



Strasbourg, 8 November 2004  
DH-DEV(2004)007

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

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**COMMITTEE OF EXPERTS FOR  
THE DEVELOPMENT OF HUMAN RIGHTS  
(DH-DEV)**

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**MEETING REPORT**

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32<sup>nd</sup> meeting, Wednesday 20 – Friday 22 October 2004

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**Item 1:       Opening of the meeting**

1.       The Committee of Experts for the Development of Human Rights (DH-DEV) held its 32nd meeting in Strasbourg (Palais de l'Europe) from 20 to 22 October 2004, with Ms Inger KALMERBORN (Sweden) in the Chair. The list of participants can be found in [Appendix I](#). The agenda as adopted and references to working documents appear in [Appendix II](#).

**Item 2:       Adoption of the agenda**

2.       See Item 1.

**Item 3:       The Environment and Human Rights****Background of the activity**

3.       The Chair recalled that the activity has its origin in [Recommendation 1614\(2003\)](#) of the [Parliamentary Assembly](#) on Environment and Human Rights (see document [DH-DEV\(2004\)001](#)). Following this recommendation, the [Committee of Ministers](#) gave terms of reference to the CDDH according to which it should “*draft an instrument, in the form of guidelines or a manual, recapitulating the relevant rights as interpreted in the Court’s case-law and emphasising the need to strengthen environmental protection at national level, notably as concerns access to information, participation in decision-making processes and access to justice in environmental matters*” (see document DH-DEV(2004)001). [The CDDH](#) entrusted this activity to the DH-DEV at its 58<sup>th</sup> meeting (18-20 June 2004) (document [DH-DEV\(2004\)006](#)). These terms of reference will expire in December 2005, leaving the Committee two more plenary meetings to complete this activity.

**Preliminary discussions on the instrument to be elaborated**

4.       The exploratory character of this meeting, which was the first on this activity, was underlined by both the Director of Human Rights, Ms Jane DINSDALE, and the Chair. According to the instructions received from the CDDH (document DH-DEV(2004)006), the DH-DEV was expected to decide on the nature of the instrument – guidelines or a manual. The Chair indicated that, although it would be preferable to do so, the Committee did not have to take a final decision on this issue at this meeting. Certain members were of the opinion that the decision should be taken after in-depth work has been carried out. A *tour de table* was held on the last day of the meeting. A relatively large number of members expressed their preference for a manual, while some others were in favour of guidelines. A fairly large number of members also indicated that they wished to be given more time before deciding on this issue. The DH-DEV agreed to postpone its decision for the time being. However, given the deadline for the activity, the Chair emphasised that a decision would have to be taken at the next meeting.

5.       As to the target audience, the majority was of the view that the future instrument should be addressed not only to the public authorities but also the public at large. However, some members considered that it should aim more specifically at the public authorities while also being drafted in a clear manner for lay persons. The question was left open and will be closely linked to that of the form which the instrument should take.

