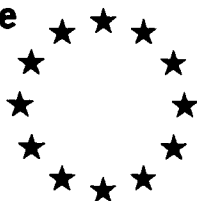


Council of Europe
Conseil de l'Europe



Congress of Local and Regional Authorities of Europe

Congrès des pouvoirs locaux et régionaux de l'Europe

Strasbourg, 11 February 1997

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THIRD SESSION

**Preliminary draft of the
European Charter of the Danube Basin**

prepared by the

**Committee on the Environment
Regional Planning and Local Authorities**

of the

PARLIAMENTARY ASSEMBLY

* Objections to the Standing Committee procedure must reach the Head of the Congress Secretariat a clear week before the meeting of the Standing Committee, if 5 members object, the report will be submitted to the Plenary Session.

Les éventuelles objections à l'examen en Commission Permanente doivent parvenir au Chef du Secrétariat du Congrès une semaine avant la réunion de la Commission Permanente; si 5 membres du Congrès présentent des objections, le rapport sera soumis à la session plénière.

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For debate in the Standing Committee
Pour débat à la Commission Permanente
See Rule 12 (4) (5) - Voir article 12 (4) (5) du Règlement*

Preamble

The States of the Danube basin and the other signatories hereto,

- (1.) Considering that the Danube basin is a geographical, cultural and environmental entity shared by States, which differ as to their histories, populations and economic development;
- (2.) wishing to contribute to achievement of the Council of Europe's objective of closer unity of its members and promotion of co-operation between them;
- (3.) aware that the Danube basin constitutes an important link between western Europe and eastern Europe and hence has a major role in establishing such co-operation;
- (4.) aware, in addition, that nearly 80 million Europeans live in the Danube basin, which must be protected and enhanced, and that it also represents a European natural and cultural heritage, which must be preserved and turned to advantage in accordance with the principles of regional/spatial planning and sustainable development, while promoting its inhabitants' wellbeing, social identity, traditions and culture;
- (5.) mindful that any activity in the Danube drainage basin may have consequences for adjacent or distant territories and that the regions concerned are therefore dependent on one another;
- (6.) reasserting the role of territorial communities or authorities and the importance of their participation in European unification, and bearing in mind in this connection the final declaration of the heads of state and government, adopted in Vienna in 1993, according to which "The creation of a tolerant and prosperous Europe does not depend only on co-operation between states. It also requires transfrontier co-operation between local and regional authorities, without prejudice to the constitution and the territorial integrity of each State";
- (7.) considering, therefore, that transfrontier, inter-territorial co-operation makes for integration, political stability harmonious development and improvement in the quality of life;
- (8.) considering the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Madrid on 21 May 1980, and the Additional Protocol thereto, signed in Strasbourg in 1995, which [acknowledge the fundamental role of the regions and of territorial authorities and expressly] confer on such bodies the right to co-operate with one another within the limits of their powers;
- (9.) considering the fact that many initiatives taken in the Danube basin seem to bear witness to a community of interests and a shared vision of a future to be built in common, and recalling in particular, in this respect, the co-operation entered into since 1990 by the Working Community of the Danube Regions;
- (10.) considering that, in order to be fully effective, co-operation must be put into practice through systematic collaboration both between the States concerned and between their territorial communities and their citizens, and that, to this end, an appropriate legal framework is indispensable;
- (11.) taking account of the specific international legal instruments already applicable to the Danube region, including:

- a. the Convention regarding the Regime of Navigation on the Danube (Danube Convention), signed in Belgrade in 1948;
- b. the Convention on the Protection of the Black Sea against Pollution, signed in Bucharest in 1992;
- c. the Convention on the co-operation for the Protection and Sustainable Use of the Danube River, signed in Sofia in 1994;

(12.) Also taking account of the relevant legal instruments of worldwide or European scope, including the Conventions and Charters listed in the Appendix to this Charter;

(13.) Also bearing in mind the European recommendations, resolutions and other texts of importance to the Danube Basin, including those listed in the Appendix to this Charter.

