

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

46+1(2022)R15

7 October 2022

**15<sup>TH</sup> MEETING OF THE CDDH AD HOC NEGOTIATION  
GROUP (“46+1”) ON THE ACCESSION OF THE EUROPEAN  
UNION TO THE EUROPEAN CONVENTION ON HUMAN  
RIGHTS**

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**Meeting Report**

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Wednesday 5 October 2022 (10:00 a.m.) – Friday 7 October 2022 (4:30 p.m.)

Agora building, Room G02 (and online via KUDO)

Council of Europe

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

1. The CDDH ad hoc negotiation group (“46+1 Group”) on the accession of the European Union (EU) to the European Convention on Human Rights (the Convention) held its 15th meeting on 5 – 7 October 2022 as a hybrid meeting. The list of participants appears in [Appendix I](#).
2. The meeting was chaired from Strasbourg by Ms Tonje MEINICH (Norway).
3. The Group adopted the agenda as it appears in [Appendix II](#). The representative of the EU indicated that he would provide information on the state of play regarding Basket 4 (the situation of EU 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) under Other Business.

**Item 2: Issues relating to Article 7 of the Accession Agreement (including the relevant parts of the other accession instruments)**

4. The Secretariat presented the Background Paper on issues relating to Article 7 of the Accession Agreement and relevant parts of the other accession instruments (doc. CDDH46+1(2022)25), namely the rules on voting in the Committee of Ministers when supervising the implementation of judgments of the European Court of Human Rights (the Court) in cases to which the EU is a (co-)respondent. The Secretariat explained that this document was not intended to make proposals but merely to consolidate information set out in existing documents, the various ideas that had arisen so far, and to indicate other possible ways forward inspired by the Group’s discussions. The Group welcomed the Background Paper as a useful basis for further discussions.
5. The Group affirmed the need to revisit the provisions of the 2013 instruments so as to ensure that the supervisory system remains effective in cases where the EU and its member States are obliged by EU law to vote in a coordinated manner, which could determine the outcome of voting. It was also necessary to ensure meaningful participation of non-EU member States where the votes of the EU and its member States alone are insufficient to determine the outcome. The overall solution should also take account of the fact that the interest of the EU in voting for or against a particular decision may vary.
6. All delegations that took the floor stated that at this stage, they were open to discussing all solutions and would not like to exclude any of the alternative approaches set out in the Background Paper. Delegations that preferred the 0-vote and 1-vote approaches considered them to be simple and effective responses to the considerations indicated above. Other delegations expressed concerns about the 0-vote and 1-vote approaches, such as incompatibility of the 0-vote approach with the principle of collective supervision, the consequences of the 0-vote approach in inter-Party cases and cases with multiple respondent Parties, and that in their view, with respect to at least one of the approaches, Parties would have unequal status when voting on decisions concerning the EU’s implementation of judgments. Delegations that preferred an approach based on the 2013 accession instruments considered that the logic underlying this approach remained valid and that it would suffice to revise these instruments so as to address the issues that had been raised. Other delegations expressed concerns that this approach might result in very complicated rules or be unable to address all of the issues.

7. The Group instructed the Secretariat to prepare possible drafting proposals for the various options, along with an analysis of their consequences, including the numerical implications. On this basis, it agreed to resume its examination of this issue at its next meeting.

8. The representative of the Directorate of Legal Advice and Public International Law (DLAPIL) presented its Legal Opinion on laying down voting rules in the Committee of Ministers' Rules for the supervision of the execution of judgments and of the terms of friendly settlements. The Group welcomed the Legal Opinion as a clear and constructive contribution to its work.

9. The Group noted that if this approach were implemented, there would no longer be any question of decisions being "considered as adopted", "indicative voting", or "gentleman's agreements" – all of the rules on voting on decisions concerning the implementation of judgments by the EU would be legally binding. It further noted that whilst amendment of Article 46 of the Convention was perhaps not legally necessary, to do so would be in the interests of clarity and transparency.

10. The Group agreed to return to the issue of the legal status of the voting rules once the question of the content of these rules had been clarified.

