

Council of Europe
Conseil de l'Europe



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

Congress of Local and Regional Authorities of Europe

Congrès des pouvoirs locaux et régionaux de l'Europe

Strasbourg, 1st March 1996
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SECOND SESSION

PRELIMINARY DRAFT RECOMMENDATION OF THE COMMITTEE OF MINISTERS TO THE GOVERNMENTS OF MEMBER STATES ON THE DISTRIBUTION OF POWERS AND RESPONSIBILITIES BETWEEN CENTRAL AUTHORITIES AND LOCAL AND REGIONAL AUTHORITIES WITH REGARD TO THE ENVIRONMENT

Proposed by the CDLR

and submitted to the CLRAE for an Opinion

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- * 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.

**PRELIMINARY DRAFT RECOMMENDATION OF THE COMMITTEE OF
MINISTERS TO THE GOVERNMENTS OF MEMBER STATES ON THE
DISTRIBUTION OF POWERS AND RESPONSIBILITIES BETWEEN
CENTRAL AUTHORITIES AND LOCAL AND REGIONAL AUTHORITIES
WITH REGARD TO THE ENVIRONMENT**

The Committee of Ministers, having regard to Article 15 b) of the Statute of the Council of Europe

1. Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and to foster their economic and social progress, and that one way of achieving this aim is to take joint action in the legal and administrative fields;
2. Considering that Article 4 of the European Charter of Local Self-Government provides that the basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute but adds that this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law;
3. Considering that States and local and regional authorities have differentiated responsibilities in the field of environmental protection and that dialogue between the authorities of the different levels is necessary in this field;
4. Considering that local development and the development of the economy and social welfare is compromised if the environment is not protected and that, conversely, it is very difficult to protect the environment without appropriate resources;
5. Considering that pollution of the soil and watercourses, including groundwater, can cause immediate problems in the supply of drinking water, for which local and regional authorities are usually responsible, and can endanger health;
6. Considering that the vast majority of people live in urban areas and that their current and future quality of life and their health also depend directly on the quality of the environment in terms of air pollution levels, noise pollution and cleanliness of public places; since a few specific measures are not sufficient, a coherent, comprehensive long-term strategy is required;
7. Considering that, in accordance with the principles laid down in the European Conservation Strategy, approved by the European Environment Ministers, governments and, where appropriate, local and regional authorities should provide the conditions for the development and implementation of policies to manage natural resources in an economically and ecologically effective manner, and that governments must in particular set binding environmental protection standards and establish vertical links by co-ordinating environmental actions at local, regional, national and international level;

8. Considering that pollution and degradation of the natural environment will cost society in the future and that it is preferable and less expensive to follow the principle of sustainable development and to adopt preventive strategies to protect the environment rather than corrective strategies;
9. Considering that one way of reducing the level of pollution and encouraging the search for alternative solutions is to apply the "polluter pays" principle by charging polluters directly for the costs of the damage they cause to the environment;
10. Considering that environmental protection necessarily entails the active participation of all citizens and that it is therefore necessary to alert and educate them to this major problem in the interests of current and future generations;
11. Considering that the question of the liability of local or regional decision-makers could be raised in respect of certain cases of serious environmental pollution and that, moreover, co-ordinated standards are required to avoid unfair competition between territorial authorities;

RECOMMENDS THAT THE GOVERNMENTS OF MEMBER STATES

- a) **Establish, in collaboration with the local and regional authorities, a legal framework to ensure genuine protection of the natural and human environment for present and future generations, in keeping with the principle of sustainable development.**

This legal framework should in particular:

- lay down, if necessary and appropriate, the powers of the different tiers of government, which should be determined in such a way as to promote efficiency of action and economy of resources, and establish the exact role of each authority;
- fix at national level minimum standards for environmental quality and, for each major sector, upper limits for the different types of pollution;
- charge to the polluter any public expenditure which results from the polluter's activities and is necessary in the long term and in the public interest for the preservation of the natural environment in an acceptable condition;
- allow local and regional authorities, within the limits of their competencies, to impose stricter standards than those set at national level and adopt appropriate local fiscal measures promoting protection of the environment (for example, measures which charge to temporary polluters the costs which their activities create for the community where they are temporarily resident) provided this does not significantly distort competition; and

- include appropriate measures allowing local and regional authorities, in the framework of their competencies, to enforce provisions regarding protection of the environment (air quality, noise, water quality, treatment of urban waste, etc) and seek compensation when environmental laws and regulations are infringed.

It might, if appropriate, make provision, within the limits laid down by law, for appeals by associations against decisions likely to have a serious and irreversible impact on the environment, where such appeals appear to be the only means of ensuring effective protection of the interests of the communities concerned and are also in keeping with the public interest.

b) Call upon local and regional authorities to adopt and implement effective policies, adapted to their social and economic context, for the protection of the natural environment and landscapes. By way of a pointer, these policies could include:

- drawing up at local level - particularly in large and medium-sized towns - and at regional level, suitable strategies for fighting and preventing air and watercourse pollution;
- encouraging or gradually introducing separate collection of different types of household waste, to enable this waste to be re-used and recycled in the best possible way, while giving preference to all suitable forms of co-operation between local and regional authorities for reasons of efficiency and economy;
- promoting energy conservation and the use of renewable and less polluting energy sources, and increasing the environment-friendliness of current energy systems by making use of technological advances;
- devising and implementing a programme to clean up polluted sites and watercourses over several years;
- planning and developing urban transport networks in a rational way, so as to promote the use of non-polluting public transport systems which help to improve air quality and reduce noise pollution; and
- promoting the creation, protection and ecological management of green areas as a basic element of all urban development strategies.

c) Introduce effective systems for assessing the impact of human activity on the environment and monitoring the results of action taken to protect the natural environment. Provision should be made in particular for:

- the setting up of suitable monitoring procedures and the establishment of bodies authorised to supervise the implementation of environmental protection standards at national and local level;

- the carrying out of regular environmental audits for each major region and the drawing up of detailed inventories of polluted sites;
- the compulsory carrying out, before any major planning project having implications for the environment, of an environmental impact study whose conclusions will be taken into account in deciding whether to grant the necessary administrative authorization; and
- exchanges of experience between different authorities and measures to encourage good practices.

d) **Provide local and regional authorities, as far as possible, with the technical and financial assistance needed for the effective implementation of environmental protection policies** and, in particular, promote and co-finance the major infrastructure projects of local and regional authorities which join forces to prevent, re-use and re-cycle waste, especially urban waste, and to restore the environmental balance.

e) **Facilitate the access of the public to information on the situation and evolution of the environment and launch, in co-operation with the local and regional authorities, regular information campaigns**, focusing in particular on the need to improve the urban environment, even if it involves a major change in people's ways of life in order to encourage the public to participate more in the protection of their environment.
