

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

47+1(2021)R9

25 March 2021

**9<sup>TH</sup> MEETING OF THE CDDH AD HOC NEGOTIATION  
GROUP (“47+1”) ON THE ACCESSION OF THE  
EUROPEAN UNION TO THE EUROPEAN  
CONVENTION ON HUMAN RIGHTS**

---

**Meeting Report**

---

Tuesday 23 March 2021 (10:00 a.m.) – Thursday 25 March 2021 (4:30 p.m.)

(Due to the COVID-19 situation, the meeting was held through the KUDO  
videoconferencing system)

Council of Europe

---

1. The CDDH ad hoc negotiation group (“47+1 Group”) on the accession of the European Union (EU) to the European Convention on Human Rights (ECHR) held its 9<sup>th</sup> meeting from 23-25 March 2021. Due to the COVID-pandemic, the meeting was held via videoconference. The list of participants is attached as Appendix II.

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

2. The Chair of the “47+1 Group”, Ms Tonje MEINICH (Norway), opened the meeting and asked delegates about the adoption of the agenda. The Chair explained that the agenda of the meeting is limited to a number of issues in order to enable a more in-depth discussion. She stated at the same time that the discussion of other issues raised by delegations, either emanating from Opinion 2/13 or other parts of the accession instruments, is to be continued in the upcoming meetings. The Group adopted the agenda without further changes (Appendix I).

### **Item 2: Discussion of proposals submitted in respect of Article 53 of the Convention**

3. The Secretariat introduced a proposal submitted in respect of Article 53 of the Convention, which sought to clarify that the provision should not be construed as precluding High Contracting Parties from jointly applying a legally binding common level of protection of human rights, provided that the level of protection granted by the Convention (as interpreted by the European Court of Human Rights, hereinafter: “the Court”) is met. In light of the subsequent discussion, the Group considered and agreed upon the language of a new paragraph to be inserted in the explanatory report. It also discussed whether there should be a provision in the draft Accession Agreement reflecting this principle. There was no consensus on this, but if it was decided that such a provision should be inserted, there was no objection to the proposed language. The text for the explanatory report and a possible provision in the draft Accession Agreement is attached as Appendix III.

### **Item 3: Discussion of proposals submitted on the principle of mutual trust between the EU member states (Basket 3)**

4. The EU introduced a proposal on the principle of mutual trust between the EU member states, which consisted of a provision for the Accession Agreement. The first sentence stated that the High Contracting Parties recognise that the Convention must be interpreted and applied taking into account the special importance of mutual recognition mechanisms established by EU law, which are founded on the principle of mutual trust, in the relationship between the member states of the EU. The second sentence laid out that the principle of mutual trust requires those member states, when implementing EU law (notably in the area of freedom, justice and security), to consider – save in exceptional circumstances - that fundamental rights have been observed by the other EU member states. The proposal also included the corresponding paragraphs for the explanatory report, clarifying the principle of mutual trust and its limits. The EU pointed out that the two European courts seek to reconcile the importance of mutual recognition mechanisms and the importance of protection of fundamental rights. In the view of the EU, the proposal would leave sufficient space for the case-law of the two European courts to continue to develop.

5. During the discussion, delegations acknowledged the legitimacy of the principle of mutual trust as a means to achieve an area of freedom, security and justice within the EU, and recognised the need to address that principle in the accession instruments. Some delegations expressed in principle support for the proposal, in particular the first sentence. Other delegations however considered it inappropriate that all High Contracting Parties, including those which are not member states of the EU, should “recognise” in a binding agreement the “special importance” of that principle.

6. A number of delegations expressed support to revise the proposal by putting a stronger emphasis on the case-law of the Court as a starting point. They referred in particular to the Grand Chamber judgment of *Avotins v. Latvia* (no. 17502/07, judgment of 23 May 2016, paragraphs 113-116), in which the Court set out its principle approach on the matter (including being mindful of the importance of the mutual-recognition mechanisms and the mutual trust which they require, and considering these mechanisms - if not applied automatically and mechanically in the event of certain substantiated human rights concerns - to be wholly legitimate in principle from the standpoint of the Convention). It was also suggested that the High Contracting Parties should not “recognise” the principle of mutual trust, but “recall” the Court’s established case-law on this topic.

