Market.

These provisions list certain Directives concerning the environment which had to be implemented in the area of former East Germany. In all cases, a date was specified by which time the implementation had to be complete. The last set of implementation measures had to be taken by 31 December 1995 at the latest.

In accordance with Article 17 of Directive 90/656/EEC,

the Federal Republic of Germany shall forthwith inform the Commission of the measures taken pursuant to Articles 1 to 16, which the Commission shall communicate to the other Member States and to the European Parliament.

This report aims to communicate the information received so far from the German authorities to the other Member States and to the European Parliament.

A first set of information was received by the Commission in mid -1993 and was put to the European Parliament and to the Member States in a report dated 29 June 1993¹.

Following this report the Commission, by letters of 5 July and 9 October 1996 and 30 April and 12 August 1997, received further information concerning water, waste, air pollution and nature protection. This information, and in certain cases other information officially received by the German authorities, is the basis of this report. It concerns exclusively the implementation of those legal requirements set out in Directive 90/656/EEC Articles 1 to 16.

In introducing the report, it must be stressed that the intention is to repeat information already covered in the 1993 Report only if necessary for this Report. It is therefore focused on those legal measures which had to be taken after the first Report was issued. Therefore this Report does not address Council Directive 90/660/EEC on the transitional measures applicable in Germany with regard to certain Community provisions relating to the protection of the environment in connection with the Internal Market, given that all information required has been put forward already in the 1993 Report. Furthermore, it must be stressed that any judgment as to the state of implementation of the Directive can only be based on the most recent data supplied to the Commission by the German authorities.

II. In general

While Directive 90/656/EEC obliges Germany to implement EC legislation on the protection of the environment within a specified timetable and by 31 December 1995 at the latest, Germany says that it aims to establish the same environmental conditions in west and east by the year 2000.

Germany says that soil, water and air were dramatically polluted at the time of unification. Therefore, significant effort has been undertaken to adapt the level of environmental protection in the 6 new Länder to that of the former West Germany in parallel with the drafting of the legislation to be implemented in accordance with the said Directives.

According to the reports submitted by Germany, priority has first been given to immediate action to cope with high risk situations as regards human health and the environment.

In parallel to this, specific measures have been taken regarding the different sectors such as water protection (in particular supply for drinking water and waste water treatment), air pollution (in particular as regards dust and sulfur dioxide) and waste management. Germany has supplied information about important financial aid which has been granted for improvement measures i.e. through the European Recovery Programme.

The Commission has already in its 1993 Report stated that environmental improvement in the 6 new Länder since unification is also largely due to the closure of obsolete industrial plants. This fact has been confirmed by the reports submitted by Germany, in particular as regards water and air pollution.

¹ COM(93) 295 final

In summary, Germany states that in all sectors there have been significant improvements, in spite of other factors such as the considerable increase in number of vehicles.

III. In detail

1. Water

a) Article 1 of Directive 90/656/EEC: Surface water (Directives 75/440/EEC and 79/869/EEC)

According to Article 1 of Directive 90/656/EEC Germany had to ensure, in respect of the territory of the former German Democratic Republic, that the quality standards for surface water and the methods of measurements and frequencies of sampling and analysis laid down in Directives 75/440/EEC and 79/869/EEC would be complied with by 31 December 1995 at the latest.

The German authorities notified the Commission in 1997 of the necessary legislation adopted or still to be adopted by the 6 new Länder to implement Directives 75/440/EEC and 79/869/EEC². Some of them are not in accordance with the requirements of the Directives.

- Directive 75/440/EEC

According to Article 3 of Directive 75/440/EEC Member States shall set, for all sampling points or for each individual sampling point, the values applicable to surface water for all the parameters listed in that Directive. Germany says that abstracted surface water is used in drinking water in Mecklenburg - West Pomerania, Saxony, Saxony-Anhalt and Thuringia and that the sampling points have been subdivided into categories A 1 (5), A 2 (20), A 3 (2) and below A 3 (1). The latter concerns abstraction of surface water from the river Warnow, Mecklenburg-Western Pomerania. The relevant parameters are phosphates, dissolved oxygen saturation rate and total coliforms.

