

Recommendation 753 (1975)¹

Liability for damage caused to the environment

Parliamentary Assembly

The Assembly,

1. Gravely concerned at the growing pollution of air, soil and water ;
2. Welcoming the environmental protection activities already undertaken by the Council of Europe ;
3. Considering that consultations between European states in this field are a means of avoiding legislative divergences which are very difficult to eliminate after legislation has been enacted ;
4. Recalling its [Opinion No. 67 \(1974\)](#), on the draft European Convention for the Protection of International Watercourses against Pollution,
5. Recommends that the Committee of Ministers :
(a) conduct a comprehensive study of civil, criminal and administrative liability for damage to the environment, paying particular attention to the following :

Civil law

introduction of strict liability or risk liability for environmental damage;
introduction of compulsory insurance for activities liable to cause damage to the environment ;
establishment of funds to provide compensation for environmental damage whenever compensation cannot be obtained elsewhere ;
conduct of official investigations at the request of persons suffering from pollution or noise ;
determination of the applicable law in cases of transnational damage ;
admission of class actions ;
consolidation of general provisions on protection and liability regarding the environment in a single code ;

Criminal law

corporate liability ;
severity of penalties ;

Administrative law

harmonisation of environmental standards ;
levying of special taxes ;
harmonisation of means available to public authorities for combating damage once it has occurred ;
improvement of the effectiveness of supervisory machinery ;

1. Assembly debate on 24 and 25 January 1975 (21st and 22nd Sitzings) (see [Doc. 3515](#)[Doc. 3515](#), report of the Legal Affairs Committee). Text adopted by the Assembly on 25 January 1975 (22nd Sitting).



b. urge such member states as have not yet done so :

to ratify and implement at national level the international conventions concerning sea pollution by oil and waste dumping, as well as the European Agreement on the Restriction of the Use of Certain Detergents in Washing and Cleaning Products ;

to implement the directives of the European Communities on environmental matters, in order that harmonisation of the relevant legislation may also embrace states which are not Members of the European Communities ;

c. open the draft European Convention for the Protection of International Watercourses against Pollution for signature by member states without delay ;

d. examine the possibility of creating a European legal instrument which might, if appropriate, be an outline convention, setting out the principles and conditions governing liability for the various forms of transfrontier pollution, and based chiefly on Resolution (71) 5 of the Committee of Ministers and the principles formulated by the OECD Council.