**Submission by Martin Scheinin, Professor of international law and human rights, European University Institute**

Draft General Comment No. 36 on article 6 (right to life) is a comprehensive and solid document. I want to congratulate the Committee for its work towards its adoption. Below, I am presenting only some fairly minor drafting proposals.

Para. 15: This paragraph is out of place and could be replaced with a short footnote in paragraph 14.

Para 16: It is proposed to formulate the last sentence of this paragraph with negative wording “may never apply the death penalty in an arbitrary manner” instead of a conditional positive wording that may be read as providing justifications for the continued application of capital punishment.

Para 20: The same proposal is made for a reformulation of the second sentence. Instead of "may continue to apply the death penalty” the sentence should be built around “must not continue to apply the death penalty beyond…”

Para 30: It is proposed to delete the last bracketed sentence about “progressive realisation” which, it is submitted, should have no place in the general comments by this Committee.

Para 29 or 33 or 10: It is submitted that the Committee addresses the question of suicide, including through hunger strike, in prison or during other forms of detention, including immigration detention, and that a strict approach is taken in respect of such deaths.

Para 34: It is submitted that the repetitive use of the word “assurances” be reconsidered. Rather than seemingly taking a permissive view about the use of diplomatic assurances in the context of non-refoulement, it should be emphasised that any assurances from the government of the receiving country may only constitute one factual element in a careful overall consideration by the deporting state as to whether a "real risk” to life exists.

Para 36: It is submitted that this opening paragraph in the section about capital punishment should include a reference to a state obligation to take measures towards abolition, for instance by including a reference to paras. 54 and 55 (but not using the language of “progressive realisation”).

Para 38: Even if the use of diplomatic assurances in the context of capital punishment is less problematic than in para. 34, it is submitted that the wording should be “official and legally binding”, rather than “credible and effective”.

Para 43: As there are references to terrorism elsewhere in the draft (paras. 24, 25 and 71), it is submitted that here there should be a sentence excluding mandatory capital punishment for terrorist crimes.

Florence, 6 October 2017, Martin Scheinin