

**2000**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

**EUROPEAN LANDSCAPE  
CONVENTION  
AND EXPLANATORY REPORT**

Strasbourg 2000



# A. European Landscape Convention

## Preamble

*At the 718<sup>th</sup> meeting of the Committee of Ministers of the Council of Europe, the Deputies :*

*– adopted the text of the European Landscape Convention as it appears appended.*

*– decided to open it for signature;*

*– agreed that the opening for signature would coincide with the ministerial conference on Landscape Protection which the Italian authorities would organise in Florence on 20 October 2000, in co-operation with the Council of Europe;*

The member States of the Council of Europe signatory hereto,

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 that this aim is pursued in particular through agreements in the economic and social fields;

Concerned to achieve sustainable development based on a balanced and harmonious relationship between social needs, economic activity and the environment;

Noting that the landscape has an important public interest role in the cultural, ecological, environmental and social fields, and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation;

Aware that the landscape contributes to the formation of local cultures and that it is a basic component of the European natural and cultural heritage, contributing to human well-being and consolidation of the European identity;

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

Noting that developments in agriculture, forestry, industrial and mineral production techniques and in regional planning, town planning, transport, infrastructure, tourism and recreation and, at a more general level, changes in the world economy are in many cases accelerating the transformation of landscapes;

Wishing to respond to the public's wish to enjoy high quality landscapes and to play an active part in the development of landscapes;

Believing that the landscape is a key element of individual and social well-being and that its protection, management and planning entail rights and responsibilities for everyone;

Having regard to the legal texts existing at international level in the field of protection and management of the natural and cultural heritage, regional and spatial planning, local self-government and transfrontier co-operation, in particular the Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 19 September 1979), the Convention for the Protection of the Architectural Heritage of Europe (Granada, 3 October 1985), the European Convention on the Protection of the Archaeological Heritage (revised) (Valletta, 16 January 1992), the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 21 May 1980) and its additional protocols, the European Charter of Local Self-government (Strasbourg, 15 October 1985), the Convention on Biological Diversity (Rio, 5 June 1992), the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972), and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice on Environmental Matters (Aarhus, 25 June 1998);

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

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

Have agreed as follows:

## **Chapter I – General provisions**

### **Article 1 - Definitions**

For the purposes of the Convention:

- a.* “Landscape” means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors;
- b.* “Landscape policy” means an expression by the competent public authorities of general principles, strategies and guidelines that permit the taking of specific measures aimed at the protection, management and planning of landscapes;
- c.* “Landscape quality objective” means, for a specific landscape, the formulation by the competent public authorities of the aspirations of the public with regard to the landscape features of their surroundings;
- d.* “Landscape protection” means actions to conserve and maintain the significant or characteristic features of a landscape, justified by its heritage value derived from its natural configuration and/or from human activity;
- e.* “Landscape management” means action, from a perspective of sustainable development, to ensure the regular upkeep of a landscape, so as to guide and harmonise changes which are brought about by social, economic and environmental processes;
- f.* “Landscape planning” means strong forward-looking action to enhance, restore or create landscapes.

## **Article 2 - Scope**

Subject to the provisions contained in Article 15, this Convention applies to the entire territory of the Parties and covers natural, rural, urban and peri-urban areas. It includes land, inland water and marine areas. It concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes.

## **Article 3 – Aims**

The aims of this Convention are to promote landscape protection, management and planning, and to organise European co-operation on landscape issues.

## **Chapter II – National measures**

### **Article 4 – Division of responsibilities**

Each Party shall implement this Convention, in particular Articles 5 and 6, according to its own division of powers, in conformity with its constitutional principles and administrative arrangements, and respecting the principle of subsidiarity, taking into account the European Charter of Local Self-government. Without derogating from the provisions of this Convention, each Party shall harmonise the implementation of this convention with its own policies.

### **Article 5 – General measures**

Each Party undertakes:

- a.* to recognise landscapes in law as an essential component of people's surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity;
- b.* to establish and implement landscape policies aimed at landscape protection, management and planning through the adoption of the specific measures set out in Article 6;
- c.* to establish procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies mentioned in paragraph *b* above;
- d.* to integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.

### **Article 6 – Specific measures**

#### *A. Awareness-raising*

Each Party undertakes to increase awareness among the civil society, private organisations, and public authorities of the value of landscapes, their role and changes to them.

#### *B. Training and education*

Each Party undertakes to promote:

- a. training for specialists in landscape appraisal and operations;
- b. multidisciplinary training programmes in landscape policy, protection, management and planning, for professionals in the private and public sectors and for associations concerned;
- c. school and university courses which, in the relevant subject areas, address the values attaching to landscapes and the issues raised by their protection, management and planning.

#### *C. Identification and assessment*

1. With the active participation of the interested parties, as stipulated in Article 5.c, and with a view to improving knowledge of its landscapes, each Party undertakes:

- a.
  - i) to identify its own landscapes throughout its territory;
  - ii) to analyse their characteristics and the forces and pressures transforming them;
  - iii) to take note of changes;
- b. to assess the landscapes thus identified, taking into account the particular values assigned to them by the interested parties and the population concerned.

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

#### *D. Landscape quality objectives*

Each Party undertakes to define landscape quality objectives for the landscapes identified and assessed, after public consultation in accordance with Article 5.c.

#### *E. Implementation*

To put landscape policies into effect, each Party undertakes to introduce instruments aimed at protecting, managing and/or planning the landscape.

