



Strasbourg, 18 March 2011

CDDH-UE(2011)06

6th WORKING MEETING OF THE CDDH INFORMAL WORKING GROUP ON THE ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS (CDDH-UE) WITH THE EUROPEAN COMMISSION

Meeting report

Strasbourg, Tuesday 15 March (9.30 am) – Friday 18 March 2011 (1.30 pm)

Agora Building, Room G05
Council of Europe

Item 1: Opening of the meeting and adoption of the agenda

1. The sixth working meeting of the CDDH informal working group on the accession of the European Union to the European Convention on Human Rights (CDDH-UE) with the European Commission was held in Strasbourg on 15-18 March 2011 with Ms Tonje MEINICH (Norway) in the Chair. The list of participants can be found in Appendix I. The agenda as adopted and the references to the working documents appear in Appendix II.

Item 2: Elaboration of the accession instrument(s): examination of a draft agreement on the accession of the EU to the Convention and of its explanatory report

2. The participants examined the draft agreement on the accession of the EU to the Convention (document CDDH-UE(2011)04) and its draft explanatory report (document CDDH-UE(2011)05). For the purposes of this meeting, they decided to concentrate their attention on the draft agreement, and to discuss the explanatory report in detail at a later stage, on the basis of written comments.

3. When discussing the drafts, the participants also considered the comments submitted in writing by the expert from Armenia, who could not attend the meeting, by the European Group of National Human Rights Institutions and by the European Trade Union Confederation, as well as the joint comments by Amnesty International and the AIRE Centre.

4. With respect to the Preamble, Section A – General Provisions and Scope of the Accession, Articles 5 and 6 of Section B – Procedure before the European Court of Human Rights, and Section D – Miscellaneous and Final Provisions, the participants agreed upon a number of amendments to the draft proposed by the Secretariat. A question raised was whether a specific territorial clause was necessary. The Chair invited participants to submit proposals to that effect. One of the participants reserved his position on a number of provisions contained in the draft revised text.

5. Concerning the co-respondent mechanism (Article 4 of the draft Accession Agreement), the participants agreed on the principle that the Convention should contain only a limited reference to the co-respondent mechanism, and that a thorough description of its functioning, including its essential procedural aspects, should appear in the Accession Agreement.

6. Article 4 was revised on the basis of the discussion. The revised text reflects the tentative agreement reached by the participants on paragraphs 2, 3, 4 and 7 at this meeting. One of the participants has a reservation for the possibility to a member State to join the proceedings as a co-respondent in cases brought against the EU and when there is a connection to national law. As regards paragraph 5 it was agreed to seek specific guidance by the CDDH, and one of the participants reserved his position on this provision. Regarding paragraph 6, dealing with the prior involvement of the Court of Justice of the European Union, the participants agreed on a number of amendments to the text proposed, although two delegations maintained a reservation of principle on this issue. Lack of time prevented the participants from discussing paragraph 1, which at this stage remains a mere Secretariat proposal.

7. One question raised at the meeting, but deferred for the time being, was whether the co-respondent mechanism could also apply to situations in which a non-EU member State

applies EU law through separate agreements (e.g. the EEA, Schengen or Dublin Agreements). Another question evoked but not discussed was whether the co-respondent mechanism should apply to inter-Party cases.

8. The extensive discussion on Article 4 of the draft also prevented the participants from discussing Articles 7 and 8 of Section C – Institutional and Financial issues, concerning respectively the election of judges and the participation of the European Union in the Committee of Ministers of the Council of Europe. As a consequence, these two provisions are to be considered merely as a Secretariat proposal.

9. As regards Article 9, the participants held an exchange of views with Mr Mário Martins, Director General of Administration, on the draft text proposed. He explained the principles underlying the proposal and provided clarification on a number of issues. The participants expressed their agreement of principle with the draft proposed, it being understood that technical discussions are still ongoing between the Secretariat and the European Commission and that some aspects of the proposal, in particular the question of the rate of contribution of the European Union to the amount of expenditure related to the functioning of the Convention system, will be further discussed at a political level.

