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Draft Protocol amending the European Landscape Convention

Report¹

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Mr Stefan SCHENNACH, Austria, Socialist Group

Summary

In the context of the widening of the Council of Europe's activities, more and more treaties are open to accession by non-European non-member States of the Council of Europe. This strategy enables a further diffusion of the Council of Europe's values and a better consideration of human rights, not only among member States, but also beyond their geographical area.

However, some Council of Europe treaties are still missing the clause enabling non-European States to accede to them, such as the European Landscape Convention, opened for signature in Florence in October 2000. This led the Steering Committee for Culture, Heritage and Landscape to submit to the Committee of Ministers a draft protocol amending the European Landscape Convention to allow for accession by non-European States. In turn, the Committee of Ministers has asked for the Parliamentary Assembly's opinion.

The Committee on Social Affairs, Health and Sustainable Development therefore submits its observations, supporting overall the proposed changes, which are favourable to enhanced co-operation with non-European States in matters relating to landscape management.

1. Reference to committee: [Doc. 13916](#), Reference 4167 of 27 November 2015.



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A. Draft opinion²

1. The Parliamentary Assembly acknowledges the importance of the European Landscape Convention (ETS No. 176), opened for signature in October 2000. It recognises the interplay between landscapes and other substantial issues related to the social model chosen by a given society, the development of economic activities and the protection of the environment. As such, landscapes are a fundamental component of sustainable development.
2. The European Landscape Convention underlines the paramount importance of providing protection not merely restricted to landscapes of outstanding beauty, but also to ordinary areas, giving the general public the keys to take part in the decision-making process that shapes their surroundings.
3. The Assembly notes that, like many other Council of Europe treaties, the European Landscape Convention is not exclusively open to member States and that it already provides, in Article 14, for the opening of the convention to European non-member States and the European Union. The draft protocol on the accession to the European Landscape Convention by non-European States thus merely expands the geographical application of the treaty.
4. The Assembly observes that the draft protocol does not provide for the modification of the title of the convention, whereas in its provisions, the initial strictly “European” nature of the convention will be reviewed in order to underline the new “international” scope of this treaty. With a view to promoting the European Landscape Convention worldwide, the Assembly believes that a change in the title would encourage non-European States to join the convention and could give more visibility to the Council of Europe as the owner of this legal instrument. Therefore, it recommends that the Committee of Ministers consider amending the title to read the “Council of Europe Landscape Convention”.
5. The Assembly proposes, for the sake of coherence in legal terms used and the procedure referred to in Articles 7 and 8 of the draft protocol, to replace, in Article 8.a, the words “acceptance, approval or accession” with the words “acceptance or approval” and to delete the sentence below which reads “In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol”.
6. The Assembly believes that the opening of the European Landscape Convention to signature by non-European States echoes the neighbourhood policy of the Council of Europe. Given that widening the geographical scope of such a convention could only benefit the values promoted by the Council of Europe and produce positive outcomes, the Assembly welcomes the changes brought by the draft amending protocol to the European Landscape Convention. It therefore supports this draft protocol, with some minor changes, and recommends its adoption by the Committee of Ministers, as well as the subsequent opening for ratification, acceptance or approval, as rapidly as possible.

2. Draft opinion adopted unanimously by the committee on 28 January 2016.

B. Explanatory memorandum by Mr Schennach, rapporteur

1. European Landscape Convention – a unique and innovative treaty

1. During its 15 years of existence, the European Landscape Convention (ETS No. 176) has contributed to the inclusion of the consideration of landscapes, both natural and man-made, in member States' global and local policies, making them aware of their various implications for a society's cultural identity and heritage. On a local scale, urban planning measures and decisions can no longer be implemented without acknowledging the changes they will bring to landscapes: the quality of landscapes has been proven to be intrinsically linked to human well-being and quality of life.

2. Indeed, the European Landscape Convention is a unique treaty in that it covers all aspects of landscape policy and the entire territory of signatory States. Moreover, democracy is an essential component of this text, which enhances the participation of the general public, in particular at the local level. Seen as innovative and complete, the European Landscape Convention has already been a great success within the borders of the Council of Europe area: 38 member States have ratified it, while Iceland and Malta have signed it but have yet to ratify it. Seven countries have not yet signed the convention: Albania, Austria, Estonia, Germany, Liechtenstein, Monaco and the Russian Federation.

3. Overall, given the great success of the convention within the Council of Europe, it comes as no surprise that non-European States, notably those from South Mediterranean countries, have expressed their interest in joining this treaty. Some other countries such as Australia and Latin American countries have also participated in various workshops on the implementation of the convention and may eventually consider accession.

2. The promotion of transfrontier co-operation

4. The European Landscape Convention particularly stresses and promotes international co-operation. Indeed, its Article 7 states that "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". Moreover, Article 9 provides that "[t]he Parties shall encourage transfrontier co-operation on local and regional level and, wherever necessary, prepare and implement joint landscape programmes". It proposes guidelines for further international policies on landscape management and as such, is of some influence in overall international policies dealing with regional planning, environment and sustainable development in general. Furthermore, parties to the convention can make use of the dedicated Information System with its glossary as a platform for sharing knowledge of landscapes and landscape policies.

