



Establishment of an International or European Criminal Court: abstract

The **IAES** (International Academy of Environmental Sciences),
having kindly been invited by **Hon. Mr. Jo LEINEN, President of the ENVI Committee**
(Committee on the Environment, Public Health and Food Safety),
to be audited by the same Committee,
proposes
the constitution of the **European Environmental Criminal Court (EECC)**
and of the **International Environmental Criminal Court (IECC)**,
outlining the main scientific and juridical reasons for such a project.

The presentation of the projects will be given by:

Mr. Freddy Grunert,



Member of the IAES Scientific Committee – *Introductory remarks and outline of the projects*

Prof. Antonino Abrami,



IAES Acting President – *Overview of the projects and the urgency for their realization*

International Academy of Environmental Sciences

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Prof. Marcelo Enrique Conti,



IAES Vice-President – *Scientific aspects of the projects and the need for a multi-disciplinary and inter-disciplinary synergism*

Mr. Paul Garlick,



Member of the IAES Scientific Committee – *Conclusions and open discussion*

Prof. Riccardo Borsari,



Assistant to IAES Acting President – *Conclusions and open discussion*

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The proposal originates from the increasing interest and concern that has been shown at different levels and in different institutional, cultural and social contexts, that we must move towards the establishment of international environmental justice, and the consequent urgent need for ***the founding of an international environmental criminal justice system which could give effective and shared answers in relation to a strong and widespread demand coming from almost all of the continents.***

The "idea" for the Court, a constant input from the IAES in recent years, has been supported by many important international Institutions and promoted by many Heads of States and outstanding representatives of the cultural and scientific world, including several Nobel prize laureates (see the complete list online at www.iaes.info).

Granted that the idea of an international environmental criminal justice has found very large consensus within society (there have been expressions of support from all continents and from hundreds of thousands of internet accesses to the Academy website), the following expressions of support, are in particular recalled

Giorgio Napolitano, President of the Italian Republic¹;

Carlo Azeglio Ciampi, Former President of the Italian Republic, Life Senator²;

Franco Frattini, Italian Minister of Foreign Affairs³;

Abdoulaye Wade, President of the Republic of Senegal⁴;

Rigoberta Menchú Tum, Nobel Peace Laureate;

Betty Williams, Nobel Peace Laureate;

1 *"Dear Dr. Abrami, the initiative promoted by the International Academy of Environmental Sciences on "Environment, Health and Justice" deserves great attention. Ecosystem protection is becoming a priority issue to be faced, both in our country and worldwide. We need to follow this path and verify the possibility of defining some kind of international sanction for environmental disasters (...)"*

2 President Ciampi has supported the Academy's activities since the first Conference, granting High Patronage for several IAES events. As a result of the Conference, the Venice Charter 2003 was approved, followed by the Venice Charter 2006. This document contains principles, regulatory references and procedures for the establishment of the International Environmental Criminal Court.

3 *"Gentile Prof. Abrami, mi è particolarmente gradito far pervenire tramite la S.V. i sensi del mio sincero riconoscimento dell'Accademia Internazionale di Scienze Ambientali, per la meritoria opera costantemente svolta con la sua attività di Istituto. Un personale apprezzamento desidero inoltre attribuire in speciale modo ai "Progetti Corte" che ho avuto modo di valutare molto positivamente durante il mio ultimo incarico di Commissario Europeo e del quale ho dato esplicita testimonianza in consessi internazionali.*

Nell'augurare quindi all'Accademia un ottimo proseguimento della sua attività, mi è gradita l'occasione per farLe pervenire i miei migliori saluti. Franco Frattini "

4 *"(...) Senegal endorses this appeal, which I have signed and enclose herewith".*



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Tenzin Gyatso, The XIV Dalai Lama;

Mairead Corrigan Maguire, Nobel Peace Laureate;

Shirin Ebadi, Nobel Peace Laureate, attorney-at-law;

José Luis Rodríguez Zapatero, President of the Spanish Government⁵;

Navin Rangmoolan, President of the Government of Mauritius⁶;

Bartholomaios I, Ecumenical patriarch of Constantinople⁷;

Nicola Mancino, Senator, Vice President Higher Judiciary Council⁸;

Michl Ebner⁹;

Dominique Lapierre, Journalist and writer of international bestsellers¹⁰;

Lilian Corra, UN Global 500 Laureate for her activities in favour of the environment¹¹;

Anastasios K. Manthos, Chancellor of the University of Thessaloniki, Medical School Professor¹²

5 “(...) I wish to take this chance to underline Spain's strong commitment in the struggle against impunity in international crimes through the International Criminal Court, (...) Spain will examine with particular interest the proposals to increase the types of international crimes to include new crimes against the environment within the scope of the Council of the States that sign up to the International Court (...)”.

