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Naturopa

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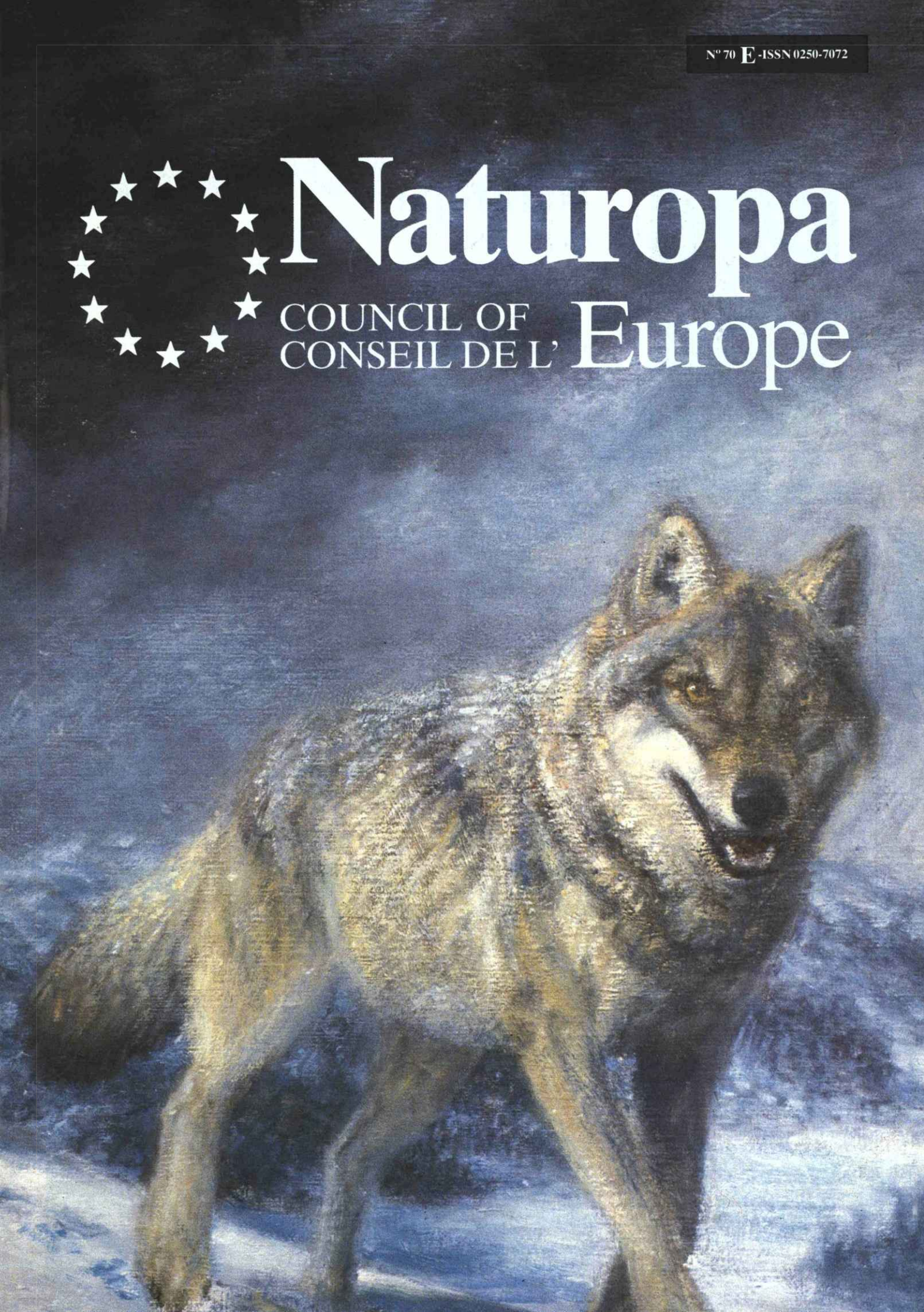

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Enjoy and behave

Nature's rules and laws are simple. Or are they? Eat and/or be eaten. Or "just" be a part of the great mystery of life, in one way or another. Who knows? Who will confirm, and what?

Science endeavours to understand and give us answers but we must be aware that in a man-dominated world any of our actions is having effects on nature.

The demands on our world are increasing and the threats and dangers are more serious than ever. Man believes that by adopting laws and regulations he can solve all problems. Experience shows however that in the field of environmental protection the effectiveness of the rules is far from complete.

This present issue of Naturopa is devoted to the legal framework of the protection of environment and tries to present the possibilities and the limits of today's and tomorrow's rules and regulations. But in all this, we should not forget the common sense of the rightful pleasures of life.

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At the end of April 1993, in the Swiss town of Lucerne, the second pan-European ministerial conference entitled "An Environment for Europe" will be held. The Council of Europe will be responsible for the nature input, ie the reports on Europe's natural heritage. For this important occasion, the Centre Naturopa, by means of Naturopa 71, will draw attention to the Council of Europe's 30 years of work, frustration and success in fighting for a better environment. It will also recall the quarter of a century of its own existence. ■

H.H.H.

G. Lopez Dios

Editorial

All too often, it is left to the individual parties to decide how they will interpret and apply the international conventions. Moreover, if a country does not wish to adhere to a convention, there is nothing anyone can do. More monitoring, more sanctions and a much greater freedom to interfere will be needed if we do not want the conventions to lie unheeded by the sick-bed of the dying planet Earth.

The great change in recent years has certainly been the growing and almost universal realisation that environmental considerations must prevail in all human activity. Even the most high-powered captains of industry consider that the time has come for environmental protection to play a full part in their economic strategies.

Scientists and philosophers have, of course, been saying for a long time that human activities must be brought into harmony with nature, and predicting catastrophes if people go too far in infringing nature's rules. The message of Denys Meadows in his report for the Club of Rome, published 20 years ago, and that of the Stockholm Conference on the Human Environment which took place the same year, were both coolly received. They came prematurely and stood in the way (or as some would say, the motorway) of progress. These were the earliest attempts, the first-ever draft instruments, and like seeds sown on barren ground they had to wait a long time for the soil to transform itself little by little into fertile humus.

In recent years, a series of events has speeded up the process of environmental awareness. The discovery that certain chemicals in common use destroy the ozone layer and turn our beaches into griddles, and that a gas as harmless as carbon dioxide could send us back to the age of the dinosaur in a few decades, has clearly roused public opinion worldwide, ensured an unprecedented following for the Earth Summit in Rio de Janeiro and made sustainable development an everyday concept. This is a synthesis term encompassing care for nature and the environment, guaranteed decent living conditions for all human beings and continuing economic growth.

The sense of harmony inherent in the concept of sustainable development by no means reflects the reality of daily life. The natural world continues to regress, the biosphere is daily more polluted, and the poorest of the poor continue to die of hunger as they struggle to hold on to their last remaining resources.

A difficult synthesis

Because of the tension that exists between the will to ensure sustainable development and the increasingly catastrophic degradation of our living environment a new era is in sight whose development will be governed by two mighty forces: a wind of economic liberalism

A. Egger

which seeks to eliminate artificial protectionism, and an awareness of our ecological responsibilities. If we do not want the new upsurge of the economy to leave the Earth in ruins, we must achieve the synthesis of these two forces by establishing the rules of the game in the framework within which it is played.

As a first step, the economists must integrate environmental protection and sustainable resource management into their strategies: much lower energy consumption, total recycling of materials and a reduction of transport demand. To a large extent these objectives can be achieved by means of economic instruments whose role is to integrate ecological costs into the price of the finished product: deterrent taxes, pre-collection waste management charges, returnable containers, etc.

It will then be necessary to fix the framework in which the economy is free to act, in order to preserve non-economic values and harmonise the rules for all concerned.

Local and national regulations are indispensable in organising the physical environment, providing the regions with the necessary facilities and monitoring the application of the law. In a market without frontiers, it is more necessary than ever to achieve international harmonisation of the rules.

When animals, plants and biocoenoses have to be protected, certain substances prohibited, and prices calculated to include the ecological costs, the same rules must be applicable to all; otherwise the wreckers of the natural environment and the wasters of our resources will enjoy a privileged position on the market.

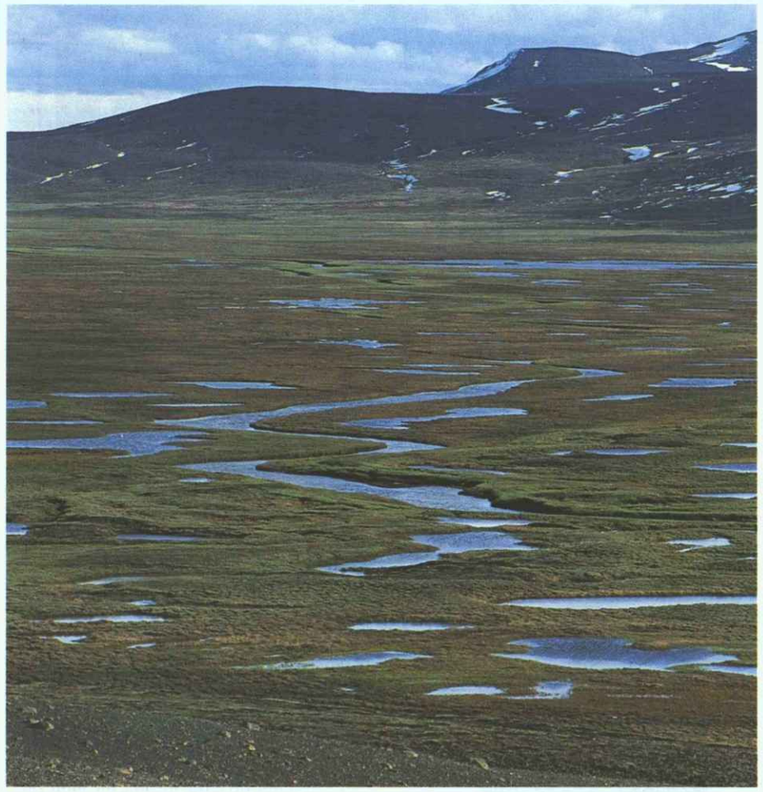
The international conventions are therefore indispensable for ensuring that the same rules apply to everyone. They are not perfect by any means, since their effectiveness depends on how willing the parties are to apply them and because there is no efficient means of monitoring, still less imposing, their implementation.

They have to be considered as the foundation stones of an international legislative edifice. True, parts of this structure are missing, and will one day have to be added; but the most urgent task now is to provide it with the means with which it is to function. The secretarial services must be equipped to carry out independent monitoring checks, and it is not too soon to contemplate an international law enforcement system capable of denouncing recalcitrant parties and passing sentence.

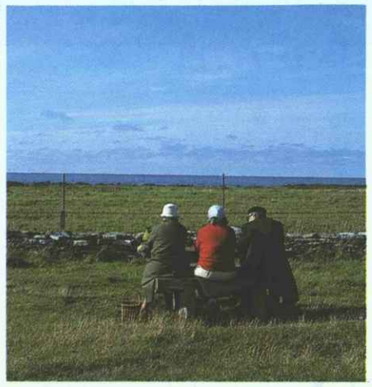
This last measure is one which will have to be taken if sustainable development is to have any chance of being more than just a fine concept. ■

Philippe Roch

Director of the Swiss Federal Agency for the Environment, Forests and Landscapes



P. Henry



P. Henry

W. Lipiec

Nature's pleasures

Joachim Graf von Schönburg-Glauchau

A spectre is stalking through Europe and all the regions of the earth which have been decisively influenced by its culture and civilisation. It is as yet a nameless spectre, but it is impossible not to hear its voice; and increasingly people are beginning to look anxiously around them. Not all people, far from it, but there are more and more of such people every day.

Their anxiety is justified, for the message the spectre seeks to convey is precisely this: "You are making a terrible mistake; turn back before it is too late - it is perhaps already too late.

"You have wrongly interpreted the word of God giving man dominion over the earth. You have forgotten that he who has dominion over that which has been created, the creatures of the earth, thereby becomes responsible for their wellbeing; the Creator himself will ask him to account for his stewardship of the land, and to show whether he has been a good shepherd to his fellow creatures."

There is one other thing: the world is capable of reacting in its own way to all the evils inflicted on it; and it has ways and means of getting rid of bad stewards and bad shepherds.

An old story

The history of this error goes back a long time into the past. It was at its height when Renaissance man saw himself as a sovereign individual, alone before his God. It continued to propagate itself wherever human reason had become the sole yardstick to be used, wherever "unreasoning nature" had become the field in which human willpower made itself felt. The world and its creatures were subject to the arbitrariness of human will; man considered that it was his mission to improve them, and even to perfect them for his own profit or pleasure.

It cannot be denied that this approach to the universe yielded its fruits: swamps were converted to arable land, distances grew less thanks to modern transportation facilities, man landed on the moon, and today he already has it in his power to act on genes. Yet no medical conquest has reduced the total number of sick people: while admittedly infantile mortality has declined, over-population makes any genuine progress impossible; the expectation of life has increased, but at the same time so has the number of elderly people. And on the other side of the coin of all these successes, new threats constantly appear: in addition to over-population we have air and water pollution, the disappearance of the tropical forests and of animal and plant species, dwindling forest cover, the depletion of the ozone layer, global warming and so on.

Faced with these threats, man is helpless and his reactions are incoherent, as is usually the case in panic situations. Yet once the panic is over he rarely makes any change in his behaviour. The general rules by which he has always decided what is good and what is bad continue to operate. Governments, which are in fact paid to do so, have to draw the necessary conclusions - while doing all they can to ensure that each individual's lifestyle and living conditions will be affected as little as possible. The individual is also increasingly concerned with his own person: if such threats really exist, then at least the sacrosanct person of the individual should be spared. We worry about our health, we lead a life which should allow us to live to be a 100 - we give up smoking, we monitor our cholesterol level and we avoid too much exposure to the sun - as advised by the magazines we read - and we have a right to expect that where we live, the air and water should be of the best possible quality. We also proclaim our support for nature conservation, which in practice means giving up all forms of "intervention" save those required for the wellbeing of the individual. All the birds of the field should enjoy eternal life and happiness on earth - except, obviously, those which prevent one from sleeping during the night or in the early morning by making a din, or those which spatter one's car with droppings. Rabbits and deer should be allowed freedom to run wild, provided that they do not nibble one's budding rose bushes. Generally speaking, every animal is entitled to life and wellbeing - unless it bothers us or spoils a summer evening on the terrace by buzzing or by stinging us. Plants too should all be spared, especially in far-off places, except (of course!) the weeds in our garden.