6. Several members considered that, whatever type of instrument would be chosen, it was crucial to avoid duplication with other existing instruments in this field. It was underlined that the aim of the instrument should be to raise awareness of the existing case-law of the Court in environmental matters and of the need to strengthen the protection of the environment at national level. It was considered that the future instrument should not affect member States' current obligations.
7. It was agreed that the approach taken in the future instrument should be to deal with environmental matters strictly through the rights encompassed in the [European Convention on Human Rights](#) ("the Convention") and as they are interpreted in the case-law of [the European Court of Human Right](#) ("the Court"), which corresponds to the first part of the terms of reference. Furthermore, members were of the view that the instrument to draw up should not attempt to define the concept of "environment" as such and should rely on the notion as it transpires from the case-law of the Court.
8. The DH-DEV considered it preferable to stay as close as possible to the language of the Court's case-law while adopting a concise and clear style. It was also considered that the instrument to be elaborated should be practical, pragmatic and useful.
9. The Committee chose not to include at this stage of its work the notion of "sustainable development". However, it did not exclude the possibility of referring to it in the future instrument since it is widely recognised that the protection of the environment is encompassed in this wider notion.
10. As regards procedural rights, which correspond to the second part of the terms of reference, their importance in this area was acknowledged. It was noted that the case-law under Articles 6 and 13 partly covers the issue. The Aarhus Convention (document [DH-DEV\(2004\)005](#)) was considered as a good source of inspiration and it was agreed that reference should be made to it in the future instrument as well as to any other relevant instrument.
11. As to the inclusion in the future instrument of a reference to the conclusions of the European Committee of Social Rights under the Revised [European Social Charter](#) (document [DH-DEV\(2004\)003](#)), some members were of the opinion that this would not be covered by the terms of reference. Others did not see any obstacle to such a reference. It was deemed preferable at this stage of the discussions not to decide on this question.
12. Some members suggested that examples of relevant national legislation or good practices could be included in the instrument. Other members, while seeing merit in this suggestion, doubted that the deadline for the activity would leave sufficient time for it. It was mentioned that this could come as a follow-up to the instrument which was to be adopted. The Chair invited members to send any pertinent national examples, especially those related to Convention rights, to the Secretariat well ahead of the next meeting (see item 5 below for dates).
13. It was considered that the document prepared by the Secretariat on the relevant case-law of the Court (document [DH-DEV\(2004\)002](#)), which contains numerous extracts from the judgments of the Court, could constitute a good starting point in order to identify the elements which emerge from cases linked to environmental matters.

Elements prepared with a view to elaborating an instrument

14. The Secretariat presented a document containing elements gathered notably on the basis of the relevant case-law of the Court in order to facilitate discussions within the Committee. This document is to constitute a working basis for the future instrument to be elaborated.

15. This document begins with a general introduction recognising the growing interrelation between the protection of human rights and the environment and presenting the current approach of the Court which is to deal indirectly with environmental matters insofar as they affect adversely the enjoyment of the rights guaranteed by the Convention.

16. It then lists the elements emerging from the case-law of the Court. As regards the Court's case-law, the Chair invited members who would know of cases against their respective countries that could be pertinent for the current activity and which do not appear in document DH-DEV(2004)002 to send their references to the Secretariat before the next meeting.

17. It was emphasised with regard to one of the cases mentioned in the draft elements which is currently pending before the Grand Chamber (*Öneryildiz v. Turkey*, Chamber judgment of 18 June 2002), that the work would be carried out on the basis of the existing Chamber judgment subject to the findings of the Grand Chamber in its future judgment.

18. The elements as revised by the Committee can be found in Appendix III to this report. Members were invited to send any further comments on these draft elements to the Secretariat by 1<sup>st</sup> December at the latest.

Item 4: Other business*Election of the Vice-Chair*

19 The DH-DEV elected Ms Denise McQuade as Vice-Chair by acclamation.

*Exchange of views on the event (seminar, round table) which could mark the future entry into force of [Protocol No. 12](#).*

20. An initial exchange of views took place on the organisation of an event to mark the future entry into force of Protocol No. 12 in the framework of one of the plenary meetings of the DH-DEV.

21. Ms Isil Gachet, Executive Secretary of the European Commission against Racism and Intolerance ([ECRI](#)), expressed the interest of ECRI in being associated to this event given the importance of Protocol No. 12 in its field of work.

22. Regarding the question of participants in the event, it was suggested that a number of NGOs and representatives of the media be invited to the event. The idea of inviting former DH-DEV members who worked on the elaboration of Protocol No.12 was also mentioned. It was suggested that parliamentarians, not only of the [PACE](#) but also from national parliaments, could also attend the event.

23. As to whether this event would take place at the DH-DEV's next meeting or at the autumn meeting, it was noted that this would naturally depend on the date of entry into force of the instrument. In this respect, the Albanian member announced the forthcoming ratification by Albania of the Protocol, bringing ratifications of Protocol No. 12 to nine – one more will then be needed for it to enter to force.