10. The participants instructed the Secretariat to revise the draft explanatory report to the Accession Agreement on the basis of the discussion. With a view to its possible discussion at the May meeting, the participants were invited to submit their comments in writing on the draft explanatory report.

11. The draft revised accession agreement appears in Appendix III.

12. The participants invited the CDDH:

- a) to express its views and to agree on the Preamble, Section A, Articles [5] and [6] of Section B, and Section D ;
- b) to express its views and to provide guidance on the provisions contained in Article [4] – Co-respondent mechanism;
- c) to have a preliminary exchange of views on Articles [7] and [8] in view of the next meetings of the Group and to agree on the approach taken in Article [9];
- d) to agree on the calendar for future work.

Item 3: Organisation of future work

13. The participants discussed the feasibility of holding a meeting on 18-20 April, in order to discuss the issues that were not dealt with at this meeting, namely articles [7] and [8]. They agreed to ask the opinion of the CDDH in this respect and, more generally, on the calendar of future work. In the event a meeting in April was not feasible due to the unavailability of some participants, the next meeting may take place, as already agreed, from 10 to 13 May, and a subsequent meeting was tentatively scheduled for 21 to 24 June, subject to meeting rooms availability. In any event, the CDDH may consider the feasibility to hold an extraordinary meeting with a view to the adoption of a draft accession agreement. In this respect, it was noted that in order to give the members of the CDDH the necessary time to examine and approve the draft accession agreement and transmit it to the Committee of Ministers for adoption, it may be difficult to hold such an extraordinary meeting before the deadline of 30 June set by the Committee of Ministers.

APPENDIX I

List of participants

ARMENIA / ARMENIE

Excusé/excused

CROATIA / CROATIE

Ms Vesna BATISTIĆ KOS, Head of the Department for International Organisations and Human Rights, Directorate for Multilateral Affairs, Ministry of Foreign Affairs and European Integration, Zagreb

FINLAND / FINLANDE

Mr Arto KOSONEN, Government Agent, Director of the Unit for Human Rights Court and Conventions, Legal Service, Ministry of Foreign Affairs

Mrs Marjatta HIEKKA, Legislative Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs

FRANCE

Mme Anne-Françoise TISSIER, Sous-directeur des droits de l'homme, Agent du Gouvernement, Ministère des affaires étrangères, DJ/HOM, Paris

M. Emmanuel JAUFFRET, Sous-direction des droits de l'homme, Direction des affaires juridiques, Ministère des affaires étrangères et européennes, Paris

M. Géraud SAJUST DE BERGUES, Sous-Directeur droit de l'Union européenne, Direction des affaires juridiques, Ministère des affaires étrangères et européennes, Paris

GERMANY / ALLEMAGNE

Mr Hans-Jörg BEHRENS, Permanent Deputy Agent for Human Rights, Bundesministerium der Justiz, Berlin

LATVIA / LETTONIE

Ms Inga REINE, Government Agent, Representative of the Government of Latvia before International Human Rights Organizations, Ministry of Foreign Affairs, Riga

MONTENEGRO / MONTÉNÉGRO

Ms Ivana JELIC, Professor in Human Rights Law and Legal Expert to the Ministry, Law Faculty of University of Montenegro, Ministry for Human and Minority Rights of Montenegro, Pravni fakultet, Podgorica

THE NETHERLANDS / PAYS-BAS

Mr Roeland BÖCKER, Government Agent, Ministry of Foreign Affairs, Dept. DJZ/IR, The Hague

Mr Ivo VAN DER STEEN, Head of the Centre of Expertise on European Law, Ministry of Foreign Affairs, The Hague

NORWAY / NORVEGE

Ms Tonje MEINICH, [*Présidente/Chair*], Head of Department of European and International Affairs, Norwegian Ministry of Justice, Oslo

ROMANIA / ROUMANIE

M. Razvan ROTUNDU, Conseiller, Mission Permanente de la Roumanie auprès de l'Office des Nations Unies à Genève et des organisations internationales en Suisse, Cologny, Genève

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Oleg MALGINOV, Director, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, Moscow

Mr Ivan VOLODIN, Acting Head of Division, Legal Department, Ministry of Foreign Affairs, Moscow