Duplicity

It is true that a (growing) minority no longer accepts this situation of double standards. Fortified by its convictions, it stands up for nature, joins the circle of the "chosen few", the clear-sighted, the "protectors of nature", and qualifies the rest of mankind as mere "users of nature".

Though our relations with these people - who are so different from unscrupulous building contractors or from our contemporaries with their double standards - are agreeable on the first contact, since they tug in the other direction on what unites us all, there is no future where they are going: their arguments turn out in fact to be anti-social, since they take no account of their neighbour's wellbeing, freedom or concerns. Worse still, since many of these people are convinced that they possess absolute truth, they go about rejecting and hating all those who do not unreservedly come around to their point of view, ie what they consider at present to be right and just. And since society does not (for the time being) try to get rid of them, they achieve some success in the fight against the "unbelieving" and the "stiff-necked".

The discerning among the "protectors of nature" sometimes observe that many of the "chosen few" are dedicated in advance to a kind of cult in respect of a particular animal or plant species, of a specific biotope or other phenomenon to which they are devoted. Let the rest of the world perish - provided that their idol is duly respected.

Whatever name one gives to the "golden calf", its worshippers not only bring it astonishing personal offers; they also find it normal, fair and right that other creatures, in particular their fellow men and women, should sacrifice to it their health, wellbeing and even their lives. The undisguised pleasure evinced in certain circles when it was learned that scores of poachers who had killed elephants were then themselves shot dead, is an example which speaks for itself.

The good shepherd

What then is the attitude one should adopt to the universe, in particular to all its creatures? As the reader will have noted, my view is that one should reject the arguments of both those who seek to master and improve nature and those who indulge in a genuine cult of nature (or some of its elements).

To begin with, I think that man should look on himself as part of creation. If you ask what part, I should say neither the highest nor the lowest member, but a good master and hence its chief servant.

Here also reference can be made to a biblical metaphor: that of the good shepherd. The good shepherd's aim is not to make his fortune from his flock; neither does he regard it simply as an agreeable pastime, nor does he idolise it. On the contrary, he considers that the trust placed in him on Earth is that he should be the shepherd who watches over his flock, who makes sure that it is in good health (for example, he sees to it that it is kept to a reasonable size to avoid overgrazing) and - for whom his flock is a source of satisfaction and achievement, and also his livelihood. This naturally includes his food; a shepherd is certainly not a vegetarian; he is also capable of savouring a tasty dish of tender lamb or mature mutton, perhaps in the company of friends.

"Savouring" is probably the key word. I consider that the shepherd is a good shepherd if, as master and shepherd of his flock (and pasture lands), he derives pleasure from the feeling of a duty accomplished, the contemplation of his flock - and the smell of a leg of roast mutton. Some people admittedly consider that these are "simple pleasures"; but is it not better to enjoy these simple pleasures in life rather than to join the rat race for money and gain, in the knowledge that, whatever happens, "you can't take it with you".

In my view, if the Creator has willed apples to be red, raspberries sweet and venison to be a delicacy, it is also so that we may feel pleasure in the world He has created by contemplating, gathering and tasting its products.

By basing our attitude to the universe on this principle, we not only adopt a form of behaviour which corresponds to human nature as conceived by the Creator; we are also more disposed to feel the respect which we obviously owe toward the universe and its other creatures. And such respect should prompt within us both awareness and moderation when we exploit the resources of the universe. Awareness and moderation lead to humility, and humility to wisdom. Is not this precisely what we seek: wisdom in our relationships with the universe and its other creatures?

In the street outside, an old man passes by with his gun slung from his shoulder, holding in his hand the rabbit he has just shot, the picture of happiness. In his time he has frequently watched this odd little animal scampering about in play; today he was pleased at his good shooting and retrieved his game with alacrity, caressing its soft fur; he is now already thinking of the fragrant smell of the oven roast.

He is at peace and harmony with himself and nature - his own nature, and his natural surroundings. He has sought not material gain but pleasure, and he has found it. ■

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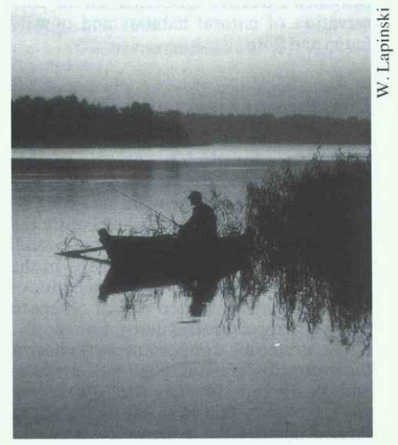

W. Lapinski

Europe from 1993 onwards

A complete and coherent framework

Carlo Ripa di Meana

In pursuing its environment policy since the adoption of the first action programme in 1973, the European Community has built up a very substantial body of legislation on nature conservation. It rests on three pillars:

- Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds;

- Council Regulation (EEC) No. 3626/82 of 3 December 1982 on the implementation in the Community of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). This regulation will in due course be superseded by another which the Commission recently proposed to the Council and which will govern all trade in species of wild fauna and flora inside and with the Community;

- Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

Directive on Conservation of wild birds

I do not think it necessary to dwell at length on this directive which has been applicable within the Community for the past ten years. A report setting out the main successes attributable to it will be published before the end of 1992. The directive confers overall protection on all bird species living in the wild in the Community, with the exception of 72 which may be hunted and of others to which strictly controlled derogations apply. However, the most important part concerns the protection of natural habitats: member States are required to designate "special protection areas", that is to say areas whose number and size makes them especially suitable for the conservation of the species listed in Appendix I. So far, the member States have designated some 800 special protection areas, covering a total of about 6 million hectares, most of which already have legal protection in the form of legislation, regulations, administrative measures or management agreements with the owners of the sites concerned.

The bird directive is an important milestone in the Community's history, since it represents the first binding legal instrument having major implications for land use and planning in Europe. The reason for the emphasis on birds is mainly that bird populations are continually crossing frontiers, especially the migrant species; hence the need for concerted action throughout the European Community.

The habitat directive, in brief

In the 1980s, public opinion mediated by non-governmental organisations (NGOs) and the European Parliament stepped up the pressure in support of a comprehensive, Community-wide nature conservation policy and a Community Law instrument enshrining the obligations contracted under the Bern Convention.

In July 1988, the EC Commission submitted a proposal for a directive to the Council. On 21 May 1992, after nearly four years of protracted negotiations, the Council finally adopted the text of what is now the Community's own legal instrument, a text which will enable a coherent nature conservation policy to be applied in future throughout the European territory of all 12 member States, including their territorial waters.

The Directive is in four parts:

- the first contains definitions of the main concepts used in the subsequent articles;

- the second describes the procedure for setting up a European ecological network of special areas of conservation under the title Natura 2000;

- the third concerns the protection of species and covers much the same ground as the Bern Convention;

- the fourth consists in advice to member States about the additional measures they should take in order to foster, for example, education and general information.

The first two parts reflect a concern to state the "rules" so as to minimise the risk of disputes between Parties arising out of differing interpretations of their undertakings. This applies both to the procedure for identifying sites of Community importance and to the obligations which the member States must fulfil once those sites have been identified and designated as special areas of conservation. Incidentally, behind the decision to adopt the term "special areas of conservation" rather than "special protection areas" as in the bird directive, there lies a whole philosophy concerning the system of protection required for the areas in question. It was considered appropriate to specify that those areas would not necessarily be deprived of economic activity, but that the emphasis would be on guaranteeing the continuance of the biological processes or elements necessary for the conservation of the habitat types or species for which they were designated. Rather than prohibit everything, the right course in these areas is to look for ways of ensuring sustainable development that will not hinder the restoration or maintenance, at a favourable conservation status, of the natural habitat types and species of Community interest which they harbour. That the watchword is "conservation" - meaning a series of preventive or curative measures - and not "protection", which would tend to suggest stringent regulations of the kind typically applicable to the strict nature reserves.

The directive comprises two further innovations, one in regard to the international conventions on nature conservation (the Bern and Bonn Conventions for example) and to most bodies of applicable national legislation, and the other in relation to other Community directives.

The first innovation lies in the addition of a technical annex of a wholly new kind, setting out the natural and semi-natural habitat types of Community interest which it is important to preserve as such and not simply as aids to the conservation of particular animal and/or plant species.

The second innovation lies in the provisions on the funding of measures taken in compliance with the directive: certain member States may, for example, have a larger financial burden to bear than others in view of the fact that the natural habitat types and species of Community interest for which positive conservation measures are required are not distributed evenly throughout Europe.

W. Lipiec

It is important to keep habitats as such and not simply as aids to conservation of particular species.

Timetable for implementing the habitat directive

As in the case of many Community directives, member States have two years in which to incorporate the provisions of the Community text into their national legislation. However, it is clear that in order to keep to the June 1995 deadline for proposing lists of sites eligible for identification as sites of Community importance, they will have to make a start without delay on the technical and scientific work involved in improving and consolidating the status of knowledge needed for applying the criteria set out in Appendix III (Stage 1) of the directive; these are the criteria for assessing at national level, the relative importance of sites present on their territory which harbour natural habitats or species of Community interest.

The special protection areas classified under the bird directive are automatically regarded as special areas of conservation for the Natura 2000 network. Member States must however take steps to identify all items which are likely to be concerned by the habitat directive, in order to determine what additional conservation measures would be required.

There is, however, nothing to prevent the same member States notifying the Commission without delay of the sites they wish to propose for identification as sites of Community importance, so that the Commission can put in hand the procedure for assessing the Community importance of those sites in the light of the criteria set out in Appendix III (Stage 2).

In any case, once all member States have transmitted their proposals to the Commission, all will be assessed as part of a Community-wide procedure which should be completed by June 1998 at the latest. Member States then have a maximum of six years in which to designate the sites whose Community importance is recognised as special areas of conservation, beginning with those which harbour the most severely endangered natural habitat types and species.

Longer-term prospects

The objective is to ensure that the main fabric of Natura 2000 is set up by June 2004 at the latest, bearing in mind that it is an organic network subject to the laws of natural evolutionary dynamics and may possibly require certain adjustments; efforts will then be concentrated, within the network's special areas of conservation, on implementing all the conservation measures - preventive and positive - essential for the maintenance or restoration, at a favourable conservation status, of the natural habitats and species of Community interest. The directive in fact stipulates that in these areas the member States must apply the conservation measures necessary for meeting the ecological requirements of the natural habitats and species for which they are designated.

On the other hand, in the case of habitat types in danger of disappearance and endangered species within the European Community (referred to as "priority natural-habitat types" and "priority species" respectively) for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the European territory of the member States, the latter may defer the required conservation measures if they had not yet received the necessary Community co-financing, on condition that in the meantime they refrain from any new measures likely to result in deterioration of the areas in question. In practice, it is clear that gigantic efforts will have to be made to ensure the required Community funding, not only under the "protection of nature" section of the LIFE regulation, but under all other structural instruments as well.

In this respect, the reform of the Common Agriculture Policy (CAP) will no doubt open up new opportunities, not least through the future agriculture/environment regulation. If this is properly put into effect, it may indeed become an invaluable instrument for the conservation of biological diversity and give large numbers of farmers the incentive to remain - or go back to being - what they always were, namely custodians of the natural environment.

But it is also to be hoped that the cohesion fund for Spain, Greece, Ireland and Portugal will be used to help maintain and protect certain unique natural assets which are of inestimable value for the sustainable development of those regions of the Community and should not be sacrificed to short-term interests.

In summary, this body of Community legislation is both coherent and complete, while at the same time wholly respecting the Community's principle of subsidiarity. It establishes a framework accepted by all within which the member States and their regions may evolve according to their own particular characteristics and priorities, aware of their joint responsibility to conserve the natural environment of the Community and so contribute to the maintenance of biological diversity in Europe and throughout the world.

It is clear that without a convergence of the objectives pursued under the habitat directive, on the one hand, and the structural funds on the other, no nature conservation policy can hope to be successful. Hence the need, in the years ahead, to ensure that through the new Regulations concerning the second part of the structural fund reform programme, if possible by the period from 1994 to 1998, but certainly in the subsequent regulations, harmonious, balanced development and sustainable, environmentally acceptable growth become a reality; for these are among the main objectives which the new Treaty on European Union adopted at Maastricht in December 1991 assigns to the Community. The directive, too, acknowledges this interdependence of policies affecting the physical environment when it states that land use planning and development policies should encourage the management of features of the landscape which are of major importance for wild flora and fauna. ■

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A critical viewpoint

Alain Lebrun

From an NGO's standpoint, the fundamental principles enshrined in the EEC Directive of 2 April 1979 on the conservation of wild birds make good sense, are still valid and should be defended. What are they?

The directive relates to the conservation of all species of naturally occurring birds in the wild state. There are no exceptions, no outsiders, no "pests", and no "ugly ducklings" (as in Hans Andersen's fairy tales). Its great merit is its admission that each species has its place in the ecosystem and that each has its own demands while accepting those of others. In philosophical terms this form of peaceful co-existence between species is a long way ahead of utilitarian preoccupations with biological diversity, and it is regrettable that the Directive of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora reverts to the traditional system which consists in listing the plant, mammal, fish, reptile and insect species that are protected (implying that the rest are not). True, there are exceptions (game birds are given only limited protection, and derogations may be allowed here and there when the interests of men clash irretrievably with those of a particular bird species); but the very fact that these are isolated exceptions only enhances the principle's credibility. From this point of view, the 1979 Directive marks a turning-point in the history of ecological awareness.

Hunting

The directive lays down an ecological code of behaviour for field sports.

- compliance with the principle of "wise use and ecologically balanced control";

- no hunting during the spring migration or during the period of reproduction;

- no capture or killing by large-scale or non-selective methods;

- no trading in birds except for certain game species.

As a result of the NGOs' work in bringing cases to court in their own countries, this ethic is starting to be incorporated into the law. Costly legal battles have clarified the issue for the European Commission which has now instituted proceedings against a number of offenders, one of which led to a judgment by the European Court of Justice concerning the dates of the shooting season in Italy in respect of certain species. Surely the NGOs are entitled to some financial backing for acting locally, in their small way, as the treaty's watchdogs?

It appears that the Commission, in authorising the marketing of certain species, reaches its decisions in private without consulting the parties. This is unsatisfactory.

