

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Opinion 21 (2003)¹ on Recommendation 1614 (2003) of the Parliamentary Assembly on “environment and human rights”

1. Considering that:

a. the first major international law instrument to link human rights and environmental protection objectives was the Stockholm Declaration of 1972. Since the Stockholm Declaration, awareness of the impact of environmental factors on the promotion and protection of human rights has gradually increased. There has been a steadily growing awareness of the human rights implications of policies and programmes that are aimed at environmental protection and sustainable development;

b. at international level, several important treaties take into account the environmental dimensions of human rights. A number of instruments have addressed the connection between human rights and the environment, particularly in terms of access to information and public participation in decision making;

c. procedural rights to information and participation help protect human rights and the environment at the same time, as demonstrated by the 1998 Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters;

d. at national level, the right to a healthy environment has been recognised formally in over ninety national constitutions enacted since 1992. Often the right is made expressly justiciable;

e. at local and regional level, the CLRAE has frequently called for improved access to information and public participation in decision making in environmental matters: Resolution 64 (1998) and Recommendation 42 (1998) addressed the issue of nuclear safety and the need to consult the local population on the siting, operation and decommissioning of nuclear power installations, as well as the transportation of nuclear waste;

f. Resolution 115 (2001) and Recommendation 95 (2001) urged for public information and participation in decision making when setting up and operating mobile telephone base stations;

g. the report under preparation by the Congress (CG/DEV (10) 5) on the problems of transalpine transit traffic will stress the intolerable levels of pollution to which the population of mountain valleys is exposed;

2. Aware that:

a. there are still many challenges that face a coming together of the human rights and environmental approaches. The essential role of human rights promotion and protection in securing environmental protection is still not fully recognised or accepted. No international human rights instruments to date include a “right to environment”;

b. in this context, international human rights instruments lag behind current international attitudes, as well as many member states which have included a right to a healthy environment in their national constitutions and laws;

3. Convinced that:

a. there is a need to promote a deeper understanding of the links between human rights and environmental protection. Human rights advocates need to look to the significant role that environmental degradation – in all its forms – has on the enjoyment of individual rights, not only for those living today but for future generations;

b. the human dignity of an individual is intimately linked to the environment. Respect for human rights is a precondition for sustainable development. Environmental protection constitutes a precondition for the effective enjoyment of human rights protection. Thus human rights and the environment are interdependent and interrelated;

c. effectively functioning procedural rights, such as rights to environmental information, participation in decisions relating to the environment and the right to complain about environmental degradation are a crucial basis for future progress. In many countries and regions where the rights-environment link has been formally recognised, the first step has been the recognition of these procedural rights;

4. The Congress:

a. fully shares the opinion of the Parliamentary Assembly that the Council of Europe’s human rights protection system should contribute to the protection of the environment;

b. agrees with the recommendations addressed to the governments of member states, stressing, in particular, the need to safeguard the individual procedural rights to access to information, public participation in decision making and access to justice in environmental matters, set out in the Aarhus Convention;

c. agrees with the proposal to add provisions concerning the recognition of individual procedural rights, intended to enhance environmental protection, to the rights set out in the European Convention on Human Rights;

d. fully supports the recommendation addressed to the Committee of Ministers that an additional protocol to the European Convention on Human Rights should be drawn up to this effect;

e. agrees that the drawing up of a recommendation to member states setting out the ways in which the European Convention on Human Rights provides individual protection against environmental degradation, proposing the adoption at national level of an individual right to participation in environmental decision making, and indicating a preference, in cases concerning the

environment, for a broad interpretation of the right to an effective remedy would be an appropriate interim measure in preparation for the drafting of an additional protocol.

1. Debated and adopted by the Standing Committee of the Congress on 26 November 2003 (see Document CG (10) 25, draft opinion presented by Mr E. Van Vaerenbergh, rapporteur).