(14.) Referring to Resolution 1021 (1994) of the Parliamentary Assembly on the preservation and development of the Danube basin, deciding to draw up a European Danube Basin Charter;

Have agreed as follows:

PART I - PURPOSE AND DEFINITIONS

Article 1 - Purpose

The purpose of this Charter is to bring into effect ongoing co-operation between the governments, national parliaments, regional and local authorities and their elected assemblies, European institutions and international organisations, with a view to the harmonious, sustainable development of the regions of the Danube basin, for the wellbeing of its inhabitants and the preservation of its natural and cultural heritage. Suitable national or European non-governmental organisations and associations shall be involved in this operation in an appropriate manner.

Article 2 - Definitions

For the purpose of this Charter

- a. "Danube basin" means the area formed by the catchment area of the Danube and its tributaries, from the eastern slopes of the Black Forest to the Danube Delta..
- b. "Sustainable development" means development aimed at improving living conditions for human communities while remaining within the limits of the support capacity of ecosystems.
- c. "Regional/spatial planning" means planning which gives geographical expression to the economic, social, cultural and ecological policies of society. On a European scale, it contributes to a better spatial organisation in Europe and to the finding of solutions for problems which go beyond the national framework. (European Regional/Spatial Planning Charter). It is an instrument designed to ensure balanced regional socio-economic development, an improvement in the quality of life, rational use of space, responsible management of natural resources and protection of the environment.
- d. "Environmental impact assessment" means a procedure for evaluating the likely impact of a proposed activity on the environment.

e. "The Madrid Convention" refers to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Madrid in 1980.

f. "Transfrontier co-operation" means any concerted action designed to reinforce and foster relations between territorial communities or authorities within the jurisdiction of two or more states and the conclusion of any agreement and arrangement necessary for this purpose.

g. "Region" means a territorial unit within a state, which through its administrative organisation is self-governing to a greater or lesser extent.

h. "Territorial community" means a community, authority or body exercising local or regional functions and regarded as such under the domestic law of the State concerned.

i. "International Non-Governmental Organisations" means associations, foundations and other private institutions (hereinafter referred to as NGOs) which satisfy the following conditions:

- i. have a non-profit-making aim of international utility;
- ii. have been established by an instrument governed by the internal law of a Party;
- iii. carry on their activities with effect in at least two states; and
- iv. have their statutory office in the territory of a Party and central management and control in the territory of that Party or of another Party.

j. "Principle of subsidiarity" means the principle whereby public responsibilities shall be exercised, in preference, by those authorities which are closest to the citizen, in accordance with the European Charter of Local Self-Government (Article 4-3).

k. "Principle of shared responsibility" means the principle whereby any decision affecting sustainable development shall be an open one based on fully informed participation of all parties concerned or interested.

PART II - THE CHARTER'S PRINCIPLES AND AIMS

Article 3 - Compatibility with other instruments

Nothing in this Charter shall be construed as allowing derogations from any other convention in force which has a direct or indirect bearing on the sustainable development of the Danube basin.

Article 4 - Guiding principles

The Parties to the Charter shall comply with the following principles of international law in implementing its provisions:

- a. state sovereignty and a state's unfettered right to its natural resources shall be exercised without causing damage to other states;

- b. a state which has suffered damage caused by another state shall be entitled to reparation;

The Parties shall in addition strive to apply the relevant principles of sustainable development:

- c. decisions concerning regional/spatial planning and activities affecting the population and the environment shall be taken with regard to the Danube basin as a whole;
- d. environmental protection shall be an essential component of the development process and cannot be considered apart;
- e. development shall be based on caution, damage prevention at source, as far as possible, and sustainable use of resources;
- f. co-operation in favour of sustainable development shall be fostered through the information and participation of all concerned, in accordance with the principles of subsidiarity and shared responsibility;
- g. an effort shall be made to achieve ongoing co-operation and dialogue on a flexible institutional basis.

