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European Commission proposes negotiation directives for Union's accession to the European Convention on Human Rights (ECHR) – frequently asked questions

What is the ECHR?

The European Convention on Human Rights (ECHR) enshrines the human rights and freedoms and is widely seen as the most important human rights instrument in Europe. It has 47 contracting parties (including all 27 EU-Member States but not the EU as such) and is managed by the Council of Europe (CoE). The ECHR is an international Treaty by which governments can be held accountable for their respect of human rights. If countries do not respect the rights in the Convention and once national judicial remedies have been exhausted, everyone within the jurisdiction of any of the Contracting Parties can lodge a complaint against any of those Contracting Parties before the European Court of Human Rights in Strasbourg.

Where the Strasbourg court finds that a Member State has violated one or more of the rights and guarantees of the ECHR, it delivers a judgment. Decisions of the Strasbourg court are binding and must be executed by the countries concerned. On average, 30,000 complaints are lodged with the court annually (in 2009, 57,000 applications were lodged). In 2009 the court issued 2,000 verdicts.

Signed in 1950 by the then newly formed Council of Europe the ECHR entered into force on 3 September 1953.

How will the ECHR system work once the EU is part of the Convention?

Once the EU becomes a contracting party to the Convention, the European Court of Human Rights will be able to scrutinise all acts of the EU institutions and bodies for their compatibility with the ECHR. This would mean people who feel their rights have been infringed by EU institutions could take their case to the European Court of Human Rights once they have exhausted all national judicial remedies. The Strasbourg court will be the final and highest instance for ensuring fundamental rights protection.

What does the EU's ECHR-accession mean for the Charter of Fundamental Rights?

With the entry into force of the Lisbon Treaty (1 December 2009), the EU Charter of Fundamental Rights has become legally binding on the EU's institutions and on Member States when they act in the scope of EU law. It entrenches all the rights found in the European Convention on Human Rights as well as other rights and principles resulting from the common constitutional traditions of the EU Member States, the case law of the European Court of Justice and other international instruments.

The Charter includes "third generation" fundamental rights, such as data protection, guarantees on bioethics and on good and transparent administration. Article 53 of the Charter makes it clear that the level of protection provided by the Charter must be at least as high as that of the Convention

Why should the EU join the ECHR?

Before the entry into force of the Lisbon Treaty the EU could not sign up to the Convention as a legal entity, even though all individual 27 EU Member States are signatories. The Lisbon Treaty now provides the legal basis and an obligation (Article 6 (2) TEU: "*The Union shall accede*") for the EU's accession to the ECHR.

The accession will complete the EU's system of protecting citizens' fundamental rights and is therefore of high symbolic and practical significance for EU citizens and anyone who lives in the Union. Of symbolic significance because through its accession the EU, as a public authority, submits all its action to external judicial review and control in human rights matters. This will reinforce the credibility of the human rights' system in Europe and of its external policy.

Of practical significance because the accession to the ECHR gives citizens more opportunity for redress if they feel their rights are not respected.

What is the procedure for the EU to join the ECHR?

According to Article 218 (8) TFEU, the agreement on accession shall be concluded unanimously by the Council; it shall also be approved by all 47 existing contracting parties to the ECHR in accordance with their respective constitutional requirements. Pursuant to Article 218 (6) (a) (ii) TFEU, the Council shall obtain the consent of the European Parliament for concluding the agreement on the EU accession. Article 218 (10) TFEU provides for the European Parliament to be fully informed of all stages of the negotiations.

Does the EU's accession change the legal order in the EU or the Member States?

The EU's accession will not change the Union's legal order. The position of the European Court of Justice will be comparable to that of national constitutional or supreme courts in relation to the European Court of Human Rights. A judge elected for the EU would bring additional expertise on the EU's legal system to the Strasbourg Court. This will improve the consistency of the two courts' case law, making it easier to develop a system of fundamental rights protection throughout the continent.

The EU's accession will not affect either the positions of EU countries as Parties to the ECHR or the competences of the EU itself. The ECJ will continue to rule on disputes between EU countries and/or institutions.