### **Item 3: Outstanding proposal submitted on Basket 2 (requests for advisory opinions under Protocol No. 16)**

11. The Chairperson recalled that at the previous meeting, the Group had agreed to reflect further on the revised version of a proposal by the European Union to introduce a new Article 4a into the Accession Agreement on requests for advisory opinions under Protocol No. 16 to the Convention, and to return to the issue at its next meeting (see the report of the 14th meeting, CDDH46+1(2022)R14 Appendix IV).

12. The Group tentatively agreed to this proposal, including the corresponding paragraphs of the explanatory memorandum.

### **Item 4: Issues relating to Article 6 of the Accession Agreement (including the relevant parts of the other accession instruments)**

13. The Chairperson recalled that one delegation had made a proposal for an addition to the end of paragraph 76 of the explanatory report addressing the applicability of the Committee of Ministers Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights. The Director of Legal Advice and Public International Law recalled that DLAPIL had previously formulated a separate proposal, also relating to paragraph 76 of the explanatory memorandum (see document 46+1(2022)24).

14. The Group examined these two proposals and tentatively agreed on the proposal of DLAPIL.

15. The Chairperson recalled that at its 13th meeting, the Group had discussed the appropriate adverb ("whenever" or "only when") to be used in Article 6, paragraph 1, when describing the right of a delegation of the European Parliament to participate, with the right to vote, in the election of judges of the Court by the Parliamentary Assembly. All participants agreed that the provision was intended to provide a legal basis for the delegation of the European Parliament to participate in the election of judges of the Court, but not for any other forms of participation in Assembly activities. They also

agreed that the provision did not preclude any possible future participation of the European Parliament in the Parliamentary Assembly's activities. Opinions were divided, however, on whether or not the text should include the word "only".

16. In response to these discussions, the Secretariat prepared an alternative proposal on this issue (see [Appendix III](#)). The Group agreed to reflect further on this alternative proposal and to return to the matter at its next meeting. A representative of the Parliamentary Assembly would be invited to the next meeting to participate in discussions on this issue.

#### **Item 5: Proposed Article 5a of the draft Accession Agreement**

17. The Chairperson recalled that at its 9th meeting, the Group had agreed on proposed wording for a provision regarding Article 53 of the Convention, but not on whether this text should appear in the Agreement itself or only in the explanatory report.

18. The representative of the EU recalled that this proposal was intended to address concerns raised in Opinion 2/13 of the CJEU, with a legally binding provision in the draft Accession Agreement and further text in the explanatory report.

19. Three delegations considered that it was nevertheless not necessary to include this issue in the draft Accession Agreement, whilst accepting that it be addressed in the explanatory report. No other delegation had any objection to including the new Article 5a.

#### **Item 6: Other business**

20. The Chairperson informed the Group about her participation in the meeting of the Committee of Ministers' Ad hoc Working Party on a Fourth Summit of Head of State and Government of the Council of Europe (GT-SOM4) on 7 October.

21. The representative of the European Union informed the group that the EU and its member States had been working on the Basket 4 issue (CFSP) since it was last on the Group's agenda in May 2022. The aim was to find a solution that did not change the Convention itself, did not limit the jurisdiction of the Court, and did not change the Convention system as a whole. This was a very difficult issue and more time would be needed. Several delegations asked the EU whether a time frame was foreseen for solving this question. The representative of the European Union indicated that efforts were being made to submit a proposal as soon as possible. The EU and its member States appreciated that the negotiations on other issues were drawing towards a conclusion.

22. Several delegations welcomed and encouraged the EU's efforts to solve this problem internally.

23. Several delegations asked about the prospects for conclusion of the Group's work in advance of the possible Fourth Summit of Heads and State and Government of the Council of Europe, which was provisionally foreseen for May 2023. The Secretariat informed the Group that up to three more meetings were foreseen by April 2023, along with an extraordinary meeting of the CDDH should the Group have finished its work. The Director of Legal Advice and Public International Law recalled the sequence of events within the Council of Europe in 2013, which he expected would be the same for a revised agreement: first, the 47+1 Group had adopted a final report, including the draft accession

instruments; then the CDDH had adopted an interim report; and finally, the Committee of Ministers had taken note of the CDDH interim report. On this basis, the European Commission had submitted the draft accession instruments to the CJEU for opinion. It had taken some time for the CJEU to issue its opinion.