## **Chapter III – European Co-operation**

### **Article 7 – International policies and programmes**

Parties undertake to co-operate in the consideration of the landscape dimension of international policies and programmes, and to recommend, where relevant, the inclusion in them of landscape considerations.

### **Article 8 – Mutual assistance and exchange of information**

The Parties undertake to co-operate in order to enhance the effectiveness of measures taken under other articles of this Convention, and in particular:

- a. to render each other technical and scientific assistance in landscape matters through the pooling and exchange of experience, and the results of research projects;
- b. to promote the exchange of landscape specialists in particular for training and information purposes;
- c. to exchange information on all matters covered by the provisions of the Convention.

### **Article 9 – Transfrontier landscapes**

The Parties shall encourage transfrontier co-operation on local and regional level and, wherever necessary, prepare and implement joint landscape programmes.

### **Article 10 – Monitoring of the implementation of the Convention**

1. Existing competent Committees of Experts set up under Article 17 of the Statute of the Council of Europe shall be designated by the Committee of Ministers of the Council of Europe to be responsible for monitoring the implementation of the Convention.
2. Following each meeting of the Committees of Experts, the Secretary General of the Council of Europe shall transmit a report on the work carried out and on the operation of the Convention to the Committee of Ministers.
3. The Committees of Experts shall propose to the Committee of Ministers the criteria for conferring and the rules governing the Landscape award of the Council of Europe.

### **Article 11 – Landscape award of the Council of Europe**

1. The Landscape award of the Council of Europe is a distinction which may be conferred on local and regional authorities and their groupings that have instituted, as part of the landscape policy of a Party to this Convention, a policy or measures to protect, manage and/or plan their landscape, which have proved lastingly effective and can thus serve as an example to other territorial authorities in Europe. The distinction may be also conferred on non-governmental organisations having made particularly remarkable contributions to landscape protection, management or planning.
2. Applications for the Landscape award of the Council of Europe shall be submitted to the Committees of Experts mentioned in Article 10 by the Parties. Transfrontier local and regional authorities and groupings of local and regional authorities concerned, may apply provided that they jointly manage the landscape in question.
3. On proposals from the Committees of Experts mentioned in Article 10 the Committee of Ministers shall define and publish the criteria for conferring the Landscape award of the Council of Europe, adopt the relevant rules and confer the Award.
4. The granting of the Landscape award of the Council of Europe is to encourage those receiving the award to ensure the sustainable protection, management and/or planning of the landscape areas concerned.

## **Chapter IV – Final clauses**

### **Article 12 – Relationship with other instruments**

The provisions of this Convention shall not prejudice stricter provisions concerning landscape protection, management and planning contained in other existing or future binding national or international instruments.

### **Article 13 – Signature, ratification and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe. 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.
2. The Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.
3. In respect of any signatory state which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 14 - Accession**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite the European Community and any European State which is not a member of the Council of Europe, to accede to the Convention by a majority decision as provided in Article 20.d of the Council of Europe Statute, and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers.
2. In respect of any acceding State, or the European Community in the event of its accession, this Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

### **Article 15 – Territorial application**

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which the Convention shall apply.
2. Any Party may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. The Convention shall take effect in respect of such a territory on the first day following the expiry of a period of three months after the date of receipt of the declaration by the Secretary General.
3. Any declaration made under the two paragraphs above may, in respect of any territory mentioned in such declaration, be withdrawn by notification addressed to the Secretary General. Such withdrawal shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 16 – Denunciation**

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 17 – Amendments**

1. Any Party or the Committees of Experts mentioned in Article 10 may propose amendments to this Convention.
2. Any proposal for amendment shall be notified to the Secretary General of the Council of Europe who shall communicate it to the member States of the Council of Europe, to the others Parties, and to any European non-member State which has been invited to accede to this Convention in accordance with the provisions of Article 14.
3. The Committees of Experts mentioned in Article 10 shall examine any amendment proposed and submit the text adopted by a majority of three-quarters of the Parties' representatives to the Committee of Ministers for adoption. Following its adoption by the Committee of Ministers by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers, the text shall be forwarded to the Parties for acceptance.
4. Any amendment shall enter into force in respect of the Parties which have accepted it on the first day of the month following the expiry of a period of three months after the date on which three Council of Europe member States have informed the Secretary General of their acceptance. In respect of any Party which subsequently accepts it, such amendment shall enter into force on the first day of the month following the expiry of a period of three months after the date on which the said Party has informed the Secretary General of its acceptance.

#### **Article 18 – Notifications**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State or the European Community having acceded to this Convention, of:

- a.* any signature;
- b.* the deposit of any instrument of ratification, acceptance, approval or accession;
- c.* any date of entry into force of this Convention in accordance with Articles 13, 14 and 15;
- d.* any declaration made under Article 15;
- e.* any denunciation made under Article 16;
- f.* any proposal for amendment, any amendment adopted pursuant to Article 17 and the date on which it comes into force;
- g.* any other act, notification, information or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Florence, this 20<sup>th</sup> day of October 2000, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any state or to the European Community should they be invited to accede to this Convention.