7. A number of delegations raised concerns with the manner in which the second sentence was drafted, in particular its potential restrictive effect on the already-existing case-law of the Court once the EU has acceded to the Convention. Several delegations stated that any solution should be mindful of not setting in stone the developing case-law on the matter.

8. The Group was divided over the question of placement in the accession instruments for addressing the principle of mutual trust. Some delegations, including the EU, stated the necessity that a provision is inserted in the draft Accession Agreement. Other delegations opposed having a provision in the Accession Agreement and argued that this would create within the agreement a situation whereby High Contracting Parties would be divided as EU / EU member states and non-EU member states which is against the principle of equality among all High Contracting Parties of the Convention. These delegations thus considered that the matter should be included in the explanatory report or as a declaration by the EU member states as Appendix to the draft Accession Agreement. A third group of delegations expressed a flexible approach as to the placement, while also recalling that the Accession Agreement - in contrast to the Convention – would also provide room to address issues which were relevant only for a certain group of High Contracting Parties.

9. The Group invited the Secretariat to table a revised proposal on the basis of the discussion for a future meeting. Delegations were invited to support the Secretariat with any additional proposals which could be used for further discussion.

10. The representative of the Registry of the European Court of Human Rights informed the Group about the fact that the Court was about to deliver a new judgment on 25 March 2021 regarding the European Arrest Warrant scheme (*Bivolaru and Moldovan v. France*, nos. 40324/16 and 12623/17), which could be of relevance for the present discussion.

#### **Item 4: Discussion of proposals submitted on the situation of EU acts in the area of the Common Foreign and Security Policy that are excluded from the jurisdiction of the Court of Justice of the European Union (Basket 4)**

11. The EU gave a presentation of building blocks for a solution for certain acts in the area of the Common Foreign and Security Policy (CFSP) that are excluded from the jurisdiction of the Court of Justice of the European Union (CJEU). The building blocks related to the need for a new attribution clause in the draft Accession Agreement. Such clause would enable the EU to allocate, for the purposes of the Convention, responsibility for an CFSP act of the EU to one or more EU member state(s) if such act is excluded from the judicial review of the CJEU due to the limitations of the latter’s jurisdiction, despite such limitations being narrowly interpreted by the CJEU. The autonomy of EU law would require that the determination of whether such act falls within the CJEU’s jurisdiction is provided by the EU itself. Such a solution would guarantee that all CFSP acts and omissions would fall under the external control of the Court with regard to their compatibility with the Convention, while making it legally possible for the EU to accede to it. While the need for the reattribution of a certain CFSP act

could be presumed to arise extremely rarely (and even less in the future, as the CJEU continues to clarify the extent of its jurisdiction with regard to the CFSP), such a solution would be needed to align responsibility under the EU treaties with the attribution of responsibility for the purposes of the Convention system. The EU stated that such a solution would not affect the individual rights of applicants. In particular, applicants will be able to receive just satisfaction from one or more EU member state(s) designated by the EU as internationally responsible.

12. Delegations stressed the complexity of the subject-matter and welcomed in general that the building blocks for a proposal would not entail an exclusion of the jurisdiction of the ECtHR and retained the principle that the Court would be able to rule on the compatibility with the Convention of all CFSP acts. Several delegations noted that an attribution clause would be in accordance with public international law and may facilitate the finding of attribution for the Court, which currently decides cases on international responsibility without being guided by a specific attribution clause. Some delegations raised reservations against having such an attribution clause, *inter alia*, on the grounds of its compatibility with international law. Several delegations stated that it did not matter so much to whom CFSP acts were attributable, as long as applicants could raise before the Court their compatibility with the Convention.

13. Several delegations expressed concern that such a reattribution clause could put the applicant at a disadvantage, given that it may entail the changing of a respondent Party in an ongoing proceeding before the Court, subject the applicant to a lengthy and cumbersome process or challenge the ultimate role of the Court in determining Parties responsible for breaches of the Convention. They stressed that the procedure should not lead to a result that the applicant has to exhaust additional domestic remedies, possibly in various EU member states, for which the time-limits may have already expired by the time a decision on reattribution is communicated. This could also negatively reflect on the Convention system as a whole. Any possibility to reattribute responsibility for a CFSP act should be sufficiently anchored in the draft Accession Agreement in order to ensure sufficient transparency. Ultimately, much would depend on the concrete details of such a proposal which would have to be compatible with the negotiating principles.