Article 5 - Aims

The purpose of the co-operation which this Charter seeks to establish shall be:

- a. to manage the Danube basin as a single entity and a shared asset with a view to guaranteeing the preservation of cultural values, ecological balances and biodiversity;
- b. to provide the socio-economic means of ensuring the basin's harmonious, sustainable development;
- c. to present an overall picture making it possible to co-ordinate the various instruments and programmes that apply directly or indirectly to the regions of the Danube basin.
- d. to strengthen the relations between the States in the Danube Basin and the Black Sea riparian States.

PART III - COMMITMENTS OF PARTIES

Article 6 - Co-operation

Each Party undertakes to co-operate with the other Parties to the Charter, in particular by drawing inspiration from the provisions of the Madrid Convention and the Additional Protocol thereto, in order to manage the Danube basin in accordance with Articles 4 and 5. To that end, each Party shall implement measures to foster the activities or the establishment of transfrontier co-operation bodies, either individually or together with others. Each Party shall take the legislative and administrative measures needed in this respect.

Article 7 - Sustainable development

Each Party shall, in consultation with the other Parties, take the legislative and administrative measures needed to guarantee the harmonious, sustainable development of the Danube basin. It shall in particular ensure that no existing legal provision is at variance with the Charter's aims and shall undertake to align its environmental legislation on the rules established by the European Union.

Article 8 - Spatial planning

In its regional/spatial planning processes each Party shall take into consideration the Danube basin as a whole, ensure that in frontier regions any national, regional or local plans are harmonised through cross-border consultation.

Article 9 - Environmental impact assessment

Before authorising or undertaking an activity likely to have a significant transboundary impact, each Party shall carry out an environmental impact assessment in accordance with relevant international agreements and inform the Parties concerned of the results. Each Party shall strive to apply the principles of impact assessment to its policies, plans and programmes.

Article 10 - Participation

Each Party undertakes to implement the legislative and administrative measures needed to enable each category of partner referred to in Article 1 of this Charter to take part in the co-operation and dialogue envisaged in Part IV of the Charter, informing them and consulting them to the full.

Article 11 - Information

Each Party shall make, in accordance with domestic law, arrangements for the public to be amply informed of progress in meeting the Charter's aims and for public access to information on the environment and sustainable development.

Article 12 - Transfrontier co-operation

Each Party shall, by means of transfrontier co-operation, foster the free movement of people and cultural exchanges whether for the protection of local cultures and traditions, for educational activities or for the promotion of the built and cultural heritage.

Article 13 - Appeal

Each Party shall strive to take legislative and administrative measures such as to guarantee all persons and territorial communities [or qualified non-governmental organisations] that have suffered damage as a result of environmental effects a right of administrative and judicial action.

PART IV - STRUCTURES AND METHODS

Article 14 - Standing Committee

A Standing Committee shall be set up for the purposes of this Charter.

Article 15 - Membership of the Standing Committee

1. The Committee shall be made up of representatives of the Parties. Each national delegation shall, as far as possible, include representatives of the partners referred to in Article 1 of this Charter.

2. States outside the Danube basin which are members of the Council of Europe and intergovernmental organisations whose field of action encompasses the aims of this Charter may be represented with observer status.

The Committee of Ministers may invite non-member States on the shores of the Black Sea to attend the Standing Committee's proceedings as observers.

3. After informing the Committee of Ministers, the Committee may grant observer status to associations of territorial communities, transfrontier co-operation bodies and suitable non-governmental organisations which have requested such status.

