

IS THE ENVIRONMENT PROTECTED UNDER THE ECHR ?

By Virginie Flores

The European Convention on Human Rights 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. However, the Convention indirectly offers a certain degree of protection with regard to environmental matters, as demonstrated by the evolving case-law of the European Court of Human Rights in this area.

The Court has established that public authorities must observe certain requirements as regards information and communication.

Right to receive and impart information and ideas on environmental matters

(1) The right to receive and impart information and ideas is guaranteed by Article 10 of the Convention. In the particular context of the environment, the Court has found that there exists a strong public interest in enabling individuals and groups to contribute to the public debate by disseminating information and ideas on matters of general public interest¹.

(2) Restrictions by public authorities on the right to receive and impart information and ideas, including on environmental matters, must be prescribed by law and follow a legitimate aim. Measures interfering with this right must be proportionate to the legitimate aim pursued and a fair balance must therefore be struck between the interest of the individual and the interest of the community as a whole².

(3) Freedom to receive information under Article 10 cannot be construed as imposing on public authorities a general obligation to collect and disseminate information relating to the environment of their own motion³.

Access to information on environmental matters

(1) Public authorities may be under a specific obligation to secure a right to access to information in relation to environmental issues in certain circumstances. This obligation arises from the rights protected by Articles 2 and 8 of the Convention. The Court has found that in the particular context of dangerous activities falling within the responsibility of the State, special emphasis should be placed on the public's right to information⁴.

(2) When public authorities engage in dangerous activities which they know involve adverse risks to health, they must establish an effective and accessible procedure to enable individuals to seek all relevant and appropriate information⁵.

(3) The Court has also recognised the importance to individuals of access to information that can allay their fears or enable them to assess the environmental danger to which they may be exposed.

¹ *Steel and Morris v. the United Kingdom*, judgment of 15 February 2005.

² *Vides Aizsardzības Klubs v. Latvia*, judgment of 27 May 2004.

³ *Guerra and Others v. Italy*, judgment of 19 February 1998.

⁴ *Öneryıldız v. Turkey*, judgment of 30 November 2004.

⁵ *McGinley and Egan v. the United Kingdom*, judgment of 9 June 1998.

Public authorities must provide such information to persons when their rights to life under Article 2 and to respect for private and family life and the home under Article 8 are threatened⁶.

⁶ *Guerra and Others v. Italy ; Öneriyıldız v. Turkey*