## **B. Explanatory Report**

### **I. Origins of the Convention**

1. In March 1994, a few months before the 1<sup>st</sup> Plenary Session of the Council of Europe's Congress of Local and Regional Authorities (CLRAE), the Standing Conference of Local and Regional Authorities of Europe, its predecessor, adopted Resolution 256 (1994) on the 3<sup>rd</sup> Conference of Mediterranean Regions. In this text, the Standing Conference called on its succeeding body, the CLRAE, “to draw up, on the basis of the *Mediterranean Landscape Charter – adopted in Seville by the regions of Andalusia (Spain), Languedoc-Roussillon (France) and Tuscany (Italy) – a framework convention on the management and protection of the natural and cultural landscape of Europe as a whole*”.
2. One year later, in response to the 1<sup>st</sup> Conference of European Environment Ministers held in Dobriš in June 1991, the European Union's European Environment Agency published *Europe's environment: the Dobriš assessment*, an in-depth analysis of the state of and prospects for the environment in the greater Europe. Chapter 8 deals with landscapes, and in its conclusions it expresses the hope that the Council of Europe will take the lead in drawing up a European convention on rural landscapes.
3. In 1995 the World Conservation Union (IUCN) published *Parks for life: actions for protected areas in Europe* with the support of, among others, the Swedish Agency for Environment Protection, the Dutch Ministry for Agriculture, Regional Planning and Fisheries, the Norwegian Ministry for the Environment, the British Countryside Commission, the German Ministry for the Environment, Nature Conservation and Nuclear Reactor Safety, the French Ministry for the Environment and the World Wildlife Fund (WWF). This text advocates an international convention on rural landscape protection in Europe, involving the Council of Europe.
4. In view of these recommendations and the growing social demand, the CLRAE decided to draw up a draft European landscape convention for adoption by the Council of Europe's Committee of Ministers. In September 1994 the CLRAE set up an *ad hoc* drafting group composed of members of the CLRAE's Chamber of Local Authorities and Chamber of Regions. This group met for the first time in November that year. In accordance with the principle of consultation and participation, several international, national and regional bodies and programmes were invited to take part in the group's work. Among these were the Parliamentary Assembly and the Cultural Heritage Committee of the Council of Europe (CC-PAT), the Committee for the activities of the Council of Europe in the field of biological and landscape diversity (CO-DBP), the Unesco World Heritage Committee, the IUCN, the Committee of Regions and the Commission of the European Union, and the Bureau for the Pan-European Biological and Landscape Diversity Strategy and the regions of Andalusia (Spain), Languedoc-Roussillon (France) and Tuscany (Italy).
5. In view of the scientific complexity of the subject and its varied treatment in national law, the group drew up, as preparatory documents, a full version of the draft convention in non-legal language and a comparative study of European landscape law. The purpose of the study was to clarify the legal situation and practices relating to landscape protection, management and planning in Council of Europe member States.

6. In addition, the group constantly referred in its work to existing national and international legal instruments in this field. These include the Unesco Convention concerning the Protection of the World Cultural and Natural Heritage, the Convention for the Protection of the Architectural Heritage of Europe, the Convention on the Conservation of European Wildlife and Natural Habitats, the European Convention for the Protection of the Archaeological Heritage, the Committee of Ministers Recommendation 95 (9) on the integrated conservation of cultural landscape areas as part of landscape policies and Recommendation 79 (9) of the Committee of Ministers concerning the identification and evaluation card for the protection of natural landscapes, the Mediterranean Landscape Charter, the European Community regulation on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside, the European Community directive on the conservation of natural habitats and of wild fauna and flora, the European Community directive on the assessment of environmental effects, and other important national, European Community and international instruments.

7. Given the need for democracy and the special nature, multiplicity and variety of landscape values and of demands on the landscape, the drafting group held two hearings in Strasbourg as part of its programme of consultation on the draft convention. The first, on 8 and 9 November 1995, was attended by interested national and regional scientific bodies, both private and public, as well as interested European non-governmental organisations; the second, on 24 March 1997, was for interested international organisations and regional authorities.

8. Following these hearings, at its 4<sup>th</sup> Plenary Session held in Strasbourg from 3 to 5 June 1997, the CLRAE adopted a preliminary draft European Landscape Convention in Resolution 53 (1997). The draft convention, which is written in non-legal language, and the comparative study of European landscape law already mentioned were presented as appendices to the resolution's explanatory memorandum (CG (4) 6, Part II).

9. Also at the 4<sup>th</sup> Plenary Session, in Recommendation 31 (1997), the CLRAE requested the Council's Parliamentary Assembly to examine the preliminary draft European Landscape Convention in Resolution 53 (1997), give an opinion and, if possible, express its support. The same request for an opinion and support was made to the European Union's Committee of the Regions.

10. Before recommending adoption of the European landscape convention to the Committee of Ministers, the CLRAE decided, again in Resolution 53 (1997), to consult the national ministries concerned. It accordingly instructed the drafting group to organise a consultation conference for ministerial representatives and major international and non-governmental organisations with technical expertise in landscape matters.

11. At the invitation of the Italian ministry for Cultural Heritage and Environmental Assets, this important conference took place in Florence (Italy) from 2 to 4 April 1998.

12. The CLRAE consultation conference achieved constructive dialogue with the national authorities responsible for landscape matters in the Council of Europe member countries. More particularly, thanks to the open, informal exchange of views between the drafting group and the experts assisting them on the one hand, and representatives of the ministries responsible for landscape matters on the other, the CLRAE was able to gain an understanding of the countries' requirements with regard to establishing common rules of international law on the protection, management and planning of their landscapes.

13. On the basis of very encouraging results from the Florence Conference and the positive views which the international bodies concerned expressed on the preliminary draft convention<sup>1</sup>, and taking account of the proposals put forward at the hearings, the working group produced a final draft European landscape convention in the form of a draft recommendation which was presented to the CLRAE for adoption at its 5<sup>th</sup> Plenary Session (Strasbourg, 26-28 May 1998).

