



## Recommendation 1614 (2003)<sup>1</sup>

# Environment and human rights

### Parliamentary Assembly

1. The Parliamentary Assembly is convinced of the importance of a healthy, viable and decent environment. It has always endeavoured to promote environmental protection and to defend the role of the Council of Europe, responsible, *inter alia*, for drawing up the Convention on the Conservation of European Wildlife and Natural Habitats (ETS No. 104, Bern 1979), the Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (ETS No. 150, Lugano 1993) and the Convention on the Protection of the Environment through Criminal Law (ETS No. 172, Strasbourg 1998).
2. It draws special attention to its [Recommendation 1431 \(1999\)](#) on future action to be taken by the Council of Europe in the field of environment protection, which already proposed linking this subject to the European Convention on Human Rights (ETS No. 5) by supplementing it with an environmental component.
3. The Assembly believes that in view of developments in international law on both the environment and human rights as well as in European case-law, especially that of the European Court of Human Rights, the time has now come to consider legal ways in which the human rights protection system can contribute to the protection of the environment.
4. It also believes that the Council of Europe, which has always been at the forefront in recognising and protecting human rights, should play a pioneering role in this field, too, and set an example by recognising appropriate legal procedural safeguards against arbitrary environmental degradation.
5. In this context the Assembly refers to Principle 1 of the Stockholm Declaration of the United Nations Conference on the Human Environment (1972): “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being”.
6. The Assembly also refers to Article 1 of the United Nations Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Aarhus, 1998): “In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision making, and access to justice in environmental matters”. Article 9 of the Aarhus Convention stipulates that this right of access to justice is intended to provide a legal review procedure to persons receiving unsatisfactory responses from the public authorities to requests for environmental information.
7. The Assembly also notes that many European countries have added the principle of environmental protection to their constitution, thus expressing their desire to give greater legal recognition to environmental rights.
8. Finally, the Assembly refers to the case-law of the European Court of Human Rights concerning states’ positive obligations in the area of protection against environmental nuisances which are harmful or dangerous to health. It wishes to encourage this process by adding provisions concerning the recognition of individual procedural rights, intended to enhance environmental protection, to the rights set out in the European Convention on Human Rights.

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1. Assembly debate on 27 June 2003 (24th Sitting) (see [Doc. 9791](#), report of the Committee on the Environment, Agriculture and Local and Regional Affairs, rapporteur: Mrs Agudo; and [Doc. 9833](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: M. Jurgens). Text adopted by the Assembly on 27 June 2003 (24th Sitting).



9. The Assembly recommends that the governments of member states:
  - 9.1. ensure appropriate protection of the life, health, family and private life, physical integrity and private property of persons in accordance with Articles 2, 3 and 8 of the European Convention on Human Rights and by Article 1 of its Additional Protocol, by also taking particular account of the need for environmental protection;
  - 9.2. recognise a human right to a healthy, viable and decent environment which includes the objective obligation for states to protect the environment, in national laws, preferably at constitutional level;
  - 9.3. safeguard the individual procedural rights to access to information, public participation in decision making and access to justice in environmental matters set out in the Aarhus Convention;
  - 9.4. harmonise their legislation on environmental protection and safety.
10. The Assembly recommends that the Committee of Ministers:
  - 10.1. draw up an additional protocol to the European Convention on Human Rights concerning the recognition of individual procedural rights intended to enhance environmental protection, as set out in the Aarhus Convention;
  - 10.2. draw up, as an interim measure in preparation for the drafting of an additional protocol, a recommendation to member states setting out the ways in which the European Convention on Human Rights provides individual protection against environmental degradation, proposing the adoption at national level of an individual right to participation in environmental decision making, and indicating a preference, in cases concerning the environment, for a broad interpretation of the right to an effective remedy guaranteed under Article 13;
  - 10.3. provide for Parliamentary Assembly representation in the group of experts or on the intergovernmental committee entrusted by the Committee of Ministers with responsibility for drafting these texts.