**Item 5:        Dates of the next meeting**

24. The next meeting will take place on 13-15 April 2005.

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APPENDIX I**LIST OF PARTICIPANTS****ALBANIA / ALBANIE**

Ms Ledia HYSI, Director of Legal Affairs and Treaties Department at the Ministry of Foreign Affairs, TIRANA

**ANDORRA / ANDORRE****ARMENIA / ARMENIE**

Ms. Syuzanna TSATURYAN, Chief Specialist, Legal Department, Ministry of Foreign Affairs, Yerevan

**AUSTRIA / AUTRICHE**

Ms Brigitte OHMS, Deputy to the Head of Division for International Affairs and General Administrative Affairs, WIEN

**AZERBAIJAN / AZERBAIDJAN**

Mr Elshan BALOGLANOV, Attaché, Department of International law and treaties, Ministry of Foreign Affairs, BAKU

**BELGIUM / BELGIQUE**

M.Philippe WÉRY, Conseiller adjoint, Service des Droits de l'Homme, Service Public Fédéral Justice, Bruxelles

**BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE****BULGARIA / BULGARIE****CROATIA / CROATIE**

Ms Romana KUZMANIĆ OLUIĆ, First Secretary, Department for the UN and Human Rights, Ministry of Foreign Affairs, ZAGREB

**CYPRUS / CHYPRE**

Ms Eleonora NICOLAIDES, Senior Counsel of the Republic, Office of the Attorney-General, Law Office of the Republic of Cyprus, NICOSIA

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Ondrej ABRHAM, Head of Unit, Human Rights Department, Ministry of Foreign Affairs, PRAGUE

**DENMARK / DANEMARK**

Mrs Nina RINGEN, Head of Section, Ministry of Justice, Law Department, Human Rights Division, COPENHAGEN

**ESTONIA / ESTONIE**

Ms Riina PIHEL, First Secretary, Division of Human Rights, Ministry of Foreign Affairs, TALLINN

**FINLAND / FINLANDE**

Ms Camilla BUSCK-NIELSEN, Legal Officer, Ministry of Foreign Affairs, Legal Department, HELSINKI

**FRANCE**

M. Gilles DUTERTRE, Magistrat, Sous Direction des Droits de l'Homme, Direction des Affaires juridiques, Ministère des Affaires étrangères, PARIS

**GEORGIA/GEORGIE**

Mr Teimuraz BAKRADZE, Director of International Law Department, Ministry of Foreign Affairs, TBILISSI

**GERMANY / ALLEMAGNE**

Dr Kirsten KRAGLUND, Executive Assistant of the Federal Agent for the Human Rights, Bundesministerium der Justiz, BERLIN

**GREECE / GRECE****HUNGARY / HONGRIE**

Mr. Tamás TÓTH, Head of the Human Rights Department, Ministry of Justice

**ICELAND / ISLANDE**

Ms Tordis INGADOTTIR, Legal Expert, REYKJAVIK

**IRELAND / IRLANDE**

Ms Denise McQUADE, Assistant Legal Adviser, Legal Division, Department of Foreign Affairs, DUBLIN

**ITALY / ITALIE**

M. Roberto BELLELLI, Juge, Ministero delli Affari Esteri, Servizio del Contenzioso diplomatico, ROME

**LATVIA / LETTONIE**

Mr Valerijs ROMANOVSKIS, Head of the Human Rights Policy Division, Ministry of Foreign Affairs, RIGA

**LIECHTENSTEIN****LITHUANIA / LITUANIE**

Mr Darius STANIULIS, Adviser of the Law Division of Legal and International Treaties Department, Ministry of Foreign Affairs, VILNIUS

**LUXEMBOURG****MALTA / MALTE****MOLDOVA**

Mr Gheorghe SAGHIN, Third Secretary, General Directorate of International Law and Treaties, Ministry of Foreign Affairs, CHISINAU