SWITZERLAND / SUISSE

M. Frank SCHÜRMAN, Agent du Gouvernement, Chef de la Section des droits de l'homme et du Conseil de l'Europe, Office fédéral de la justice, Berne

TURKEY / TURQUIE

Mme Deniz AKÇAY, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe, Strasbourg

UNITED KINGDOM / ROYAUME-UNI

Mr Rob LINHAM, Head of Litigation, Legislation and European Institutions, Human Rights Division, Ministry of Justice, London

EUROPEAN COMMISSION / COMMISSION EUROPÉENNE

Mr Hannes KRAEMER, Member of the Legal Service, Brussels

Ms Luisella PAVAN-WOOLFE, EUDEL, Ambassador, European Union Delegation to the Council of Europe, Strasbourg

Ms Caroline TEN DAM (SJ), Member of the Legal Service, Brussels

Mme Eglantine CUJO, Service juridique de la Commission européenne, Bruxelles

Mr Antonino LA PIANA, Deputy to the Head of Delegation, European Union Delegation to Council of Europe, Strasbourg

Mr Luis TARIN MARTIN, Deputy to the Head of Delegation, European Union Delegation to Council of Europe, Strasbourg

DIRECTORATE GENERAL OF ADMINISTRATION / DIRECTION GENERALE DE L'ADMINISTRATION

Mr Mário MARTINS, Director General of Administration,

COMMITTEE OF MINISTERS / COMITE DES MINISTRES

Ms Ulrika FLODIN-JANSON

Ms Katherine ANDERSON

Mr Denis BRIBOSIA

THE COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI) / LE COMITÉ DES CONSEILLERS JURIDIQUES SUR LE DROIT INTERNATIONAL PUBLIC (CAHDI)

Mr Erik WENNERSTROEM, Principal Legal Adviser on International Law, Ministry for Foreign Affairs, International Law and Human Rights Department, Stockholm

Mme Elise CORNU, Legal Advisor, Direction du Conseil Juridique/Directorate of Legal Advice

THE REGISTRY OF THE EUROPEAN COURT OF HUMAN RIGHTS / LE GREFFE DE LA COUR EUROPÉENNE DES DROITS DE L'HOMME

Mr Michael O'BOYLE, Greffier adjoint de la Cour /Deputy Registrar of the Court

M. Johan CALLEWAERT, Greffier Adjoint de la Grande Chambre / Deputy Grand Chamber Registrar

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**Directorate General of Human Rights and Legal Affairs – DG-HL /
Direction générale des droits de l'Homme et des affaires juridiques – DG-HL
Council of Europe/Conseil de l'Europe, F-67075 STRASBOURG CEDEX**

M. Philippe BOILLAT, Director General / Directeur Général

Mr Jan KLEIJSEN, Director of Standard-Setting / Directeur des activités normatives

Mr Jörg POLAKIEWICZ, Head of the Human Rights Development Department / Chef du Service du développement des droits de l'Homme

Mr Daniele CANGEMI, Head of Division / Chef de Division, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme, Secretary of the CDDH-UE / Secrétaire du CDDH-UE

Mr Matthias KLOTH, Administrator, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

Mme Valérie PEARD, Principal Assistant, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

Ms Diana CAPUTO, Trainee, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

Mme Frédérique BONIFAIX, Assistant / Assistante, Human Rights Law and Policy Division / Division du droit et de la politique des droits de l'Homme

Interpreters / Interprètes:

Sylvie BOUX-STINTZY

Didier JUNGLING

Philippe QUAINÉ

APPENDIX II

AGENDA

1. **Opening of the meeting and adoption of the agenda**
2. **Elaboration of the accession instrument(s): examination of a draft agreement on the accession of the EU to the Convention and of its explanatory report**

Working documents

Draft agreement on the accession of the EU to the Convention	CDDH-UE(2011)04
Explanatory report to the draft agreement on the accession of the EU to the Convention	CDDH-UE(2011)05