According to Article 4 (2) of Directive 75/440/EEC, Member States shall take the necessary measures to ensure continuing improvement of the environment. To this end, they shall draw up a systematic plan of action including a time table for the improvement of surface water and especially that falling within category A 3. Such plans have been transmitted for Brandenburg, Saxony and Thuringia. However, only in the first case has the notified plan been set up in accordance with Article 4 (2). As regards Saxony the plan

² Berlin: Order on water abstraction from surface waters for the supply of drinking water; Brandenburg: Order of 15 April 1997 on the required quality of surface waters for the abstraction of drinking water, entered into force on 17 May 1997; Mecklenburg-Western Pomerania: Order of 24 April 1997 on water abstraction from surface waters for the supply of drinking water, entered into force on 22 May 1997; Saxony: Order of the Saxony Ministry for the Environment and Regional Development of 22 April 1997 on the required quality of surface waters for the drinking water supply, implementing Directives 75/440/EEC and 79/869/EEC, entered into force on 22 May 1997; Saxony-Anhalt: Order of 17 April 1997 on the required quality and monitoring of surface waters for the drinking water supply, entered into force on 23 April 1997; Thuringia: Order of 20 March 1997 on the required quality of surface waters for the supply of drinking water, entered into force on 6. May 1997.

lacks information on the quality of the water which is extracted as regards Zeuggraben/Flöha.

In accordance with Article 4 (3) of Directive 75/440/EEC, a water resources management plan has been notified to the Commission concerning the river Warnow, Mecklenburg-Western Pomerania. Another water resources management plan has been notified concerning the Weida dam in Thuringia, as regards nitrate.

- **Directive 79/869/EEC**

According to Articles 3 and 4 of Directive 79/869/EEC, Member States have to use the reference methods of measurement as set out in this Directive, and should respect the minimum annual frequencies of sampling and analysis for the parameters listed in Directive 75/440/EEC.

The German authorities have supplied information about the legislation to implement Directive 79/869/EEC. According to this information legislation is being prepared in all 6 new Länder. The authorities have supplied information about both parameters and frequencies as set up in all 6 new Länder. Some of them are not in accordance with the requirements of the Directive.

b) **Article 2 of Directive 90/656/EEC: Quality of bathing water (Directive 76/160/EEC)**

According to Article 2 of Directive 90/656/EEC, Germany had to ensure, in respect of the territory of the former German Democratic Republic, that the obligations arising out of Directive 76/160/EEC were complied with by 31 December 1993 at the latest.

Germany has said that as regards the 6 new Länder the necessary legislation to implement Directive 76/160/EEC is being prepared but is not yet finally adopted, except for Mecklenburg-Western Pomerania and Saxony-Anhalt³. It is to be noted that in the latter case a circular instead of binding legislation has been issued.

c) **Article 3 of Directive 90/656/EEC: Discharge of dangerous substances (Directive 76/464/EEC and daughter Directives)**

According to Article 3 of Directive 90/656/EEC, Germany had to apply, in respect of the territory of the former German Democratic Republic, the provisions laid down in Directives 76/464/EEC, 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EC, 86/280/EEC and 88/347/EEC to industrial installations which on the date of German unification were located in that territory, from December 1992 at the latest. The date was postponed by Commission Directive 93/80/EEC until 31 December 1995.

Germany says that the said Directives are not yet implemented. It is envisaged that they will be implemented at Federal level. Preparation work is under way.

³ Mecklenburg-Western Pomerania: State Order of 3 May 1995 on the required hygiene of bathing resorts, entered into force on 25 May 1995; Saxony-Anhalt: Circular of the Ministry for Labour and Social Affairs of 15 October 1993.

Germany has also submitted figures and tables demonstrating a considerable reduction in dangerous substances (mercury, cadmium, phosphor) in surface waters, especially the river Elbe.

d) Article 4 of Directive 90/656/EEC: Quality of fish-farming waters (Directive 78/659/EEC)

According to Article 4 of Directive 90/656/EEC, Germany had to ensure, in respect of the territory of the former German Democratic Republic, that the obligations arising out of Directive 78/659/EEC would be complied as from December 1992 at the latest.

