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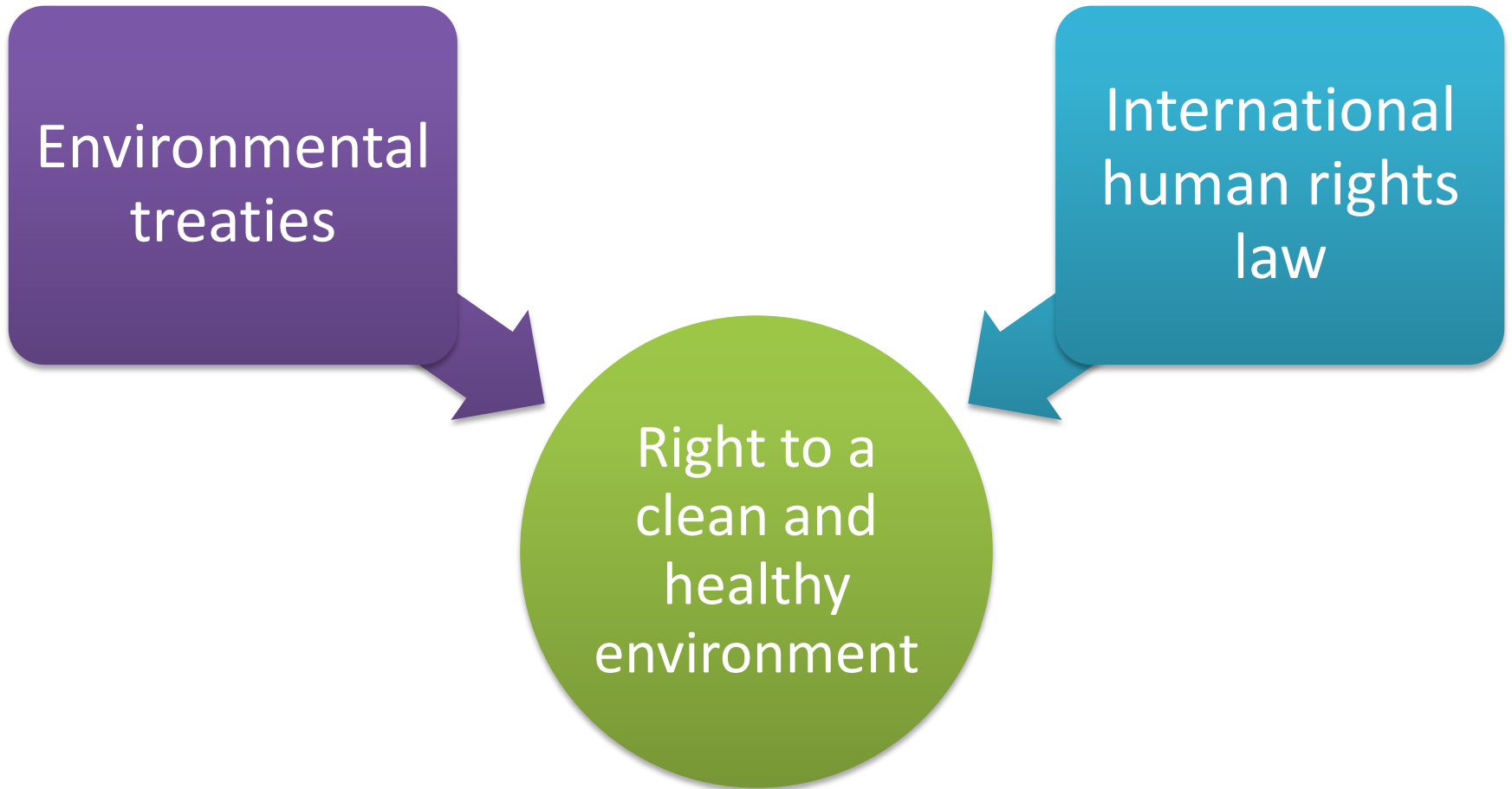
# European Regional Perspective on Environment and Human Rights