14. This draft recommendation, which the Congress adopted on 27 May 1998 (Recommendation 40 (1998)), asked the Council of Europe's Committee of Ministers to examine the draft European landscape convention with a view to adopting it as a Council of Europe convention, if possible during the heritage campaign which heads of state and government had called for at the second Council of Europe Summit in October 1997.

15. The recommendation also urged the Parliamentary Assembly of the Council of Europe to support the draft European landscape convention with a view to its adoption by the Committee of Ministers.

16. At their 641<sup>st</sup> meeting (15 to 18 September 1998), the Council of Europe Ministers' Deputies considered Recommendation 40 (1998) and asked the Committee for the activities of the Council of Europe in the field of biological and landscape diversity (CO-DBP) and the Cultural Heritage Committee (CC-PAT) to consider whether a Council of Europe landscape convention could and should be drawn up on the basis of the CLRAE draft landscape convention in Recommendation 40 (1998).

17. The CC-PAT and the CO-DBP delivered their opinions on 17 February and 19 April 1999 respectively.

18. On this basis, at its 676<sup>th</sup> meeting (1 and 2 July 1999), the Committee of Ministers decided to set up a select governmental Committee of experts responsible for drafting the European landscape convention on the basis of the draft prepared by the Congress. The Committee of Ministers recommended in particular that the select Committee pay attention to the articles concerning the body supervising the implementation of the convention and the identification of landscapes of European interest.

19. This Committee of Experts met three times (September and November 1999 and January 2000) and submitted a new draft convention to the CC-PAT and the CO-DBP in January 2000. Both Committees jointly examined the text on 10 March 2000 and decided to submit it to the Committee of Ministers together with the report of their meeting [T-LAND (2000) 4] for consideration and possible adoption and opening for signature.

20. On the basis of the texts appearing in the aforementioned report and the opinions of the Parliamentary Assembly and the Congress of regional and local authorities of Europe of 25 May 2000 and 26 June 2000 respectively, the Secretary General of the Council of Europe submitted a draft convention to the Committee of Ministers for adoption. The Committee of Ministers adopted the text of the convention on 19 July 2000 and decided it would be opened it for signature on 20 October 2000.

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<sup>1</sup> The Council of Europe's Parliamentary Assembly and Cultural Heritage Committee, the European Union's Committee of the Regions, Unesco's World Heritage Committee, the World Commission on Protected Areas and the Commission on Environmental Law of the World Conservation Union (IUCN) presented official opinions at the Florence Conference. A number of non-governmental organisations with technical qualifications in landscape management also gave favourable opinions on the preliminary draft convention at the conference.

## **II. Aims and structure of the Convention**

21. Europe's populations want policies and instruments affecting national territory to take account of their wishes regarding the quality of their surroundings. In their view, this quality to some extent has to do with the feelings aroused in them by contemplating the landscape. They have come to realise that the quality and diversity of many landscapes are deteriorating as a result of a wide variety of factors and that this is having an adverse effect on the quality of their everyday lives.

22. Official landscape activities can no longer be allowed to be an exclusive field of study or action monopolised by specialist scientific and technical bodies.

23. Landscape must become a mainstream political concern, since it plays an important role in the well-being of Europeans who are no longer prepared to tolerate the alteration of their surroundings by technical and economic developments in which they have had no say. Landscape is the concern of all and lends itself to democratic treatment, particularly at local and regional level.

24. If people are given an active role in decision-making on landscape, they are more likely to identify with the areas and towns where they spend their working and leisure time. If they have more influence on their surroundings, they will be able to reinforce local and regional identity and distinctiveness and this will bring rewards in terms of individual, social and cultural fulfilment. This in turn may help to promote the sustainable development of the area concerned, as the quality of landscape has an important bearing on the success of economic and social initiatives, whether public or private.

25. The general purpose of the convention is to encourage public authorities to adopt policies and measures at local, regional, national and international level for protecting, managing and planning landscapes throughout Europe so as to maintain and improve landscape quality and bring the public, institutions and local and regional authorities to recognise the value and importance of landscape and to take part in related public decisions.

26. The above-mentioned policies and measures cover all the forms of landscape which countries possess. The convention applies to all parts of Europe, including natural, rural, urban and peri-urban areas. It is not confined to either the cultural, man-made or natural components of landscape: it is concerned with all of these and how they interconnect.

27. Extending the scope of local authorities' official landscape action to cover the whole of national territory does not imply that the same measures and policies must be applied to all landscapes; these measures and policies should be adaptable to particular types of landscape, which, depending on their specific characteristics, will need various forms of treatment at local level, ranging from the strictest conservation via protection, management and planning to actual creation. These various treatments may allow an important socio-economic development of the areas concerned.

28. The convention demands a forward-looking attitude on the part of all those whose decisions affect the protection, management or planning of landscapes. It has implications for many areas of official policy and official or private action, from the local to the European level.

29. In addition to their local significance, Europe's landscapes are of value in various ways to all Europeans. They are cherished outside the locality and beyond national borders. In addition there are landscapes which have identical characteristics on both sides of borders and therefore require transborder measures to implement the action principles. Finally, landscapes bear the consequences, whether positive or negative, of processes which may originate elsewhere and whose impact is not checked by national boundaries. That is why it is legitimate to be concerned with landscape at European level.