Also, the way in which the periods for hunting certain species are fixed, with different opening dates in different countries, appears to have more to do with haggling and power politics than with strictly biological criteria. Discrimination of this kind is a matter on which the Court of Justice should be asked for a preliminary ruling. If we have to have two-tier protection, then the basis should be homogeneous biogeographical regions and not arbitrary administrative boundaries.

J. Blanc/Jacana

The Directive of 21 May 1992, which I mentioned earlier, says little or nothing about the ethics of hunting animals other than birds.

The derogations specify only a limited number of reasons, places, times and beneficiaries. They are allowable only if there is no satisfactory alternative. This stringent system has a fundamental flaw however. Its implementation is left to the state's discretion, with no prior control on the part of the European Commission. The system under the 1970 Benelux Convention on the protection of birds, which gives authority on the matter of derogations to a supranational body, is to be unreservedly preferred. Furthermore, the inclusion of the Corvidae (jay, magpie, crow, jackdaw, etc) in the list of game species as a means of limiting damage to crops is to be roundly condemned. Prevention of damage should rely on strictly confined derogations and not on field sports which do not have the same ethical justification and cannot be regulated in the same way. Without going into details, it would appear that on procedural arrangements and the reasons for authorising a derogation, the Directive of 21 May 1992 is more laxist than the bird directive of 1979.

Saving clause

Nothing in the 1979 Directive precludes the adoption of stricter protective measures in any member State. It is worth recalling this saving clause at a time when the Community is seen in certain quarters simply as a levelling-down instrument.

A standstill is in force, starting in 1979. The directive states that whatever the level of protection achieved by the parties on the date of its promulgation, there can be no going back. So far no exhaustive study of compliance with the standstill has yet been made. While it is true that the general trend is towards improved protection, a number of pockets of regression have been detected on occasion over the past ten years.

No such standstill is proclaimed for the safety of the flora and non bird fauna in the habitat directive of 21 May 1992.

The protection of habitats by the institution of what the 1979 Directive calls special protection areas is an innovation which makes that text more effective than the international legal instruments which preceded it. The Directive of 12 May 1992 takes these areas (now called special areas of conservation) and composes a coherent ecological network.

It is too early to take stock of this policy. First impressions suggest that the texts are rather too timid and woolly.

In conclusion, it is certainly true to say that much remains to be done to ensure that the existing instruments, and especially the 1979 Directive, are applied (which does not mean that they should not be improved). The joint action of the NGOs and the Commission has proved to be a powerful lever. There are two priorities now: one is that the NGOs should receive financial aid directly from the Commission; the other is that the Directorate-General DG XI working on the problems of the natural environment should be more fully staffed.

The Directive of 21 May 1992 is a step forward where the scope of the law is concerned, since it affords protection to further species and habitats; but it represents a serious and alarming setback in terms of ideas and jurisprudence. ■

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S. Cordier

Key role

Roger Wilson

NGOs have a key role to play in the development of international law. However, the role that a given NGO can play is primarily determined by its background. While an international NGO, such as Greenpeace, may have the capacity to analyse an impending piece of international environmental law and lobby and speak on it at an international level, others may play a very useful and influential role at a national level.

Environmental law development

One way in which NGOs can participate in the development and operation of international environmental law is by participation in meetings at which new instruments and measures are negociated. There is usually a provision in an environmental convention whereby an NGO can apply for "observer", or "consultative" status. This is, however, not always a formality, even for established international NGOs such as Greenpeace. Frequently, concerted efforts are made by governments to block NGO participation.

Some treaties and conventions, however, have no provisions for NGO observer status. For example, the Antarctic Treaty system until recently would have nothing to do with NGOs. While the recent grant of observer status to the IUCN and the Antarctic and Southern Ocean Coalition (ASOC) has remedied this to a limited extent, Greenpeace, which has worked more actively on Antarctic issues than any other, has not been able to obtain observer status.

Likewise, after years of pressure, primarily from Greenpeace, the Oslo and Paris Commissions relented in 1991 and each granted observer status to four organisations. Though Greenpeace had been the most active NGO, and has consistently made representations on substantive issues to both bodies over a period of more than ten years, observer status was granted at the Paris Commission.

Environmental regulation vs the market

One of the "catch-cries" of the last decade of the 20th century is the importance of the market as a means of regulating human behaviour, including behaviour with respect to the environment. This has severe implications for international environmental law. While it is clear that economic disincentives (taxes and fines) and incentives (subsidies) can play a significant role in environmental protection, it is crucial that such incentives should not be the sole instruments used. Pollution should not be regarded as just another commodity, to be bought and sold, but eliminated.

Building pollution costs into the pricing structure does not necessarily in itself provide an incentive to industry to keep pollution levels to a minimum. The cost of pollution may become built into the pricing structure in a way that there is no incentive to change.

Further, entirely the wrong signal is sent to the developing world by the unfettered use of such economic instruments. Their use implies that it is morally acceptable to pollute, as long as an economic penalty is paid. Industries in rich countries may therefore continue to pollute (because they can afford to), while those in poor countries which cannot afford such penalties may have no option but to close.

Trade law is also becoming increasingly critical in environmental policy. Existing agreements, such as the General Agreement on Tariffs ond Trade (GATT), can make it difficult for states to impose domestic-environmental regulations which may be seen as "unfair barriers for trade". International environmental law may, further, find itself overruled by GATT, for example. The development of new agreements such-as the European Community's single European Act and the North American Free Trade Agreement have heightened NGOs' fears that trade agreements will take-precedence over environmental rules.

The future

Many serious environmental problems, such as climate change, ozone depletion, and the protection of the forests, are absolutely critical to the survival of the planet, and can only be agreed by a consensus of all states, North and South. However, in order to ensure that southern states agree, assistance must be made available, as they may not otherwise be able to afford the costs of required cleaner technology. The mechanisms by which assistance is given will be critical both to the success of the convention concerned, and also to the success of the development strategy of that state.

Acknowledgment of the linkages between the environmental law and trade agreements, economics and development is thus absolutely critical to the solution of the world's environmental problems. If we cannot, as a global community, make this link, we have little chance to "save the planet". Thus, while NGOs may participate in the development of environmental law in the "traditional"" forums, these are becoming less and less relevant to the solutions required.

Unless the global community can prioritise environment above the market and trade, then any progress made may be ultimately undetermined, to the detriment of all. These are amongst the most important gaps in international law which governments prefer to avoid. A small step in the right direction would also be to pay more serious attention to the potential contribution of NGOs. ■

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A say in decision-making

Alexandre Kiss

Y. Tonnerieux/Bios

The Council of Europe was one of the first international organisations to address environmental issues. The "Era of ecological awareness" dawned towards the end of the 1960s with the adoption by the Council of Europe of two fundamental texts: the Declaration of Principles on Air Pollution Control and the European Water Charter (1968). In the same year, the first of the European Conventions relevant to the environment, an agreement on the Restriction of the Use of certain Detergents in washing and cleaning Products (16 September 1968), was adopted, followed some months later by the European Convention for the Protection of Animals during International Transport (13 December 1968).

This was the starting signal. Other conventions followed, also heralded by declarations of principle: the one on soil conservation and the one on management of the natural environment. A draft was completed of a European Convention for the Protection of International Water Courses, but for various reasons was never adopted by the member States; it did nevertheless have the merit of setting out for the first time a number of rules which later provided material for other instruments. These included the EC Council Directive of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community, a key item of EC legislation on water protection, and the Bonn Convention of 3 December 1976 for the protection of the Rhine against chemical pollution.

It is certain that in the early 1970s European conservation policy took a new turn: the EC decided to make environmental protection one of its areas of activity. Because it was better placed to combat industrial pollution and could adopt legal instruments (ie regulations and directives) which, unlike treaties, became binding on member States without any formal acceptance on their part, Brussels assumed responsibility for the whole pollution control sector. This explains why, from the mid-1970s onwards, virtually the only action of the Council of Europe in this field was to revise the 1968 Agreement on the Restriction of the Use of certain Detergents (25 October 1983). There did, however, remain three sectors in which the Council's actions were set to continue: transfrontier co-operation, the protection of animals, and the protection of the natural world as a whole.

Faithful to its vocation, the Council of Europe has always fostered transfrontier contacts between neighbouring populations of neighbouring member States. For this, a European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities was adopted in Madrid on 21 May 1980. Among other possible areas of joint activity it mentions specifically the protection of the environment and mutual assistance in the event of disasters. In fact, such forms of co-operation exist in a number of regions: Germany-France-Switzerland, Germany-France-Luxembourg, Germany-Netherlands, Spain-France, etc.

Animal protection

Concern over the protection of animals - and not only wild animals - is a European tradition. It was reflected first in the 1968 European Convention for the Protection of Animals during International Transport. Action in this field was later reinforced by two further Conventions: the European Convention for the Protection of Vertebrate Animals used for Experimental and Other Scientific Purposes (18 March 1986), and the European Convention for the Protection of Pet Animals (13 November 1987).

The Council of Europe was active mainly in the field of nature conservation, which, for a number of years at least, remained outside the scope of the European Community. The Bern Convention, an instrument of quite outstanding importance, is the subject of a separate article.

This combined achievement of the Council and the Community might have been judged sufficient had not the political map of Europe been so abruptly transformed in the course of the past few years. Community legislation was applicable to 12 of Europe's worst polluters and the Bern Convention safeguarded the natural environment in a larger number of countries. There was room for improvement, certainly, but with these instruments to hand, European legislation could have been deemed equal to practically every contingency.

But only since 1989 has it really become apparent that Europe is more than just an organisation with 12 or 27 member States. The other part of Europe, the part that recently gained its independence, is precisely where environmental problems are the most serious. At present, apart from a very few rules on pollution applicable worldwide, only three pan-European regional Conventions exist, each one limited to a precise sector or to a single aspect of environmental protection: they are the Geneva Convention of 13 November 1979 on long-range transboundary pollution, and its four protocols; the Espoo Convention of 25 February 1991 on environmental impact assessment in a transboundary context; and the Convention adopted in Geneva in March 1992 on the protection of continental waters. All of these instruments were framed in the context of the United Nations Economic Commission for Europe, with the participation of Canada and the USA. Substantial gaps exist, of course, especially with regard to the countries of Europe that are not members of the EC and are unlikely to be admitted to membership for some time to come. And yet those are the very countries in which the level of environmental degradation is the most catastrophic, and what is more they also "export" pollution to Western Europe.

Reinforcing its role

This being so, it is permissible to wonder whether the Council of Europe should not make this one of its top priorities. The popular support enjoyed by the Strasbourg organisation gives cause for optimism and suggests that, here too, timely action could strengthen its role in the process of European unification.

Action could be of two kinds. Firstly, a general convention could be framed on the protection of the environment. It would set out the fundamental principles that need to be applied, namely that everyone is entitled to a healthy and diversified environment, that all individuals have the right to be informed of any potential deterioration of their environment, to have a say in decision-making and means of redress at their disposal; that all concerned, the state, local authorities and citizens, must have powers to protect the environment; and that biological diversity must be safeguarded. The text would highlight the principles of prevention and forewarning and the duty of States to keep each other informed about their projects and engage in mutual consultation; to raise the alarm and provide assistance in critical situations; to compensate victims of ecological damage and, where possible, to repair damage caused to the environment etc. In compiling such a text, the Council of Europe would remain true to its past: it was, after all, the first international organisation to enshrine in a binding treaty the principles set out in 1948 in the Universal Declaration of Human Rights. In this case, it would be giving similar authority to the rules proclaimed at the 1972 Stockholm Conference on the Human Environment, in the 1982 World Charter for Nature and at Rio de Janeiro in 1992.

The parallel drawn here with the developments that characterised the international - and European - protection of human rights could be taken a stage further. The Council of Europe was the first organisation anywhere in the world to proclaim rights and set up international machinery to protect the rights it proclaimed. Structures of this kind would be essential to any endeavour to safeguard the environment effectively. The experience gained through the work of the European Commission and Court of Human Rights, and the periodical reporting system that operates in the context of the European Social Charter, should now be adapted to guarantee the effective protection of Europe's environment. For instance, a general European Convention on the environment should provide for the creation of a committee of independent experts which would receive and publicly examine reports returned periodically by the member States. This committee should also have the power to receive and examine communications from States, as well as individual petitions alleging violation of the obligations incurred under this or any other European Convention concerning the environment. It should also be possible to make recommendations to the States concerned as to how they might better comply with their obligations.

Whatever turn Europe's environmental problems may take in the future, it is important for the Council of Europe to step in now. In recent years, it intervened at the right time to help the process of democratisation in Central and Eastern Europe. It would be an historic error if at the crucial moment it failed to make a fundamental contribution to the protection of the environment, the indivisible asset of the Europe it seeks to unify. ■

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Common responsibility

Mireille Jardin

The notion that the inhabitants of this planet have a common responsibility for safeguarding it and handing it down to future generations has been slowly gaining ground for the past 20 years or so. However, it is not yet recognised in international law, even after the Rio Summit. The Convention for the Protection of the World Cultural and Natural Heritage, adopted in 1972 by the Unesco General Conference, was therefore to some extent ahead of its time since it was based on the idea, set forth in the preamble, that "certain parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole".

Of course it respects the sovereignty of the state on whose territory such parts of the heritage are situated, since protection is primarily the responsibility of those states. But the principle has been established: states acknowledge that "such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate"" (Article 6).

In practice

How does the Convention operate in practice? It is up to the Contracting States to identify those parts of the cultural and natural heritage which they regard as meeting the criteria set out by the Convention for inclusion on the world heritage list: for example, vestiges of lost civilisations, symbols of an historical era, unique buildings and structures, items illustrating the evolution of the earth, and sites valuable for their biological diversity or the endangered species they contain.

The 21-country Committee on the World Heritage is responsible for placing items on the list, after making an evaluation and obtaining the opinion of ICOMOS (International Council on Monuments and Sites) in respect of the cultural heritage, and of the IUCN (World Conservation Union) in respect of the natural heritage. The evaluation is rigorous, covering not only the item's intrinsic qualities but also the means of protection employed. Inclusion is often deferred for a year or more to enable the protection measures to reach a satisfactory level.