14. Several delegations contributed with ideas for avoiding such negative repercussions for the applicant. These involved, *inter alia*, looking into the admissibility criterion of exhaustion of domestic remedies; the Court's case-law on effective remedies; the possibility to have the EU and its member state(s) as respondents, but with the possibility to remove one respondent at a later stage or deviate from the principle of joint responsibility (as currently provided under the co-respondent mechanism); the possibility for the EU to designate, in advance of the applicant's filing an application with the Court, to which respondent Party a certain act is attributed; and the complementary function of a third-party intervention by the EU under Article 36 of the Convention if a CFSP act was to be reattributed to one or more EU member state(s).

15. Many delegations considered that the discussion could be facilitated if the various scenarios for applications alleging a Convention violation of CFSP acts could be provided in writing in a systematic manner, in order to identify which type of acts and procedural constellations might require a reattribution and to estimate how such a proposal could work in practice.

16. The Chair concluded that the discussion had been very constructive and that delegations had stated the need to look further into the issue of a reattribution clause as provided in the EU's proposal, provided that, *inter alia*, such a possibility would be transparent, sufficiently anchored in the draft Accession Agreement and ensure the rights of the applicant. She also welcomed the various ideas generated during the discussion which could contribute to finding an appropriate solution and which should be developed further. The EU was invited to submit for the next meeting refined building blocks, or even more preferable, a concrete wording proposal. The EU was further invited to submit to the

Group in writing further explanations on how the proposed mechanism will function on the basis of the various scenarios in which applications alleging a Convention violation of a CFSP act could reach the Court.

**Item 5: Any other business**

17. The Group will hold its 10<sup>th</sup> negotiation meeting from 29 June – 2 July 2021. It also took note of the tentative dates for the 11<sup>th</sup> meeting (5-8 October 2021) and the 12<sup>th</sup> meeting (7-10 December 2021). The Group also decided to hold another exchange of views with civil society and national human rights institutions at its 10<sup>th</sup> meeting.

**Item 6: Adoption of the meeting report**

18. The Group adopted the present meeting report before the closure of the meeting.

**APPENDIX I****Agenda**

1. **Opening of the meeting and adoption of the agenda**
2. **Discussion of proposals submitted in respect of Article 53 ECHR**
3. **Discussion of proposals submitted on the principle of mutual trust between the EU member states (Basket 3)**
4. **Discussion of proposals submitted on the situation of EU acts in the area of the Common Foreign and Security Policy that are excluded from the jurisdiction of the Court of Justice of the European Union (Basket 4)**
5. **Any other business**
6. **Adoption of the meeting report**

**Working documents**

Draft revised agreement on the accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedoms	<a href="#">CM(2013)93 add1, Appendix 1, pp. 3-9</a>
Draft declaration by the European Union to be made at the time of signature of the Accession Agreement	<a href="#">CM(2013)93 add1, Appendix 2, p. 10</a>
Draft rule to be added to the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements in cases to which the European Union is a party	<a href="#">CM(2013)93 add1, Appendix 3, p. 11</a>
Draft model of memorandum of understanding between the European Union and X [State which is not a member of the European Union]	<a href="#">CM(2013)93 add1, Appendix 4, p. 12</a>
Draft explanatory report to the Agreement on the Accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedoms	<a href="#">CM(2013)93 add1, Appendix 5, pp. 13-28</a>
Position paper for the negotiation on the European Union's accession to the European Convention for the protection of Human Rights and Fundamental Freedoms	<a href="#">47+1(2020)1</a>
Paper by the Chair to structure the discussion at the 6 <sup>th</sup> negotiation meeting	<a href="#">47+1(2020)2</a>
Compilation by the Secretariat of recent cases in the area of Basket 3 ("The principle of mutual trust between the EU member states")	<a href="#">47+1(2020)4rev</a>