Reference documents

5 th working meeting report (25-28 January 2011)	CDDH-UE(2011)03
4 th working meeting report (6-8 December 2010)	CDDH-UE(2010)17
3 rd working meeting report (19-22 October 2010)	CDDH-UE(2010)14
2 nd working meeting report (20-22 September 2010)	CDDH-UE(2010)10
1 st working meeting report (6-7 July 2010)	CDDH-UE(2010)05
Draft elements for an accession agreement on General Issues and on Technical adaptations to provisions of the ECHR and other instruments with respect to the EU as a contracting party (Chapters A and B of the draft list of issues)	CDDH-UE(2010)11
Memorandum by the Secretariat on legal issues raised during the 2nd working meeting	CDDH-UE(2010)13 restricted
Draft elements prepared by the Secretariat on the Procedure before the European Court of Human Rights (Chapter C of the draft list of issues)	CDDH-UE(2010)12
Draft revised elements prepared by the Secretariat on the Introduction of a co-respondent mechanism	CDDH-UE(2010)16
Draft additional elements prepared by the Secretariat on Procedural means guaranteeing the prior involvement of the Court of Justice of the EU in cases in which it has not been able to pronounce on compatibility of an EU act with fundamental rights (Item C.5 of the provisional list of issues)	CDDH-UE(2011)02
Draft elements prepared by the Secretariat on Institutional and Financial issues (Chapter D of the draft list of issues)	CDDH-UE(2010)15
Draft elements prepared by the Secretariat on Final Clauses (Chapter E of the draft list of issues)	CDDH-UE(2011)01

Information documents

Comments and Proposals on the draft agreement on the accession of the EU to the Convention (CDDH-UE (2011)04) and on the Explanatory report to the draft agreement on the accession of the EU to the Convention (CDDH-UE(2011)05) submitted by the European Trade Union Confederation (ETUC) to the CDDH-UE Working Group (10/03/2011) Proposals ETUC/CES

AIRE Centre and Amnesty International (14/03/2011) Submission

Response of the European Group of National Human Rights Institutions: EU Accession to the ECHR for CDDH-UE meeting on March 15-18 2011 NHRI Submission

3. Organisation of future work

4. Any other business

APPENDIX III

Draft revised accession agreement

*Preamble*¹

The High Contracting Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”), being member States of the Council of Europe, and the European Union,

Having regard to Article 59, paragraph 2, of the Convention,

Convinced that the accession of the European Union to the Convention is essential to ensure coherence in human rights protection throughout Europe,

Considering, in particular, that it is necessary to give the individual the right of submitting the action of the European Union to the external control of the European Court of Human Rights,

Considering that, having regard to its specific legal order, the European Union’s accession requires certain adjustments to the Convention system to be established by common agreement,

Have agreed as follows:

<i>A – General Provisions and Scope of the Accession</i>

Article 1 – Scope of the accession²

1. The European Union hereby accedes to the Convention and to Protocols Nos. 1 and 6 to the Convention.

2. Paragraph 2 of Article 59 of the Convention shall be amended to read as follows:

“2. a. The European Union may accede to this Convention and the Protocols thereto. In that event, accession of the European Union to the protocols shall be governed, *mutatis mutandis*, by Article 6 of the Protocol, Article 7 of Protocol No. 4, Article 7 to 9 of Protocol No. 6, Article 8 to 10 of Protocol No. 7, Articles 4 to 6 of Protocol No. 12 and Article 6 to 8 of Protocol No. 13.

b. The status of the European Union as a High Contracting Party to the Convention and the Protocols thereto shall be further defined in the Agreement on the Accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedoms.

¹ Text tentatively agreed.

