



STEERING COMMITTEE FOR CULTURE, HERITAGE AND LANDSCAPE (CDCPP)

CDCPP(2014)17

Strasbourg, 28 February 2014

3rd meeting
Strasbourg, 19-21 March 2014

ADVISABILITY OF A PROTOCOL AMENDING THE EUROPEAN LANDSCAPE CONVENTION TO ENABLE ACCESSION BY NON- EUROPEAN STATES

DOCUMENT FOR DISCUSSION AND DECISION

Item 6.5 of the draft Agenda

The Committee is invited:

- to consider the advisability of drafting a protocol amending the European Landscape Convention in order to enable accession by non-European States and, should the Committee so agree,
- to ask the Committee of Ministers to entrust it with the task of drafting such a protocol for consideration at its next meeting.

1. The European Landscape Convention

The European Landscape Convention was adopted by the Committee of Ministers of the Council of Europe on 19 July 2000 in Strasbourg and opened for signature by member States of the Organisation in Florence on 20 October 2000. It aims to promote European landscape protection, management and planning and to organise co-operation between Parties.

The Convention is the first and only international treaty to be exclusively devoted to all aspects of landscape. It applies to the entire territory of the Parties and covers natural, rural, urban and peri-urban areas. It concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes.

Recommendation CM/Rec(2008)3 of the Committee of Ministers to member States on the guidelines for the implementation of the European Landscape Convention indicates that the concept of landscape is undergoing a period of rapid and profound change accompanied by significant advances and that, together with the documents relating to its implementation, the Convention constitutes “a genuine innovation”.

The Convention provides thus an important contribution to the implementation of the Council of Europe’s objectives, namely to promote democracy, human rights and the rule of law and to seek common solutions to the main problems facing society today. By developing a new territorial culture, the Council of Europe seeks to promote the quality of people’s surroundings.

Concerning the promotion of democracy, the Convention states that: “Each Party undertakes: [...] to establish procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies” and that “Each Party undertakes to define landscape quality objectives for the landscapes identified and assessed, after public consultation”.

Concerning transfrontier landscapes, the Convention states that “The Parties shall encourage transfrontier co-operation on local and regional level and, wherever necessary, prepare and implement joint landscape programmes”.

To date, 38 Council of Europe member States have ratified the Convention and two States have also signed it (see Appendix 1).

2. Accession by non-European States

Article 14 of the Convention stipulates that after the entry into force, the Committee of Ministers of the Council of Europe may invite “any European State which is not a member of the Council of Europe, to accede to the Convention by a majority decision as provided in Article 20.d of the Council of Europe Statute, and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers”.

Therefore non-European States cannot accede to this Convention.

However, on a number of occasions, the wish has been expressed, including within the CDCPP and its Bureau, that the Convention be opened to non-European States.

In order to achieve this goal, the Convention needs to be amended.

The following sections of this document aim at illustrating the situation as regards the policy of “opening up” of Council of Europe Conventions to non-European States, the modalities of achieving this objective and the likely consequences thereto.

3. Accession to Council of Europe conventions by non-European States

Among the 216 Council of Europe conventions currently open for signature, 157 are open to the non-European non-member States¹. The following conventions in particular can be mentioned:

- the European Convention on the Protection of the Archaeological Heritage (ETS No. 66);
- the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104);
- the Convention for the Protection of the Architectural Heritage of Europe (ETS No. 121);
- the European Convention on the Protection of the Archaeological Heritage (Revised) (ETS No. 143);
- the Framework Convention of the Council of Europe on the Value of Cultural Heritage for Society (ETS No. 199).

The opening up of Council of Europe conventions to non-European States is not a systematic policy of the Organisation, but rather depends on case-by-case considerations enshrined in the concerned conventions.

However, in the recent past, this option has been examined in the framework of the so-called “Council of Europe Neighbourhood Policy”. Considering that “many of the core issues under the Council of Europe mandate are being influenced by developments outside Europe, and notably in [Council of Europe member States’] immediate neighbourhood, in the Mediterranean region, the Middle East and in Central Asia”, the Secretary General envisages the “accession to relevant Council of Europe Conventions in the area of good governance and the rule of law” (SG/Inf(2011)7 rev 2).

At its 121st session on 11 May 2011 in Istanbul, the Committee of Ministers took note of the Secretary General’s proposals concerning the Council of Europe policy with regard to its immediate neighbours.

Co-operation tools with neighbouring non-European States include advice, participation in the relevant Council of Europe structures, activities and accession to Council of Europe conventions applicable in the sphere of good governance and the rule of law. (DGProg/INF(2012)3 rev, 23 March 2012).