30. In their diversity and quality, the cultural and natural values linked to European landscapes are part of Europe's common heritage, and so European countries have a duty to make collective provisions for the protection, management and planning of these values. Only an international convention at Council of Europe level can help to reach this objective in order to provide a legal reference to other international initiatives active in this field.

31. A number of existing international legal instruments have some bearing upon landscape, either directly or indirectly. However, there is no international legal instrument that deals directly, specifically and comprehensively with European landscapes and their preservation, despite their immense cultural and natural value and the many threats to them. The convention is designed to fill that gap.

32. An international convention is a dynamic legal instrument, which evolves together with the subject matter of its provisions. An international legal instrument intended to deal with landscape values and interests should be able to keep pace with changes in those values and interests.

The Convention also has the advantage of applying indefinitely, and of being implemented under the auspices of an international organisation, in this case the Council of Europe.

33. The European Landscape Convention is seen as being complementary to existing international legal instruments, such as:

*a.* the Unesco Convention concerning the Protection of the World Cultural and Natural Heritage, (Paris, 16 November 1972);

*b.* the Council of Europe Convention on the Conservation of European Wildlife and Natural Habitats, (Bern, 19 September 1979);

*c.* the Council of Europe Convention for the Protection of the Architectural Heritage of Europe, (Granada, 3 October 1985);

*d.* the Council of Europe Convention for the Protection of the Archaeological Heritage (revised) (Valletta, 16 January 1992).

and to international initiatives such as the Pan-European Biological and Landscape Diversity Strategy (Sofia, 25 October 1995). The European Landscape Convention should allow to establish formal links where appropriate between the mechanisms of the convention and these other instruments or initiatives.

34. The European Landscape Convention leaves Parties the choice of means to be used within their internal legal arrangements to fulfil their obligations. The legal, administrative, fiscal and financial arrangements made in each country to serve the Convention's implementation should fit in as comfortably as possible with that country's traditions. It is also recognised that, on the basis of the principle of subsidiarity, responsibility for action relating to landscape lies with public authorities not only at national and international levels, but also at local and regional levels.

35. The European Landscape Convention comprises a preamble and four main sections:
- a.* Chapter I, setting out the objectives and scope of the convention, plus key definitions;
  - b.* Chapter II, stating the measures to be taken at national level;
  - c.* Chapter III, stating the basis for European co-operation, the measures to be taken at international level and the role of the Committees responsible for monitoring the implementation of the Convention;
  - d.* Chapter IV, dealing with procedures for adoption of the convention and related matters.

### **III. Commentary on the provisions of the Convention**

#### **Preamble**

36. The preamble outlines the issues underlying the European Landscape Convention, emphasising the following points.

The convention is part of the Council of Europe's work on natural and cultural heritage, spatial planning, environment and local self-government.

The concern for sustainable development expressed at the Rio de Janeiro conference makes landscape an essential consideration in striking a balance between preserving the natural and cultural heritage as a reflection of European identity and diversity, and using it as an economic resource capable of generating employment in the context of the boom in sustainable tourism.

The landscape is important as a component of the environment and of people's surroundings in both town and country and whether it is ordinary landscape or outstanding landscape. The public is accordingly encouraged to take an active part in landscape management and planning, and to feel it has responsibility for what happens to the landscape.

The Council of Europe member States, anxious to promote through international agreements the ideals which are their common heritage, possess a precious asset in the landscapes, and one which needs to be maintained and managed by means of effective international co-operation based on a legal instrument exclusively devoted to landscape.

#### **Chapter I – General provisions**

##### **Article 1 – Definitions**

37. This article defines various terms used in the convention to ensure that they are interpreted uniformly by everyone concerned with the well-being of Europe's landscapes.

38. "Landscape" is defined as a zone or area as perceived by local people or visitors, whose visual features and character are the result of the action of natural and/or cultural (that is, human) factors. This definition reflects the idea that landscapes evolve through time, as a result of being acted upon by natural forces and human beings. It also underlines that a landscape forms a whole, whose natural and cultural components are taken together, not separately.

39. The terms “landscape policy” and “landscape quality objective” relate to the phases of the strategy which States have to devise in two stages:

- “Landscape policy” reflects public authorities' awareness of the need to frame an official policy on landscape. It lays down the basic emphases, general principles and strategic choices by which decisions on landscape protection, management and planning are to be guided;
- “Landscape quality objective”, once a particular landscape has been identified and described, is a detailed statement of the characteristics which local people want recognised in their surroundings.

40. Article 1 continues with definitions of three terms frequently used in the convention: “protection”, “management” and “planning” of landscapes are principles of landscape action which are treated in a dynamic and forward-looking manner.

“Landscape protection” consists of measures to preserve the present character and quality of a landscape which is greatly valued on account of its distinctive natural or cultural configuration. Such protection must be active and involve upkeep measures to preserve significant features of a landscape.

“Landscape management” is any measure introduced, in accordance with the principle of sustainable development, to steer changes brought about by economic, social or environmental necessity. Such measures may be concerned with organisation of the landscape or its components. They will ensure a regular upkeep of the landscape and that the landscape evolves harmoniously and in a way that meets economic and social needs. The management approach must be a dynamic one and seek to improve landscape quality on the basis of the population's expectations.

“Landscape planning” is the formal process of study, design and construction by which new landscapes are created to meet the aspirations of the people concerned. It involves framing proper planning projects, more particularly in those most affected by change and badly damaged areas (for example suburbs, peri-urban and industrial areas, coastal areas). The purpose of such planning projects is to radically reshape the damaged landscapes.