² Text tentatively agreed.

c. Accession to the Convention and the Protocols thereto shall impose on the European Union obligations with regard only to acts, measures or omissions of its institutions, bodies, offices or agencies, or of persons acting on their behalf. Nothing in the Convention or the Protocols thereto shall require the European Union to perform an act or adopt a measure for which it has no competence.

d. Where any of the terms “State”, “State Party”, “States” or “States Parties” appear in Article 10, paragraph 1 and in Article 17 of the Convention, Articles 1 and 2 of the Protocol, Articles 2 and 3 of Protocol No. 4, Article 2 and Article 6 of Protocol No. 6, Articles 3, 4, 5 and 7 of Protocol No. 7, Article 3 of Protocol No. 12, and Article 5 of Protocol No. 13 to the Convention, they shall be understood as referring also to the European Union.³

e. Where any of the terms “national security”, “national law”, “national laws”, “national authority”, “life of the nation”, “country”, “administration of the State”, “territorial integrity”, “territory of a State” and “domestic” appear in Articles 5, 6, 7, 8, 10, 11, 12, 13, 15 and 35 of the Convention, in Article 2 of Protocol No. 4 and in Article 1 of Protocol No. 7 to the Convention, they shall be understood as relating also, *mutatis mutandis*, to the European Union.”⁴

3. Paragraph 5 of Article 59 of the Convention shall be amended to read as follows:

“5. The Secretary General of the Council of Europe shall notify all the Council of Europe member States and the European Union of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it or acceded to it, and the deposit of all instruments of ratification or accession which may be effected subsequently.”

(Article 2 – deleted)

Article [3] – Reservations to the Convention⁵

1. The European Union may, when signing or expressing its consent to be bound by the provisions of this Agreement in accordance with Article [11], make reservations to the Convention and to the Protocol in accordance with Article 57 of the Convention.

2. Paragraph 1 of Article 57 of the Convention shall be amended to read as follows:

“1. Any State may, when signing this Convention or when depositing its instrument of ratification make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. The European Union may, when acceding to this Convention, make a reservation in respect of any particular provision of the Convention to the extent that any law of the European Union then in force is not

³ The Secretariat will proceed to a further reading of the Convention and the Protocols thereto to verify whether other provisions need to be mentioned.

⁴ *idem*

⁵ Text tentatively agreed.

in conformity with the provision. Reservations of a general character shall not be permitted under this article.”

<i>B – Procedure before the European Court of Human Rights</i>

Article [4] – Co-respondent mechanism⁶

“[1. Article 36 of the Convention shall be amended as follows:

a. The heading of Article 36 shall be amended to read as follows: “Third party interventions and co-respondents”.

b. The following paragraphs shall be added at the end of Article 36 :

“4. Where an application is notified to the European Union or to a member state of the European Union, or to both of them, and it appears that an act or omission underlying an alleged violation notified could only have been avoided by disregarding an obligation under European Union law, [a High Contracting Party] / [either of the High Contracting Parties] may become a co-respondent to the proceedings by decision of the Court.

5. The co-respondent shall have the status of a party to the proceedings. Article 35, paragraph 1 shall not apply with regard to the co-respondent.

6. The decision by the Court referred in paragraph 4 shall be taken after having heard the views of all the parties concerned.

7. In cases involving co-respondents, the Court may hold the High Contracting Parties concerned jointly responsible for a violation of the Convention.]

2. Where an application is directed against one or more member States of the European Union, the European Union may become a co-respondent to the proceedings in respect of an alleged violation notified by the Court if it appears that an act or omission underlying that alleged violation could only have been avoided by a respondent State disregarding an obligation upon it under European Union law.

3. Where an application is directed against the European Union, the European Union member States may become co-respondents to the proceedings in respect of an alleged violation notified by the Court if it appears that an act or omission underlying that alleged violation could only have been avoided by the European Union disregarding an obligation upon it under European Union law which cannot be modified by its institutions alone.

4. Where an application is directed against and notified to both the European Union and one or more of its member States, if the conditions relating to the nature of the alleged

⁶ Paragraph 1 was not discussed at the meeting. Paragraphs 2, 3, 4 and 7 were tentatively agreed. Paragraphs 5 and 6 were discussed but not fully agreed at the meeting.

violation in paragraphs 2 and 3 are met, the status of any respondent may be changed to that of a co-respondent.

[5. A High Contracting Party shall become a co-respondent only at its own request, and by decision of the Court. The Court shall seek the views of all the parties to the proceedings. When deciding on such requests the Court shall assess whether the reasons stated by the High Contracting Parties concerned are not manifestly incomplete or inconsistent in the light of the criteria set out in paragraphs 2 or 3, as the case may be.]

