

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**8<sup>TH</sup> MEETING OF THE CDDH AD HOC NEGOTIATION GROUP  
ON THE ACCESSION OF THE EUROPEAN UNION TO THE  
EUROPEAN CONVENTION ON HUMAN RIGHTS**

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**Paper prepared by the Secretariat on the estimated expenditure related to the  
Convention regarding Article 8 of the draft Accession Agreement**

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Tuesday 2 February 2021 (10:00 am) – Thursday 4 February 2021 (4:30 pm)

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

Council of Europe

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## I. Introduction:

1. At its 7<sup>th</sup> meeting (24-26 November 2020), the CDDH ad hoc negotiation Group (“47+1 Group”) on the accession of the European Union (EU) to the European Convention on Human Rights discussed the participation of the EU in the expenditure related to the Convention, as laid down in Article 8 of the draft Accession Agreement.

2. During the discussion, the question was asked how the contribution from the EU had been estimated at the time when Article 8 of the draft Accession Agreement was negotiated and whether this estimation was still valid today. The Group tasked the Secretariat to prepare a paper for the next meeting, explaining how the percentage contained in the provision (i.e. the proportion of the ordinary budget of the Council of Europe which is dedicated to the functioning of the Convention system) was calculated and how it applies to the current budget. The present paper, which was elaborated after consultation of the Directorate of Programme and Budget, responds to this request.

## II. Short overview of Article 8 of the draft Accession Agreement:

3. The draft Accession Agreement addresses the issue of the EU’s participation in the expenditure related to the European Convention on Human Rights (“the Convention”) in Article 8. This provision states as follows:

### *Article 8 – Participation of the European Union in the expenditure related to the Convention*

1. *The European Union shall pay an annual contribution dedicated to the expenditure related to the functioning of the Convention. This annual contribution shall be in addition to contributions made by the other High Contracting Parties. Its amount shall be equal to 34% of the highest amount contributed in the previous year by any State to the Ordinary Budget of the Council of Europe.*

2. a. *If the amount dedicated within the Ordinary Budget of the Council of Europe to the expenditure related to the functioning of the Convention, expressed as a proportion of the Ordinary Budget itself, deviates in each of two consecutive years by more than 2.5 percentage points from the percentage indicated in paragraph 1, the Council of Europe and the European Union shall, by agreement, amend the percentage in paragraph 1 to reflect this new proportion.*

b. *For the purpose of this paragraph, no account shall be taken of a decrease in absolute terms of the amount dedicated within the Ordinary Budget of the Council of Europe to the expenditure related to the functioning of the Convention as compared to the year preceding that in which the European Union becomes a Party to the Convention.*

c. *The percentage that results from an amendment under paragraph 2.a may itself later be amended in accordance with this paragraph.*

3. *For the purpose of this article, the expression “expenditure related to the functioning of the Convention” refers to the total expenditure on:*

a. *the Court;*

b. *the supervision of the execution of judgments of the Court; and*

c. *the functioning, when performing functions under the Convention, of the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe,*

*increased by 15% to reflect related administrative overhead costs.*

4. *Practical arrangements for the implementation of this article may be determined by agreement between the Council of Europe and the European Union.*

4. The explanatory report of the draft Accession Agreement makes further explanations to Article 8 in its paragraphs 93-99. The main principles therein, as relevant for the purpose of this paper, can be summarised as follows: after its accession to the Convention, the EU should contribute to the expenditure of the entire Convention system alongside and in addition to the other High

Contracting Parties. The budgets of the European Court of Human Rights (“the Court”) and of the other entities involved in the functioning of the Convention system are part of the Ordinary Budget of the Council of Europe. The relevant expenditure for the functioning of the Convention system can be broken down into the following expenditure items:

- the expenditure on the Court;
- the process of supervision of the execution of its judgments and decisions;
- the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe when they exercise functions under the Convention;
- In addition, administrative overhead costs related to the Convention system are considered (building, logistics, IT, etc.) as requiring an increase of the above expenditure by 15%.

The total amount is then compared to the total amount of the Ordinary Budget of the Council of Europe, in order to identify the relative weight, in percentage, of such expenditure.