Germany has said that the said Directives are not yet implemented. Implementation is envisaged at Federal level. Preparation work is under way. In 1997 the German authorities notified legislation concerning two new Länder⁴.

e) Article 6 of Directive 90/656/EEC: Protection of groundwater against pollution (Directive 80/68/EEC)

According to Article 6 of Directive 90/656/EEC, Germany had to ensure, in respect of the territory of the former German Democratic Republic, that the obligations arising out of Directive 80/68/EEC would be complied with by December 1995 at the latest.

Germany has said that the said Directive is to be implemented at Federal level. In 1997 Germany transmitted the implementing regulation which was adopted on 18 March 1997⁵.

Furthermore, Germany has supplied details of the implementation measures with regard to Articles 3 to 6 of Directive 80/68/EEC.

Articles 3, 4 and 5 concern the discharge of substances in lists I and II into groundwater. Germany says that there is no direct discharge of such substances. As regards Articles 4 (1) 2nd indent and 5 (1) 2nd indent, monitoring is carried out and authorisations are issued to prevent indirect discharges of substances in list I and to avoid pollution by substances in list II. The situation concerning disposal sites is described (see below in the section on waste). As regards Article 4 (1) 3rd indent, Germany says that transitional measures have been taken until legislation enters into force. Germany has also supplied information on direct discharges in specific cases in Thuringia which either have been brought to an end or are considered not to be covered by Directive 80/68/EEC due to Article 2 letter b). As regards Article 6, Germany has supplied information about authorised artificial recharges in Saxony and Saxony-Anhalt.

Finally, in view of the importance of groundwater in the 6 new Länder (which delivers two thirds of the quantity of drinking water) Germany has supplied information about a

⁴ Brandenburg: Order of 28 May 1997 on the quality required of surface waters to sustain fish life; Saxony: Order of the Saxony Ministry for the Environment and Regional Development of 3 July 1997 implementing Directive 78/659/EEC on the quality of freshwaters needing protection or improvement in order to support fish life.

⁵ Order of 18 March 1997 implementing Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances, entered into force on 22 March 1997.

project concerning the monitoring of groundwater and the establishment of a network of measurement points.

f) Article 7 of Directive 90/656/EEC: Quality of water intended for human consumption (Directive 80/778/EEC)

According to Article 7 of Directive 90/656/EEC, Germany had to ensure, in respect of the territory of the former German Democratic Republic, that the obligations arising out of Directive 80/778/EEC would be complied with by December 1995 at the latest. It should endeavour though to achieve this by 31 December 1991. If it failed to achieve this objective, Germany had immediately to submit to the Commission all the relevant information together with an improvement plan describing how compliance with the standards would be ensured by the deadline of 31 December 1995.

Germany says that Directive 80/778/EEC has been implemented by Federal legislation which applies from 1 October 1995 in the 6 new Länder⁶.

As regards the quality of water intended for human consumption distributed in the 6 new Länder, the Commission has already stated in its 1993 Report that Germany did not manage to bring it up to the level required by Directive 80/778/EEC by 31 December 1991. A first report issued by Germany in 1992 was not considered by the Commission to be complete, in view of the obligation provided for by Article 7 of Directive 90/656/EEC as described above. This was due in particular to a lack of reliable data. A further report has been issued in June 1996. This report describes in detail the overall situation concerning the quality of drinking water after 1992, measures which have been taken in the meantime and results which have been obtained. Overall, it is stated that limit values have been exceeded only in particular cases: at the end of 1995 less than 0,1 % of the population had been affected by exceedances of the limit values for toxic substances in Annex I of Directive 80/778/EEC, and 0,6 % by exceedances of the limit value for nitrates.