Once the heritage item is registered, what assurance is there that it will continue to be properly protected? That is the Committee's major concern. Where the natural heritage is concerned, IUCN each year submits a detailed report on specific items on the World Heritage List, drawing the Committee's attention to any dangers to which they are exposed. The Secretariat then seeks the optimum solution to the situation, in consultation with the state concerned and offers the state any assistance it may need in implementing the solution. In this way a reliable impact study will often pave the way for an alternative development project, whether in terms of roads, irrigation or mining, etc. In other cases the Committee's concern will prompt the state in question to relinquish a given project and respect the inviolability of the registered heritage item.

The Convention has achieved a number of successes. Having secured its own funding, something extremely unusual at the time, it can also launch direct action by, for example, sending experts and equipment or by training heritage managers. The World Heritage Fund only accounts for about $2.5 million per annum, but it nonetheless enables action to be taken and other sources of financing to be brought in.

Nature and culture

In 1992 the World Heritage Convention celebrates its 20th anniversary. It is a time for stocktaking. 125 States have acceded to it, and 358 heritage items are included on the World Heritage List, a hundred or so for their natural value. Over the last ten years 35 of these natural sites have been supported by the World Heritage Fund, which has also paid for the training of over 2,000 nature conservation specialists. And no-one today is surprised that nature and culture have been attributed equal heritage value. The Convention is alive and kicking. It does have its limitations, for instance in the event of armed conflict, as the case of Dubrovnik has unfortunately shown.

How can its working be improved, by stepping up the Committee's powers of intervention? How can more funds be marshalled for heritage protection? These questions are currently being looked into by Unesco and will be discussed at the session of the World Heritage Committee which will officially commemorate the 20th anniversary of the Convention next December, in Santa Fé in the United States of America. A strategy to increase the resources under the Convention will be adopted and the World Heritage Centre, which Unesco Director General Federico Mayor has recently decided to found, will be entrusted with its implementation. ■

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The Bern Convention

Jean Renault

The Bern Convention has considerable potential value, which is recognised by everyone. In the first place, it covers, either explicitly or implicitly, all aspects of nature conservation. It constitutes a commitment to take a fresh look at all policies having an impact on natural habitats. In the second place, it lays special stress on habitats, the disappearance of which is incontestably the gravest of all threats to wild flora and fauna. Lastly, it draws attention in its appendices to categories of animals and plants which have hitherto been frequently neglected in conservation policies, such as, for example invertebrates and bryophytes.

It is thus obviously an excellent text. However, no matter how excellent the text, there is always the difficulty of the next step, which is translating it into action. The Convention has fortunately set up a body to monitor its implementation. This is the Standing Committee, on which are represented all the states party to the Convention; it also comprises a number of observers, for example from non-governmental organisations, whose stimulating role cannot be too much emphasised. The Committee is assisted by a Secretariat which has a key organising role and is provided by the Council of Europe. The Council also provides the Committee with a budget for financing certain activities.

This machinery makes it possible to adapt the Convention to keep abreast of the progress of knowledge, by means of amendments to the appendices, and to interpret the provisions of the Convention by means of resolutions. It also serves as a channel for addressing specific recommendations to states on measures to be taken for the protection of specially endangered species or sites, and likewise for exchanges of information and joint consultation between states. Here, however, there is an end to the possibility of action at international level. Here also begins the responsibility of each individual country. While there is a definite legal commitment by each country to respect the Convention and put it into force, it is nevertheless not possible at international level to bring to bear any constraint other than moral on states which fail to respect their commitment.

Ten years after

What kind of assessment can be made of the implementation of the Bern Convention ten years after its entry into force? It is very difficult to answer such a question, but it has to be recognised that, despite the array of laws passed, no real success has yet been achieved, even in Europe, in halting the deterioration of habitats and the depletion of species. Here some comments are called for.

In most countries, it appears that ratification of the Convention has not entailed any major amendments to legislation on nature conservation. This is probably due to the fact that many countries previously had relatively strict legislation on this subject; but it is probably also due to the fact that many provisions are so vaguely drafted that they comprise no explicit obligation. A case in point is legislation on the protection of habitats. How can one decide whether a country has taken "appropriate and necessary legislative and administrative measures to ensure ... the conservation of endangered natural habitats"? (Article 4.1). One can only hope that the resolutions and recommendations adopted on this subject will flesh out these other obligations and help to further the implementation of the Convention.

A second comment concerns the usefulness of international conventions for nature conservation at the national level. As noted above, many countries have not awaited the adoption of international conventions to take strict measures for nature conservation. The Convention cannot replace action at national level, but it gives it an additional justification and an international frame of reference. It should be regarded as a joint platform for the conservation of the natural heritage on a European scale, as a minimum degree of harmonisation of national legislations. The Convention is not an end in itself but a common reference and common starting-point. It should be clearly understood that natural species or habitats which are very widespread throughout the continent may have very great national or local importance and should on that account receive appropriate protection.

The third comment concerns the means to be employed in applying the provisions of the Convention, in particular those which concern habitats. The negotiations leading up to the European Community Directive on the conservation of natural and semi-natural habitats and wild flora and fauna - which, together with the Directive on the conservation of wild birds, constitutes the application of the Convention at Community level - clearly showed that some of the commitments already undertaken under the Bern Convention were financially more than several countries could afford. This is understandable when one considers, for example, that the cost of a plan for safeguarding habitats which are critical for the survival of the imperial eagle in Spain is evaluated at ECU 24 million!

This leads straight on to a fourth and last comment, on the links between the Bern Convention and financial resources. The budget available to the Bern Convention, though continually growing, is limited (approximately ECU 110,00 in 1992), and its purpose is not to fund specific activities in the field, though a first tentative step on these lines has been taken with the inclusion of a budget heading on the protection of habitats, to be financed from voluntary contributions by member States. The effectiveness of the Convention is considerably limited in the absence of reliable financial resources which would make it possible to take specific action in the field, particularly in an emergency.

Common denominator

The above comments underscore the primary responsibility of states in the implementation of instruments such as the Bern Convention. Devised as the common denominator of nature conservation in Europe, the Convention plays its part as a frame of reference, providing stimulus and an exchange of information, and this role is of major importance in a Europe which is undergoing a series of upheavals; but one cannot expect of the Bern or any other convention that it should substitute itself for action by the governments of the countries which have ratified it. The Bern Convention is a solemn political commitment which should serve as a basis and a justification for action by the authorities responsible for nature conservation. It is to be hoped that in the near future the Convention will also be able to serve as a guide for decision-making by the bodies that fund specific field projects with an impact on nature conservation. ■

J. Renault

Chairman of the Standing Committee of the Convention of Bern and of the National Agencies of the Centre Naturopa

The Bern Convention in brief:

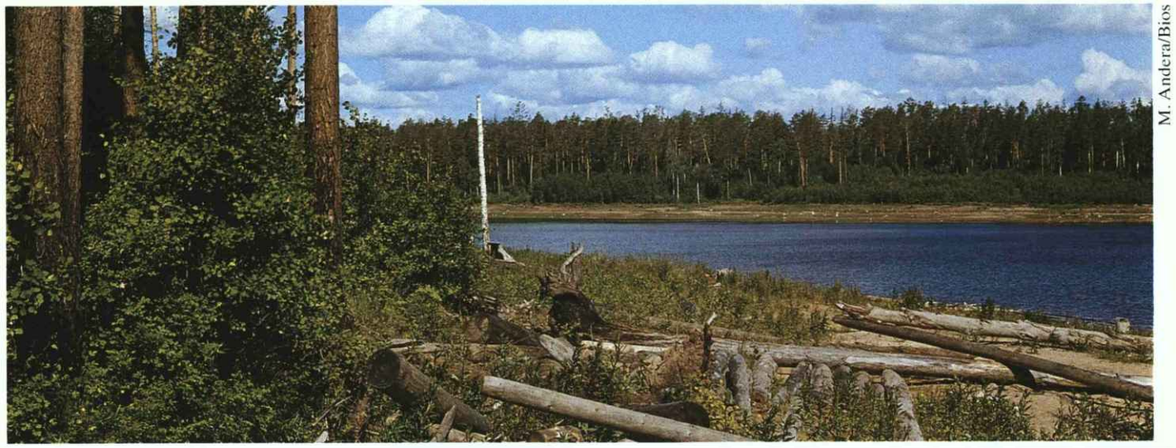
signed at Bern in 1979;

entered into force on 1 June 1982;

ratified by the European Economic Community and its 12 member States, Liechtenstein, Switzerland, Austria, Sweden, Turkey, Finland, Norway, Senegal, Cyprus, Hungary, Burkina Faso, Bulgaria and Estonia;

is designed

- *to ensure that the interests of nature conservation are taken more fully into account in all sectoral policies, in particular in land development policy;*
- *to establish minimum protection for the great majority of wild plant and animal species, and strict protection for a number of particularly endangered species;*
- *to encourage co-operation between the Contracting Parties.*



M. Andera/Bios

Urgent: save this heritage

Pavel Dvorak

Recently, environmental issues have been given much more attention in Czechoslovakia. This is underlined by the fact that in 1990 the central authorities of the state administration for environment were established, both on Federation and Republics level. The establishing of these authorities - for the first time in Czechoslovakia's history - laid the foundation for enforcement of real ecological interests in governmental activities. A clear and demanding programme was immediately, in the first stage, formulated in the sphere of environment, where departments have set out, as their initial target, the preparation of basic ecological regulations for the complex definition of environmental protection issues.

Additional legal measures adjusting the protection of individual components should be linked with the above-mentioned regulations. In the past, the lack of such "unifying" adjustments was felt as insufficient connection of individual measures which in practice caused a series of needless complications.

I would like to mention three important laws passed by the Federal Parliament: Law No. 17/1992 Col. on environment, Law No. 238/1992 Col. on wastes and Law No. 309/1991 Col. on the atmosphere.

The competence of the Federation on environmental matters is outlined in Act No. 21 of the constitutions Law No. 143/1968 Col. on the Czechoslovak Federation.

These laws correspond to European requirements respecting the exigencies resulting from the European Communities directives. The importance of these laws cannot be regarded only from the viewpoint of content, but also from the fact that this is the first legal norm on environment in Czechoslovakia.

How to characterise these recently passed ecological laws?

The Act on the Environment, as a basic legal norm, was passed by the Federal Assembly on 5 December 1991. It determines the principles of environmental protection, and the duties during the protection's execution. It sets up the cases subject to environment impact assessment including results of activities reaching across state borders, and also appoints the responsibilities and economic tools in the sphere of the environment. This law will be complemented by different "component" acts, and at the Republics level by ordinances regulating state administration and the environmental matters not dealt with at Federal level (the Nature Conservation Act).

The law on wastes was passed by the Federal Assembly on 22 May 1991. It is a law which has been so far absent in our legal system. It adjusts the rights and duties of legal and natural persons in handling waste. It is applicable to all forms of handling, if not stipulated otherwise. The important feature of the law is granting approval of a state authority in cases provided by law. This approval is a condition for performance of activity in the sphere of waste management.

The law is based on a presumption that the disposal of waste will be paid by appropriate legal entities (the amount of the payments is left to the decision of the Republics authorities) and in case of the infringement of duties, by way of penalties. A necessary condition for full application of this law is the passing of laws by the National Councils which will stipulate the state administration in this sphere.

The law "on the atmosphere" was passed by the Federal Assembly on 9 July 1991. Its purpose is the protection of the atmosphere against the introduction of polluting substances as a consequence of human activities. Pollution sources are divided into stationary and mobile, and the latter ones are further divided into small, medium and large. The criterion for this classification is the size of thermal output or the importance of technological processing equipment.

In connection with the size of a source, the law defines the duties of its operators. Similarly as in the sphere of waste management, the law requires approval of a state authority as long as the construction of the sources, or other activities, may have a negative impact on the environment. The actual amount of charges for polluting the atmosphere is provided by the laws of National Councils. It means that the legal entity pays the charges even for activities in the scope of permissible but taxable pollution. For infringement of duties provided by the law, the authorities levy penalties. The passing of these laws represents the first step towards the introduction of ecology into the legal system.

In this respect it should be mentioned that in the sphere of environmental protection adjustment, there is an absence of a system of measures for protection based on arrangement of economic inter-relation (in practice this is called as "the system of economic tools"). Those are the principles of taxation policy (in which first provisions are prepared), some issues of adjustments of proprietary rights, customs problems etc.

As for legal elaboration of nature conservation, the Czech National Council has approved the Czech Act No. 114/1992 Col. of 19 February 1992 on the Protection of Nature and Landscape. This law declares general conservation by creating and protecting a territorial system of ecological landscapes. Generally, all wild plant and animal species are protected by law, especially protected natural features include protected areas (national parks, protected landscape areas, national nature reserves and nature reserves, national nature monuments and nature monuments), remarkable trees, particularly protected plant and animal species and minerals.

It is clear that the current (bad) state of the environment still requires a number of fundamental legal adjustments. It is in the interest of the environment that the legal adjustments should be accepted as the law passed by Federal Assembly. ■

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J. A. McNelly

As our planet is a global ecosystem of limited extent, we have to create protection systems in situ ...

Conservation strategies

Jeffrey A. McNeely
David A. Munro

The high quality of life enjoyed by most Europeans hangs on a slender thread - the sustainabilility of production systems all over the world. Because Europe is awash with food surpluses, some conclude that the continent must be self-sufficient in agricultural commodities and probably many others. But this self- reliance is largely an illusion, because most of the production is subsidised by chemicals and energy from outside Europe. The high quality of life enjoyed by Europeans therefore depends on well-managed systems throughout the world. Therefore, Europe has both to manage their resources more efficiently. What are the priorities for such assistance, and what can be expected in return for increased investments? Two important documents have been published recently which suggest a way ahead.

Caring for the Earth

Caring for the Earth: A Strategy for Sustainable Living describes nine principles and recommends 132 priority actions for achieving economic and ecological stability throughout the world. The concepts and measures it promotes are important to Europe as one of the three major engines of the global economy and an important consumer of products from all parts of the world. During its three-year period of preparation, a total of more than 1000 people commented on early drafts or contributed to the preparation of particular chapters. Published in 1991 by IUCN, WWF and UNEP, Caring for the Earth has already been endorsed by the European Parliament and contributed to the preparations for the United States Conference on Environment and Development (UNCED) held in Rio de Janeiro in June, 1992.

Caring for the Earth is aimed at making the world a place fit for people to live during the 21st century. Its central message is to live within Earth's carrying capacity. To do so there must be a fundamental shift in human attitudes and practices based on commitment to an ethic of living sustainably, of respect and caring for each person by each other and for the whole community of life.

