

The European Commission took an important step today towards completing the European Union's system of fundamental rights protection. The Commission proposed negotiation directives for the Union's accession to the European Convention on Human Rights (ECHR). The ECHR is an international treaty to protect human rights and fundamental freedoms in Europe. It is supervised by the European Court of Human Rights in Strasbourg and is binding for 47 European countries, including all EU Member States. Under the new Lisbon Treaty, the EU has the ability and obligation to accede to the ECHR. The EU's accession will complete the EU's system of protection of fundamental rights. That protection was reinforced when the EU Charter of Fundamental Rights became part of the EU Treaties on 1 December 2009. The Charter enshrines rights and principles such as the respect of human dignity, the right to life, liberty and security and the prohibition of torture. Given that the protection of fundamental rights afforded by the Charter must be at least as high as that of the ECHR, the EU will not have problems meeting the Convention's standards. The EU will become an important contributor to the further strengthening of the Convention's system of fundamental rights. EU governments must now approve the negotiating directives for the EU's accession, which would then be subject to the consent of the European Parliament, the unanimous agreement of EU governments and ratification by the 27 EU Member States and the other 20 countries that are signatories of the Convention.

Viviane Reding, the EU's Justice and Fundamental Rights Commissioner, said: *"This is an important day for the European Union and our citizens. The EU's accession to the European Convention of Human Rights will complement the strong protection of fundamental rights that already exists in the Union's legal order through the EU's own Charter of Fundamental Rights and the fundamental rights developed over time by the European Court of Justice. The Commission's decision today confirms that citizens can trust EU legislation to aim for a high standard of fundamental rights protection, in line with the constitutional traditions of our Member States."*

The EU's accession to the ECHR will introduce an additional judicial control in the field of the protection of fundamental rights in the EU. It will make the European Court of Human Rights in Strasbourg competent to review acts of the EU institutions, bodies and agencies for respect of the European Convention on Human Rights. Accession will also provide a new possibility of remedies for individuals. They will be able to bring complaints – after they have exhausted domestic remedies, including challenges brought at the European Court of Justice in Luxembourg – about the infringement of fundamental rights by the EU before the European Court of Human Rights. Accession will also:

- Help develop a common culture of fundamental rights in the EU.
- Reinforce the credibility of the EU's human rights' system and EU external policy.
- Show that the EU puts its weight behind the Strasbourg system of fundamental rights protection.
- Ensure that there is a harmonious development of the case law of the European Court of Justice and the European Court of Human Rights.

Background

Accession to the ECHR has long been on the EU's agenda. A first attempt to negotiate an accession agreement failed in 1996 when the European Court of Justice delivered an opinion (Opinion 2/1994) according to which there was, at the time, no legal basis in the Treaties for such accession, which is of constitutional importance for the EU's legal order.

With the entry into force of the Lisbon Treaty on 1 December 2009, Article 6(2) of the EU Treaty now makes it an obligation for the EU to accede to the ECHR, while Protocol No. 8 requires such accession to preserve the specific characteristics of the Union and of the Union's own legal order.

Accession requires, under Article 218(2), (3) and (8) of the Treaty on the Functioning of the European Union, a recommendation from the Commission for a negotiation mandate; a unanimous Council decision to open accession negotiations with the Council of Europe; unanimous agreement by the Council to the outcome of these negotiations; the consent of the European Parliament to the Accession Agreement; and ratification of the Accession Agreement in all 27 EU Member States and in the remaining 20 countries that are signatories to the Convention (including Russia and Turkey). It can therefore be expected that the accession process will take several years.

With accession, the EU would become the 48th signatory of the ECHR. The EU would be represented with an own judge at the European Court of Human Rights in Strasbourg, and would have to comply with judgments of this court.

For more information about the challenges for the EU's accession to the ECHR, see the Feb. 18 Interlaken speech of EU Justice Commissioner Viviane Reding: "Towards a European Area of Fundamental Rights: The EU's Charter of Fundamental Rights and Accession to the European Convention of Human Rights ([SPEECH/10/33](#))".