24. The representative of the Registry of the Court further recalled that it had been foreseen that the Court would give its opinion on the draft accession instruments, following the opinion of the CJEU. As the CJEU opinion had found the draft accession instruments to be incompatible with EU law, however, this did not happen, as the Court's opinion would have served no purpose.

25. The Group invited the Secretariat, in consultation with the Chairperson and Vice-chairperson, to begin the editorial review of the accession instruments on which there was tentative agreement, with a view to ensuring consistency of the texts.

#### **Item 7: Adoption of the meeting report**

26. The Group adopted the present meeting report.

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

<b>ALBANIA / ALBANIE</b>	<b>Ms Migena MAKISHTI (KUDO)</b> Department of International and European Law, Ministry for Europe and Foreign Affairs of Albania
<b>ANDORRA / ANDORRE</b>	<b>Mr Joan FORNER ROVIRA (in person)</b> Permanent Representative of Andorra to the Council of Europe
<b>ARMENIA / ARMÉNIE</b>	<b>Ms Karine VARDANYAN (KUDO)</b> Attaché of the Department of Treaties and International Law, Ministry of Foreign Affairs of Armenia
<b>AUSTRIA / AUTRICHE</b>	<b>Ms Brigitte OHMS (in person)</b> Deputy Government Agent of Austria, Deputy Head of Department, European and International Law, Human Rights, Federal Chancellery
<b>AZERBAIJAN / AZERBAIDJAN</b>	<b>Ms Saadat NOVRUZOVA (KUDO)</b> Head of the Human Rights Protection Unit of the Law Enforcement Bodies Department of the Administration of the President of the Republic of Azerbaijan  <b>Ms Zhala IBRAHIMOVA (in person)</b> Deputy to the Permanent Representative of the Republic of Azerbaijan to the Council of Europe, Chargé d'affaires a.i.
<b>BELGIUM / BELGIQUE</b>	<b>Ms Isabelle NIEDLISPACHER (KUDO)</b> Co-Agent du Gouvernement de la Belgique auprès de la Cour européenne des droits de l'homme  <b>Mr Olivier SACALIS (KUDO)</b> Attaché, Service Privacy et égalité des chances  <b>Ms Marie SNEYERS (in person)</b> Attaché Legal Adviser – EU Coordination, Permanent Representation of Belgium to the European Union
<b>BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE</b>	<b>Ms Monika MIJIC (KUDO)</b> Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights  <b>Ms Jelena CVIJETIC (KUDO)</b> Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights  <b>Ms Harisa BACVIC (KUDO)</b> Acting Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights

<b>BULGARIA / BULGARIE</b>	excused
<b>CROATIA / CROATIE</b>	<p><b>Ms Romana KUZMANIĆ OLUIĆ (in person)</b> 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><b>Ms Anja SRŠEK CRNKOVIĆ (KUDO)</b> JHA Counsellor at the Permanent Representation of the Republic of Croatia to the EU</p> <p><b>Ms Ana FRANGEŠ (KUDO)</b> Ministry of Justice and Administration, Directorate for Human Rights and National Minorities and Ethics</p> <p><b>Ms Narcisa BEĆIREVIĆ (KUDO)</b> Deputy to the Permanent Representative, Permanent Representation of the Republic of Croatia to the Council of Europe</p>
<b>CYPRUS / CHYPRE</b>	<p><b>Mr Demetris LYSANDROU (KUDO)</b> Senior Counsel, Law Office of the Republic of Cyprus</p>
<b>CZECH REPUBLIC / REPUBLIQUE TCHÈQUE</b>	<p><b>Mr Vít Alexander SCHORM (in person)</b> 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> <p><b>Ms Dominika CZECHOVÁ (in person)</b> Lawyer, Permanent Representation of the Czech Republic to the EU</p>
<b>DENMARK / DANEMARK</b>	<p><b>Ms Christine BERG (KUDO)</b> Legal Consultant at the Constitutional and Human Rights Law Division, Danish Ministry of Justice</p> <p><b>Mr Allan RAHBØL JACOBSEN (KUDO)</b> Senior Adviser, EU Law and International Litigation, Danish Ministry of Foreign Affairs</p>
<b>ESTONIA / ESTONIE</b>	<p><b>Ms Helen-Brigita SILLAR (KUDO)</b> Lawyer, Legal Department, Ministry of Foreign Affairs</p>
<b>FINLAND / FINLANDE</b>	<p><b>Ms Krista OINONEN (in person)</b> Director, Unit for Human Rights Courts and Conventions, Agent of the Government of Finland before the European Court of Human Rights, Legal Service, Ministry for Foreign Affairs</p> <p><b>Ms Maria GUSEFF (in person)</b> Director, Unit for EU and Treaty Law, Legal Service, Ministry for Foreign Affairs</p> <p><b>Ms Satu SISTONEN (KUDO)</b> Legal Counsellor, Unit for Human Rights Courts and Conventions, Legal Service, Ministry for Foreign Affairs</p>