2. Wild birds

Article 5 of Directive 90/656/EEC: Wild birds (Directive 79/409/EEC)

According to Article 5, Germany had to ensure in respect of the territory of the former German Democratic Republic, that the protection measures resulting from the obligations of Articles 3 and 4 of the said Directive were in place by 31 December 1992 at the latest.

Germany says that Directive 79/409/EEC has been implemented, and refers to information which has been already communicated in the 1993 Report.

3. Air pollution by SO₂, NO_x and lead

Articles 8, 10 and 12 of Directive 90/656/EEC set up a two-step-approach as regards the improvement of air quality concerning SO₂, NO_x and lead as covered by Directives 80/779/EEC (SO₂), 82/884/EEC (lead in air) and 85/203/EEC (NO_x), in respect of the territory of the former German Democratic Republic:

⁶ Order on drinking water and water for food processing plants, as published by the Notice of 5 December 1990, Amendment of 23 January 1991.

As the first step, Germany was required to take appropriate measures to ensure by 31 December 1991 at the latest that the concentration of the said pollutants was not greater than the limit values given in the Directives. In cases where there was a likelihood that despite the measures taken, the concentrations of the pollutants might exceed the limit values in certain zones, Germany had to inform the Commission thereof by 31 December 1991 (though as regards nitrogen dioxide by 31 December 1992) and at the same time forward to the Commission plans for the progressive improvement of the quality of the air in those zones. These plans should describe the measures taken or to be taken and the procedures implemented or to be implemented.

These measures had to bring the concentrations of the said pollutants in the atmosphere within these zones - as the second step - to values below or equal to the limit values given in the relevant Directives, by 31 December 1995 at the latest.

Germany says that the Directives listed in Article 8, 10 and 12 of Directive 90/656/EEC have been implemented by the Federal law of 26 October 1993⁷.

a) Article 8 of Directive 90/656/EEC: Sulfur dioxide and suspended particulates (Directive 80/779/EEC)

As already stated in the 1993 Report, Germany reported the zones which have been designated where concentrations exceeded the limit values as laid down in Directive 80/779/EEC. These zones were situated in Saxony-Anhalt, Saxony and Thuringia.

Altogether the reported exceedances of the limit value can be summarized as follows:

For the following tropical years (1 April to 31 March) the following number of zones/subzones where exceedances have been reported, have been communicated:

91/92: 18. 92/93: 21. 93/94: 4. 94/95: 1. 95/96: 1.

According to the information provided since then, emissions of SO₂ have been substantially reduced for the entire territory of the 6 new Länder within the time frame established by Directive 90/656/EEC. Information concerning the last two tropical years only reports exceedances of the limit value for SO₂ in the Erzgebirge region (Saxony). It is expected that the exceedances will subsist for the next four years because of the transboundary nature of SO₂ pollution in the area. The reasons for these exceedances have been also provided as well as measures established in the region to eventually reduce emissions of SO₂.

b) Article 10 of Directive 90/656/EEC: Lead in the air (Directive 82/884/EEC)

As already stated in the 1993 Report, the German authorities notified as a precaution the area of Ohrdruf (Landkreis Gotha) as an area where the limit values set up by Directive 82/884/EEC might be exceeded because of the former paint industry. The proximity area was designated as a "risk area". The authorities also informed the Commission of the changes to the production process. As a result, emissions from the plant decreased substantially and reached the prescribed limit value. This was further confirmed by

⁷ 22nd Order implementing the Federal Emissions Act, 26 October 1993, amended by Order of 27 May 1994.

consecutive measurement programmes established in that zone during 1994 and 1995. The highest value recorded in 1995 amounts to 0,69 µg/m³. Consequently, the designation of "risk area" for Ohrdruf was withdrawn.

Two other areas situated in Saxony (Freiberg (a range of industrial installations) and Zwickau (Bleiakkumulatorenwerke)) have been notified but no exceedances have been stated. However, further monitoring is being carried out.

The Commission also received from the German authorities plans for measures and procedures to improve air quality in polluted areas.

c) Article 12 of Directive 90/656/EEC: Nitrogen dioxide (Directive 85/203/EEC)

The German authorities notified 4 zones likely to experience concentrations above the limit value. However, no exceedances were reported for the entire territory during the time frame set by Directive 90/656/EEC.