4. Advisability of opening the Landscape convention to non-European States

As part of its Terms of reference, adopted by the Committee of Ministers on 20 November 2013, the CDCPP is entrusted with assessing “the necessity or advisability of drafting amendments or additional protocols to the conventions for which they have been given responsibility or drafting supplementary conventions” and reporting back to the Committee of Ministers.

¹ The full list is available at the Council of Europe’s Treaty Office website, under: <http://www.conventions.coe.int/Treaty/Commun/ListeTraites.asp?CM=8&CL=ENG>
The list of Conventions open to the non-European non-member States is available, under: <http://www.conventions.coe.int/Treaty/Commun/ListeTraites.asp?CM=12&CL=ENG>

The European Landscape Convention is among the conventions for which the CDCPP has been given responsibility.

It is up to the CDCPP to consider whether it would be appropriate to establish a protocol to the Convention for the purpose of supplementing its provisions, or enabling non-European States to accede to it.

In order to decide whether such a development would be welcome, the CDCPP should pay attention to such issues as:

- the interest expressed by non-European States in the Convention;
- the usefulness of having the principles of the convention implemented outside Europe, especially in neighbouring States of Council of Europe member States;
- the possibility of reinforced dialogue and co-operation between those states in the field of landscape protection, management and planning;
- the spreading of Council of Europe values beyond the confines of its member States;
- etc.

It would also be necessary to consider what consequences the accession of non-European States (but this would also apply in the case of European non-member states) would have on the functioning of the bodies that manage or oversee the implementation of the Convention, such as the CDCPP.

According to a decision recently taken by the Committee of Ministers on the "Review of Council of Europe conventions", participation by non-member States would be ruled by the following provisions²:

"- to apply the usual informal consultation procedure of the member States on the requests by non-member States to be invited to accede to a convention and, where necessary as a result of this consultation, to seek the opinion of the competent committees, in particular regarding the requesting State's capacity to fulfil the obligations arising under the convention in question;

- to limit the validity of an invitation by the Committee of Ministers to accede to a convention to a period of five years;

- to provide, in cases where there is no convention-based body including all the Parties, for participation, with a right to vote, by non-member States in steering committee or ad hoc committee meetings pertaining to the conventions to which those States are Parties".

In other terms, non-member (non-European) States would have a seat in the CDCPP which is the body mentioned in the European Landscape Convention (article 10) as having the task of ensuring the promotion of and follow-up to it.

Another consequence of the opening up of the Convention would be the need to modify the Resolution on the rules governing the Landscape Award of the Council of Europe in order to make it possible for non-European states to take part in the process.

² SG/Inf(2012)12, SG/Inf(2012)12 add, CM/Del/Dec(2012)1146/1.5, GR-J(2013)CB3, GR-J(2013)5 rev3) - 1168th meeting – 10 April 2013, Item 10.2.

5. Modalities of enabling accession by non-European states

The Landscape Convention provides for accession by European non-member States only. In order to make it possible for non-European (by definition non-member) States to accede a protocol amending the Convention would be necessary.

Through this protocol, a number of provisions would to be amended.

An example of what such a protocol would resemble is presented, for information, in Appendix 2. In case a decision were taken by the Committee of Ministers to the effect of eventually engaging into the drafting of such a protocol, this appendix could be used as a starting point for the negotiations to be held.

It is for the Committee of Ministers to decide whether to launch the negotiations leading to the establishment of the protocol, on the basis of a request formulated by the CDCPP. The Committee of Ministers could entrust the CDCPP with the task of drawing up such a text.

Once adopted by the Committee of Ministers and opened for signature, the protocol would need to be ratified by all the Parties to the Convention for it to enter into force.

It is also worth recalling that, once the Protocol has entered into force, accession by non-European States would not be automatic but should follow the procedure established by the Protocol. In other terms, the Committee of Ministers of the Council of Europe would have to invite the non-European State so wishing to accede to the Convention “by a majority decision as provided in Article 20.d of the Council of Europe status and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers”.

Appendix 1

List of signatures and ratifications of the European Landscape Convention

European Landscape Convention CETS No.: 176

Treaty open for signature by the member States of the Council of Europe and for accession by the European Union and the European non-member States