<b>FRANCE</b>	<p><b>Ms Bathilde RICHOUX (in person)</b> Consultante juridique pour la Direction des Affaires Juridiques du ministère de l'Europe et des Affaires Etrangères</p> <p><b>Mr Emmanuel LECLERC (in person)</b> 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><b>Ms Nino MICHIDZE (KUDO)</b> First category chief specialist in EU law department, Ministry of Justice of Georgia</p>
<b>GERMANY / ALLEMAGNE</b>	<p><b>Mr Hans-Jörg BEHRENS (in person)</b> Head of Unit IVC1, Human Rights Protection, Government Agent before the ECtHR, Federal Ministry of Justice</p> <p><b>Dr Kathrin MELLECH (KUDO)</b> Legal Advisor, Federal Ministry of Justice</p>
<b>GREECE / GRÈCE</b>	<p><b>Ms Athina CHANAKI (in person)</b> Legal Counsellor, Legal Department/Public International Law Section, Ministry of Foreign Affairs of the Hellenic Republic</p>
<b>HUNGARY / HONGRIE</b>	<p><b>Ms Monika WELLER (KUDO)</b> Co-agent before European Court of Human Rights, Ministry of Justice</p>
<b>ICELAND / ISLANDE</b>	<p><b>Ms Sandra LYNGDORF (in person)</b> Deputy to the Permanent Representative, Legal Advisor</p>
<b>IRELAND / IRLANDE</b>	<p><b>Mr Barra LYSAGHT (in person)</b> Assistant Legal Adviser, Legal Division, Department of Foreign Affairs, Dublin</p>
<b>ITALY / ITALIE</b>	<p><b>Mr Arturo ARCANO (KUDO)</b> Deputy Permanent Representative of Italy to the Council of Europe</p> <p><b>Ms Maria Laura AVERSANO (KUDO)</b> Attachée Juridique</p>
<b>LATVIA / LETTONIE</b>	<p><b>Ms Kristīne LĪCIS (KUDO)</b> Representative of Latvia before the European Court of Human Rights and Acting Director of Legal Department of the Ministry of Foreign Affairs of the Republic of Latvia</p> <p><b>Ms Elīna Luīze VĪTOLA (KUDO)</b> Head of Office of the Representative of Latvia before the European Court of Human Rights</p>
<b>LIECHTENSTEIN</b>	<p><b>Ms Helen LOREZ-SCHWEIG (in person)</b> Deputy Permanent Representative, Permanent Representation of Liechtenstein</p>