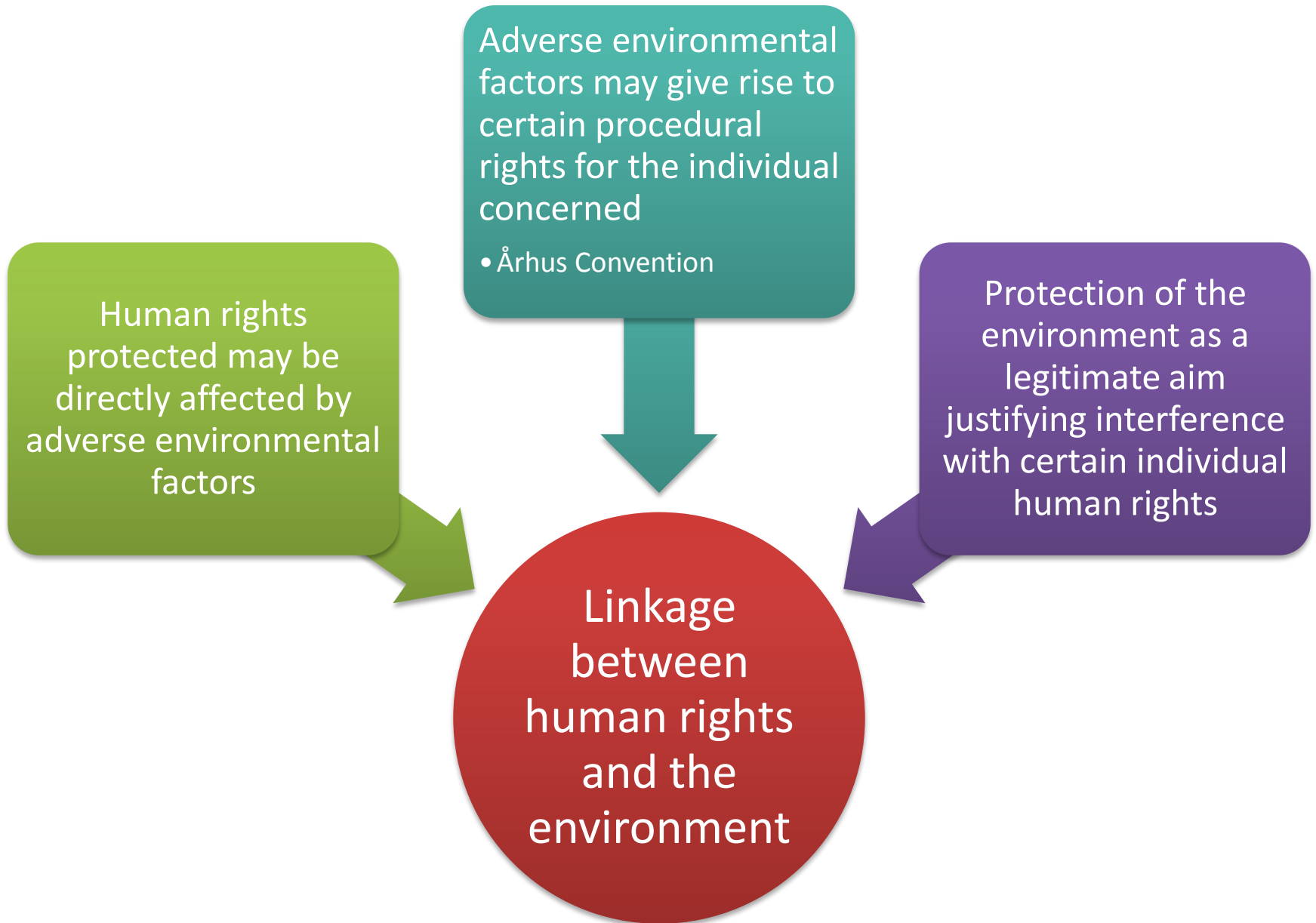
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15 June 2013

# I. Introduction





## II. Right to environment in international human rights treaties

1. The right to a clean and healthy environment: Express provisions

2. Implicit recognition of the right to a clean and healthy environment

- Substantive rights
- Procedural rights

# 1. THE RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT: EXPRESS PROVISIONS

African Charter on  
Human and  
Peoples' Rights  
(1981)

Protocol of San  
Salvador  
additional to the  
American  
Convention on  
Human Rights  
(1988)

## 2. IMPLICIT RECOGNITION OF THE RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT

### Substantive rights

- The right to health
- The right to an adequate standard of living
- Cultural and indigenous rights
- The right to privacy
- The right to work

