

## CEDE

## Madeira Declaration on the Sustainable Management of Water\*

### The European Council on Environmental Law

Considering that water is essential to all forms of life,

Considering that water is a resource that is becoming scarce and is in danger of being depleted and deteriorating in quality,

Considering that water is an environmental, social and economic good that can become a source of conflict between users,

Considering the importance of water in biological systems and for human activities,

Considering that it is important to promote:

- the recognition and implementation of the right of everyone to have access to drinking water,

- the adjustment of human activities to the availability of water,

- the strengthening of participation by the public,

Considering that damage to water and aquatic ecosystems has to be prevented, controlled and reduced,

Considering how national, Community and international legal systems have evolved,

Taking account of the fundamental principles of environmental law, as set out in international statements, international treaties – in particular the 1992 Helsinki Convention and the 1997 New York Convention on matters relating to water – and international jurisprudence,

*Brings to the attention of the public authorities and the institutions concerned the following Declaration:*

#### Article 1

Water shall be used in a reasonable and equitable way, in a spirit of solidarity and in a manner consistent with the principle of sustainable development.

Water shall be looked upon as a heritage to be shared between all users thereof, the aquatic system and the associated ecosystems. Its management shall take into account the risks of flooding and the risks of drought.

There is a need for a system of integrated management of surface water, ground water and associated water which respects the environment as a whole, takes account of physical planning and is socially equitable and economically rational.

Management of the ecosystem shall focus on the conservation and protection of the aquatic environment which is affected by fluctuations in the quantity and quality of water.

\* Adopted by the European Council on Environmental Law on 17th April 1999.

This Declaration is based on national reports drawn up by ECEL members on the basis of a questionnaire prepared by Professor Eckard Rehlinger. A summary of the replies was prepared by Mrs. Lina Camacho. Mr. Henri Smets was general rapporteur for the Declaration as a whole. See also page 270.

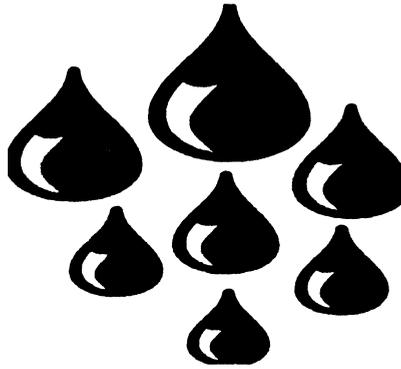
#### Article 2

National, regional and local authorities have the fundamental obligation to prevent water resources deteriorating in quality and being depleted, in particular through the application of the precautionary principle.

National, regional and local authorities shall inventory the water resources at their disposal and systematically gather sufficient information concerning:

- water quantity and quality, bearing in mind the uses to which it is to be put,
- non-point pollution and eutrophication,
- deterioration of biodiversity,
- the depletion of the resource (reduction in the level and quality of ground water, drying up of surface water and wetlands).

On the basis of the information collected, the authorities shall take the appropriate measures to guarantee sustainable management of



water resources and, if necessary, corrective measures in order to restore or improve water quality.

#### Article 3

The legal rules applying to the ownership, possession and uses of water and water trading shall foster reasonable and equitable use of water and, in particular, prevent wastage and quality deterioration. They shall take account of fluctuations in the quantity and quality of water.

The amount of water made available to users during times of scarcity shall be limited in order to preserve, in any event:

- the supply of water for basic human needs;
- the minimum quantity of water needed to protect biodiversity and ecosystems.

#### Article 4

National, regional and local authorities shall ensure planned water management. To this end, they shall encourage research and development in the best available technologies and the implementation thereof, and also public enquiry and

impact assessment procedures aimed at reducing wastage and pollution.

Management of ground water shall be a matter for close cooperation between the authorities concerned.

#### Article 5

National, regional and local authorities should favour management by catchment area.

Transfers of water between catchment areas shall be in the general interest and in the mutual interest of users who have been duly informed and consulted in good time, taking due account of the nature of the ecosystems of the catchment areas affected.

Countries should cooperate in facilitating water transfers at international level with the object of remedying critical situations.

#### Article 6

The public shall have access to information concerning the general state of water resources. They shall be kept duly and appropriately informed of water management plans and water utilisation projects.

Effective participation by the public in planning procedures and decisions concerning water shall be ensured.

Appeal procedures shall be available to interested persons and bodies.

#### Article 7

No person may be deprived of the amount of water needed to meet his basic needs.

#### Article 8

The polluter-pays principle shall be applied to water management.

The implementation of economic instruments can contribute to more rational management of water resources. Therefore, charges may be levied on users in order to regulate water consumption or reduce water pollution by discharges.

#### Article 9

National, regional and local authorities shall ensure that water supply accounting is made public and shows, *inter alia*, the cost by category of user, the various types of subsidy received, free contributions in nature or in kind provided by municipal authorities and transfers between user categories.

#### Article 10

In accordance with the polluter-pays principle and without prejudice to payment of the charges referred to above, the user shall pay all the economic costs attaching to water use.

Exceptions may be granted in the case of water for basic human needs and for traditional uses of a local nature.

When it is decided to reduce water-related subsidies, there shall be a transition period so as to allow for dispensations justified on social grounds. □