5. One may conclude that transfrontier co-operation in landscape and environmental matters is already enshrined in the spirit of the European Landscape Convention, whose general goal is to foster a common international strategy. The opening of this text for signature by non-European States therefore seems to be a natural development. This step is also in line with the neighbourhood policy of the Council of Europe, whose policies are influenced by developments taking place outside Europe. Given that non-European States have expressed their interest in joining the European Landscape Convention, enabling these accessions will reinforce international dialogue and co-operation in both landscape management and sustainable development issues. The draft protocol is the logical answer to all these challenges.

6. Over the years, examples of successful transfrontier co-operation in the framework of the European Landscape Convention abound across Europe. They mainly concern joint projects for ecotourism, landscape conservation, restoration and development through protected areas or parks, protection against floods, sustainable forest and land management and tackling the cross-border impact of pollution, as well as pilot activities for improving the integrity of transboundary watersheds and ecosystems.

7. In this context, the Mediterranean region abounds with both challenges and opportunities, notably for strengthening ties between the northern (Council of Europe area) and southern (Council of Europe neighbourhood area) shores. I would thus like to highlight the example of co-operation on landscape matters between Andalusia and Morocco, which could inspire the creation of similar programmes following the accession of countries from Europe's southern neighbourhood to the Landscape Convention as will be enabled by the amending protocol.

3. Procedure regarding the preparation of the protocol

8. According to its terms of reference,³ the Steering Committee for Culture, Heritage and Landscape (CDCPP) was given the responsibility of monitoring the European Landscape Convention. Therefore, the CDCPP considered the possibility of drafting a Protocol enabling non-European States to accede to the European Landscape Convention, a procedure already in place for some other conventions that it supervises, such as the European Convention on the Protection of the Archaeological Heritage (Revised) (ETS No. 143).⁴ To this end, it submitted a draft amending protocol to the Committee of Ministers.

9. At its 1238th meeting on 14 October 2015, the Committee of Ministers (Ministers' Deputies) invited the Parliamentary Assembly to provide it with an opinion on the draft protocol amending the European Landscape Convention ("draft protocol") as soon as possible; as a result, the Assembly decided to deal with this matter urgently. On 27 November 2015, the request of the Committee of Ministers was referred to report to the Committee on Social Affairs, Health and Sustainable Development, which appointed me as rapporteur.

4. Comments on the draft protocol amending the European Landscape Convention

10. Without a doubt, the European Landscape Convention is a very comprehensive treaty dealing with all aspects of the landscape, from ordinary areas to sites of outstanding beauty. Moreover, as a Council of Europe treaty, it also aims to spread certain values and to promote democracy. It therefore provides for the involvement of citizens and establishes a bottom-up approach to landscape management. States acceding to the Treaty undertake 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" (Article 5).

11. To date, 159 of the 219 Council of Europe treaties are open to non-European States. A treaty such as the European Landscape Convention follows global developments and is a solid legal instrument for spreading common European principles of landscape management to other areas, particularly immediate neighbourhoods such as the southern Mediterranean countries, with whom the Council of Europe is working more and more closely each year.

12. The European Landscape Convention has been drafted in a way that promotes international co-operation in landscape matters. It follows that, in substance, the draft protocol only provides for an enlargement of Article 14, already allowing the European Union and European non-member States to accede to the convention. It does not bring any other substantial changes, apart from widening the geographical scope of the Landscape Award.

13. However, I am surprised that no changes have been considered regarding the title. In my view, this could mislead and dissuade non-European countries from joining the convention, even though they will be given the possibility to do so. The Committee of Ministers could therefore consider adjusting the title of the convention and give more visibility to the Council of Europe by replacing the word "European" with the "Council of Europe": "Council of Europe Landscape Convention".

14. Moreover, for the sake of coherence in legal terms used and procedure referred to in both Articles 7 and 8 of the draft protocol, it would be appropriate, in Article 8.a, to replace the words "acceptance, approval or accession" with the words "acceptance or approval" and to delete the sentence below which starts with the words "In witness whereof ...". This proposal is made further to consultations with the Council of Europe's Treaty Office.

5. Conclusion and recommendation

15. In conclusion, I strongly support the revisions introduced by the draft protocol and recommend that the Assembly endorse this text with a small adjustment concerning a technical modification in the title of the convention as proposed above. This would strengthen the convention's international scope and would facilitate its promotion. Moreover, the Assembly should ask the Committee of Ministers to ensure a rapid adoption of the amending protocol with a view to giving access to the European Landscape Convention to a wider circle of countries.

3. www.coe.int/t/dg4/cultureheritage/CDCPP/mandat2016_en.pdf.

4. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007bd25>.