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NOTE

From: Presidency

To: Permanent Representatives Committee/Council

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Subject: Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) - State of play

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I. **INTRODUCTION**

1. The purpose of this Presidency note is to inform delegations about the state of play of the work for the completion of the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).
2. Pursuant to Article 6(2) TEU, the Union shall accede to the ECHR. This will take the form of an agreement between the EU and the Contracting Parties to the Convention in accordance with Article 218(6) and (8) TFEU (unanimity at Council and the European Parliament's consent, and approval by the Member States in accordance with their respective constitutional requirements).

3. In the wake of negotiations that had started in July 2010, the Council of Europe (CoE)'s Steering Committee for Human Rights (CDDH) ad hoc negotiation group on the accession of the EU to the ECHR (now¹ 'ad hoc 46+1 group') had reached a provisional accord on the draft agreement in April 2013. Following a request by the Commission, the Court of Justice of the European Union (CJEU) issued its Opinion 2/13 in December 2014, whereby it held that the draft accession agreement was not fully compatible with the EU law².
4. In October 2019, the Council expressed its commitment to the swift resumption of the negotiations and adopted supplementary negotiating directives³, in order to address the concerns raised by the CJEU in its Opinion 2/13. The negotiations of the ad hoc 46+1 group resumed in June 2020 and the outstanding issues were arranged in four baskets⁴.

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In February, the Presidency organised a high-level law seminar which focused on the latest developments of the CJEU case-law regarding the EU accession to the ECHR.

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¹ Following the exclusion of the Russian Federation from the CoE on 16 March 2022.

² Opinion 2/13 of 18 December 2014, Accession of the EU to the ECHR, EU:C:2014:2454.

³ 12585/19 RESTREINT UE/EU RESTRICTED.

⁴ The specific mechanisms of the EU procedure before the ECtHR ('basket 1'); the inter-party applications under Article 33 of the ECHR and requests for advisory opinions under Protocol No. 16 to the ECHR ('basket 2') and the principle of mutual trust between EU Member States ('basket 3'); judicial review of EU acts in the CFSP area ('basket 4').