41. In each area of landscape the balance between these three types of activity will depend on the character of the area and the agreed objectives for its future landscape. Some areas may merit the strictest protection. At the other extreme there may be areas whose landscapes are severely damaged and need entirely reshaping. Most landscapes need a combination of the three modes of action, and some of them need some degree of intervention.

42. In seeking the right balance between protection, management and planning of a landscape, it should be remembered that the aim is not the preservation or “freezing” of the landscape at a particular point in its lengthy evolution. Landscapes have always changed and will continue to change, both through natural processes and through human action. In fact, the aim should be to manage future changes in a way which recognises the great diversity and the quality of the landscapes that we inherit and which seeks to preserve, or even enhance, that diversity and quality instead of allowing them to decline.

## **Article 2 – Scope**

43. This article states that the convention applies to the Parties' entire territory and covers natural, rural, urban and peri-urban areas. It covers both land areas and water areas, and applies both to inland waters (such as lakes and areas of brackish water) and marine areas (coastal waters and the territorial sea).

44. The reservation in Article 15 refers to the facility whereby some countries are allowed not to apply a ratified international treaty automatically to some territories, in particular overseas (see comment to Article 15).

45. The convention's original feature is that it applies to ordinary landscapes no less than to outstanding ones, since all decisively influence the quality of Europeans' surroundings. Thus everyday, outstanding and damaged landscapes all come within its scope. This comprehensive coverage is justified for the following reasons: every landscape forms the setting for the lives of the population concerned; urban and rural landscapes interlock in complex ways; most Europeans live in towns and cities (large or small), the quality of whose landscapes greatly affects their lives; and rural landscapes occupy an important place in the European consciousness. It is also justified by the profound changes which European landscapes, particularly peri-urban ones are now undergoing.

## **Article 3 – Aims**

46. This article states the objective of the convention, which is the protection, management and planning of European landscapes by means of national measures and European co-operation between contracting Parties.

47. Chapter II (Articles 4 to 6) and Chapter III (Articles 7 to 11) of the convention deal with national measures and European co-operation respectively.

## **Chapter II – National measures**

### **Article 4 – Division of responsibilities**

48. This article provides that each Party is to implement the convention at the most appropriate level of government for landscape action, regard being had to the principle of subsidiarity and the European Charter of Local Self-Government. This implies that, if necessary, local and regional authorities, and groupings of such authorities, are guaranteed formal involvement in the implementation process.

49. Where local and regional authorities have the necessary competence, protection, management and planning of landscapes will be more effective if responsibility for their implementation is entrusted – within the constitutional framework legislatively laid down at national level – to the authorities closest to the communities concerned. Each country should set out in detail the tasks and measures for which each level – national, regional or local – is responsible and should lay down rules for inter-level co-ordination of such measures, in particular where town planning and regional planning instruments are concerned.

## **Article 5 – General measures**

50. This article lays down the measures necessary to implement the convention within each Party. These include actions to:

*a.* recognise landscape legally as constituting an essential component of the setting for people's lives, as reflecting the diversity of their common cultural, ecological and socio-economic heritage and as the foundation of local identity. It may be noted that many European countries already make reference to the landscape in their constitutions or in their legislation on the natural or cultural heritage or on environment;

*b.* frame and implement policies to protect, manage and plan landscapes in keeping with the provisions of the convention, by adopting the special measures provided for in Article 6;

*c.* lay down procedures for participation by the general public, local and regional authorities and other interested parties in the formulation and implementation of these policies. Landscape is an issue which affects the whole population and care for the landscape requires collaboration between a wide range of individuals and organisations.

*d.* systematically accommodate landscape into the country's spatial and town-planning policies, its cultural, environmental, agricultural, social and economic policies, and any other policy sector, which may have direct or indirect impact on the landscape, such as transport. The point of this provision is that landscape is not a question to be treated as a specialist field of public affairs. Landscape can be affected for good or ill by action in many sectors. Hence the need for governments to ensure that landscape objectives are taken into account in all relevant sectors of public life.

## **Article 6 – Specific measures**

51. This article deals with special measures, which Parties must take at national, regional or local level.

### *Paragraph A – Awareness-raising*

52. This paragraph deals with the crucial question of public awareness. Every citizen has a share in the landscape and in the duty of looking after it, and the well-being of landscapes is closely linked to the level of public awareness. Campaigns for informing and educating the public, elected representatives and associations about the value of present and future landscapes should be organised in this perspective.

### *Paragraph B – Training and education*

53. Protection, management and planning of landscapes can be a complex matter, involving many different public and private agencies and multidisciplinary work bringing in a whole range of professions and occupations. Parties are therefore asked:

*a.* to provide high-quality specialist training in landscape appraisal and landscape operations;

*b.* to promote multidisciplinary training in landscape matters for elected members and technical staff of local, regional and national authorities and other relevant public and private sector bodies. The aim here is to improve the technical expertise of bodies with landscape responsibilities. Examples of such bodies are professional organisations concerned with regional planning, the management of the environment or heritage, agricultural land use, tourism, industry, construction work or infrastructure;

c. to develop school and university courses which, in the relevant subject areas, cover questions related to landscape and landscape protection, management and planning so that young people become aware of the issues concerning the environment in which they live.