**MONACO****NETHERLANDS / PAYS-BAS**

Ms Jolien SCHUKKING, Agent for the Government of the Netherlands, Ministry of Foreign Affairs, THE HAGUE

**NORWAY / NORVEGE**

Mr Kyrre GRIMSTAD, Higher Executive Officer, Department of Legislation, Norwegian Ministry of Justice, Oslo

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Ms Katarzyna BRALCZYK, Legal and Treaty Department Ministry of Foreign Affairs, WARSAW

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Mr João Manuel DA SILVA MIGUEL, Public Prosecutor, Portuguese Agent at the European Court of Human Right, Prosecutors Office, LISBOA

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Mle Catrinel BRUMAR, Conseiller juridique, Ministère des Affaires étrangères, BUCAREST

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

Ms Tatiana SMIRNOVA, Head of the Division for European Cooperation, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, MOSCOW

**SAN MARINO / SAINT-MARIN****SERBIA AND MONTENEGRO****SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

Ms Jana VNUKOVÁ, International Law and European Law Section, Ministry of Justice, BRATISLAVA

**SLOVENIA / SLOVENIE**

Ms Lidija KOMAN PERENIČ, Supreme Court Judge, Supreme Court of Slovenia, LJUBLJANA

**SPAIN / ESPAGNE****SWEDEN / SUEDE**

Ms Inger KALMERBORN, (Chairperson/Présidente), Government Agent, Senior Legal Adviser, Ministry for Foreign Affairs, STOCKHOLM

**SWITZERLAND / SUISSE**

Mme Nathalie STADELMANN, Section droits de l'homme et Conseil de l'Europe, Office fédéral de la justice, Département fédéral de justice et police, Département fédéral de justice et police, BERNE



**"The Former Yugoslav Republic of Macedonia" / "l'Ex-République yougoslave de Macédoine"**

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\* \* \*

**Comité pour les activités du Conseil de l'Europe en matière de diversité biologique et paysagère (CO-DBP)**

Mme Patricia QUILLACQ, FIRENZE, Italie

\* \* \*

**OBSERVERS / OBSERVATEURS**

**Holy See / Saint-Siège**

R.P. Olivier POQUILLON, o.p., Mission permanente du Saint-Siège auprès du Conseil de l'Europe, STRASBOURG

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**Amnesty International**

**International Commission of Jurists / Commission internationale de Juristes**

**International Federation of Human Rights / Fédération internationale des Droits de l'Homme**

**European Coordinating Group for National Institutions for the promotion and protection of human rights/Groupe de coordination européenne des institutions nationales pour la promotion et la protection des droits de l'homme**

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**SECRETARIAT**

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Ms Jane DINSDALE, Director of the Directorate I / Directrice de la Direction I

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Chef de la Division de la coopération intergouvernementale en matière de droits de l'homme,  
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Mle Haldia MOKEDDEM, Assistant / Assistante, Human Rights Law and Policy  
Division/Division du Droit et de la Politique des Droits de l'Homme

Interprètes:

Mr Robert VAN MICHEL  
Mme Julia TANNER  
Mme Sylvie BOUX

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APPENDIX II**AGENDA**

**Item 1:       Opening of the meeting**

**Item 2:       Adoption of the agenda**

**Item 3:       The Environment and Human Rights**

Working documents prepared for the 32<sup>nd</sup> meeting

- Ad hoc terms of reference with a view to drafting an instrument on the Environment and Human Rights and related texts [DH-DEV\(2004\)001](#)
- Overview of the case-law of the European Court of Human Rights in environmental matters [DH-DEV\(2004\)002](#)
- The Revised European Social Charter and the right to environment protection [DH-DEV\(2004\)003](#)
- The protection of the Environment in a Human Rights Context [DH-DEV\(2004\)004](#)
- Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention, United Nations Economic Commission for Europe – UN/ECE) [DH-DEV\(2004\)005](#)
- Relevant excerpt from the Report of the CDDH's 58th meeting on the activity concerning the Environment and Human Rights [DH-DEV\(2004\)006](#)