Opening for signature

Place: Florence
Date : 20/10/2000

Entry into force

Conditions: 10 Ratifications.
Date : 1/3/2004

Status as of: 19/2/2014

Member States of the Council of Europe

	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania										
Andorra	23/3/2011	7/3/2012	1/7/2012							
Armenia	14/5/2003	23/3/2004	1/7/2004							
Austria										
Azerbaijan	22/10/2003	30/8/2011	1/12/2011							
Belgium	20/10/2000	28/10/2004	1/2/2005							
Bosnia and Herzegovina	9/4/2010	31/1/2012	1/5/2012							
Bulgaria	20/10/2000	24/11/2004	1/3/2005							
Croatia	20/10/2000	15/1/2003	1/3/2004							
Cyprus	21/11/2001	21/6/2006	1/10/2006							
Czech Republic	28/11/2002	3/6/2004	1/10/2004							
Denmark	20/10/2000	20/3/2003	1/3/2004					X		
Estonia										
Finland	20/10/2000	16/12/2005	1/4/2006							
France	20/10/2000	17/3/2006	1/7/2006							
Georgia	11/5/2010	15/9/2010	1/1/2011							
Germany										
Greece	13/12/2000	17/5/2010	1/9/2010							
Hungary	28/9/2005	26/10/2007	1/2/2008							
Iceland	29/6/2012									
Ireland	22/3/2002	22/3/2002	1/3/2004							
Italy	20/10/2000	4/5/2006	1/9/2006							
Latvia	29/11/2006	5/6/2007	1/10/2007							
Liechtenstein										
Lithuania	20/10/2000	13/11/2002	1/3/2004							

Luxembourg	20/10/2000	20/9/2006	1/1/2007							
Malta	20/10/2000									
Moldova	20/10/2000	14/3/2002	1/3/2004							
Monaco										
Montenegro	8/12/2008	22/1/2009	1/5/2009							
Netherlands	27/7/2005	27/7/2005	1/11/2005				X			
Norway	20/10/2000	23/10/2001	1/3/2004							
Poland	21/12/2001	27/9/2004	1/1/2005							
Portugal	20/10/2000	29/3/2005	1/7/2005							
Romania	20/10/2000	7/11/2002	1/3/2004							
Russia										
San Marino	20/10/2000	26/11/2003	1/3/2004							
Serbia	21/9/2007	28/6/2011	1/10/2011							
Slovakia	30/5/2005	9/8/2005	1/12/2005							
Slovenia	7/3/2001	25/9/2003	1/3/2004							
Spain	20/10/2000	26/11/2007	1/3/2008							
Sweden	22/2/2001	5/1/2011	1/5/2011							
Switzerland	20/10/2000	22/2/2013	1/6/2013							
The former Yugoslav Republic of Macedonia	15/1/2003	18/11/2003	1/3/2004							
Turkey	20/10/2000	13/10/2003	1/3/2004							
Ukraine	17/6/2004	10/3/2006	1/7/2006							
United Kingdom	21/2/2006	21/11/2006	1/3/2007					X		

Non-members of the Council of Europe

Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
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Total number of signatures not followed by ratifications:	2
Total number of ratifications/accessions:	38

Notes:

a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature "ad referendum".

R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

Source : Treaty Office on <http://conventions.coe.int> – * Disclaimer

Appendix 2

Proposal for a draft Protocol amending the European Landscape Convention

Preamble

The member States of the Council of Europe signatory to the present Protocol to the European Landscape Convention (ETS, No. 176) (hereinafter referred to as “the Convention”),

...

Considering that non-European non-member States of the Council of Europe should be allowed to accede to the Convention at the invitation of the Committee of Ministers,

Have agreed as follows:

Article 1. Amendments to the Convention

In the Preamble, a new paragraph is added following paragraph 5: “Acknowledging that it is the same in other continents”.

In the Preamble, paragraph 11, the word “European” shall be deleted.

In the Preamble, paragraph 12, the expression “in Europe” shall be deleted.

In Article 3, the word “European” shall be deleted.

In Article 6, paragraph C.2, the expression “at European level” shall be deleted.

In the title of Chapter III, the word “European” shall be deleted.

In Article 11, paragraph 1, the words “in Europe” shall be deleted.

In Article 14, paragraph 1, the word “European” (from “European State”) shall be deleted.

Article 2. Signature, ratification, accession

1. This Protocol shall be open for signature by member States of the Council of Europe signatories to the Convention, which may express their consent to be bound by:

- a. signature without reservation as to ratification, acceptance or approval; or
- b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. A Signatory of the Convention may not sign this Protocol without reservation as to ratification, acceptance or approval, nor deposit an instrument of ratification, acceptance or approval, unless it has already deposited or simultaneously deposits an instrument of ratification, acceptance or approval of the Convention.

3. Each State or the European Union having acceded to the Convention may also accede to this Protocol.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary General of the Council of Europe.

Article 3. Entry into force

This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which all Parties to the Convention have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 2.

Article 4. Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State or the European Union having acceded to the Convention:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. the date of entry into force of this Protocol, in accordance with Article 3;
- d. any other act, notification or communication relating to this Protocol.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this ... day of ... , in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any state or to the European Union having acceded to the Convention.