Caring for the Earth recognises that conserving the earth's vitality and diversity goes hand in hand with improving the quality of human life. Conservation in the sense of wise use - managing the environment and natural resources so that life support systems keep going, biological diversity is maintained and basic stocks of renewable resources are not run down - and development to enable people to enjoy long, healthy and fulfilling lives are mutually dependant. Conservation and human development based on the ethic of living sustainably are mutually supportive.

Carrying capacity

The concept of the Earth's carrying capacity reflects the fact that the ability of the global ecosystem of limited extent which can transform for our purposes only so much of the sun's energy and the soil's nutrients; it can absorb and render harmless only so much of our wastes. The stress we place upon the Earth depends upon our members and how much energy and other resources we use or waste. Even through we cannot state a quantitative limit to global carrying capacity, the rapid erosion of biological diversity, the threat of global warning and depletion of the stratospheric ozone layer, and the diminishing productivity of an increasing proportion of the world's soils and waters suggest that if we look at carrying capacity in terms of long, healthy and fulfilling lives for all we are probably at its limit already.

What this suggests for Europe, indeed for all developed countries, is the need to reduce consumption of energy, particularly that which is derived from fossil fuels, and of natural resource-based products, especially those from forests or from other stocks of fauna or flora that are not being used sustainably. Significant reductions in energy use can be achieved by adopting more efficient industrial processes but the greatest saving may come developing and implementing efficient and sustainable transportation policies, particularly in urban areas.

The free market system, which has led to such great advances in the production of goods and the delivery of services, raising the standard of living for hundreds of millions, can help us as we strive to find the most efficient ways of allocating increasingly scarce resources in accordance with the ethic of living sustainably. But we will need to ensure that it operates within a framework of equity and properly reflects costs and benefits, which it now effectively ignores, such as those related to ecological services, aesthetic values and the interests of future generations. These are factors that will be critically important as movement continues towards a relatively homogeneous, integrated pan-European economy. Increasing effort will be required to develop more sophisticated, ecologically and socially sensitive economic concepts.

The 21st century will undoubtedly see continuing evolution of systems of governance. Two trends should be favoured to support sustainable development. One is that toward integration of environmental and developmental considerations at the highest levels of national planning and international co-operation. Such integration must characterise conceptualisation and decision--making from the very start of the process. The other trend is towards participation- in decision making and action by the- people directly concerned, so that informed- negotiation can close the gaps between- winners and losers. Empowering communities-
to make their own decisions about the use- of the resources upon which they depend,- while safeguarding the interests of their- neighbours, moves in this direction.

Caring for the Earth is prescriptive in terms of principles that the world community should adopt, but it clearly recognises that the differences in ecological circumstances and economic and social systems are such that different priorities and modalities will be appropriate to each global region and each nation. In the case of European countries, as well as those in the rest of the developed world, those decisions should take account of not only their own interests but also, to reflect both equity and interdependence, those of developing countries as well.

Global Biodiversity Strategy

The *Global Biodiversity Strategy* was published in February 1992 as a joint effort of the World Resources Institute, IUCN, and UNEP. In preparing the report, scientists, community leaders, and representatives of governments, NGOs, development assistance agencies, and industry have met in Bogota, Columbia; Bangkok, Thailand; Perth, Australia; Nairobi, Kenya; San Jose, Costa Rica; Brazilia, Brazil; Keystone, USA; London, U. K.; and Jakarta, Indonesia, in a series of workshops and consultations to critique and further develop the first draft of the GBS. More than 500 individuals from around the world have commented on the draft with written submissions or through participation in the various consultations.

The GBS contains 85 actions which are required to save, study and use biodiversity for the benefit of current and future generations. It highlights five "catalytic actions":

a. Promote the establishment of the International Biodiversity Decade by the UN Secretary General, by all appropriate means, e.g. a resolution tendered by national delegations through the UNCED process. The purpose of the decade is to foster informational and educational efforts that will raise awareness and knowledge about biodiversity, and promote action and investments vis-à-vis the convention, the post-UNCED process, new financial mechanisms and national and local policies and programmes.

b. Promote the establishment of an International Panel on Biodiversity Conservation. The debates in the UNCED and Convention process make quite clear the general lack of information and knowledge about diversity and the need for far greater exploration of the issues. The Programme will promote establishment of a mechanism that will organise open and sustained dialogue, exploration and debate on key issues, and the flow of information to national delegations and interested parties regarding biodiversity conservation. This panel should be established by the Secretary General of the UN, and include governmental officials, scientists, NGOs and citizen groups, community representatives (indigenous groups, clergy, etc.) and resource-using associations. The Panel should work closely with the interim Secretariat of the Biodiversity Convention but remain independent until such time as the Convention is judged to be on track.

c. Develop an Early Warning System. Action to save, study and wisely use biodiversity will depend upon timely dissemination of information to those that need to act. Needed is a network of facilities that will develop and distribute information electronically about the impending damage, degradation or loss of species, genetic materials or ecosystems, to elicit appropriate action ("Amnesty for Biodiversity"). This network should be built upon the existing capabilities of WCMC, GEMS and GRID, eventually have partners in each country, be scientifically credible while remaining independent and capable of rapid action. (See reference to similar proposal in *Caring for the Earth*).

d. Support national planning to incorporate biodiversity concerns. Most action must take place at the national and local levels. The GBS proposes a series of specific actions ranging from policy review, enhancing local benefits, in situ and ex situ activities and coordination, and bioregional management. The Programme will analyse and promote the incorporation of biodiversity considerations into development planning, vis-à-vis national strategies and polices. ICG members should promote such action in respective countries. Case histories will be developed from selected countries leading to a publication that provides guidelines for local, national and international policy-makers.

e. Ratify the International Convention on Biological Diversity. This Convention, which was signed by over 150 nations at the Earth Summit in Rio de Janeiro in June 1992, should serve as a key co-ordinating, catalysing, and monitoring mechanism for international efforts to conserve biodiversity. Once it enters into force, it would establish accepted international norms for conserving biodiversity, set guidelines for how genetic resources will be used, and identify who will benefit from their use. The Convention, even if it is ratified rather quickly, will require additional negotiation to adopt protocols covering such issues as technology transfer, additional funding, property rights and access to genetic material. Implementation of the other actions called for the Biodiversity Conservation Strategy need not be delayed until the Convention and its protocols are in place. To the contrary, taking action on the agenda proposed here will speed the Convention process and increase its effectiveness. ■

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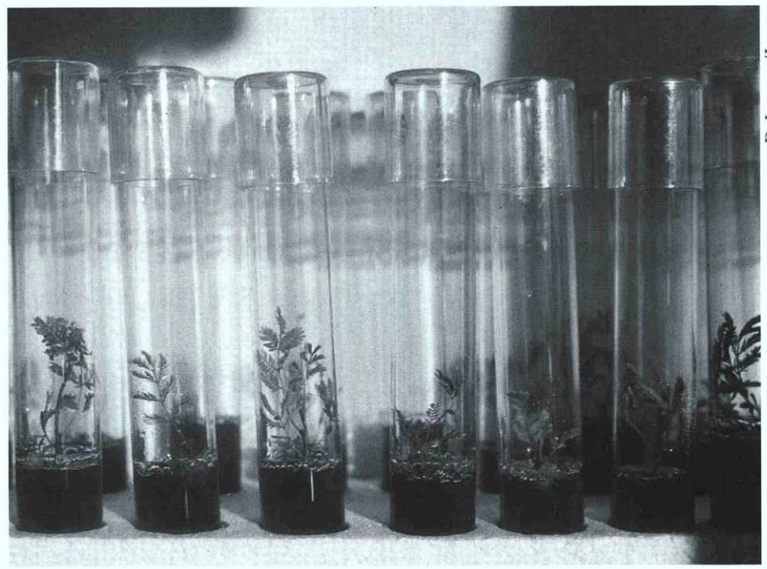
... and ex situ.



D. Lecourt/Jacana


BERN CONVENTION ~ CONVENTION de BERNE
Portrait de Famille
Council of Europe
Conseil de l'Europe

Klein-Hubert/Bios

A convention has been drawn up on the Alps which addresses management of the whole natural environment and tries to deal with all the risks to which it is exposed.

Global considerations

Doubts and hopes

Françoise Burhenne-Guilmin

States, which are the main actors in matters of international law, have sovereign rights over natural resources within their territories.

On the face of it, this means that states have carte blanche to use such resources as they see fit, subject to the constraints of domestic law, and that the state of the natural environment within their jurisdiction is therefore largely in their hands.

Without going into the legal implications of that principle here, suffice it to note that although, in theory, the extent of conservation of the natural environment is a matter for the individual state to decide, in practice that has to be qualified:

- the object of protection may lie outside any country's national jurisdiction:

- the object of protection may be shared with other countries, whose actions may affect it;

- it may be that the threat can only be tackled by the collective endeavours of more than one state.

These are major eventualities in which one sovereign state may want certain conservation measures but cannot carry them out without the help of other sovereign states because the individual state can only accomplish so much, and the action it takes may be undone by the action, or lack of it, of other states.

Best instrument

International treaties are the tool for dealing with this type of situation and laying down, in an instrument by which the parties freely consent to be bound, the obligations of each party and what form co-operation between the parties is to take.

In conservation of species and ecosystems the natural tendency was for co-operation machinery to emerge and develop at regional level, through a number of treaties, the first of which was the 1933 London Convention on fauna and flora in Africa, since it is easier to reach regional agreement on certain principles and common obligations arising out of a gradual recognition that there is, if not a shared natural heritage, then at least a common concern.

Unsurprisingly, therefore, regional treaties like the Bern Convention were the first to include obligations on habitats, first of all stressing the need to establish protected areas and then increasingly tightening the protection.

Treaty obligations have evolved with successive regional agreements, reflecting the need to protect not only species but also the areas where they are found, and not only areas but also all the ecological processes occurring within them. The most recent regional agreements, such as the ASEAN agreement and the Alpine Convention, are indicative of a distinct tendency to address management of the whole natural environment and try to deal with all the risks to which it is exposed.

In contrast, very few global agreements are being created and their subject matter is highly specific. Four of them are adopted in the 1970s:

- the 1970 Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat;

- the 1972 World Heritage Convention;

- the 1973 Washington Convention on international trade in endangered fauna and flora;

- the 1979 Convention on migratory species.

Global approach

At the same time, though, the global perspective was gaining increasing prominence in other areas of the natural environment, a tendency which became even more marked in the 1980s.

Foremost of those areas was the sea - an outstanding global domain geographically, legally and by virtue of the number of user nations. So agreements dealing with matters concerning the marine enviroment - whether the living resources of the high seas or pollution caused by ships or by ocean dumping - achieved global scale sooner than those in other environmental fields. This was doubtless one of the factors that led to the 1982 Convention on the Law of the Sea, the first major sectoral agreement on the natural environment.

In atmospheric matters the shift to global scale happened abruptly. It is not that long since the only issue much discussed was geographically limited transboundary pollution and since the emergence of principles governing the rights and duties of polluter states and states affected by pollution. The transition to global level was first speeded up by concern about long-range transboundary pollution, an area where it is impossible to identify the offender with absolute certainty. The 1979 Geneva Convention on Long-range Transboundary Air Pollution and its four protocols form a set of regional measures actually having a global impact.

But what finally made transboundary pollution a global issue - and the fact that all states are both responsible for it and affected by it - was depletion of the ozone layer. The 1985 Vienna Convention for the Protection of the Ozone Layer, together with the protocol to it adopted in Montreal in 1987 and amended in London in 1990, lays down a set of world rules for reducing and ending use of the substances which cause the problem.

Alarm about the greenhouse effect immediately followed and world negotiations began at once. These led to the framework convention on climate change, signed at Rio de Janeiro on 3 June 1992. The convention does not set any timetable for reducing emissions of carbon dioxide and other gases implicated in the greenhouse effect. Thus it really is no more than an outline which, to become effective, will have to be supplemented by protocols laying down specific obligations.

It is against the backdrop of the shift towards global instruments covering major sectors that the biological diversity issue has developed, and with it a new perception of the problem and what to do about it:

- from the scientific standpoint the concept of biological diversity has crystallised to encompass diversity of species, genetic diversity within species, and diversity of ecosystems;

- from the legal standpoint, there is a realisation that existing global and regional instruments, even together, deal very inadequately with the problem;

- from the standpoint of what to do, there is an acceptance that only a global instrument can provide the whole answer: first, protection of biological diversity as a whole depends on the sum of measures taken by individual states; second, the action required of developing states - for those are where diversity is most concentrated - necessitates transfers of resources to enable them to take on new or additional obligations; third, an agreement on biological diversity is inconceivable without regulation of the international economic factors that are closely bound up with the question, such as access to genetic resources in situ and ex situ, access to the technologies deriving from them (including biotechnology) and access to the profits which those technologies generate.

IUCN started taking an interest in these problems back in the early 1980s and in 1989 produced a draft global convention dealing with the conservation and funding aspects of biodiversity. Thereafter, elements for a convention was worked out within UNEP and the subsequent negotiation process culminated in adoption of the Convention on biological diversity at Rio de Janeiro on 5 June 1992.

In the current international context the conclusion of the convention is a major step forward: it bears witness to the international community's common concern with regard to biological diversity, signifies the acceptance of a common set of framework rules dealing not only with conservation of biological diversity and the utilisation of its elements but also with access to genetic resources and the relevant technologies, and lastly provides a framework within which there can be regular consultation and decisions on these questions and the question of transfer of the necessary financial resources.