Negotiation Document submitted by the European Union on 2 November 2020	Restricted
Compilation by the European Commission of recent and currently pending cases before the Court of Justice of the European Union in the area of Basket 4 (“Common Foreign and Security Policy”)	<a href="#">Non-paper</a>
Proposals by the Secretariat for discussion of agenda items 4 and 5	<a href="#">47+1(2021)5</a>
Non-paper prepared by the Secretariat regarding the estimated expenditure related to the Convention regarding Article 8 of the draft Accession Agreement	<a href="#">47+1(2021)6</a>
Proposed modifications by the European Union to the draft Accession Agreement in relation to Basket 3	Restricted
Building blocks submitted by the European Union in the area of Basket 4	Non-paper

### **Reference documents**

Ad hoc terms of reference concerning accession of the EU to the Convention given to the CDDH by the Ministers’ Deputies during their 1085 <sup>th</sup> meeting (26 May 2010)	CDDH(2010)008
Decision by the Minister’s Deputies Committee of Ministers at its 1364 <sup>th</sup> meeting (15 January 2020) on the continuation of the ad hoc terms of reference for the CDDH to finalise the legal instruments setting out the modalities of accession of the European union to the European Convention on Human Rights	<a href="#">CM/Del/JAN(2020)1364/4.3</a>
Letter of 31 October 2019 by the President and the First Vice-President of the European Commission to the Secretary General of the Council of Europe	<a href="#">DD(2019)1301</a>
Opinion 2/13 of 18 December 2014 of the Court of Justice of the European Union	<a href="#">A-2/13 ; EC LI: EU: C : 2014: 2454</a>
Protocol No. 16 to the European Convention on Human Rights and its explanatory memorandum	<a href="#">Council of Europe Treaty Series No. 214</a>

**APPENDIX II****List of participants****MEMBERS / MEMBRES**

<b>ALBANIA / ALBANIE</b>	<p>Ms Migena MAKISHTI, Department of International and European Law, Ministry for Europe and Foreign Affairs of Albania</p> <p>Mr Luis VORFI, Deputy Permanent Representative</p> <p>Ms Sidita GJIPALI, Deputy to the Permanent Representative</p>
<b>ANDORRA / ANDORRE</b>	Mr Joan FORNER ROVIRA, Permanent Representative of Andorra to the Council of Europe
<b>ARMENIA / ARMÉNIE</b>	<p>Mr Tigran H. GALSTYAN, Head of Department of Treaties and International Law, Ministry of Foreign Affairs</p> <p>Ms Manushak ARAKELYAN, Head of Multilateral Treaties Division / Treaties and International Law, Department, Ministry of Foreign Affairs</p> <p>Ms Zoya TOVMASYAN, Attaché of the Division of Multilateral Treaties, Department of Treaties and International Law</p>
<b>AUSTRIA / AUTRICHE</b>	<p>Mr Gerhard JANDL, Ambassador Extraordinary and Plenipotentiary, Permanent Representative</p> <p>Ms Brigitte OHMS, Deputy Government Agent of Austria, Deputy Head of Department, European and International Law, Human Rights, Federal Chancellery</p> <p>Mr Martin MEISEL, Head of Department for EU Law, Federal Ministry for Foreign Affairs</p>
<b>AZERBAIJAN / AZERBAIDJAN</b>	<p>Mr Şahin ABBASOV, Lead Consultant, Human Rights Unit, Law Enforcement Bodies Department, Administration of the President of the Republic of Azerbaijan</p> <p>Ms Zhala IBRAHIMOVA, Deputy to the Permanent Representative of the Republic of Azerbaijan to the Council of Europe</p>
<b>BELGIUM / BELGIQUE</b>	Ms Isabelle NIEDLISPACHER, Co-Agent du Gouvernement de la Belgique auprès de la Cour européenne des droits de l'homme