**Item 4:       Other business**

**Item 5:       Date of next meetings**

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APPENDIX IIIPRELIMINARY ELEMENTS  
FOR AN INSTRUMENT  
ON HUMAN RIGHTS AND THE ENVIRONMENTIntroduction

1. [The protection of human rights and the environment constitute two fields which tend to converge in Europe.] There is increasing awareness of the importance of a sound, quiet and healthy, environment which allows individuals to fully enjoy the rights and freedoms which are guaranteed by [the European Convention on Human Rights \(“the Convention”\)](#).

2. This awareness has undoubtedly an impact on what is expected of public authorities in terms of protection of human rights and the environment.

3. The aim of this instrument is to contribute to an increased understanding of the interrelation between the protection of human rights and the environment.

4. This instrument relies on the existing case-law of [the European Court of Human Rights \(“the Court”\)](#).

5. It refers to various obligations which are incumbent on High Contracting Parties in order to avoid human rights protected by the Convention being adversely affected by environmental matters.

6. In showing the interrelation between the rights protected by the Convention and environmental matters, this instrument may contribute to bringing to light the need to strengthen the protection of the environment at national level, notably in ensuring access to information, public participation in decision-making processes and access to justice in environmental matters.

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7. The Convention indirectly provides a certain degree of protection with regard to environmental matters, as demonstrated by the evolving case-law of the Court in this area:

- while, on the one hand, the Convention is not designed to provide a general protection of the environment as such and does not expressly guarantee a right to a sound, quiet and healthy environment;

- on the other hand, the Court examines complaints in which applicants allege a breach of a human right caused by environmental factors.

8. The Court recognises that where an individual is adversely affected by environmental factors, an issue may arise under the Convention. The case-law has already identified issues related to the environment under Articles 2, 6, 8 and 13 of the Convention and Article 1 of [Protocol No. 1](#) to the Convention.

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## I – RESPECT FOR PRIVATE AND FAMILY LIFE<sup>1</sup> AND THE ENVIRONMENT

It is recognised that:

- a) Environmental factors (for instance pollution, noise or fumes) may have an impact on the right to respect for private and family life and for home as guaranteed by Article 8 of the Convention as interpreted by the Court<sup>2</sup>. This right also implies respect for the quality of private life and the scope for enjoying the amenities of one's home<sup>3</sup>.
- b) The crucial element in determining whether, in the circumstances of a case, environmental factors have adversely affected one of the rights safeguarded by paragraph 1 of Article 8 is the existence of a harmful effect interfering with a person's private or family sphere and not simply the general deterioration of the environment<sup>4</sup>.
- c) Although the object of Article 8 is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the public authorities to abstain from such interference; in addition to this primarily negative undertaking, there may be positive obligations inherent in effective respect for private or family life<sup>5</sup>.
- d) A fair balance has to be struck between the competing interests of the individual and of the community as a whole.
- e) The principle of subsidiarity is particularly important in the context of environmental matters. The State enjoys a certain margin of appreciation in determining the steps to be taken to ensure compliance with the Convention<sup>6</sup>. The Court should not substitute for the assessment of the national authorities any other assessment of what might be the best policy in a difficult social and technical sphere<sup>7</sup>.
- f) In cases involving State decisions relating to environmental issues, there are two aspects to the inquiry which may be carried out by the Court:
  - first, the Court may assess the substantive merits of the public authorities' decision, to ensure that it is compatible with Article 8;

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<sup>1</sup> *“Article 8 – Right to respect for private and family life*

*1 Everyone has the right to respect for his private and family life, his home and his correspondence.*

*2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

<sup>2</sup> See, *Hatton and Others v. United Kingdom*, judgment of 8 July 2003, para. 96.