### Procedural rights

- The right to access to information
- The right to fair trial
- The right to participate in decision-making
- The right to effective remedies
- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998)

# III. The regional approach: Case-law of the ECtHR with relevance to the environment

## Noise pollution

- Airport noise cases
- Neighbouring noise, resulting from e.g. nightclubs, heavy traffic, coal mine and factory, or a commercial centre
- *Deés v. Hungary* (2010)

## Industrial pollution

- A plant treating leather industrial waste
- Chemical factory producing fertilisers
- A mining permit authorising the use of cyanide leaching process for gold extraction
- A methane explosion occurring at a rubbish tip
- The operation of a big steel plant
- Emissions coming out of a plant for the treatment of waste
- An active stone quarry

Deforestation and urban development

Passive smoking

### III. Oluić v. Croatia (2010.)

Environmental  
protection



Article 8 of the ECHR  
(right to respect for  
private and family life)



### III. Oluić v. Croatia



#### Article 8 of the ECHR

- the most frequent legal basis for submitting applications in environmental cases
- provides individuals and their homes with effective protection
- the ECtHR has to confirm that the pollution severly violate national and international environmental law, while their intensity and duration can directly jeopardize the physical and mental health of individuals

# III. Oluić v. Croatia



## Article 8 of the ECHR

- the burden of proof is on the applicant
- imposes on states positive obligation to protect individuals from interferences with Art. 8
- it does not provide for protection of the environment as such but of the right of an individual who can be exposed to environmental pollution and inadequate environmental standards

# III. Oluić v. Croatia

- noise pollution
- Bylaw on the Maximum Permitted Levels of Noise in Areas Where People Work and Live
- the right to home does not exclusively entail activities of a physical nature, but also noise, emissions, smells, etc.
- unanimous judgment confirming the violation of Art. 8



# III. Oluić v. Croatia

**Interest of an individual**

**v.**

**Interest of the  
community**



**Dees v. Hungary  
Oluić v. Croatia**



**Powell and Rayner v.  
UK  
Hatton and Others v.  
UK**

# IV. Bilateral Croatian-Hungarian Relations

## Bilateral Agreements on Environmental Protection

- **Agreement on Friendly Relations and Cooperation (1992)**

**Article 14: “The Contracting Parties shall pay particular attention both to elimination of imminent threats to the environment and to environmental protection. For that purpose, the states are bound to exercise their influence to harmonize their regional and international environmental strategies and thus cater for permanent environmentally friendly development within Europe”**



# IV. Bilateral Croatian-Hungarian Relations

## Bilateral Agreements on Environmental Protection

- **Cooperation Agreement on the Forecast, Prevention and Mitigation of Natural and Technological Disasters (1992)**
- **Agreement on Water Management Relations (1994)**
- **Treaty on Cooperation Towards Protection from Natural and Civilization Catastrophes (1997)**
- **Agreement on the Early Exchange of Information in the Event of a Radiological Emergency (1999)**



# IV. Bilateral Croatian-Hungarian Relations

## Bilateral Agreements on Environmental Protection

- **Agreement between the Government of the Republic of Croatia and the Government of the Republic of Hungary on Cooperation in the Field of Environmental Protection and Nature Conservation (2006)**

~prevention and joint evaluation of harmful impacts on the environment, sustainable use of natural resources, defining solutions for long-term advancement of environment and nature, obtaining international and EU funds~



# IV. Bilateral Croatian-Hungarian Relations

## Regional Environmental Initiatives

- **Mura-Drava-Danube Transboundary Biosphere Reserve**
- protected by the UNESCO in July 2012
- the first biosphere reserve of a transboundary nature
- pentilateral cooperation: Austria, Serbia and Slovenia to join in June 2013



# IV. Bilateral Croatian-Hungarian Relations

## Regional Environmental Initiatives

- **Central European Initiative (CEI)**
- **Regional Environmental Centre for Central and Eastern Europe (REC)**



# V. Conclusion

- international cooperation in the field of environmental protection is one of the most recent areas of international law, but highly ranked on the scale of activities of fundamental importance for the international community
- one of the most codified and propulsive areas of international law
- the link between environmental law and human rights is becoming particularly significant



**Thank you for your attention**