	<p>Mr Olivier SACALIS, Attaché, Service Privacy et égalité des chances</p> <p>Ms Florence SAPOROSI, Attachée, Service des Droits de l'Homme</p>
<b>BOSNIA AND HERZEGOVINA</b> <i>/ BOSNIE-HERZEGOVINE</i>	<p>Ms Monika MIJIC, Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights</p> <p>Ms Jelena CVIJETIC, Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights</p> <p>Ms Harisa BACVIC, Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights</p>
<b>BULGARIA</b> / <i>BULGARIE</i>	<p>Ms Maria SPASSOVA, Director of Human Rights Department, Ministry of Foreign Affairs of the Republic of Bulgaria</p> <p>Ms Emanuela TOMOVA, Permanent Representation of the Republic of Bulgaria to the Council of Europe</p>
<b>CROATIA</b> / <i>CROATIE</i>	<p>Ms Romana KUZMANIĆ OLUIĆ, Counsellor, Ministry of Foreign and European Affairs, Directorate General for Multilateral Affairs and Global Issues, Division for Human Rights and Regional International Organisations and Initiatives</p> <p>Ms Narcisa BECIREVIC, Minister Plenipotentiary, Deputy to the Permanent Representative of Croatia to the Council of Europe</p> <p>Ms Petra JURINA, JHA Counsellor at the Permanent Representation of the Republic of Croatia to the EU</p> <p>Ms Ana FRANGES, Head of Unit, Directorate for European Affairs, International and Judicial Cooperation</p>
<b>CYPRUS</b> / <i>CHYPRE</i>	<p>Mr Demetris LYSANDROU, Senior Counsel, Law Office of the Republic of Cyprus</p>
<b>CZECH REPUBLIC</b> / <i>REPUBLIQUE TCHÈQUE</i>	<p>Mr Vít Alexander SCHORM, Agent of the Czech Government before the European Court of Human Rights / Agent du Gouvernement tchèque devant la Cour européenne des Droits de l'Homme</p>
<b>DENMARK</b> / <i>DANEMARK</i>	<p>Ms Lea Elkjær TARGARD, Danish Ministry of Justice</p>

<b>ESTONIA / ESTONIE</b>	<p>Ms Maris KUURBERG, Government Agent before the European Court of Human Rights, Ministry of Foreign Affairs</p> <p>Ms Arnika KALBUS, Head of the European Union Law Division, Ministry of Foreign Affairs</p>
<b>FINLAND / FINLANDE</b>	<p>Ms Krista OINONEN, Government Agent before the ECtHR, Director, Unit for Human Rights Courts and Conventions, Ministry for Foreign Affairs</p> <p>Ms Satu SISTONEN, Legal Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs</p> <p>Ms Maria GUSEFF, Director, Unit for EU and Treaty Law, Legal Service, Ministry for Foreign Affairs</p>
<b>FRANCE</b>	<p>Ms Eglantine LEBLOND, rédactrice, Ministère de l'Europe et des affaires étrangères, Direction des affaires juridiques, sous-direction des droits de l'Homme</p> <p>Mr Emmanuel LECLERC, Ministère de l'Europe et des Affaires étrangères, Direction des affaires juridiques, Sous-direction du droit de l'Union européenne et du droit international économique</p>
<b>GEORGIA/GEORGIE</b>	<p>Mr Giorgi BAIDZE, Legal Adviser at the Department of State Representation to International Courts, Ministry of Justice of Georgia</p> <p>Ms Nino NIKOLAISHVILI, Acting Head of the Department of State Representation to International Courts, Ministry of Justice of Georgia</p>
<b>GERMANY / ALLEMAGNE</b>	<p>Mr Hans-Jörg BEHRENS, Head of Unit IVC1, Human Rights Protection; Government Agent before the ECtHR, Federal Ministry of Justice and for Consumer Protection</p> <p>Ms Kathrin MELLECH, Legal Advisor, Federal Ministry of Justice and for Consumer Protection</p>
<b>GREECE / GRÈCE</b>	<p>Ms Athina CHANAKI, Legal Counsellor, Legal Department/Public International Law Section, Ministry of Foreign Affairs of the Hellenic Republic</p>
<b>HUNGARY / HONGRIE</b>	<p>Mr Zoltan TALLODI, Government Agent before the ECtHR, Ministry of Justice, Department of International Criminal Law and Office of the Agent before ECHR</p> <p>Ms Monika WELLER, Co-agent before European Court of Human Rights, Ministry of Justice</p>