<b>LITHUANIA / LITUANIE</b>	<p><b>Ms Karolina BUBNYTĖ-ŠIRMENĖ (KUDO)</b> Government Agent of the Republic of Lithuania to the European Court of Human Rights</p> <p><b>Ms Lina URBAITĖ (KUDO)</b> Senior Adviser, Ministry of Justice of the Republic of Lithuania</p>
<b>LUXEMBOURG</b>	<p><b>Ms Brigitte KONZ (KUDO)</b> Présidente du Tribunal, Tribunal d'Arrondissement de Diekirch</p> <p><b>Mr Robert BEVER (KUDO)</b> Conseiller – Coordination Justice et Affaires intérieures</p>
<b>MALTA / MALTE</b>	<p><b>Dr Andria BUHAGIAR (KUDO)</b> Deputy State Advocate, Office of the State Advocate</p>
<b>REPUBLIC OF MOLDOVA / REPUBLIQUE DE MOLDOVA</b>	<p><b>Ms Mihaela MARTINOV-GUCEAC (in person)</b> Deputy to the Permanent Representative of the Republic of Moldova to the Council of Europe</p>
<b>MONACO</b>	<p><b>Mr Gabriel REVEL (in person)</b> Représentant Permanent adjoint de Monaco auprès du Conseil de l'Europe</p>
<b>MONTENEGRO</b>	<p><b>Ms Valentina PAVLICIC (in person)</b> Representative of Montenegro before the European Court of Human Rights</p>
<b>NETHERLANDS / PAYS-BAS</b>	<p><b>Ms Liesbeth A CAMPO (in person)</b> Legal adviser, Permanent Representation of the Kingdom of the Netherlands to the European Union</p> <p><b>Mr Guus DE VRIES (in person)</b> Legal adviser, European Law department, Ministry of Foreign Affairs of the Netherlands</p> <p><b>Ms Nikki ESHUIS (in person)</b> Legal adviser, International law department, Ministry of Foreign Affairs of the Netherlands</p>
<b>NORTH MACEDONIA / MACÉDOINE DU NORD</b>	<p><b>Ms Elena BODEVA (KUDO)</b> Head of Council of Europe Unit, Directorate for Multilateral Relations</p>
<b>NORWAY / NORVÈGE</b>	<p><b>Ms Tonje MEINICH (in person)</b> Deputy Director General, Legislation Department, Ministry of Justice and Public Security, <b>Chair of the “46+1 Group”</b></p> <p><b>Mr Steinar TRAET (in person)</b> Advisor, Legislation Department Section for Criminal and Procedural Law</p> <p><b>Ms Tone Cecilia LANG (in person)</b> Chargée d'affaires, Permanent Representation of Norway to the Council of Europe</p>

	<b>Mr Ketil Bøe MOEN (KUDO)</b> Director General, Legislation Department, Ministry of Justice and Public Security
<b>POLAND / POLOGNE</b>	<b>Ms Agata ROGALSKA-PIECHOTA (KUDO)</b> 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
<b>PORTUGAL</b>	<b>Ms Marta SARAIVA (KUDO)</b> Deputy Permanent Representative of Portugal to the Council of Europe
<b>ROMANIA / ROUMANIE</b>	<b>Ms Cornelia ZEINEDDINE (KUDO)</b> Second secretary, Treaties Division, Ministry of Foreign Affairs of Romania
<b>SAN MARINO / SAINT-MARIN</b>	excused
<b>SERBIA / SERBIE</b>	excused
<b>SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE</b>	<b>Mr Marián FILČÍK (KUDO)</b> 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
<b>SLOVENIA / SLOVENIE</b>	<b>Ms Irena VOGRINCIC (KUDO)</b> Senior legal advisor, Ministry of Justice of the Republic of Slovenia, Office for International Cooperation and Mutual Legal Assistance  <b>Mr Matija VIDMAR (KUDO)</b> Secretary, Ministry of Justice of the Republic of Slovenia, Office for International Cooperation and Mutual Legal Assistance
<b>SPAIN / ESPAGNE</b>	<b>Mr José Antonio JURADO RIPOLL (in person)</b> State Attorney General
<b>SWEDEN / SUEDE</b>	<b>Mr Victor HAGSTEDT (KUDO)</b> Deputy Director, Ministry for Foreign Affairs
<b>SWITZERLAND / SUISSE</b>	<b>Dr Alain CHABLAIS (in person)</b> 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  <b>Dr Christoph SPENLÉ (in person)</b> Département fédéral des affaires étrangères DFAE, Direction du droit international public DDIP, Chef suppléant de la Section droits de l'homme  <b>Dr Daniel FRANK (KUDO)</b>