*Paragraph C – Identification and evaluation*

54. This outlines the work needed to identify and evaluate landscapes in order to lay down a sound basis for long-term action aimed at protecting and improving them. Such action must be based on detailed knowledge of the characteristics of each landscape, the evolutionary processes affecting it and the value which the population concerned attaches to it. Evaluation need not involve a precise scale of values.

55. Sub-paragraph C 1 *a* requires Parties to carry out research and studies in order to identify landscapes and analyse their characteristics and the dynamics and pressures which affect them. Some countries have already performed nation-wide surveys of landscapes. This work has revealed the landscape distinctiveness of different areas, each with its own mixture of natural and man-made elements. Geographical information systems and modern techniques of computerised mapping, also at urban level, are used to show up landscape characteristics, such as the physical relief, the settlement pattern, the main land uses, economic activities, residential areas, the presence or absence of features such as hedgerows and terraces, important wildlife habitats and the heritage of past human activity.

56. It is vital that professional fieldwork of this kind involves the local community, the general public and the various other stakeholders by means of surveys and information meetings.

57. Sub-paragraph C 1 *b* requires Parties to assess the quality of the landscapes identified, taking into account the particular value of different kinds assigned to them by the general public and interested parties such as landowners and land users or land managers. The point of this evaluation is to provide a basis for judging what landscape features of an area are so valuable that they should be protected; what features need management in order to maintain the quality of the landscape; and what features or areas should be considered for enhancement. This process must take account of the concerned people's opinion and the interests linked to sectoral policies, and here views may well be highly subjective and differ considerably. It may well be worth performing the evaluation according to objective criteria first, then comparing the findings with the various assessments of the landscape by people concerned and other interest groups. If necessary, this comparison could be carried out by public inquiry, with the interested parties having the right to express their opinion. Public participation in this type of procedure could be fostered by providing the public with information, consulting all representative bodies, using the media and conducting awareness-raising campaigns at all levels.

58. Sub-paragraph C 2 refers to the benefits of international exchanges of experience and ideas, as provided for in later articles. There is no universally acknowledged method for studying, identifying and evaluating landscapes, but a considerable body of knowledge already exists and should be tapped. International co-operation will encourage countries to take action, pool knowledge and experience concerning landscapes, landscape value and current problems and policies, and identify the landscapes or problems that warrant international attention.

#### *Paragraph D – Landscape quality objectives*

59. This paragraph requires parties to set quality objectives for the landscapes which have been identified and evaluated, and in doing so to consult the population concerned. Before any measure is taken for the protection, management and planning of a landscape, it is essential to make clear to the public what objectives are being pursued. These objectives should be laid down, explained and announced by the competent authority concerned after the general public and all relevant interests have been consulted. The objectives may be set within the more general framework of a policy conducted by the territorial or central authorities concerned. The decision setting the objectives should state clearly the special features and qualities of the landscape concerned, the general thrust of the policy for that landscape, and the specific components of the landscape to which protection, management or planning will apply. It should then say by what means the objectives are to be achieved.

60. There must be a clear relationship between the objectives, the findings of the identification and evaluation surveys, and the measures deemed necessary to achieve the objectives.

#### *Paragraph E – Implementation*

61. This paragraph invites the Parties to introduce specific legal, administrative, fiscal or financial instruments in view to protecting, managing and planning landscapes, taking into account the agreed landscape policies. The instruments available can be very varied. They include landscape plans, landscape projects, special status for certain types of landscape, a requirement that impact studies, activity licences and land-use permits consider impact on landscape, emergency measures to safeguard threatened landscape, and so on. It is for each state to develop and introduce a range of instruments that is appropriate to the needs of its landscapes and to its legal system. The competent Committees of Experts mentioned in Article 10 of this convention may make recommendations to facilitate the implementation of the convention.

## **Chapter III – European co-operation**

### **Article 7 – International policies and programmes**

62. The convention should allow international bodies and programmes to take more account of landscape. To that end the Parties most aware of the landscape problem should play an active part by co-ordinating their ideas and proposals in the competent Committees of Experts, mentioned in Article 10 of the convention. In addition, the Council of Europe should engage in particular landscape co-operation with other governmental international organisations, in particular Unesco, the European Union and IUCN, as well as with other non-governmental organisations.

### **Article 8 – Mutual assistance and exchange of information**

63. To assist implementation and make the convention more effective, Parties undertake to co-operate in three ways:

- a. technical and scientific assistance through exchanges of experience and results of mutual research projects in landscape matters;
- b. exchange of landscape specialists, in particular for training and information purposes;
- c. exchange of information on all matters covered by the provisions of the convention.

64. Recent years have seen a burgeoning of political, professional and academic interest in the subject of landscapes, and thus the development of a growing body of experience and expertise on which member States, local and regional authorities and others can draw as they seek to implement the convention. At the same time, the growth of electronic communication and the arrival of the Internet have provided radically improved tools for exchanging ideas and, indeed, for the technical study of landscapes. These developments create a much wider basis for the exchange of ideas and mutual support than was possible even a decade ago, allowing local actors throughout Europe to take part and thus creating a true “landscape democracy”.

#### **Article 9 – Transfrontier landscapes**

65. This article requires the parties to set up transfrontier programmes for the identification, evaluation, protection, management and planning of landscapes which straddle borders. In doing so, they are asked to rely as far as possible, in accordance with the subsidiarity principle defined by the European Charter of Local Self-Government, on local and regional authorities, and to use the implementation tools advocated in the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities in Europe of 21 May 1980 and its additional protocols.

