



Council of the
European Union

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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) - State of play

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (12.06.2023)

I. INTRODUCTION

1. The purpose of this Presidency note is to inform the delegations about the state of play of the negotiations for 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's CDDH ad hoc negotiation group on the accession of the EU to the ECHR (now¹ '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 issued its Opinion 2/13, on 18 December 2014, whereby it held that the draft accession agreement was not fully compatible with the EU law.²
4. On 7 October 2019, the Council expressed its commitment to the swift resumption of the negotiations and adopted supplementary negotiating directives,³ in order to address the concerns raised by the Court of Justice in its Opinion 2/13. The negotiations of the ad hoc 46+1 group resumed in June 2020.
5. Since the reopening of the negotiations, twelve meetings of the ad hoc 46+1 group have taken place, focusing on the four 'baskets' of issues which needed to be addressed.⁴ The preparation for these negotiations and the evaluations of their outcome were carried out at technical level in the FREMP Working Party, in consultation with the RELEX Working Party as regards Basket 4 (judicial review of EU acts in the CFSP area).

II. PROGRESS ACHIEVED DURING THE SWEDISH PRESIDENCY AND OUTSTANDING ISSUES

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¹ Following the exclusion of the Russian Federation from the Council of Europe 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 ad hoc group held 18 negotiation meetings in total.