Article 16 -Functions of the Standing Committee

The Standing Committee shall in particular be responsible for:

- a. facilitating ratification of this Charter and monitoring its implementation;
- b. considering all problems of intergovernmental and inter-regional, bilateral or multilateral co-operation relating to the Danube basin, submitted to it by the Parties or by the Committee of Ministers of the Council of Europe;
- c. considering activities already under way at international level in relation to co-operation in the Danube Basin, assessing their interdependence and considering the need for supplementary activities;
- d. assessing the place and functions of the Danube basin within the major pan-European projects and plans devised or proposed by European or international organisations and institutions, such as the United Nations Economic Commission for Europe (UN-ECE), the Council of Europe (especially the European Conference of Ministers responsible for Regional Planning (CEMAT)), the European Conference of Ministers of Transport (ECMT) and the European Union;
- e. maintaining relations with international bodies and agencies which deal with questions relating to the Danube basin;
- f. discussing and liaising with all the co-operation bodies working in the various fields within their competence, including the discussion groups referred to in Article 23 hereafter, to promote, develop and protect the Danube Basin;
- g. defining the general framework of, and action relevant to, concerted planning and sustainable development of the Danube basin, in the light and on the basis of the relevant proposals and recommendations put forward by the various bodies mentioned above;
- h. submitting conclusions accompanied by appropriate recommendations to the Committee of Ministers of the Council of Europe (possibly meeting within the framework of a partial agreement) and, if appropriate, to the national or international authorities with power to take action on these;
- i. facilitating the activities of the bodies already engaged in Danubian co-operation, particularly territorial communities, and endeavouring to eliminate legal or administrative obstacles which might hinder their co-operation.

Article 17 - Co-operation with other international agencies and bodies

The Standing Committee shall develop co-operation with other international agencies and bodies. These co-operation agencies may, on their own initiative, apply for observer status with the Standing Committee; the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe may participate in the meetings of the Committee and shall be entitled to submit proposals, but shall not have the right to vote.

Article 18 - Meetings of the Standing Committee

1. The Secretary General of the Council of Europe shall convene the first meeting of the Parties at the latest one year after this Charter has come into force.
2. Subsequently, the Standing Committee shall meet at least once a year, or more often at the request of the majority of the Parties.
3. The quorum required to take a decision by the Standing Committee shall be the majority of the Parties.
4. The Standing Committee may submit proposals to the Parliamentary Assembly and to the Congress of Local and Regional Authorities of Europe of the Council of Europe.

Article 19 - Rules of procedure

The Standing Committee shall draw up its rules of procedure.

Article 20 - Voting rights

Each Party to this Charter shall have one vote. [Within the area of its competence, the European Community shall exercise its right to vote with a number of votes equal to the number of its member States which are Party to this Charter; the European Community shall not exercise its right to vote in cases where the member States concerned exercise theirs, and conversely].

Article 21 - Executive Secretariat

1. The Charter's Executive Secretariat shall be provided by the Council of Europe.
2. The Executive Secretariat shall fulfil the following functions:
 - a. convene and prepare meetings of the Standing Committee;
 - b. transmit to the Parties reports and other information received pursuant to this Charter;
 - c. perform other functions that the Standing Committee may assign to it.

Article 22 - National co-ordination

Each Party shall be responsible for co-ordinating activities undertaken to put the Charter into effect and shall prepare an annual report on the basis of the annual reports drawn up and transmitted by the discussion groups referred to in Article 23 hereafter.

Article 23 - Discussion groups

1. In order to achieve the Charter's aims, the Parties shall take steps to establish discussion groups at national, regional or transfrontier levels. These groups shall be open to all the partners referred to in Article 1 of this Charter.

2. Discussion groups shall examine proposed plans, schemes and activities likely to improve the quality of life and environmental protection and contribute to sustainable development of the Danube Basin.

Article 24 - Financing

[The Standing Committee shall determine how] The implementation of this Charter is [to be] financed, [for example through the formation of a fund] by the Council of Europe.