6 D. Lan Ng, Director of Department of the Environment on behalf of the Government of Mauritius: “(...) The Government of Mauritius supports the setting up of the International Criminal Court for the Environment as a permanent United Nations body to prosecute environmental crimes and claim damages. It is noted that initially the function of the court would be to prosecute individuals rather than states (...)”.

7 “Our Christian Orthodox Church (...), pays much attention and is very sensitive to the dramatic climate changes and environmental destruction caused by an ill-considered global exploitation of natural resources and the alarming danger of a route we continue to follow from which there is no return (...)”.

8 “(...) We need everybody to understand and believe that the preservation of natural resources means preservation of human rights in its deeper meaning (...). The Higher Judiciary Council will, as far as possible, contribute to enable the International Criminal Court to carry out the important jurisdictional tasks appointed to it and to apportion effective and appropriate sanctions for intentional environmental crimes (...)”.

9 Hon. Ebner has supported the IAES Project for the establishment of an International Environmental Criminal Court and has taken part in IAES initiatives since the first Conference. On July 16th 2007 he raised a point of order both at the European Commission and at the European Council asking to know “What initiatives does the Commission wish to promote to acknowledge willful environmental disasters as crimes against humanity and to attain an international criminal jurisdiction able to judge criminal behaviors, such as those that caused the Bhopal and Chernobyl disasters”.

10 Dominique Lapierre has followed the IAES Project from the beginning. He attended an important global meeting (Rimini, 19-20-21 October 2002) organized by a UN Cultural organization where Abrami made an important speech on “An International Environmental Court”.

11 Lilian Corra is a neonatologist, member and co-founder of the coordination commission of the International Network on Children's Health, Environment and Safety (INCHES) and President of ISDE (International Society of Doctors for the Environment). IAES member. Lilian Corra took part in the most important IAES Conferences and immediately joined the project.

12 On November 24th 2006, at the end of the IAES Conference on “Health, Environment and Justice” held in Venice, on a global web connection from Thessaloniki he read the Charter for the International Environmental Criminal Court, which was unanimously approved.



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We trust that the ENVI Committee will not miss the occasion to accept this “historical challenge” that is focusing on one of the largest reforms in the field of Environmental Protection in the whole history of International and Community Law. Such reforms will make an essential contribution to the protection of the environment, to prevent its pollution and to provide sanctions against any violation.

Furthermore, we trust that the ENVI Committee, because of its highest institutional role and in the wake of the interest repeatedly shown by the Commission with a series of formal acts, **will want to write an historical page within the environmental panorama of Mother Earth.**

Thus, what has been happening for too long and is still happening nowadays (that man is condemned to assist impotent to his own self destruction and that of Mother Earth) will not be repeated.

We believe it is time to stop the sense of impotency that any citizen, by a simple click on the mouse¹³, experiences when he or she is staring at the live view of an environmental catastrophe.

We also believe that a European Environmental Criminal Court can promote timely and effective investigation activities, either *ex officio* and/or at the request of the relevant national juridical bodies.

Timely actions are indeed of the paramount importance to tackle and to deter environmental crimes, as well as to assess the risks and damages to the ecosystems and to the living organisms.

The aim will be the constitution of a sort of permanent observatory and of an emergency body that can react as rapidly as possible, dealing with all the main juridical, scientific and technological aspects of the problem.

We stress out the importance of a quick reactive body: a slow justice easily becomes, in the field of environmental protection, a non-justice.

Many examples support our view on this matter. Think not only of, ‘Environmental Disaster’, like for instance the Bhopal case and the Seveso case, but also of those apparently minor phenomena, like the repeated, seasonal fires the fires which destroyed entire areas of Europe.

13 See it on http://www.huffingtonpost.com/2010/05/20/live-gulf-oil-spill-video-feed_n_583682.html



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We are convinced that the new institution will also have important powers of prevention.