	Mr Péter CSUHAN, Senior legal adviser
<b>ICELAND / ISLANDE</b>	Ms Ragnhildur ARNLJÓTSDÓTTIR, Ambassador and Permanent Representative of Iceland to the Council of Europe  Ms Elísabet GISLADOTTIR, specialist at the Icelandic Ministry of Justice  Urður Ásta EIRIKSDOTTIR, Permanent Representation to the Council of Europe.
<b>IRELAND / IRLANDE</b>	Mr Barra LYSAGHT, Assistant Legal Adviser, Department of Foreign Affairs, Dublin 2
<b>ITALY / ITALIE</b>	Mr Maurizio CANFORA, EU Affairs Coordinator  Ms Maria Laura AVERSANO, magistrat en service auprès du Cabinet du Ministre de la Justice Italien (Affaires Internationales).  Mr Arturo ARCANO, First Counsellor, Deputy Permanent Representative of Italy to the Council of Europe  Mr Raffaele FESTA, First Secretary at the Permanent Representation of Italy to the Council of Europe
<b>LATVIA / LETTONIE</b>	Ms Kristine LICE, Government Agent, Representative of the Government of Latvia before International Human Rights Organisations
<b>LIECHTENSTEIN</b>	Ms Helen LOREZ, Deputy Permanent Representative, Permanent Representation of the Principality of Liechtenstein to the Council of Europe
<b>LITHUANIA / LITUANIE</b>	Ms Karolina BUBNYTE-SIRMENE, Agent of the Government of the Republic of Lithuania to the European Court of Human Rights  Ms Vygantė MILASIUTE, Chief Legal Advisor of the Ministry of Justice  Ms Vytautė KAZLAUSKAITE-ŠVENCIONIENE, Senior Legal Advisor, Ministry of Justice of the Republic of Lithuania
<b>LUXEMBOURG</b>	Ms Brigitte KONZ, Présidente du Tribunal, Tribunal d'Arrondissement de Diekirch  Mr Robert BEVER, Conseiller – Coordination Justice et Affaires intérieures

<b>MALTA / MALTE</b>	Dr Andria BUHAGIAR, Deputy State Advocate, Office of the State Advocate
<b>REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA</b>	Mr Oleg ROTARI, Government Agent before the ECtHR, Ministry of Justice  Ms Doina MAIMESCU, Head of the Government Agent Division  Ms Corina CALUGARU, Permanent Representative, Ambassador  Ms Mihaela MARTINOV-GUCEAC, Deputy to the Permanent Representative  Mr Andrei URSU, Second Secretary, Council of Europe and Human Rights Division, Ministry of Foreign Affairs and European Integration
<b>MONACO</b>	Mr Gabriel REVEL, Chef de division, Service du Droit International, des droits de l'Homme et des libertés fondamentales, Direction des Affaires Juridiques
<b>MONTENEGRO</b>	Mr Ivo ŠOĆ, Advisor at the Office of the Representative of Montenegro before the European Court of Human Rights
<b>NETHERLANDS / PAYS-BAS</b>	Ms Babette KOOPMAN, Government Agent before the ECtHR, Ministry of Foreign Affairs  Ms Laura HEIJINGEN, Senior lawyer, Legal department, European law, Ministry of Foreign Affairs  Ms Liesbeth A CAMPO, Legal adviser, Permanent Representation of the Kingdom of the Netherlands to the EU
<b>NORTH MACEDONIA / MACÉDOINE DU NORD</b>	Ms Elena BODEVA, Head of Council of Europe Unit, Directorate for Multilateral Relations
<b>NORWAY / NORVÈGE</b>	Ms Tonje MEINICH, Deputy Director General, Legislation Department, Ministry of Justice and Public Security, <b>Chair of the "47+1 Group"</b>  Mr Ketil MOEN, Director General, Norwegian Ministry of Justice and Public Security  Mr Steinar TRAET, Advisor, Legislation Department Section for Criminal and Procedural Law

