The Right to Water*

The European Council on Environmental Law,

Conscious of the grave problems posed by access to drinking water, an essential element for the survival of man;

Considering that access to water is part of a sustainable development policy and cannot be regulated by market forces alone;

Considering that while water is an economic good, it is above all a social good;

Convinced that water resources constitute a common heritage and must be used in an equitable manner and managed in cooperation with the users in a spirit of solidarity;

Taking account of the International Covenant on Economic, Social and Cultural Rights (1966) according to which "[The States recognize (…) the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (art. 12);

Considering that the right to water cannot be dissociated from the right to food and the right to housing which are recognized human rights and that the right to water is also closely linked to the right to health;

Taking account of Protocol on Water and Health (1999) adopted in London in the framework of the Economic Commission of the United Nations for Europe, which refers to the principle of "equitable access to water" which should be provided for "all members of the population" (art. 5);

Mindful of the principles of the Madera Declaration on the Sustainable Management of Water Resources, adopted by the ECEL, on 17 April 1999;

Observing that the greater part of the population of European countries already enjoys access to water at an affordable price;

Recognizing that access to water for all should be an important element in policies to combat poverty;

PROPOSES that Governments and competent international organizations explicitly recognize -- in the national, community and international frameworks -- the right of each person to water according to the following principles:

1. Each person has the right to water in sufficient quantity and quality for his life and health;

2. Public authorities must adopt the necessary measures to facilitate access to water for all and exert control over the actions of the diverse bodies, public or private, operating in water service management;

3. In each corporate body responsible for the water service the costs of the service must be apportioned in such a way that each person can enjoy the right to water;

4. In the exercise of their activities, economic actors and individuals must respect the right to water;

RECOMMENDS that public authorities ensure that drinking water is appropriately priced by the bodies responsible for the service thereof so that this good can continue to be affordable to each person;

RECOMMENDS that a significant part of development aid be used for the supply of drinking water and waste water treatment in poorly equipped countries.

Rapporteur: Henri Smets

* Resolution adopted on 28 April 2000. See also page 248.

The Right to the Protection of Environment*

The European Council on Environmental Law

Having considered the draft of the Charter of Fundamental Rights of the European Union (September 2000);

Noting that Article 36 of the draft dealing with “Environmental protection” does not impose any direct obligation on the member States of the Union which must...

* Adopted on 22 September 2000. See also page 258.

1 Art. 36: Protection of the environment. A level of protection of the environment and the amelioration of its quality which are capable of being achieved, shall be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Art. 36: Environmental protection. A high level of environmental protection and the improvement of the quality of the environment shall be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

ensure its implementation but deals only with programmatic requirements concerning the environmental policy of the European Union;

Considering that other articles of the draft Charter guarantee rights which States must recognise in relation to every person within the territory of the European Union and that this is particularly the case in relation to other economic and social rights such as the right to health, the right to social assistance and housing assistance;

Recalling Resolution 45/94 (1990) of the General Assembly of the United Nations according to which "all individuals are entitled to live in an environment adequate for their health and well-being";

Recalling that all States of the Union have recognised in many international fora the right to a clean environment or to the protection of a clean environment and that they have introduced this right explicitly or implicitly in their legal system;

Recalling that all States of the Union as well as the European Community itself have signed the Aarhus Convention (1998) which recognises “the right of every person to live in an environment adequate to his or her health and well-being”;

Concludes that the present formulation of Article 36 on the protection of the environment which places no obligation upon States and which does not recognise any individual right, is an unjustifiable step backwards from the commitments undertaken by States of the Union at national and international levels and does not reflect the evolution of law during the last decade;

PROPOSES to the Presidium of the Convention that the text of Article 36 of the Charter be drafted in terms that ensure that the Union recognises and respects the right of every person to protection of the environment in order to secure the right of each person to live in an environment adequate for maintenance of their physical and mental health, the enhancement of their dignity and their personal achievement.

VIII. Strengthening the United Nations...