	<p>Département fédéral des affaires étrangères DFAE, Direction du droit international public DDIP, Chef de la Section droits de l'homme</p> <p><b>M. Nicola HOFER (KUDO)</b> Département fédéral des affaires étrangères, Secrétariat d'Etat Section Droits et accords</p> <p><b>Ms Cordelia EHRICH (KUDO)</b> av., Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ</p> <p><b>Ms Silvia GASTALDI (KUDO)</b> Dr. iur., Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ</p>
<b>TÜRKIYE/ TÜRKIYE</b>	<p><b>Ms Esra DOGAN-GRAJOVER (in person)</b> Deputy Permanent Representative, Permanent Representation of Türkiye to Council of Europe</p> <p><b>Ms Aysen EMÜLER (in person)</b> Legal expert, Permanent Representation of Türkiye to Council of Europe</p> <p><b>Ms Naz TÛFEKÇIYASAR ULUDAĞ (in person)</b> Deputy to the Permanent Representative, Permanent Representation of Türkiye to Council of Europe</p>
<b>UKRAINE</b>	<p><b>Mr Viktor NIKITIUK (in person)</b> Deputy Permanent Representative, Permanent Representation of Ukraine to the Council of Europe</p>
<b>UNITED KINGDOM / ROYAUME-UNI</b>	<p><b>Ms Patricia ZIMMERMANN (in person)</b> Head, Domestic and United Nations Human Rights, Ministry of Justice</p> <p><b>Ms Debra GERSTEIN (KUDO)</b> Assistant Legal Adviser, Legal Directorate, Foreign, Commonwealth &amp; Development Office</p> <p><b>Mr Jon OSHAUGHNESSY (KUDO)</b> Head of the Europe Institutions Team, Europe Institutions Team, Human Rights and Rule of Law Department, Open Societies and Human Rights Directorate, Foreign, Commonwealth &amp; Development Office</p>
<b>EUROPEAN UNION / UNION EUROPEENNE</b>	<p><b>Mr Felix RONKES AGERBEEK (in person)</b> Member of the Legal Service, Head of the Negotiating Team, European Commission</p> <p><b>Ms Mihaela CARPUS CARCEA (in person)</b> Member of the Legal Service, European Commission</p> <p><b>Mr Per IBOLD (in person)</b> Minister Counsellor, EEAS</p>

	<p><b>Ms Milena YOTOVA (in person)</b> Desk Officer, EEAS</p> <p><b>Mr Efthymios TZIOKAS (in person)</b> Legal Advisor at the Delegation of the European Union to the Council of Europe</p> <p><b>Ms Yumi CODRUS FUJITA (KUDO)</b> Legal Affairs Trainee at the Delegation of the European Union to the Council of Europe</p>
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**OBSERVERS / OBSERVATEURS**

<b>PRIVATE OFFICE / CABINET</b>	<b>Mr Matthias KLOTH</b> Adviser, Private Office / Conseiller, Cabinet
<b>REGISTRY OF THE EUROPEAN COURT OF HUMAN RIGHTS / GREFFE DE LA COUR EUROPEENNE DES DROITS DE L'HOMME</b>	<b>Mr Johan CALLEWAERT</b> Deputy Grand Chamber Registrar / Greffier Adjoint de la Grande Chambre
<b>DIRECTORATE OF LEGAL ADVICE AND PUBLIC INTERNATIONAL LAW / DIRECTION DU CONSEIL JURIDIQUE ET DU DROIT INTERNATIONAL PUBLIC</b>	<p><b>Mr Jörg POLAKIEWICZ</b> Director, Directorate of Legal Advice and Public International Law, Council of Europe</p> <p><b>Ms Irene SUOMINEN</b> Directorate of Legal Advice and Public International Law, Council of Europe</p> <p><b>Ms Alina OROSAN</b> Representative of the Committee of Legal Advisers on Public International Law (CAHDI)</p>
<b>COMMITTEE OF MINISTERS / COMITE DES MINISTRES</b>	<b>Ms Zoe BRYANSTON-CROSS</b> Secretariat of the Committee of Ministers