#### **Article 10 – Monitoring of the application of the Convention**

66. It transpires that it would be easier to achieve the objectives of the convention if the representatives of Contracting Parties had the possibility of meeting regularly to devise joint co-ordinated programmes and of jointly monitoring the application of the convention.

67. It was therefore agreed that the Council of Europe provided the ideal framework since it already has the competent committees on which all the States parties to the convention can be represented.

68. Given the many aspects of landscapes activities, the monitoring of the application of the Convention could be entrusted to the Committee for the activities of the Council of Europe in the field of biological and landscape diversity (CO-DBP) and the Cultural Heritage Committee (CC-PAT) which work, within the Council of Europe, in the sphere addressed by the convention and have direct access to the Committee of Ministers. In order to carry out this task the committees could hold joint meetings so that the Convention benefits from an appropriate forum for discussion. The Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe (CLRAE) will be associated to the work of the mentioned committees relating to the convention.

69. Given local and regional authorities’ increasing responsibilities with regard to the protection management and planning of landscape, the Congress of Local and Regional Authorities of Europe (CLRAE), the body representing these authorities in the Council of Europe, may convey opinions to the Committee of Ministers on the reports drawn up by the Council of Europe committees responsible for monitoring the application of the convention, on the basis of Article 2, indent 2 of the Statutory Resolution (2000) 1.

70. Likewise, the CLRAE is called upon to participate actively in the follow-up activities and to give its opinion on the criteria for the conferral of the below-mentioned Landscape award of the Council of Europe.

### **Article 11 – Landscape award of the Council of Europe**

71. This article provides that the Committee of Ministers, on proposal of the competent Committees of Experts mentioned in Article 10 of the convention, and taking into account the opinion of the Congress of Local and Regional Authorities of Europe, is to make a Landscape award of the Council of Europe to a local or regional authority, a group of such authorities (whether within one country or on a transborder basis) or a non-governmental organisation having introduced policies or measures for the protection, management or planning of landscapes which have been of lasting worth and can serve as an example to other authorities throughout Europe.

72. The award is intended as a stimulus to a process, which countries throughout Europe could set in motion, of encouraging and recognising quality stewardship of landscapes. The Landscape award of the Council of Europe could “crown” national level action, which might include national competitions and perhaps financial support to local and regional authorities concerned.

73. Under paragraph 1 local and regional authorities, groups of them, or non-governmental organisations or individuals would apply for the award through their member State. This will enable the contracting Party to appraise the applications, possibly in a national competition carrying national prizes or awards, and to put forward to the competent committee of experts, the national winner or a small number of candidates for consideration for the award.

74. Under paragraphs 2 and 3 the competent Committees of Experts lays down and publishes the criteria on which candidates for the award are assessed and receives states' proposals. The award is granted by the Committee of Ministers of the Council of Europe.

75. Paragraph 4 provides that those which are granted the award will be invited to protect, manage and plan the landscape concerned on a lasting basis.

### **Chapter IV – Final clauses**

76. With some exceptions, the final clauses are based on the “model final clauses for conventions and agreements concluded within the Council of Europe” which were approved by the Committee of Ministers of the Council of Europe at its 315<sup>th</sup> meeting of the Deputies, in February 1980. Thus most of these articles do not require any particular explanation, except for the following points, which deserve a comment.

#### **Article 12 – Relations with other instruments**

77. The wording of this article is based on model provisions already used in other international conventions in order to deal with the problem of linking up conventions concerned with similar fields.

78. The present convention is distinct from the Unesco Convention concerning the Protection of the World Cultural and Natural Heritage of 16 November 1972 both formally and substantively. The two conventions have different purposes, as do the organisations under whose auspices they were drawn up. One is regional in scope, the other world-wide. The Council of Europe convention can be regarded as complementary to the Unesco one. As regards its substantive scope, the Council of Europe Convention covers all landscapes, even those that are not of outstanding universal value, but does not deal with historic monuments, unlike the Unesco convention. Similarly, its main objective is not to draw up a list of assets of exceptional

universal value, but to introduce protection, management and planning rules for all landscape based on a set of principles. Thus each convention has its distinctive features. To co-ordinate action under the two conventions, consideration could be given to scientific co-operation between the Unesco World Heritage Committee and the Committees of Experts mentioned under Article 10 of the European Landscape Convention, under Article 13.7 of the Unesco Convention of 16 November 1972, and as suggested in Article 7 of the present convention.

79. Article 12 of the European Landscape Convention seeks to avert difficulties with other international legal instruments by stating that it does not preclude application of any stricter provisions of other instruments that treat landscape even more favourably.

### **Article 13 – Signature, ratification and entry into force**

80. The convention will enter into force three months after ten Council of Europe member States have ratified it.

### **Article 15 – Territorial scope**

81. This provision is only concerned with territories having a special status, such as overseas territories, the Faroe Islands or Greenland in the case of Denmark, or Gibraltar, the Isle of Man, Jersey or Guernsey in the case of the United Kingdom.

82. It is well understood, however, that it would be contrary to the object and purpose of this convention for any contracting Party to exclude parts of its main territory from the convention's scope and that it was unnecessary to make this point explicit in the convention.

### **Article 17 – Amendments**

83. Amendments can adapt or improve a convention. The Committees mentioned in Article 10 of the convention may prepare amendments and consider those suggested by Parties. Their adoption by the Committee of Ministers requires a three-quarters majority, after which the Parties must agree to them. They come into force three months after acceptance by three contracting Parties members of the Council of Europe.