<sup>3</sup> See *Powell & Rayner v. United Kingdom*, judgment of 21 February 1990, para. 40.

<sup>4</sup> See *Kyrtatos v. Greece*, judgment of 22 May 2003, para. 52.

<sup>5</sup> See *Guerra and Others v. Italy*, judgment of 19 February 1998, para. 58.

<sup>6</sup> See *Hatton and Others v. United Kingdom*, judgment of 8 July 2003, para. 98.

<sup>7</sup> See *Powell & Rayner v. United Kingdom*, judgment of 21 February 1990, para. 44.

- secondly, it may scrutinise the decision-making process to ensure that due weight has been accorded to the interests of the individual .

- g) When decision-making processes concern complex issues of environmental and economic policy, it should necessarily involve appropriate investigations and studies in order to allow them to strike a fair balance between the various conflicting interests at stake. However, this does not mean that decisions can only be taken if comprehensive and measurable data are available in relation to each and every aspect of the matter to be decided<sup>8</sup>.
- h) The lack of access to relevant information<sup>9</sup> may have repercussions on the right to private and family life<sup>10</sup>. Individuals should have access to essential information that enable them to assess the risks they and their families might run if they continued to live in areas particularly exposed to a real danger pollution (fumes, gas, noise and others) and notably in the event of an industrial accident.
- i) Where public authorities engage in hazardous activities<sup>11</sup> which might have hidden adverse consequences on the health of those exposed to such activities, respect for private and family

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<sup>8</sup> See *Hatton and Others v. United Kingdom*, judgment of 8 July 2003, para. 128.

<sup>9</sup> Freedom to receive information enshrined in Article 10 of the Convention basically prohibits public authorities from restricting a person from receiving information that others wish or may be willing to impart to him. Freedom to receive information cannot be construed as imposing on a State-positive obligations to collect and disseminate information of its own motion; See *Guerra and Others v. Italy*, judgment of 19 February 1998, para. 53.

<sup>10</sup> See *Guerra and Others v. Italy*, judgment of 19 February 1998, para. 60.

<sup>11</sup> The Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment (a Council of Europe convention, ETS no. 150, known as the Lugano Convention - signed in 1993 but not in force yet) gives the following definition in its Article 2: “*“Dangerous activity” means one or more of the following activities provided that it is performed professionally, including activities conducted by public authorities:*

*a the production, handling, storage, use or discharge of one or more dangerous substances or any operation of a similar nature dealing with such substances;*

*b the production, culturing, handling, storage, use, destruction, disposal, release or any other operation dealing with one or more:*

– *genetically modified organisms which as a result of the properties of the organism, the genetic modification and the conditions under which the operation is exercised, pose a significant risk for man, the environment or property;*

– *micro-organisms which as a result of their properties and the conditions under which the operation is exercised pose a significant risk for man, the environment or property, such as those micro-organisms which are pathogenic or which produce toxins;*

*c the operation of an installation or site for the incineration, treatment, handling or recycling of waste, such as those installations or sites specified in Annex II, provided that the quantities involved pose a significant risk for man, the environment or property;*

*d the operation of a site for the permanent deposit of waste.*

2 “*Dangerous substance*” means:

*a substances or preparations which have properties which constitute a significant risk for man, the environment or property. A substance or preparation which is explosive, oxidizing, extremely flammable, highly flammable, flammable, very toxic, toxic, harmful, corrosive, irritant, sensitizing, carcinogenic, mutagenic, toxic for reproduction or dangerous for the environment within the meaning of Annex I, Part A to this Convention shall in any event be deemed to constitute such a risk;*

*b substances specified in Annex I, Part B to this Convention. Without prejudice to the application of subparagraph a above, Annex I, Part B may restrict the specification of dangerous substances to certain quantities or concentrations, certain risks or certain situations.”*

life under Article 8 requires that an effective and accessible procedure be established which enables such persons to seek all relevant and appropriate information<sup>12</sup>.