So, for example, think of the so called “rust bucket ships”, those speedboats that for years have continued to circulate, illegally and unpunished, producing marine disasters in huge proportions.

The EECC could well intervene with real precautionary powers by ordering the seizure of the “rust bucket ship” ab origine, before it starts its journey, or, if that would not be possible for jurisdiction or territorial reasons, in itinere, once the “rust bucket ship” has entered the Community area.

The same urgency gives rise to the urgent need for the establishment of the IECC, a “twin court” of the EECC, to be possibly created following a revision of the Statute of Rome by which the ICC was founded.



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Prof. Marcelo Enrique Conti

IAES – Vice President

ENVI Presentation

As you know, from the definition of environment we can observe that:

THE ENVIRONMENT IS NOT AN ABSTRACTION BUT REPRESENTS THE LIVING SPACE, THE QUALITY OF LIFE AND THE VERY HEALTH OF HUMAN BEINGS, INCLUDING GENERATIONS UNBORN (ICJ, 1996)...

Here we want to point out the complexity of the environment and its processes. From this perspective, to give a correct interpretation of environmental phenomena, it is necessary to select the most appropriate scientific tools to advise the Court to take any decision.

Thus, we have two major issues have to be addressed:

- i. How can the scientific community, and more specifically the Scientific-Technical experts group of the International Academy of Environmental Sciences (IAES) and the European Environmental Criminal Court, ST-EECC, give reliable and solid support to the Court ?
- ii. How can the above mentioned institution (ST-EECC) take into account the most basic principles of any preventive strategy, (i.e. the Precautionary principle, the 'Polluter-Pays' principle, the Prevention principle and the Sustainability principle)?

First, we need to observe the phenomenon in its whole complexity (analytical data available, measurement uncertainty, environmental selected models, uncertainty of the selected environmental models, chemometrics, health effects on people and workers involved in the disaster, human biomonitoring, environmental biomonitoring, risk analysis, industrial safety, etc..)

In view of the above we must to consider three relevant terms:

Science and the evolution of science

Technology and its evolution

Laws and rules and their evolution

As we know, science findings were not always immediately followed by new technologies and appropriated regulations. In some cases some decades were necessary to have a clear response in order to ban some toxic substances.

When we speak about **Environmental Damage** we have to consider acute toxicity (with 'visible effects') but also we have to consider mainly chronic toxicity (i.e the long term effects of a pollutant and also the possible synergic/antagonistic effects among toxic substances). The effects to a certain



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exposure to a pollutant can be shown after years of exposure. Further information can be obtained from the European Chemicals Agency (ECHA) and the Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

ST-EECC is not going to be a 'traditional' laboratory, but rather an observatory and a scientific advisory body. The scientific staff will process and elaborate all the available information on the ecological disasters to be considered by the Court.

In addition to this, the ST-EECC will work to define the main priorities and then the effects of the disaster under study after a specific request by the Court.

The main priorities are:

Public health

Climate change

Biodiversity

Ecological damage

Moreover, ST-EECC has to define sustainability principles of the damaged environment in order to establish the **restoring actions** needed and then transmit their conclusions to the Court.

ST-EECC would work also to coordinate an international network of scientists with high expertise in the field of Environment & Health and Ecological Disasters. They can act as a **Court appointed experts** in legal controversies. Finally, ST-EECC will be connected to research groups operating worldwide on environment & health issues.

Three possible scenarios can emerge in perspective:

1. In the case of an unequivocal Environmental Disaster, a technical mastery will be conducted by the ST-EECC in order to support the future decisions of the Court.
2. If any potential Environmental Disaster has still to be assessed and its consequences to be evaluated, the ST-EECC will analyze the available information and review the studies carried out by third parties on the disaster (i.e. risk assessment, risk management, health, environmental impact assessment, etc.).
3. As an environmental surveillance centre, the ST-EECC will promote research programmes in the field of identification of new risk factors by applying the Precautionary principle, the 'Polluter-Pays' principle, the Prevention principle and the Sustainability principle related with ecological disasters.

In conclusion, our final objective would be to extend the same methodological approach already used in many areas of forensic sciences also to the field of environmental protection, possibly



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drawing a new line of study that could be defined as "forensic ecology" or, better, "forensic ecotoxicology".