<b>POLAND / POLOGNE</b>	<p>Ms Agata ROGALSKA-PIECHOTA, Co-Agent of the Government of Poland in cases and proceedings before the European Court of Human Rights, Head of Criminal Proceedings Section, Legal and Treaty Department, Ministry of Foreign Affairs</p> <p>Ms Katarzyna PADŁO- PEKALA, Senior Specialist, Legal and Treaty Department, Ministry of Foreign Affairs</p> <p>Ms Justyna SOBKIEWICZ, Second Secretary for Legal and Institutional Matters, Permanent Representation of the Republic of Poland to the European Union</p>
<b>PORTUGAL</b>	<p>Ms Filipa ARAGAO HOMEEM, Legal Consultant, Department of European Affairs, Ministry of Justice</p> <p>Mr João Arsénio de OLIVEIRA, European Affairs Coordinator of the Directorate-General for Justice Policy – Ministry of Justice</p>
<b>ROMANIA / ROUMANIE</b>	<p>Ms Mirela PASCARU, Deputy director, Directorate for International and EU Law Division, Ministry of Foreign Affairs</p>
<b>RUSSIAN FEDERATION / FEDERATION DE RUSSIE</b>	<p>Mr Grigory LUKIYANTSEV, Deputy Director, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs</p> <p>Mr Vladislav ERMAKOV, Deputy to the Permanent representative of the Russian Federation to the Council of Europe, Deputy member of CDDH</p> <p>Mr Konstantin KOSORUKOV, Deputy to the Permanent representative of the Russian Federation to the Council of Europe</p> <p>Ms Olga ZINCHENKO, Third Secretary, Department for Humanitarian, Cooperation and Human Rights</p> <p>Ms Victorya MAZAYEVA, Assistant, Department for Humanitarian, Cooperation and Human Rights</p>
<b>SAN MARINO / SAINT-MARIN</b>	<p>Ms Michela BOVI, Co-Agent of the Government before the European Court of Human Rights</p>
<b>SERBIA / SERBIE</b>	<p>Mr Vladimir VUKICEVIC consultant for human rights in the Ministry of Justice of the Republic of Serbia</p>
<b>SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE</b>	<p>Mr Marián FILCIK, Head of Human Rights Division, Secretary of the Governmental Council for Human Rights, National Minorities and Equal Treatment, Ministry of Justice of the Slovak Republic</p>

<b>SLOVENIA / SLOVENIE</b>	<p>Ms Irena VOGRINCIC, Senior legal advisor, Ministry of Justice of the Republic of Slovenia Office for International Cooperation and Mutual Legal Assistance</p> <p>Mr. Matija VIDMAR, Secretary, Ministry of Justice of the Republic of Slovenia, Office for International Cooperation and Mutual Legal Assistance</p>
<b>SPAIN / ESPAGNE</b>	Mr José Antonio JURADO RIPOLL, State Attorney General
<b>SWEDEN / SUEDE</b>	Mr Victor HAGSTEDT, Legal advisor at the Ministry for Foreign Affairs
<b>SWITZERLAND / SUISSE</b>	<p>Dr Alain CHABLAIS, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Agent du Gouvernement suisse devant la Cour européenne des droits de l'Homme</p> <p>Dr Daniel FRANK, Département fédéral des affaires étrangères DFAE, Direction du droit international public DDIP, Chef de la Section droits de l'homme</p> <p>Dr Christoph SPENLÉ, Département fédéral des affaires étrangères DFAE, Direction du droit international public DDIP, Chef suppléant de la Section droits de l'homme</p> <p>Ms Anna BEGEMANN, Adjointe au Représentant Permanent de la Suisse auprès du Conseil de l'Europe</p> <p>Dr Stéphanie COLELLA, Département fédéral des affaires étrangères DFAE, Division des affaires européennes</p> <p>Ms Cordelia EHRICH, av., Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ</p> <p>Ms Silvia GASTALDI, Dr. iur., Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ</p>
<b>TURKEY / TURQUIE</b>	<p>Ms Esra DOGAN-GRAJOVER, Deputy Permanent Representative</p> <p>Ms Aysen EMÜLER, Experte Juridique, Ministère des Affaires Etrangères, Représentation Permanente de la Turquie auprès du Conseil de l'Europe</p> <p>Ms Naz TÛFEKÇIYASAR ULUDAĞ Deputy to the Permanent Representative</p>

<b>UKRAINE</b>	<p>Ms Olena PYSARENKO, Head of Division, Office of the Government Agent of Ukraine before the European Court of Human Rights, Ministry of Justice.</p> <p>Mr Vladyslav LIUSTROV, Head of Division, Office of the Government Agent of Ukraine before the European Court of Human Rights, Ministry of Justice.</p>
<b>UNITED KINGDOM / ROYAUME-UNI</b>	<p>Ms Debra GERSTEIN, Assistant Legal Adviser, Legal Directorate; Foreign, Commonwealth &amp; Development Office</p> <p>Ms Patricia ZIMMERMANN, Head, Domestic and United Nations Human Rights, Ministry of Justice</p> <p>Ms Sharon LLOYD, Head, European Institutions Team, Human Rights Policy Unit; Foreign, Commonwealth &amp; Development Office</p> <p>Ms Victoria HERBERT, Desk Officer, European Institutions Team, Human Rights Policy Unit; Foreign, Commonwealth &amp; Development Office</p> <p>Mr Rob LINHAM, Deputy Permanent Representative, United Kingdom Delegation to the Council of Europe</p>
<b>EUROPEAN UNION / UNION EUROPEENNE</b>	<p>Mr Felix RONKES AGERBEEK, Member of the Legal Service, European Commission</p> <p>Ms Mihaela CARPUS CARCEA, Member of the Legal Service, European Commission</p> <p>Mr Per IBOLD, Minister Counsellor, Delegation of the European Union to the Council of Europe</p>