5. On the basis of the relevant figures in the period 2009-2013, this percentage was fixed in paragraph 1 of Article 8 of the Accession Agreement at 34%. As to the rate of contribution of the EU to the relevant expenditure, it was agreed that it shall be identical to that of the State(s) providing the highest contribution to the Ordinary Budget of the Council of Europe for the previous year, pursuant to the method of calculating the scales of member States’ contributions to Council of Europe budgets established by the Committee of Ministers in 1994. Accordingly, the amount of the contribution of the EU for each year should be equal to 34% of the highest amount contributed in the previous year by a State to the Ordinary Budget of the Council of Europe.

6. Applying the above calculation method, an example was provided in paragraph 96 of the explanatory report (Footnote 22) which reads as follows:

*“As an example, for the year 2011 the Ordinary Budget, recalculated to include the employer’s contributions to pensions, amounted to €235.4 million. The expenditure dedicated within the Ordinary Budget to the functioning of the Convention (including 15% of overhead costs) amounted to €79.8 million, which corresponds to 33.9%. The highest amount contributed by any State in the previous year (2010) to the Ordinary Budget of the Council of Europe corresponded to 11.7% of the budget. This percentage, applied to the amount of €79.8 million, would provide a contribution of €9.34 million.”*

**III. Calculation of the expenditure devoted to the functioning of the Convention system at the time of drafting of the Accession Agreement:**

7. On the basis of the above-mentioned footnote in paragraph 96 of the explanatory report (see above, paragraph 6 of the this document), the amount of € 79.8 million devoted to the functioning of the Convention system, corresponding to 33.9% of the Ordinary Budget for 2011, was calculated as follows:

<b>2011</b> (Ordinary Budget: € 235.4 million)	
Expenditure on the Court	€ 65.1 million
Process of supervision of the execution of its judgments and decisions	€ 3.8 million
Committee of Ministers when exercising functions under the Convention	€ 0.4 million
Parliamentary Assembly when exercising functions under the Convention	€ 0.1 million

Secretary General of the Council of Europe when exercising functions under the Convention	Not quantifiable
Overhead costs of 15%	€10.4 million
<b>Total</b>	<b>€ 79.8 million</b> (corresponding to <b>33.9%</b> of the Ordinary Budget for 2011 (€ 235.4 million))

#### IV. Relevant changes for 2021:

8. The following provides an overview of the changes which have occurred since the adoption of the draft Accession Agreement in 2013, on the basis of the numbers available for the year 2021<sup>1</sup>:

<b>2021</b> (Ordinary Budget: € 257.7 million <sup>2</sup> )	
Expenditure on the Court	€ 74.0 million
Process of supervision of the execution of its judgments and decisions	€ 6.3 million
Committee of Ministers when exercising functions under the Convention	€ 0.4 million
Parliamentary Assembly when exercising functions under the Convention	€ 0.1 million
Secretary General of the Council of Europe when exercising functions under the Convention	Not quantifiable
Overhead costs of 15%	€ 12.1 million
<b>Total</b>	<b>€ 92.9 million</b> (corresponding to <b>36.0%</b> of the Ordinary Budget for 2021 (€ 257.7 million))

9. In application of Article 8 of the draft Accession Agreement, the following calculation for the year 2021 can thus be provided: the expenditure dedicated within the Ordinary Budget for 2021 (€ 257.7 million) to the functioning of the Convention (including 15% of overhead costs) amounted to € 92.9 million. The highest amount contributed by any State in the previous year (2020) to the Ordinary Budget of the Council of Europe amounted to € 28.5 million. The percentage of 34% - which is the

<sup>1</sup> On the basis of publicly available figures from the Council of Europe Programme and Budget for 2020-2021 (CM(2021)1 of 18 December 2020).

<sup>2</sup> Unlike for 2011, the employer's contributions to pensions are already integrated in the Ordinary Budget for 2021 since those contributions – presented in a separate budget in 2011 - were included in the Ordinary Budget of the Council of Europe as of 2012.

figure currently contained in Article 8, paragraph 1 of the draft accession Agreement - applied to this amount (€ 28.5 million) would provide a contribution by the EU of € 9.7 million.<sup>3</sup>

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<sup>3</sup> The application of the percentage of 36% would result in a contribution of € 10.3 million.