

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"¹ 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 de l'environnement. Un niveau élevé de protection de l'environnement et l'amélioration de sa qualité doivent être intégrées dans les politiques de l'Union, et assurées conformément au principe du développement durable.

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.