- j) When the issue of access to information which can allay individuals' fears, or enable them to assess the danger to which they are exposed, is sufficiently closely linked to their private and family lives within the meaning of Article 8, it may oblige the public authorities to provide information to the persons concerned<sup>13</sup>.

## **II - THE RIGHT TO LIFE, PERSONAL SAFETY AND PROHIBITION OF INHUMAN OR DEGRADING TREATMENT<sup>14</sup> AND THE ENVIRONMENT**

It is recognised that:

- a) The deterioration of the environment may result in a violation of the right to life as enshrined in the Convention<sup>15</sup>.
- b) The recent development of European standards in this respect confirms an increased awareness of the duties incumbent on the national public authorities in the environmental field, without any need to distinguish between acts, omissions and negligence by the national authorities when assessing whether they have fulfilled their positive obligations<sup>16</sup>.
- c) In order to meet the requirements of the Convention, the public authorities must:
- do everything that can reasonably be expected of them within the scope of their powers under the regulations in force to prevent environmental risks threatening physical integrity or life from materialising<sup>17</sup>;

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<sup>12</sup> See *Mc Ginley and Egan v. the United Kingdom*, judgment of 9 June 1998, para. 101.

<sup>13</sup> See *Mc Ginley and Egan v. the United Kingdom*, judgment of 9 June 1998, para. 97.

<sup>14</sup> “*Article 2 – Right to life*

*1 Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*

*2 Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:*

*a. in defence of any person from unlawful violence;*

*b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*

*c. in action lawfully taken for the purpose of quelling a riot or insurrection.”*

“*Article 3 – Prohibition of torture*

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*

<sup>15</sup> See *Öneryildiz v. Turkey*, judgment of 18 June 2002; this judgment was rendered by a Chamber of the Court. It has since been transferred to the Grand Chamber for a new judgment, which will be final, and is currently pending before it. The Chamber judgment therefore cannot be considered final.

<sup>16</sup> See *Öneryildiz v. Turkey*, judgment of 18 June 2002 (pending before the Grand Chamber), para. 64.

<sup>17</sup> See *Öneryildiz v. Turkey*, judgment of 18 June 2002 (pending before the Grand Chamber), para. 79.

- act of their own motion, in the light the information available to them at a relevant time concerning the likelihood of a risk to individuals' health, and do all that could be required of them to prevent individuals' life from being avoidably put at risk<sup>18</sup>;
- d) In addition, where environmental factors infringe the right to life, public authorities must<sup>19</sup>:
- set up an effective judicial system which provides an adequate and effective domestic remedy allowing the appropriate public authority both to deal with the substance of an arguable complaint and to grant appropriate relief for an established violation ;
  - provide, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible for the death;
  - put in place effective criminal-law provisions to deter the commission of offences against the person, backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions.
- e) The deterioration of the environment reaching a certain level of seriousness may constitute a degrading treatment within the meaning of the Convention<sup>20</sup>.

### **[III – THE RIGHT OF PROPERTY AND THE ENVIRONMENT]**

### **[IV. FREEDOM OF EXPRESSION AND TO RECEIVE AND IMPART INFORMATION, AND FREEDOM OF THOUGHT AND CONSCIENCE CONCERNING ENVIRONMENTAL MATTERS]**

### **[V. ACCESS TO A COURT CONCERNING ENVIRONMENTAL MATTERS]**

### **[VI. EFFECTIVE DOMESTIC REMEDIES CONCERNING ENVIRONMENTAL MATTERS]**

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<sup>18</sup> See *L.C.B. v. United Kingdom*, judgment of 9 June 1998, para. 36.

<sup>19</sup> See *Öneryildiz v. Turkey*, judgment of 18 June 2002 (pending before the Grand Chamber), paras. 90-93.

<sup>20</sup> See *Lopez Ostra v. Spain*, judgment of 9 December 1994, para. 60.