[6. Where the European Union is a co-respondent to the proceedings and where the Court of Justice of the European Union has not yet ruled on whether the act of the European Union from which the obligation referred to in paragraph 2 results conforms with the fundamental rights at issue, the Court of Justice of the European Union shall have the opportunity to do so [prior to the decision of the European Court of Human Rights on the merits of the case // during the examination of the case before the European Court of Human Rights]. The European Union shall ensure that such ruling is delivered quickly so that the proceedings before the European Court of Human Rights are not unduly delayed. The procedure of the European Court of Human Rights shall take into account the proceedings before the Court of Justice of the European Union.]

7. The present article shall apply to applications submitted from the date of entry into force of this Agreement.

Article [5] – Inter-Party cases⁷

The heading of Article 33 of the Convention shall be amended to read: “Article 33 - Inter-Party cases”.

Article [6] – Interpretation of Article 55 of the Convention⁸

Article 55 of the Convention shall not be understood as preventing the operation of Article 344 of the Treaty on the Functioning of the European Union.

C – Institutional and Financial Issues

Article [7] - Election of judges⁹

1. A new paragraph 2 shall be inserted into Article 22 of the Convention, which shall read as follows:

“2. A delegation of the European Parliament shall be entitled to participate, with the right to vote, in the sittings of the Parliamentary Assembly of the Council of Europe whenever the Assembly exercises its functions related to the election of

⁷ Text tentatively agreed.

⁸ Text tentatively agreed.

⁹ Article not discussed at the meeting.

judges in accordance with the preceding paragraph. [The European Parliament shall be entitled to the same number of representatives in the Assembly as the State(s) entitled to the highest number of representatives pursuant to Article 26 of the Statute of the Council of Europe].”

2. The modalities of the participation of representatives of the European Parliament in the sittings of the Parliamentary Assembly of the Council of Europe and its relevant bodies shall be defined by the Parliamentary Assembly of the Council of Europe, in consultation with the European Parliament.

Article [8] - Participation of the European Union in the Committee of Ministers of the Council of Europe¹⁰

Article 54 of the Convention shall be amended to read as follows:

1. New paragraphs 1 and 2 shall be inserted reading as follows:

“1. Whenever the Committee of Ministers acts as an organ of the Convention, and in particular under Article 26, paragraph 2, Article 39, paragraph 4, Article 46 and Article 47, it shall take its decisions with the participation, with the right to vote, of all High Contracting Parties to the Convention.

2. The Committee of Ministers, acting as an organ of the Convention, shall take decisions regarding the adoption or the implementation of amending and additional protocols to the Convention, as well as of any other instrument or text directly linked with the functioning of the Convention. Such decisions shall be taken with the participation, with the right to vote, of all High Contracting Parties to the Convention.”

2. The current text of Article 54 shall become paragraph 3.

Article [9] - Participation of the European Union in the expenditure related to the Convention¹¹

1. As a High Contracting Party to the Convention, the European Union shall contribute to the expenditure related to the functioning of the Convention, including with respect to the functioning of the European Court of Human Rights, the supervision of the execution of the judgments of the Court, the functioning of the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe when performing their functions under the Convention, and the related administrative overhead costs. The contribution of the European Union shall be in addition to the contributions made by the other High Contracting Parties.

¹⁰ Article not discussed at the meeting.

¹¹ Article agreed on the principle. Text to be further discussed.

2. The financial contribution of the European Union shall be calculated according to the following method:
 - a. The amount of the expenditure related to the functioning of the Convention for the year A, as referred in the previous paragraph, shall be considered as corresponding to X % of the Ordinary Budget of the Council of Europe (including employer's contributions to pensions) for the previous year (A-1).
 - b. The rate of contribution of the European Union to the amount of expenditure related to the functioning of the Convention shall be identical to the highest rate of contribution to the Ordinary Budget of the Council of Europe borne by any State in the relevant year.
 - c. The percentage indicated under letter a. above shall be revised, by agreement between the Council of Europe and the European Union, if the actual percentage for two consecutive years is below or above the percentage indicated under letter a. above by more than 2,5 percentage points. This revision mechanism shall apply to any new percentage resulting from subsequent agreements between the Council of Europe and the European Union.
3. Practical arrangements for this contribution shall be determined by the Council of Europe and the European Union before the entry into force of this Agreement.

