



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 6 December 2011**

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**“I/A” ITEM NOTE**

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from : Presidency  
to : COREPER / Council

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Subject : Accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms  
- State of play

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1. With the present note the Presidency aims to inform the delegations about the state of play of the negotiations for the accession of the European Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”).
2. Following the adoption by the Council on 4 June 2010 of a negotiating mandate and directives, the Commission has conducted negotiations on behalf of the Union with the Steering Committee on Human Rights of the Council of Europe (“CDDH”) for the elaboration of a draft accession agreement. In particular, a group (“CDDH-UE”) of 14 experts (7 from EU Member States, 7 from non-Member States) has been appointed to elaborate such a draft.

3. Throughout this process, the Commission has regularly consulted the Working Party on fundamental rights, citizens' rights and free movement of persons ("FREMP"), which had been appointed as the special committee in accordance with Article 218 (4) TFEU.
4. In June 2011 CDDH-UE finalized the draft of the accession agreement and submitted it to the consideration of the High Contracting Parties and of the Union.
5. At the meeting of COREPER on 6 October 2011 some delegations expressed reservations as to the content of the proposed draft accession agreement. Subsequently, on 12-14 October 2011 CDDH took note of the fact that the Union could not express a unanimous position on the draft and reported accordingly the Committee of Ministers of the Council of Europe.
6. Meanwhile, discussions have resumed in the FREMP Working Party in order to identify possible solutions to accommodate the concerns of the delegations which have expressed reservations on the draft accession agreement. Meetings have been held on 25 October, 3 November, 14-15 November and 29 November; a further meeting is scheduled for 12 December 2011.
7. The issues raised by delegations concern points such as the scope of the accession of the EU to the ECHR, the non-affectation of the Member States' competences as a result of the accession, the extent of application of the co-respondent mechanism and the exercise of voting rights of the Union and its Member States in the Committee of Ministers when supervising the execution of judgments against the Union by the European Court of Human Rights.
8. It must be noted that, in consideration of the necessity to attain a common position of the Union before further discussions with the Union's negotiating partners in Strasbourg, any possible modifications to the draft accession agreement will have to be negotiated by the Commission only once agreement has been found within the Union's Member States.

9. Discussions in FREMP have been very intense. However, given the importance of the issues at stake, further reflection will be necessary in order to obtain the desired outcome. The Polish Presidency will continue to commit its best efforts for a positive outcome of discussions.