Whether in the sphere of climate or biological diversity, only time can tell whether the machinery we have set up will do the job or whether, in conservation of the natural environment, the present approach of drawing up treaties to cover each major sector is the right one. The agreement on depletion of the ozone layer is shaping up very promisingly; the way things are going with the Convention on the Law of the Sea gives much fewer grounds for optimism. ■

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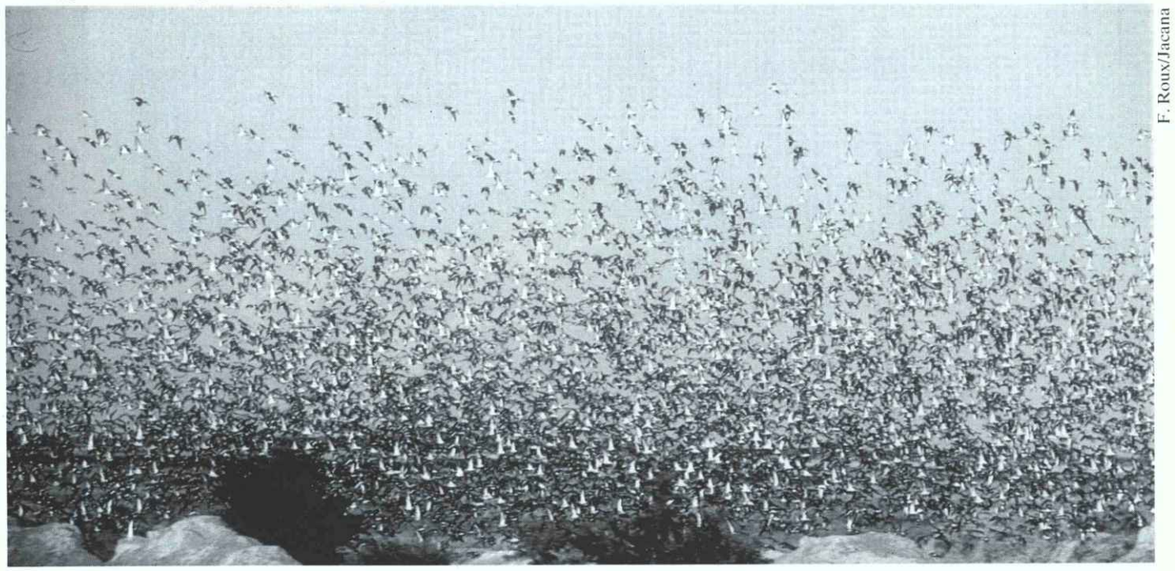
Flock of godwits (Limosa sp.) in Senegal's delta: only international agreements can help to manage migratory species in a durable manner.



F. Roux/Jacana

Towards a new human right ?

Ferdinando Albanese

Among the general public and groups concerned to safeguard the environment, there is a growing belief that the best response to the worsening situation of our biosphere would be to recognise an individual right to environment as a human right.

The European Convention on Human Rights does not mention the "right to environment" as one of the guaranteed rights. This was confirmed by the European Commission of Human Rights in a decision in reached in 1987 (Application No. 7407/76 of 13 May 1987, DR 5, page 161), to the effect that no right to nature conservation is as such included among the rights guaranteed by the Convention.

Since that date, the case law of the Commission has evolved and the environment has become an issue to be taken into consideration in two ways: as an incontrovertible individual interest and as a collective interest liable to limit the enjoyment of an individual right.

In the case of Arrondelle v. the United Kingdom (Application No. 7889/77), a lady complained about the noise from Gatwick airport whose runways had been extended, bringing the noise zone much closer to her house. Referring to Article 8, (right to respect for private and family life), the applicant stated that aircraft noise was impairing her health and that her property had lost much of its value because of the noise. The Commission declared the case admissible but a friendly settlement brought the proceedings to an end with the payment of a sum in reparation.

In the case of Herrick v. the United Kingdom (Application No. 11185/84), on the other hand, the applicant, who had been forbidden for reasons associated with nature conservation to use a bunker belonging to her on the island of Jersey as a second home, alleged that this measure constituted a limitation of her right to respect for her private life (Article 8) and her right to enjoy her possessions (Article 1 of the First Protocol). The Commission nevertheless considered that these limitations were consistent with the Convention insofar as they established a balance between the applicant's interests and those of the community, their purpose being to prevent natural areas of particular importance from being spoilt by improper use.

The trend in case law

Case law may well develop further and make more and more concessions to the concern to protect the environment by linking it with a right which is already acknowledged and protected, such as the right to property, the right to respect for private and family life, the right to receive information and freedom of association. However, there is nothing to suggest that case law will evolve to the point of recognising the right to environment as such.

Legal opinion has generally held that it is impossible to conceive of the right to environment as an individual right in the same way as other human rights; at most, it could be construed as a right having all the characteristics of a socio-economic right, and as a guide to policy-making and government strategy.

Because of the very nature of environmental law - the argument runs - it would be impossible to proclaim a right to environment as an individual right: all that the laws on environmental matters do is to help reconcile general interests of which the protection of the environment is just one component, having the same status as economic growth, reduced unemployment, and the need to ensure that people's material needs are met.

In any event, we are told, the content of a right to environment could only be "positive", that is, it would give governments guidance as to what they should do, and not require them to refrain from doing certain things.

Reaching a compromise

If this is so, then any act affecting the environment is simply the result of a compromise between various general interests, in which the prominence given to the protection of environment will depend on the importance of the other interests one is considering. According to this view, the responsibility lies wholly with the state and all the individual can do at one or other level of the decision-making hierarchy is to argue in favour of his rights or those of a group, but seldom for the general interest. A right to environment would be on an equal footing with the right to participation after appropriate information.

Consequently, the right to environment would not have the essential characteristic of a human right, which is to be amenable to jurisdiction if in dispute. There would be no way a court could settle a conflict between two opposing general interests.

This is now how I, personally, see the problem. I believe, however, that the concept of a "human right to environment" is insufficient in itself. The right has to be qualified, as in Article 66 of the Portuguese Constitution which speaks of a "right to a healthy and ecologically balanced environment". Indeed, to describe the "rights to environment" as a right to "conservation of the environment" would leave open the question of how to define "conservation" and what the scope of that concept should be.

This phrase "right to a healthy and ecologically balanced human environment" in my view changes the terms of the problem completely, since we are now looking at legal notions which are either known nor easy to apprehend.

A "healthy" environment immediately recalls the right to health (which many bodies of legislation uphold) which includes the right to oppose any act which could impair a person's psychological or physical integrity. This right could easily be extended - and there are examples of case law which has already done so - to include the cleanliness of the living environment, so that any damage, danger or risk to the living environment which could affect people's psychological and physical integrity would violate the "right to a healthy human environment".

The way forward

There would still be a further step to take and a new interpretation to find.

Can the concepts of "health" and "cleanliness" later be extended to encompass human well-being and a quality of life that could make that well-being possible? I do not see this as an insurmountable obstacle: the concept of an individual right to a healthy environment would cover not only pollution - which clearly constitutes an impairment of human health - but also damage to the natural world which affects the human environment and therefore human well-being. Even if this interest could be criticised for its "general" character, I do not see what could prevent the individual from being regarded as a "spokesman for the general interest" with the right to seek protection of that interest.

Nature belongs to all: the Ecrins National Park (France) was the 34th area to be awarded the Council of Europe diploma.

F. Vidal/Bios

A. Nozay/Bios

"Any act affecting the environment is simply the result of a compromise between various interests."

Parameters are still needed for making as objective an appraisal as possible of the quality of life and the other concept proclaimed by the Portuguese Constitution, namely an "ecologically balanced environment".

Finding these parameters should not be technically impossible in my opinion; after all, the environmental impact assessment is now, or should very soon become, an obligation in all member countries of the European Community and many others besides.

Furthermore, several parameters are already at the disposal of the courts in order to determine the concept of "quality of life" and "ecologically balanced environment". Five of these seem to me very much to the point:

- the result produced by the measure complained of (if the result is damage, I see no room for doubt);

- the existing international instruments (conventions, directives, recommendations);

- the objectives set by a country's domestic instruments (constitution, laws, regulations, etc);

- comparative law, as a means of seeing how other states settled the problem, and how successfully;

- the present state of scientific knowledge.

These, I think, are sufficient to provide the court with the legal and other elements it needs to settle disputes between general interests or between one general interest and a private interest.

An effective right

These considerations seem to me to undermine the theory that the right to environment is not amenable to jurisdiction and so cannot be construed as a human right. I conclude, therefore, that although at the present stage of international law no principle can be said to exist which recognises the individual right to a healthy and ecologically balanced environment, there can be no legal obstacle to the preparation of an international instrument enshrining such a right.

Immediately to set about drafting a further protocol to the European Convention on Human Rights would not, I admit, be the correct course. The first stage would have to be an international convention providing for the incorporation of a right to environment in national domestic law. If a large majority of states complied, it would then be possible to consider framing a protocol to the European Convention on Human Rights.

This is a sector in which I feel that the Council of Europe, an organisation with much experience in matters relating to human rights and the protection of the environment, could do very useful work. ■

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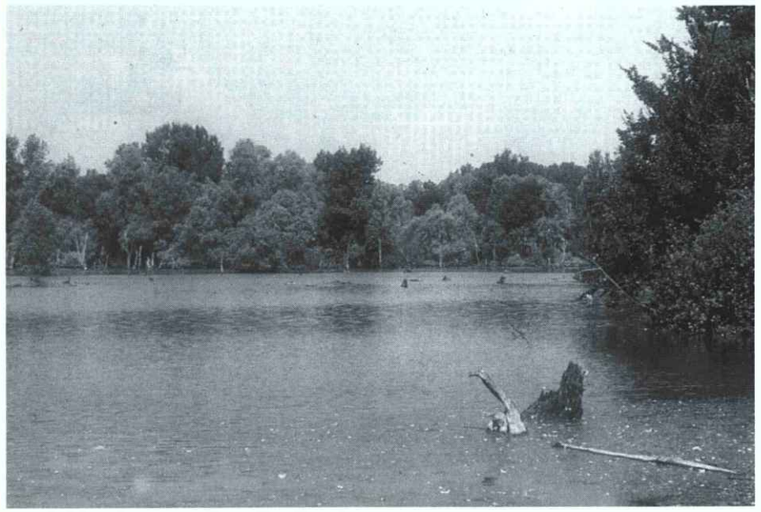

R. Humler

The Taubergiessen nature reserve borders the Rhine and contains many remarkable species. An unusual feature is that part of this site is on French communal land.

In Germany

Karl-Günther Kolodziejcok

Germany is a federal state governed according to the principle of subsidiarity. The administrative autonomy of the local authorities is constitutionally guaranteed, while public administration and its financing, and also the enactment of legislation, are matters for the Länder - now 16 in number - except where the Basic Law of the Federal Republic expressly rules otherwise. For instance, in fields such as foreign affairs, legislative power lies exclusively with the Federation. In others the Federation may assume legislative powers; matters relating to civil or criminal law fall into this category. Then there are fields - of which nature conservation is one - in which the Federation has authority to enact outline legislation.

Relationship between Federal law and that of the Länder

The Federal law on nature conservation, or "Act on nature conservation and landscape management" of 23 December 1976 is an example of the Federation's use of its power to enact outline legislation. Each Land is required to comply with the framework and general principles set out in this text when making laws on the various aspects of nature conservation. The Federal Act is thus a model for the Land legislature, whereas the nature conservation legislation directly applicable to the public and the authorities is that of the Land. A number of restricted exceptions exist, however, if there is seen to be a need for a regulation directly applicable to the public and the authorities throughout the country in a particular field, for example the conservation of species.

Thus we have simultaneously in Germany a Federal Act on Nature Conservation, a Federal Order (on the conservation of species), 11 laws still applicable in the 11 "old" Länder of the Federation, and three new laws on nature conservation in three of the new Länder; the Federal Act is directly applicable in the other two new Länder for the time being, by virtue of a special provision.

The essentials

The *objective* of German nature conservation legislation is to ensure:

- the viability and vitality of the natural balance, that is to say protection of the ecosystems;

- the sustainable use of non-living natural resources such as soil, water and air;

- care of living natural resources, ie animals and plants;

- preservation of the physical aspect of the natural environment and landscapes, their diversity, their originality and their beauty.

These objectives do not apply to uninhabited areas only, but also to villages, towns, conurbations and other populated areas.

Plan and protect

Landscape planning is the basis of nature conservation thus targeted. Encompassing as it does all aspects of nature conservation and landscape management, it is essential in every context, not simply for safeguarding assets that exist; it also includes the shaping and development of the natural environment and landscapes. It is applicable in the Länder and at regional and local level, and must be harmonised with the objectives of regional planning and physical planning in general. In each Land, the methods and content of landscape management are either transposed in various ways into the physical planning programmes at Land or regional level - or in master plans for building development - or are incorporated in these plans from the start.

The idea of conferring protected site status on certain natural areas or features worthy of protection is one that has been applied in various forms for a long time. The powers of the authorities in this respect vary from one Land to another.

Protected areas and features fall into the following categories:

- *national park* (Nationalpark): a large area of strictly protected and uniformly managed territory comprising as much wilderness as possible;

- *nature reserve* (Naturschutzgebiet): an area usually smaller than a national park to which the strictest possible protection criteria are applied, sometimes for a specific purpose (protection of species, habitats or geological features, or scientific research);

- *landscape conservation area* (Landschaftschutzgebiet): a spacious territory within which areas of open country are preserved for their unique characteristics, traditional farming methods and recreational potential;

- *nature park* (Naturpark): a large area particularly suitable for quiet recreation compatible with the needs of landscape preservation, which is uniformly planned, structured and developed for this purpose. Most nature parks are also landscape conservation areas and include nature reserves within their periphery;

- *natural monument* (Naturdenkmal): a category which serves to protect certain isolated features such as ancient trees, rock formations, caves, springs etc;

- *protected landscape features (Geschützte Landschaftsbestandsteile)*: assemblages of notable items whose upkeep is an integral part of nature conservation and landscape management; they include hedgerows, lanes, terrace vineyards and other features which set the tone of the landscape.

Innovation

The *"intervention regulation"* is an innovation of German nature conservation law. It is designed to ensure that the natural character of the landscape is not impaired by unauthorised interference with the configuration or mode of utilisation of any piece of land. This regulation applies to civil engineering works (buildings, roads. etc), open cast mining, river and stream realignment, marshland drainage, etc. Such interventions must be prohibited when the requirements of nature conservation outweigh the benefits of the planned operation. If authorisation is given, any damage caused to the natural environment must be repaired by appropriate methods (restoration, etc). If this cannot be done satisfactorily, certain Länder have additional provision for the payment of a compensatory tax. In addition, a regulation has been enacted whereby certain particularly rare and endangered habitat types may be altered only in exceptional, specified cases.

There are also provisions relating to the protection of animal and plant species, the purpose of which is to preserve such species from direct human intervention and subsequent handling: they cover taking from the natural environment, appropriation, breeding, reintroduction, processing, in-country trading (for profit or otherwise) and also imports and exports. Since 1987, this item of legislation and the measures for its implementation (rules relating to the burden of proof in the event of seizure, confiscation, etc) have been the subject of uniform regulations directly applicable throughout the Federation; consequently, it is a field in which the Länder do not legislate.