<i>D – Miscellaneous and Final Provisions</i>
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Article [10] – Relations with other Agreements¹²

1. As regards the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights of 5 March 1996 (ETS No. 161):
 - a. The European Union shall respect the provisions of Articles 1 to 6 of the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights. The Contracting Parties to that Agreement shall, for the purpose of its application, treat the European Union as if it were a Contracting Party to that Agreement.
 - b. The European Union shall be consulted before amending the European Agreement relating to Persons Participating in Proceedings of the European Court of Human Rights.
 - c. The Secretary General of the Council of Europe shall notify the European Union of:
 - any signature;
 - the deposit of any instrument of ratification, acceptance or approval;
 - any date of entry into force of that Agreement in accordance with Articles 8 and 9 thereof;

¹² Text tentatively agreed.

- any other act, notification or communication relating to that Agreement.

2. As regards the General Agreement on Privileges and Immunities of the Council of Europe of 2 September 1949 and its Protocol of 6 November 1952 (ETS No. 002 and 010):

- a. The European Union shall respect the provisions of Articles 1 to 19 of the General Agreement on Privileges and Immunities of the Council of Europe and of Article 2 to 6 of its Protocol in so far as they are relevant to the operation of the Convention. The Contracting Parties to that Agreement and to its Protocol shall, for the purpose of their application, treat the European Union as if it were a Contracting Party to that General Agreement and to that Protocol.
- b. The European Union shall be consulted before amending the General Agreement on Privileges and Immunities of the Council of Europe or its Protocol.
- c. The Secretary General of the Council of Europe shall notify the European Union of:
 - any signature of the Protocol to the General Agreement;
 - the deposit of any instrument of ratification of the General Agreement or of its Protocol;
 - any date of entry into force of that General Agreement in accordance with Article 22 thereof, or of its Protocol, in accordance with article 7 of the latter;
 - any other act, notification or communication relating to that General Agreement or to its Protocol.

3. As regards the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe of 5 March 1996 (ETS No. 162):

- a. The European Union shall respect the provisions of Articles 1 to 6 of the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe. The Contracting Parties to that Protocol shall, for the purpose of its application, treat the European Union as if it were a Contracting Party to that Protocol.
- b. The European Union shall be consulted before amending the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe.
- c. The Secretary General of the Council of Europe shall notify the European Union of:
 - any signature;
 - the deposit of any instrument of ratification, acceptance or approval;
 - any date of entry into force of that Protocol in accordance with Articles 8 and 9 thereof;
 - any other act, notification or communication relating to that Protocol.

Article [11] – Signature and Entry into Force¹³

1. The High Contracting Parties to the Convention at the date of the opening for signature of this Agreement and the European Union may express their consent to be bound by :
 - a. signature without reservation as to ratification, acceptance or approval, or
 - b. signature with reservation as to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
3. This Agreement shall enter into force on the first day of the month following the expiration of a period of three months after the date on which all High Contracting Parties to the Convention and the European Union have expressed their consent to be bound by the Agreement in accordance with the provisions of the preceding paragraphs.
4. The European Union shall become a party to the Convention and to Protocols Nos. 1 and 6 at the date of entry into force of this Agreement.

Article [12] – Reservations¹⁴

No reservation may be made in respect of the provisions of this Agreement.

Article [13] – Notifications¹⁵

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and the European Union of:

- a. any signature without reservation in respect of ratification, acceptance or approval;
- b. any signature with reservation in respect of ratification, acceptance or approval;
- c. the deposit of any instrument of ratification, acceptance or approval;
- d. the date of entry into force of this Agreement in accordance with Article [11];
- e. any other act, notification or communication relating to this Agreement.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at the, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the European Union.”

¹³ Text tentatively agreed.

¹⁴ Text tentatively agreed.

¹⁵ Text tentatively agreed.