As of 1990, according to the German authorities no concentrations in excess of the limit value of nitrogen dioxide have been recorded for the entire territory.

The German authorities have also provided the Commission with information regarding measures to reduce NO₂ emissions, namely reduction of NO_x emissions from stationary sources and from traffic.

According to the information provided by the German Government, the requirements of Directive 85/203/EEC have been achieved in the new Länder.

4. Major accident hazards

Article 9 of Directive 90/656/EEC: major-accident hazards.

According to Article 9, the obligations arising out of Directive 82/501/EEC had to be complied with in respect of the territory of the former German Democratic Republic by 1 July 1992 at the latest. This Directive was implemented into German law⁸. Operators in all six Länder comply with the objectives under this Directive.

Germany says that in one specific case concerning an enterprise situated in Thuringia no information on safety measures in accordance with Article 5 of Directive 82/501/EEC has been given due to its envisaged closure. Germany has not, however, confirmed that the said enterprise has now been closed.

⁸ Accidents Order of 20 September 1991, as last amended by Article 3 of the Order of 26 October 1993.

5. Pollution by asbestos

Article 14 of Directive 90/656/EEC: Prevention and reduction of environmental pollution by asbestos (Directive 87/217/EEC)

According to Article 14, the obligations arising out of Directive 87/217/EEC had to be complied with in respect of the territory of the former German Democratic Republic by 31 December 1991 and 30 June 1993 respectively.

The German authorities say that Directive 87/217/EEC has been implemented into German legislation⁹. This legislation contains provisions which ban the production and use of asbestos, except as regards some existing installations which might continue on a temporary basis. The legislation also covers the limit values for emissions into the air and discharges into water.

6. Waste

Article 16 of Directive 90/656/EEC: Waste (Directives 75/442/EEC and 78/319/EEC)

According to Article 16 (1), Germany, except in the case of new installations, had to ensure in respect of the territory of the former German Democratic Republic compliance with Articles 8 of Directive 75/442/EEC and 9 of Directive 78/319/EEC by 31 December 1995 at the latest. According to these provisions waste installations have to obtain a permit from the competent authorities. Germany says that authorization procedures are under way as regards existing disposal sites for municipal (133) and hazardous wastes (13), as well as 11 temporary storage sites. It has also supplied information about authorisation of new disposal sites for municipal wastes (3) and 23 temporary storage sites. 84 disposal sites for municipal waste have been closed. If necessary, after care is carried out.

According to Article 16 (2), Germany had to transmit no later than 31 December 1991 improvement plans according to Articles 6 of Directive 75/442/EEC and 12 of Directive 78/319/EEC. The 1993 Report of the Commission stated that the Commission did not share the view of Germany concerning the interpretation of the terms "improvement plans" and took the view that these plans have to be set up in accordance with Articles 6 of Directive 75/442/EEC and 12 of Directive 78/319/EEC. Given that Germany has now put forward for all 6 new Länder - at least to a large extent - all necessary waste management plans which conform to the said provisions the issue has been resolved.

⁹ Order of 26 October 1993 on protection against dangerous substances.

List of annexes:

Annex 1: Communication under Articles 1 to 10, 12 and 14 of Directive 90/656/EEC

Annex 2: Communication under Articles 1, 6 and 16 of Directive 90/656/EEC

Annex 3: Communication under Article 1 of Directive 90/656/EEC

Annex 4: Communication on the general situation as regards Directive 90/656/EEC

DA: Bilaget foreligger kun på tysk

EN: Annex exists in German only

ES: Anexo disponible sólo en alemán

FI: Liite saatavilla ainoastaan saksankielisenä

FR: Annexe disponible seulement en allemand

GR: Το παράρτημα υπάρχει μόνο στα γερμανικά

IT: Allegato disponibile soltanto in tedesco

NL: Annex bestaat alleen in het duits

PT: Anexo apenas disponível em alemão

SV: Bilagan finns bara på tyska

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