**SECRETARIAT / SECRETARIAT**

<b>DG I – Human Rights and Rule of Law / Droits de l'Homme et État de droit</b> <i>Council of Europe</i>	<b>Mr Daniele CANGEMI</b> Head of Department, Department for Human Rights, Justice and Legal Cooperation Standard Setting activities / Chef de service, Service des activités normatives en matière de droits de l'homme, justice et coopération juridique
<b>DG I – Human Rights and Rule of Law / Droits de l'Homme et État de droit</b> <i>Council of Europe</i>	<b>Mr David MILNER</b> Head of the Human Rights Intergovernmental Co-operation Division / Chef de la Division de la Coopération intergouvernementale en matière des droits de l'homme Secretary of the CDDH <i>ad hoc</i> negotiation group ("46+1") 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 (“46+1”) 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</b> <i>Council of Europe</i>	<b>Ms Yanna PARNIN</b> Programme manager, Human Rights Intergovernmental Co-operation Division / Division de la Coopération intergouvernementale en matière des droits de l’homme
<b>DG I – Human Rights and Rule of Law / Droits de l’Homme et État de droit</b> <i>Council of Europe</i>	<b>Ms Sorina LECLER</b> Human Rights Intergovernmental Co-operation Division / Division de la Coopération intergouvernementale en matière des droits de l’homme

**INTERPRETERS / INTERPRÈTES**

Lucie DE BURLET

Chloé CHENETIER-KIPPING

Jean-Jacques PEDUSSAUD

**APPENDIX II****Agenda**

- 1. Opening of the meeting and adoption of the agenda**
- 2. Issues relating to Article 7 of the Accession Agreement (including the relevant parts of the other accession instruments)**
- 3. Outstanding proposal submitted on Basket 2 (requests for advisory opinions under Protocol No. 16)**
- 4. Issues relating to Article 6 of the Accession Agreement (including the relevant parts of the other accession instruments)**
- 5. Proposed Article 5a of the draft Accession Agreement**
- 6. Other business**
- 7. 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 [ <i>refers to the 8<sup>th</sup> meeting</i> ]	<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>
Proposals by the Secretariat for the discussion on Basket 1 ("The EU's specific mechanisms of the procedure before the European Court of Human Rights") [ <i>for the 10<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)7</a>
Proposals by the Secretariat for the discussion on Basket 3 ("The principle of mutual trust between the EU member states") [ <i>for the 10<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)8</a>
Proposal prepared by the Norwegian delegation on "Inter-Party applications under Article 33 of the European Convention of Human Rights" [ <i>for the 10<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)9</a>
Revised proposal on "Inter-Party applications under Article 33 of the European Convention of Human Rights" by the Norwegian delegation and the Secretariat [ <i>for the 11<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)10</a>
Revised proposals by the Secretariat on issues contained in Basket 3 ("The principle of mutual trust between the EU member states") [ <i>for the 11<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)11</a>

Revised proposals by the Secretariat on certain issues contained in Basket 1 (“The EU’s specific mechanisms of the procedure before the European Court of Human Rights”) [ <i>for the 11<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)12</a>
Consolidated version of the draft Accession Instruments (as of 31 October 2021) [ <i>for the 12<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)13</a>
Revised proposals by the Secretariat on issues contained in Basket 3 (“The principle of mutual trust between the EU member states”) [ <i>for the 12<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)14</a>
Background paper by the Secretariat on scenarios in the context of Article 7 of the draft Accession Agreement [ <i>for the 12<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)15</a>
Overview of treaty clauses on EU voting rights in Council of Europe treaties – background paper prepared by DLAPIL [ <i>for the 12<sup>th</sup> meeting</i> ]	<a href="#">Non-paper</a>
Proposals by the European Union 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) [ <i>for the 12<sup>th</sup> meeting</i> ]	Restricted
Proposals and Amendments submitted by the EU Delegation regarding the procedure for initiating the co-respondent mechanism [ <i>for the 12<sup>th</sup> meeting</i> ]	<a href="#">47+1(2021)16</a>
Revised proposals by the Secretariat for the termination of the co-respondent mechanism (Article 3, paragraph 5a. of the draft Accession Agreement) and other remaining issues in Basket 1 [ <i>for the 13<sup>th</sup> meeting</i> ]	<a href="#">47+1(2022)18</a>
Document by the Secretariat on the state of play of the proposals for Basket 2 [ <i>for the 13<sup>th</sup> meeting</i> ]	<a href="#">47+1(2022)19</a>
Text proposals and amendments submitted by Turkey regarding the revision of Articles 6, 7 and 8 of the Accession Agreement including the relevant parts of the other accession instruments [ <i>for the 13<sup>th</sup> meeting</i> ]	Restricted
Consolidated version of the draft Accession Instruments (as of 13 May 2022)	<a href="#">46+1(2022)20REV</a>
Numerical analysis by the Secretariat of the effects of the different majorities being proposed under the proposal to amend Rule 18 [ <i>for the 14<sup>th</sup> meeting</i> ]	46+1(2022)21 (Restricted)