There are regulations, too, governing access to fields and forests, which differ in detail from one Land to another although the framework is always the forest legislation of the Federation and the Länder. In principle, everyone has a right to enter fields for recreational purposes, keeping to roads and paths or unused areas of land. Access to forest for recreation is also allowed, although bicycles and horses may be ridden only on paths and roads.

Other instruments, which although outside the legal arsenal are used more and more frequently, include land purchase and nature conservation by contract.

Buy to protect

Where private land is particularly in need of protection, it has been increasingly the policy of the Länder in recent years to purchase privately owned plots for the purpose of nature conservation and so be in a position to provide appropriate protection and management.

For similar reasons, the authorities responsible for nature conservation conclude contracts with private land-owners under which the latter either renounce certain farming practices or implement special conservation measures.

Financial support for associations campaigning for the protection of sites is another measure in this category on which the Länder frequently legislate. In some Länder, however, there are regulations governing the use of volunteers as team leaders and supervisors, especially in the protected areas.

Federal legislation accords various rights of participation to certain state-approved nature conservation organisations (the right to be heard and to express views) in particular in regard to planning projects, "interventions" (see above) and the lifting of bans and regulations in nature reserves and national parks. Some Länder have come gone as far as to give voluntary organisations the right to take legal proceedings against the administration.

At the present time, work is in progress to amend Federal nature conservation legislation. It is particularly necessary to systematise and further clarify the aims and principles of nature conservation and landscape management; also, a stronger basis is needed for landscape planning, the "intervention regulation" has yet to be finalised, and provision for a regular watch on the environment must be enshrined in the law. The Länder would then be required to amend their conservation legislation accordingly.

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"Sächsiche Schweiz" National Park

F. Richter

A wealth of ideas

Michel Prieur

The development of government policies on protection of the environment in the 1960s and 1970s was very much affected by constant pressure brought to bear by associations. The active role thus played by society at large was the more marked because the traditional political parties and elected representatives failed to realise the immense changes to the Earth brought about by all the assaults on it by industrial society. This failure on the part of representative democracy meant a greater role for associations, which became true official partners of the authorities. While protection of the environment has become an obligation for the State, it is above all a duty of citizens: "Each person shall have a duty to ensure that the natural heritage in which he finds himself is safeguarded" (Section 1 of the French Nature Protection Act of 10 July 1976). This duty is itself the price paid for humankind's clearly emerging right to the environment (1988 Lisbon international conference on the guarantee of the right to the environment, published by the Portuguese Association for Environmental Law, Lisbon). The deficiency in the environmental sphere of representative democracy (with the exception of the European Parliament's Green members since 1984) has given rise to action by the participatory democracy and made citizens more anxious to play a part. So it is not surprising that environmental law bears the clear imprint of associations' presence and militant action. The right of associations in the environmental sphere is exercised differently in different countries, of course. The International Centre for Comparative Law relating to the Environment took stock of the situation in 1990 and put forward eleven proposals in this context in Recommendation No. 5.

The writer of this article is both a scientific observer and an active militant member of associations (this dual affinity is itself a fundamental aspect of associations' creative role), and it is clear that associations have the task of making suggestions and monitoring on behalf of society, and that they play a part in the development of the law by taking legal action.

Ideal relay stations

Those associations which are in touch with reality, having managed to avoid overtechnocratic professionalism, are still the ideal relay stations between government and citizens. They vigilantly monitor administrative activities and also act as imaginative sources of proposals for parliaments.

As monitors of government action, associations ensure that environmental law is complied with. Thanks to the right to information on the environment which will exist uniformly in every European Community member State from 31 December 1992 onwards (Directive of 7 June 1990), associations will be able to make sure that the standards in force are met and to demand further checks. Citizens' vigilance thus partly compensates for the inadequate numbers of staff in national environment departments responsible for supervision. The setting up of local information committees for at-risk-sites, comprising elected representatives, government departments, industrialists and associations, demonstrates the usefulness of such monitoring by society (exemplified by the Limousin uranium mining area).

Associations also assist government departments as official members of numerous consultative bodies on the environment. Sometimes they are given responsibility for managing nature reserves or protected sites. They may even act as land purchasers in conjunction with the agencies responsible for site conservation. In this capacity they help to bring about changes in environmental law through direct involvement alongside the authorities. More discreetly, but still effectively, they are also a source of proposals for parliaments. During parliamentary debates environmental associations act as a sometimes effective legislative lobby. For example, specific proposals for reform of environmental law were produced by French associations in 1982, in the White Papers (livres blancs) of the Environmental Assembly (Etats généraux de l'environnement), and again in 1990, in Mr Barnier's report to the National Assembly (11 April 1990, Report No. 1227). The 100 proposals in this report contain some ideas put forward by associations: recognition of mankind's right to the environment and drafting of an environmental code. The French system of impact assessments, adopted by Parliament as early as 1976, owes much to environmental associations. Finally, the consideration for the first time in French legislation of the right of future generations is the result of an amendment drawn up by an association (Section 1 of Act No 91.1381, of 30 December 1991, on research into the management of radioactive waste).

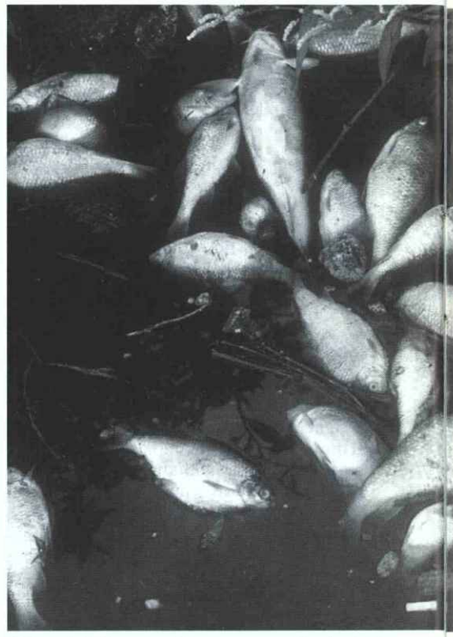
Legal action

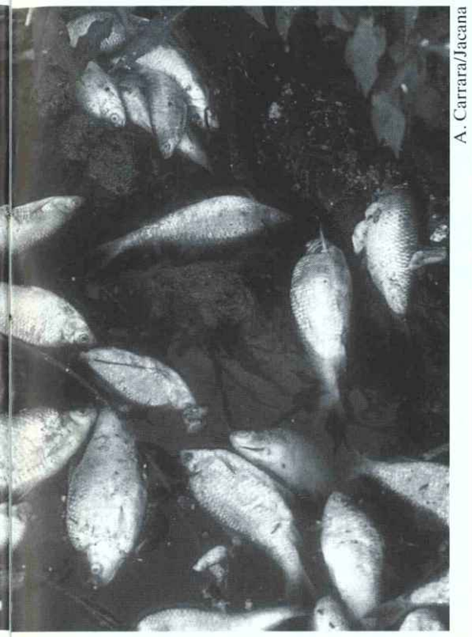
The development of environmental law through legal action, familiar in the United States, is also in reality in Europe. For more than 20 years now the level of legal action brought by associations has been mounting steadily. It is a delicate, lengthy and costly process, and the outcome is uncertain. Many successes in the environmental sphere have nonetheless been achieved directly through court action for instance, against the Wyhl nuclear power station in Germany, against the damming of the Loire and in favour of the protection of the Pyrenees.

Associations must enjoy wide scope to take legal action before the administrative, as well as the civil and criminal courts, and the grounds for inadmissibility stemming from their interest in such action must accordingly be withdrawn.

Too many restrictions in this field still exist, even in Council of Europe member States. In some cases special consent is required, subject to verification of whether the association concerned has been in existence for a certain period (three years, in France) and is truly representative. In the nature conservation field, the question has arisen of whether a field sports association could obtain consent as an association defending the environment. The courts decided that it could, as its status was not incompatible with protection of the environment if it was helping to maintain the balance of nature. While access to the criminal courts is more complex, it is tending to be more and more widely allowed, confirming the role of environmental associations as reflecting public interest.

By raising new problems, associations are forcing courts to settle legal actions to which no solutions would otherwise ever have been found. Judges have learned a lot about the environment, thanks to legal action by associations. There is a vast amount of case law on subjects ranging from protection of the coastline to town planning and pollution. Impact assessments have already been the subject of an immense amount of legal action, supplementing regulations in a manner often favourable to the environment. In areas that are very vulnerable to environmental damage, the opportunity to apply to a court for a stay of execution of an administrative decision may be a highly useful emergency step, as in connection with the building of polluting factories and the establishment of domestic refuse disposal plants and, for the first time, in a case relating to radioactive waste (Limoges administrative court, 26 March 1992, FLEPNA).





A. Carrara/Jacana

Citizens' vigilance partly compensates for the inadequate numbers of staff in departments responsible for supervision.

In spite of a plethora of regulations governing the coastline, developers are still forcing their buildings through. The only bastion against irreversible destruction of the coast remains court action by associations, as has just been demonstrated by two further cases relating to the French coastline. One, in Brittany, concerned the construction of a marina at Trébeurden, while the other, on the Atlantic coast, enabled the Société de protection des paysages de l'Ile d'Oléron (an association whose aim is to protect the landscapes of the island of Oléron) to put a stop to a planned housing estate in the immediate vicinity of the shore, as behind a dune, damaging to the character of the site (Conseil d'Etat, 3 February 1992, S.A. Maison familiale constructeur). This took ten years of court action, during which the association's perseverance never failed.

Essential independence

Environmental law without the associations would be a silent museum. So everything must be done to ensure that associations are able to have their say, while remaining independent of economic pressure groups and political parties, including the Greens. Local referendums at popular request should be possible, so that development options affecting a given area may be discussed and decided. According to the French Local Government Act of 6 February 1992, which still does not go very far, the inhabitants of municipalities have the right to be informed and consulted about decisions which concern them, and it sets up a system for consultation of local people, although the initiative for starting this process remains in the hands of elected representatives.

There is now worldwide demand for more information and participation where the environment is concerned (see the plan for citizens' action for the 1990s, adopted by the World Conference of NGOs in Paris, on 20 December 1991). This demand is seen as a a guarantee that environmental law will be better drafted and applied. Consultation of NGOs on draft regulations relating to the environment, as currently practised in the United States through the "notice and comment" system, is still virtually unknown in Europe. Help for associations in the environmental sphere should be made available in every country - on the lines of what is done in the House of Representatives in Argentina where secretarial services are provided free of charge to NGOs active in the environmental sphere - with a view to promoting improved drafting of environmental legislation, as should recognition of a right to special leave of absence, for which an allowance might be paid by the State, for employees who are members of an association, enabling them to represent their associations on consultative or other official bodies (French Act No. 91.772, of 7 August 1991, on representation leave for members of associations). ■

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Recommendation 5 - the law with regard to associations

Considering that environmental protection associations make a major contribution to the efficiency and to the effectiveness of environmental protection:

Considering that they make it possible to put into practice the principle of the participation of all in the protection of the environment and that they guarantee the right to information which is recognised as a human right;

The Conference recommends as follows:

1. all concerned persons should be encouraged to form environmental protection associations or to join existing associations;

2. the question of a joint international status for all environmental protection associations and for environmental law associations in particular should be considered;

3. states should be asked to amend their legislation with regard to associations so as to make it easier to establish and to run such associations;

4. the right of environmental protection associations to sue should be generalised and strengthened in law, by recognising that they have a right to appeal to the authorities and the courts when the environment suffers damage;

5. environmental protection associations should be involved with those mediation and conciliation authorities which may be proposed in the pursuit of peaceful settlements of environmental disputes;

6. the access of the associations to information and to scientific and technical data should be guaranteed;

7. national legislations should provide for precise procedures governing the participation of the associations in decisions having an impact on the environment with particular emphasis on minimum deadlines to ensure the effective involvement of the associations;

8. the associations should be called upon to improve their environmental know-how and the technical competence of their members so as to increase their efficiency;

9. exchanges of information and data between national and international associations should be encouraged by means of regular assemblies or meetings, to be encouraged by each association in turn (every two years, for instance);

10. environmental data should be disseminated in accessible form to the public and especially to educational establishments of all kinds;

11. states should be asked to introduce a levy, to allocate subsidies or, where appropriate, to amend their legislation in order to allow associations to receive tax-free donations or subsidies.

From the Declaration of Limoges (15 November 1990)
Worldwide meeting of the Association for Environmental Law

J.C. Chantelat/FIR

The surveillance of sensitive species' nesting sites has become one of the FIR's traditional activities and, together with other partners, it has also succeeded in the task of reintroducing vultures in France. The black vulture is the third of the four European vulture species to benefit from a reintroduction programme, following the griffon vulture (right) and the bearded vulture in the Alps.

Acting in original ways

Philippe Fornairon

The Intervention Fund for Raptors (Fonds d'Intervention pour les Rapaces - FIR) was founded in 1973 for the purpose of defending birds of prey in their natural habitats, with the emphasis on practical protective measures such as keeping watch over nests during the breeding period. A parallel campaign consists in denouncing all activities responsible for destruction and taking offenders to court.

With the adoption of the Act of 10 July 1976 on the protection of the natural environment and the Orders of April 1981 under which all diurnal and nocturnal raptors are protected, the criminal proceedings initiated by the FIR really began to have a decisive effect: from 1983 to 1991 inclusive, 293 cases were heard, including 33 against persons unknown. Out of 242 judgments, 149 were favourable to the FIR; only 79 cases were not followed up.

Appeals to the administrative courts have been fewer in number: in France, these have mainly been directed at administrative decisions concerning field sports; but as the species defended by the FIR are not "game", recourse to the administrative courts has been rather exceptional.

Prosecutions have concerned

- taxidermy	27%
- shooting	23%
- trapping	13%
- transport	7%
- poisoning	6%
- illegal utilisation	6%
- purchase or sale	4%
- miscellaneous (theft, mutilation, disturbance etc)	14%

In one case, a convicted Alsatian taxidermist was found to have 656 protected species at his home; in another, which is *sub judice* and therefore subject to confidentiality, no fewer than 3,000 specimens are involved! Poisoning is one of the main causes of decline among France's major necrophagous species.

Difficulties arise firstly because of the roundabout way in which most offences tend to be reported, a situation which does not help the course of justice.