**OBSERVERS / OBSERVATEURS**

<b>REGISTRY OF THE EUROPEAN COURT OF HUMAN RIGHTS / GREFFE DE LA COUR EUROPEENNE DES DROITS DE L'HOMME</b>	<p>Mr Johan CALLEWAERT, Deputy Grand Chamber Registrar / Greffier Adjoint de la Grande Chambre</p>
<b>DIRECTORATE OF LEGAL ADVICE AND PUBLIC INTERNATIONAL LAW / DIRECTION DU CONSEIL JURIDIQUE ET DU DROIT INTERNATIONAL PUBLIC</b>	<p>Mr Jörg POLAKIEWICZ, Director, Directorate of Legal Advice and Public International Law, Council of Europe</p> <p>Ms Irene SUOMINEN, Directorate of Legal Advice and Public International Law, Council of Europe</p>

**SECRETARIAT / SECRETARIAT**

<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Mr Christos GIAKOUMOPOULOS, Director General / Directeur général
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Mr Christophe POIREL, Director / Directeur, Human Rights Directorate / Direction des droits de l’Homme
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Mr Mikhail LOBOV, Head of Human Rights Policy and Cooperation Department / Chef du Service des politiques et de la coopération en matière de droits de l’Homme
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Mr Matthias KLOTH, Secretary of the CDDH <i>ad hoc</i> negotiation group on the accession of the European Union to the European Convention on Human Rights / Secrétaire du Groupe de négociation <i>ad hoc</i> du CDDH sur l’adhésion de l’Union européenne à la Convention européenne des droits de l’homme
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Mr Alfonso DE SALAS, Head of the Human Rights Intergovernmental Cooperation Division / Chef de la Division de la coopération intergouvernementale en matière de droits de l’Homme, Secretary of the CDDH / Secrétaire du CDDH
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Ms Evangelia VRATSIDA, Assistant, Human Rights Policy and Cooperation Department / Assistante, Service des politiques et de la coopération en matière de droits de l’Homme
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit Council of Europe</b>	Ms Madeleine CHAUVARD, trainee, Human Rights Policy and Cooperation Department / stagiaire, Service des politiques et de la coopération en matière de droits de l’Homme

**INTERPRETERS / INTERPRÈTES**

Ms Claudine PIERSON

Mr Jan KROTKI



### **APPENDIX III**

#### **Proposal regarding Article 53 ECHR (placement in the accession instruments to be determined at a later stage, see paragraph 3 of the meeting report):**

***[Article 53 of the Convention shall not be construed as precluding High Contracting Parties from jointly applying a legally binding common level of protection of human rights and fundamental freedoms, provided that it does not fall short of the level of protection guaranteed by the Convention and, as relevant, its Protocols, as interpreted by the European Court of Human Rights.]***

#### **Paragraph for the explanatory report:**

It is the understanding of the Parties that Article 53 of the Convention shall not be construed as precluding High Contracting Parties from jointly applying a legally binding common level of protection of human rights and fundamental freedoms, provided that it does not fall short of the level of protection guaranteed by the rights and freedoms defined in the Convention and, as relevant, the Protocols thereto, as interpreted by the European Court of Human Rights. Such agreement may derive from international or European cooperation (such as, for example, European Union law regulating the relationship between the member States of the European Union). In this respect, it is noted that the Convention does not prevent, but also not require the High Contracting Parties to grant more extensive protection in respect of the rights and liberties guaranteed therein than that implemented by it (see the case of *M.N. and others v. Belgium*, no. 3599/18, Grand Chamber decision of 5 May 2020, paragraph 140).