[Article 25 - Mediation/conciliation

The Standing Committee shall, as and where necessary, take steps to facilitate the friendly settlement of disputes between two or more Parties concerning the implementation of this Charter. Where a negotiated solution has not been possible, the Parties may refer their dispute to

i. a conciliation board, made up half of representatives of the Parties and half of representatives designated by the Council of Europe. The board shall have not more than ten members. The elected Chair shall have the casting vote.

ii. an ad hoc scientific committee, made up of experts chosen by the Council of Europe for their competence and independence. This committee shall deal with disputes of a technical, technological or scientific nature.

Where a dispute persists the Parties in question may choose either to submit the matter to the International Court of Justice in the Hague or to resort to arbitration under a procedure to be adopted by the Standing Committee.]

PART V - FINAL PROVISIONS

Article 26 - Signature and ratification

This Charter shall be open for signature by States in the Danube basin [and by the European Community]. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 27 - Entry into force

The Charter shall enter into force on the first day of the first month following the expiration of a period of six months after the date on which five states have approved it in accordance with the provisions of the preceding Article.

Article 28 - Withdrawal

Any Party may at any time denounce this Charter by notifying the Secretary General of the Council of Europe. Such denunciation shall become effective on the first day of the first month following the expiration of a period of six months after the date of receipt of notification by the Secretary General.

Article 29 - Notification

The Secretary General of the Council of Europe shall notify the Parties of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance or approval;
- c. any date of entry into force of this Charter in accordance with Article 27;
- d. any information communicated under the provisions of Article 16;
- e. any report drawn up pursuant to Article 16;
- f. any notification under the provisions of Article 28 and the date on which the denunciation becomes effective.

In witness whereof, the undersigned have signed this Charter.

Done at, this .. day of, in English and French, both texts being equally authentic, in a single copy, which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each signatory State, to each member State of the Council of Europe [and to the European Community].

Appendix

List of Conventions, Charter, Recommendations, Resolutions and other texts

A. Conventions and Charters

1. The Convention on Wetlands of International Importance, Especially as Waterfowl Habitat, signed in Ramsar in 1971;
2. the Convention concerning the Protection of the World Cultural and Natural Heritage, signed in Paris in 1972;
3. the Convention on Long-Range Transboundary Air Pollution, signed in Geneva in 1979, and related Protocols;
4. the Convention on the Conservation of European Wildlife and Natural Habitats, signed in Bern in 1979;
5. the Convention for the Protection of the Architectural Heritage of Europe, signed in Strasbourg in 1985;
6. the European Charter of Local Self-Government, signed in Strasbourg in 1985;
7. the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations, signed in Strasbourg in 1986;
8. the Convention on the Control of Transboundary Movements of Dangerous Wastes and their Disposal, signed in Basel in 1989;
9. the Convention on Civil Liability for Damage caused during carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels (CRTD), signed in Geneva in 1989;
10. the Convention on Environmental Impact Assessment in a Transboundary Context, signed in Espoo in 1991;
11. the Convention on the Transboundary Effects of Industrial Accidents, signed in Helsinki in 1991;
12. the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, signed in Helsinki in 1992;
13. the Convention on Biological Diversity, signed in Rio in 1992.
14. the European Charter for Regional or Minority Languages, signed in Strasbourg in 1992;

15. the Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, signed in Lugano in 1993;
16. the Framework Convention for the Protection of National Minorities, signed in Strasbourg in 1995.

B. Recommendations, Resolutions and other texts

1. the European Regional/Spatial Planning Charter of 1983/84;
2. the Bucharest Declaration of 1985 on the Management of Danube River Water;
3. the Code of Conduct on Accidental Pollution of Transboundary Inland Waters (UNECE/1225) of 1990;
4. "Gemeinsame Erklärung der Arbeitsgemeinschaft Donauländer" of 1990 (Joint Declaration of the Working Community of Danubian Regions);
5. the Pan-European Biological and Landscape Diversity Strategy of 1995;
6. "Leitbild für eine nachhaltige Entwicklung im Donaauraum" of 1996 (Guideline for a Sustainable Development of the Danube Basin).