Then there is the fact that offences against protected species were for a long time regarded as coming under hunting legislation, which meant that offenders were taken to the wrong courts (police courts instead of criminal courts). This is unusual nowadays.

The same approach prevailed in July 1988 when the amnesty law was enacted: the voluntary organisations had on several occasions to remind the courts that Article 29/10 of the Act ruled out the possibility of pardon for offences against protected species.

The FIR has often objected that penalties close to the minimum under Article L.215.1 of the Rural Code (a fine of 2,000 to 60,000 FF and/or a maximum of six months in prison) are manifestly inadequate; however, prison sentences (albeit suspended sentences) are more common today than they used to be. On the other hand, damages awarded to the voluntary organisations still fall far short of the amounts really needed in order to repair the damage and ensure respect for the regulations.

It is very difficult to make a financial evaluation of the prejudice that might possibly give grounds for compensation: since the sale and purchase of protected species are prohibited in France, any "market price" can only be approximate. We usually hold out for the replacement value, especially in the case of species for which costly protection programmes (nest surveillance, population reinforcement or reintroduction) have been put into operation, and we have explained this to the courts.

Originality

The originality of the Fund's campaigns no doubt lies in its deliberate policy of presenting its own case in court. In this way it has gradually built up new lines of argument adapted to the situation created by the recent body of legislation: many a judge might legitimately have felt uneasy dealing with cases which turned on a point of biology or the behaviour of a species.

The best example is in fact the one which first prompted the FIR to adopt this policy: a poacher (with two subsequent convictions for other offences) denied having used nets to capture peregrine falcons when, on being spotted by gamekeepers, he quickly released the specimen he had just caught in an attempt to remove the evidence. In court, he explained that *being a sharp-eyed species, as everyone knew, a peregrine falcon would have been able to detect the presence of nets and take avoiding action. Consequently, there was no connection between the nets and the alleged offence.*

A bewildered court gave the prisoner the benefit of the doubt and acquitted him. A qualified ornithologist would have been able to demolish his argument, but neither the lawyers nor the jury, for all their good intentions, could do so.

There is at the same time a widening network of lawyers who are more and more involved with the voluntary organisations and take on an increasing number of cases which raise issues of environmental law; their contribution to the cause is invaluable.

Two of the FIR's administrators have devoted much of their time to the conduct of legal proceedings. They are: Gabriel Ulmann, co-author (with Elizabeth Achard) of a reference work which has become the bible of the voluntary organisations, entitled *Guide des procédures judiciaires et administratives* (published by the Presses Universitaires de Grenoble - 1983), and Mathias Muller-Kapp, who is responsible for the general monitoring of the FIR's court cases. In recent years FIR's experience has leded to organise two training courses in legal procedure within the framework of France Nature Environnement (a national federation bringing together most nature conservation groups in France) - these intended for the voluntary sector - and, more importantly, an in-service training course for judges at the Ecole Nationale de Magistrature in Paris.

S. Cordier

Changing situation

The new political alignments which are partly the result of the recent departmental council elections could well change the present situation. For example, taxidermists seeking the support of the hunting lobby find, amid the serious unrest prevailing in the rural and farming community, that their demands for liberalisation or exemption from the general rule fall on very fertile ground - especially if the rule bears the "made in Brussels" stamp. Many of the newly elected representatives will be sympathetic, and so fresh sources of conflict are already discernible.

As the statistics mentioned earlier show, it is the long history of destructive action against birds of prey, by means which are banned today (shooting, trapping, deliberate poisoning and, at the end of the production line, taxidermy) that lies at the heart of many of our difficulties.

But the voluntary organisations are too well aware of the scale of the damage being inflicted on France's fauna to accept any weakening of current legislation. On the contrary, they would like to see the law enforced more widely and more effectively, as it stands and without amendment.

Three parallel and inescapable phenomena, namely rural community destabilisation, countryside desertification and urban concentration, are bound to leave their mark. There is evidence of a strong new feeling for nature among many town-dwellers, and of new attitudes to the wildlife that still inhabits the countryside. One particular concern is that wild animals have been tracked down and persecuted for far too long, and should now live in freedom.

There is no doubt that in this respect the law, too, will evolve rapidly and take on board demands which are still ill-expressed or confused, but powerful nonetheless. ■

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The Montagu's harrier nests in cornfields which are harvested before the young are able to fly.

Rescued and ringed by volunteers, the chicks complete their growth sheltered by bundles of hay.

B. Berthemy (3)

Synopsis

Cyrille de Klemm

Of the many human activities which threaten the environment many, such as pollution that directly harms human health and welfare, are now universally perceived as unacceptable. Others, particularly those which "only" affect the natural environment - wild species and natural habitats, mainly - are often viewed with something bordering on indifference if no human interest is being damaged. Acceptance of nature conservation measures still tends to be rather grudging, and economic and social considerations are still often regarded as taking precedence. But the environment forms a whole and no-one needs telling that, ultimately, it would be suicidal if our plans for the future amounted to clean water channelled through a concrete desert and if all there was to look forward to was a completely sterilised natural environment from which all wild flora and fauna had been removed.

There is of course no question of making all human activity subordinate to considerations of nature protection. However, it is essential to decide how far it is permissible to go into satisfying legitimate human interests and at what point destruction of the natural environment starts being unacceptably out of line with the general interest and the interests of present and future generations. But that point cannot be located by scientific method, which is always tentative, or according to universally agreed criteria. The dividing line has to be drawn by heavy public demand, otherwise it will be challenged.

For some time, however, in reaction to widespread destruction of the natural environment, there has been slowly but steadily growing acceptance - though it varies in extent from country to country - or the case for environment protection, an acceptance which goes hand-in-hand, as Count von Schönburg-Glauchau points out, with an increasing sense of individual and institutional responsibility for the environment.

Initially confined to protecting given species and key sites or areas, nature conservation legislation has gradually widened in scope, in some European countries, to protecting specific types of habitat or landscape, and legislation on planning and land use is becoming increasingly conservation-minded.

At the same time states have concluded various international agreements which place environmental obligations on them.

The effectiveness of these legal instruments, whether national or international, still often leaves much to be desired, though. As Françoise Burhenne-Guilmin demonstrates, the solution is to assign to each level - world, regional, national, provincial or local - the responsibilities it can perform most effectively.

Different decision levels

World agreements lay down general obligations on which there is now a consensus among nations. They are particularly valuable for dealing with worldwide matters such as the ozone layer, the greenhouse effect, long-range animal migration or essentially international activities like trade in wild species, or for protecting assets whose loss would be to the whole of mankind (see Mireille Jardin's article on the World Heritage Convention). The brand new Convention on the Protection of Biological Diversity, signed at the Rio summit in June 1992, resulted from the gradual emergence of a consensus on the need to protect the fruits of evolutionary development both for their intrinsic value and for their potential usefulness to future generations.

At regional level, international environment protection instruments become more specific. Like the other continents, Europe does not have very many of them. The Bern Convention on wildlife conservation was concluded in 1979 under the Council of Europe's auspices. As Jean Renault argues, it is to be regarded as providing a common basis for protecting the natural heritage of European importance and as setting a minimum level on which to standardise national law. Other European agreements on environment protection have been concluded within the United Nations Economic Commission for Europe but there are still sizeable gaps. Now that the Council of Europe is opening up to Eastern Europe it has the potential, as Alexandre Kiss suggests, to play a crucial part in the development of all-European environment law.

The European Community is a party to the Bern Convention and this enables it to adopt binding measures which compel its member States to implement the convention. Carlo Ripa di Meana writes about the new habitat-protection directive which sets a 12- year deadline for setting up a network of special conservation areas encompassing all the threatened habitat types within the Community and protecting the species endangered by habitat destruction. The habitats and species concerned are listed in an appendix to the directive.

Nationally, Pavel Dvorak gives us an account of recent Czechoslovak environment, waste and clean-air legislation and Karl-Günther Kolodziejcok reports on Germany's new framework law on nature conservation. It is binding on the Länder and requires that prior permission be sought for any alteration to installations or any use of an area which are liable to damage the natural landscape. Any such alteration or use is prohibited where the interests of nature protection outweigh those served by the intended alteration or use. The new law thus provides statutory recognition of the legitimacy of conservation, which it places on a par with economic and social considerations.

Under the new legislative framework, the Länder have passed nature protection legislation of their own which in many cases is tougher than the federal legislation. We find the same thing happening in some other federal states or recently regionalised states like Belgium, Spain and Italy. The trend probably continue and develop as decentralisation and regionalisation in Europe gather pace. Because regions are closer to the people, it is often easier for them than for central government to win public acceptance of environmental curbs on public freedoms.

Difficult choices

This brings us to the principle of subsidiarity, which is very much in the news in connection with Community legislation but in fact relevant to all regulation. It involves deciding at what level curbs imposed have maximum legitimacy and conservation measures maximum effectiveness and striking a balance, which is tricky to get right, between supervision by the next level up so as to guard against aberrations and giving the lower level the autonomy it needs so that the regulations it introduces carry proper authority.

But for the system to function properly there are further prerequisites. First, there have to be institutions with the necessary powers to enforce the law and also with qualified staff, two requirements that are by no means always met. There also have to be proper arrangements for impact studies. Quite a few countries still do not have them. The new Czechoslovak impact study legislation on which Pavel Dvorak reports is an example of what needs to be done. Lastly, conservation measures need funding.

In addition, to combat administrative inertia and make sure the state is not contravening its own legislation, nature protection organisations need giving a prominent role. Roger Wilson explains the part they have played in the development of environment law and sees an important job for them in the monitoring of implementation of international agreements. As Michel Prieur rightly points out, these organisations have an important proposal and watchdog function and ensure that the state properly discharges the duties which national law or international agreements place on it. To perform this function they need the right to information, to a say in decisions affecting the environment and to apply to the courts to have the law enforced. In many countries these rights, particularly the third, are not always recognised. Philip Fornairon explains how his organisation, the Fonds d'Intervention pour les Rapaces, takes action through the French criminal courts.

But in a constantly changing world, conservation's new legitimacy is forever being threatened by development requirements and more recently has started falling foul of economic liberalism and the market philosophy. As Jeffrey McNeely and David Munro demonstrate, the market has a duty to cost the services - hitherto treated as free of charge - which are performed by natural processes and the natural environment. The book "Caring for the Earth: A Strategy for Sustainable Living" whose approach is that of the World Conservation Strategy and the new global biodiversity strategy, shows how to set about reconciling conservation and development and how to achieve sustainable development.

To accomplish those things the whole of the law needs, as Pavel Dvorak puts it, "environmentalising". At the moment, however, law is still extremely compartmentalised. Although a qualitative leap was accomplished at Rio, with the adoption of conventions on the climate and biological diversity and a general convention covering all aspects of the environment and specifying states' rights and duties, a great deal remains to be done.

But Europe - the now emerging Greater Europe - can and must set an example. Alexandre Kiss envisages a general European convention on the environment and an independent committee of experts which would sit in public to examine reports which states would submit every so often and deal with complaints from individuals of breaches of convention obligations.

Ferdinando Albanese wonders if it would not be possible to draw up an international instrument recognising an individual right to a healthy and balanced environment. As a first stage, there would be an international convention under which the states of Europe would undertake to incorporate such a right in their national law and constitutions. The second stage, once the majority of states had met that requirement, would be to draw up a protocol to the European Convention on Human Rights.

Whatever the course taken, the case for "environmentalising" the law now looks to be unchallengeable. ■

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Cygnus cygnus

At the Council of Europe

Hearing on marine mammals

The Hearing included a detailed analysis of cetaceans, ie whales (the largest species) and dolphins or porpoises (the smallest species) as well as walruses and seals. The former category comprises about 80 species of aquatic mammals - some feed on small aquatic organisms, others mainly on fish and squid. Many of the more abundant whales and porpoises have been commercially important. Their meat has been sold for consumption by humans and animals and their oil and fat has been used for industrial lubricants and for conversion into soaps and fatty acids which are used in cosmetics and detergents.

The walruses and seals, commonly called pinnipeds, are strictly carnivorous and mostly marine. In actuality, they are amphibious, being aquatic as to food habits but terrestrial for mating, bearing young and resting. Their diet consists mainly of fishes, cuttlefishes, octopuses and crustaceans, and some seals can harm commercial fisheries. The seal has been of significant importance for the Eskimos and other inhabitants of the North who used almost every part of the animal. Seals have also been taken commercially for their oil and meat and for their hides that are used as leather.

Cetaceans, walrus and seals are an important part of many marine ecosystems. The Hearing aimed at clarifying their role and interaction with each other, as well as with other living marine organisms. The Hearing also raised the question of their exploitation, hunting methods and the size of their population - in particularly with regard to their preservation and sustainable management.

Two poster sessions were also organised to acquaint participants with some general features regarding marine mammals and their exploitation by man.

A reporty of this hearing has gone to press. The final report wil be debated by the Parliamentary Assembly in May 1993.

Why a hearing ?

The aim of parliamentary hearings on problems of major political importance is to facilitate the decision-making process. The complexity of many problems in present-day society and the increasing role played by science and technology in finding adequate solutions make it necessary to improve the access to information for politicians. This is why the Parliamentary Assembly regularly organises hearings, enabling European parliamentarians to obtain the best possible information on major policy issues of mutual interest by drawing on a pool of European expertise.

A truly democratic process is dependent on information-sharing and dialogue between all those involved: experts, politicians and the public. The hearings organised by the Parliamentary Assembly are therefore open to the public and the media. In this way it pursues one of its main tasks, namely that of defending a true democracy.

Just published

The *European regional planning strategy* is a reference document concerning the major objectives for regional planning at European level. It represents an initial physical and political projection of the guidelines laid down in the European Regional/Spatial Planning Charter, adopted in 1983 by the European Conference of Ministers responsible for Regional Planning (CEMAT) and endorsed by the Committee of Ministers of the Council of Europe in the form of a recommendation addressed to member States. The strategy translates into practical terms - as far as this is possible - the political objectives of the Charter regarding spatial planning and may serve as an instrument of co-ordination and co-operation for national policies. The strategy thus constitutes an appropriate framework for harmonising national and regional planning policies and reflecting on the possible future organisation of the environment of Europe. ■

The distribution, status and evolution of wild cat populations as well as this species' systematics, ecology and behaviour have been discussed at a seminar organised by the Secretariat of the Bern Convention in September 1992 in Nancy (France).

Klein-Hubert/Bios

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