Proposal by the Secretariat on “Inter-Party applications under Article 33 of the European Convention of Human Rights” [ <i>for the 14<sup>th</sup> meeting</i> ]	<a href="#">46+1(2022)22</a>
Proposal by the EU Delegation on “Requests for an advisory opinion pursuant to Protocol No. 16” [ <i>for the 14<sup>th</sup> meeting</i> ]	<a href="#">46+1(2022)23</a>
EU accession to the ECHR and election of judges – background paper prepared by DLAPIL	<a href="#">46+1(2022)24</a>
Background Paper by the Secretariat on issues relating to Article 7 of the Accession Agreement and relevant parts of the other accession instruments [ <i>for the 15<sup>th</sup> meeting</i> ]	<a href="#">46+1(2022)25</a>
Legal opinion prepared by DLAPIL: “Laying down voting rules in the Committee of Ministers’ Rules for the supervision of the execution of judgments and of the terms of friendly settlement instruments” [ <i>for the 15<sup>th</sup> meeting</i> ]	<a href="#">DLAPIL21/2022 JP /IS</a>
Consolidated version of the draft Accession Instruments (as of 7 July 2022)	<a href="#">46+1(2022)26</a>

### **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 <a href="#">explanatory memorandum</a>	<a href="#">Council of Europe Treaty Series No. 214</a>

### **APPENDIX III**

#### **Article 6 – Election of judges**

1. **When the Parliamentary Assembly of the Council of Europe exercises its functions in accordance with Article 22 of the Convention, which are limited to the election of judges, a delegation of the European Parliament shall be entitled to participate, with the right to vote, in the sittings of the Assembly.** The delegation of the European Parliament shall have the same number of representatives as the delegation of the State which is entitled to the highest number of representatives under 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 co-operation with the European Parliament, in line with the provisions of this agreement.

#### *Explanatory Memorandum*

75. It is agreed that, for the purposes of the Accession Agreement, **when the Parliamentary Assembly of the Council of Europe exercises its functions in accordance with Article 22 of the Convention, which are limited to the election of judges, a delegation of the European Parliament shall be entitled to participate, with the right to vote, in the sittings of the Assembly and its relevant bodies.** It was considered appropriate that the European Parliament should be entitled to the same number of representatives in the Parliamentary Assembly as the States entitled to the highest number of representatives under Article 26 of the Statute of the Council of Europe.
76. Modalities for the participation of the European Parliament in the work of the Parliamentary Assembly and its relevant bodies **for the purposes indicated in Paragraph 75 above** will be defined by the Parliamentary Assembly in co-operation with the European Parliament, in line with the provisions of the Accession Agreement. These modalities will be reflected in the Parliamentary Assembly's internal rules. It is also understood that internal EU rules will define the modalities for the selection of the list of candidates in respect of the EU to be submitted to the Parliamentary Assembly. These internal EU rules will be consistent with the modalities defined by the relevant instruments adopted within the Council of Europe, in particular Committee of Ministers' Resolution CM/Res(2010)26 on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights and Committee of Ministers' Guidelines CM(2012)40 on the selection of the candidates for the post of judge at the European Court of Human Rights.