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EUROPEAN LANDSCAPE CONVENTION

CEP-CDCPP

8th COUNCIL OF EUROPE CONFERENCE ON THE EUROPEAN LANDSCAPE CONVENTION

*Conference organised under the auspices of the Belgian Chairmanship of
the Committee of Ministers of the Council of Europe*

DRAFT TEXT ON COOPERATION WITH NON-EUROPEAN STATES

Council of Europe
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Summary

Considering the possibility to allow non-European non-Member States to accede to the European Landscape Convention (ETS No. 176) and the interest expressed by the representatives of some States (notably Mediterranean States, having already participated in the work of the European Landscape Convention), the Bureau of the Steering Committee for Culture, Heritage and Landscape (CDCPP) asked the Secretariat to prepare a draft protocol of amendment on the accession to the Convention by non-European States, to be presented to the CDCPP for examination and possible submission to the Committee of Ministers [Report of the meeting held on 16-17 October 2013, CDCPP-Bu(2013) 17].

At its 3rd Plenary Meeting (Strasbourg, 19-21 March 2014) the CDCPP considered the advisability of drafting a protocol amending the European Landscape Convention in order to enable accession by non-European States and, following a vote (6 for, 5 against, 28 abstentions) decided to re-discuss this item at its next plenary meeting, on the basis of additional information to be provided by the Secretariat [Report of the Meeting, CDCPP(2014)20, par. 6.5].

The Conference is invited to consider the following information and to make a proposal to the CDCPP, which could be 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. Explanatory Note

a. 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.

b. 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.

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

c. 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 placed under the responsibility of the CDCPP can be mentioned in particular:

- 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 conventions concerned. 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

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 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).

d. 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".

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.

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".*

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.

Non-member of the Council of Europe non-European States could thus participate in the meetings of the Council of Europe Conference on the European Landscape Convention and of the CDCPP. This situation already applies to several Council of Europe committees and notably to the Steering Committee of the Bern Convention on the Conservation of European Wildlife and Natural Habitats. Kazakhstan also participates in CDCPP Meetings, as Party to the European Cultural Convention.

Moreover, two amendments of the Resolution on the rules governing the Landscape Award of the Council of Europe could be made in order to make it possible for non-European states to take part (see item 3 below).

e. Modalities for enabling accession by non-European States

The European Landscape Convention provides for accession by European non-member States of the Council of Europe only. In order to make it possible for non-European non-member States of the Council of Europe, a protocol amending the Convention would be necessary.

A draft example of such a protocol is provided for information, under item 2 below. Should a decision of this kind be taken by the Committee of Ministers, leading to the drafting of such a protocol, this appendix could be used as a draft document for the negotiations.

It is up to the Committee of Ministers to decide whether to establish such a protocol, on the basis of a request from the CDCPP. The Committee of Ministers could entrust the CDCPP with the task of drawing up such a text.

After entrance into force of such a Protocol, accession by non-European States would not be automatic but should follow the procedure established by this Protocol: 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 Statute, and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers”.

2. Proposal for a draft Protocol amending the European Landscape Convention

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

Wishing to promote the European co-operation with non-European States wishing to implement the provisions of the Convention,

Have agreed as follows:

Article 1. Amendments to the Convention

1. In the Preamble, a new paragraph is added after paragraph 5: “Aware, in general, of the importance of the landscape at global level as an essential component of human being’s surroundings;”

[Acknowledging that the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas;

Aware, in general, of the importance of the landscape at global level as an essential component of human being’s surroundings;].

2. In the Preamble, a new paragraph is added after paragraphs 11 and 12:

“Wishing that the values and principles formulated in the Convention could also be applied to non European States so wishing”

[Acknowledging that the quality and diversity of European landscapes constitute a common resource, and that it is important to co-operate towards its protection, management and planning;

Wishing to provide a new instrument devoted exclusively to the protection, management and planning of all landscapes in Europe,

Wishing that the values and principles formulated in the Convention could also be applied to non European States so wishing;]

3. In Article 3, the expression “European co-operation” is reimplaced by **“co-operation between the Parties”**;

*[The aims of this Convention are to promote landscape protection, management and planning, and to organise ~~European~~ co-operation **between the Parties**].*

4. In Article 6, paragraph C.2, the word “European” is reimplaced by the word **“international”**

*[2 These identification and assessment procedures shall be guided by the exchanges of experience and methodology, organised between the Parties at ~~European~~ **international** level pursuant to Article 8.]*

5. In the title of Chapter III, the word “European” is reimplaced by the words **“between the Parties”**:

[CHAPTER III – ~~EUROPEAN~~ CO-OPERATION [BETWEEN THE PARTIES]

6. In Article 11, paragraph 1, the words “in Europe” are reimplaced by the words **“of the Parties”**:

*[1 The Landscape award of the Council of Europe is a distinction which may be conferred on local and regional authorities and their groupings that have instituted, as part of the landscape policy of a Party to this Convention, a policy or measures to protect, manage and/or plan their landscape, which have proved lastingly effective and can thus serve as an example to other territorial authorities ~~in Europe~~ **of the Parties**. The distinction may be also conferred on non-governmental organisations having made particularly remarkable contributions to landscape protection, management or planning.]*

7. In Article 14, paragraph 1, the word “Community” is reimplaced by the word “**Union**” and word “European” (from “European State”) is deleted.

*[1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite the European ~~Community~~ **Union** and 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.]*

Article 2. Signature, ratification, entry into force

1. This Protocol shall be open for signature by the Parties 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. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. 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 this Article.

4. However, this Protocol shall enter into force following the expiry of a period of two years after the date on which it has been opened to signature, unless a Party to the Convention has notified the Secretary General of the Council of Europe of an objection to its entry into force. The right to make an objection shall be reserved to those States or the European Union which were Parties to the Convention at the date of opening for signature of this Protocol.

5. Should such an objection be notified, the Protocol shall enter into force on the first day of the month following the date on which the Party to the Convention which has notified the objection has deposited its instrument of ratification, acceptance or approval with the Secretary General of the Council of Europe.

Article 3. 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.

3. Resolution CM/Res(2008)3 on the rules governing the Landscape Award of the Council of Europe

If the CDCPP and the Committee of Ministers are in favour of adopting a Protocol amending the European Landscape Convention, it would be necessary to prepare a draft revised Resolution on the rules governing the Landscape Award of the Council of Europe with the following two amendments to the Resolution CM/Res(2008)3 on the rules governing the Landscape Award of the Council of Europe:

1. In Article 1.c, the expression “European identity” is reimplaced by the words: *“values promoted by the Council of Europe”*:

[c. The award also helps to make people more aware of the importance of landscapes for human development, consolidation of the ~~European identity~~ values promoted by the Council of Europe and the well-being of individuals and society as a whole. It fosters public participation in the decision-making process concerning landscape policies.]

2. In Article 2, the words “in Europe” is reimplaced by *“of the Parties”*.

[In accordance with Article 11, paragraph 1, of the Convention, the following may be candidates for the award: local or regional authorities and their groupings that have instituted, as part of the landscape policy of a party to this Convention, a policy or measures to protect, manage and/or plan their landscape, which have proved lastingly effective and can thus serve as an example to other territorial authorities ~~in Europe~~ of the Parties. Non-governmental organisations having made particularly remarkable contributions to landscape protection, management or planning may also be candidates.]

A revised Resolution on the rules governing the Landscape Award of the Council of Europe would come into force at the same time as the entry into force of the Protocol amending the European Landscape Convention.

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