



Resolution 1610 (2008)¹

The accession of the European Union/European Community to the European Convention on Human Rights

Parliamentary Assembly

1. The Parliamentary Assembly notes with satisfaction that today there is a broad consensus on the question of the accession of the European Union to the European Convention on Human Rights (ECHR – ETS No. 5).
2. Calls for this accession have been issued for a long time and on numerous occasions, including by the Assembly, most recently in its [Recommendation 1744 \(2006\)](#) on follow-up to the 3rd Summit: the Council of Europe and the proposed fundamental rights agency of the European Union.
3. The Council of Europe and the European Union reiterated their common resolve to effect this accession when concluding the Memorandum of understanding between the Council of Europe and the European Union signed in May 2007. The legal path to accession is already laid out in Protocol No. 14 to the ECHR and was opened once again by the adoption in December 2007 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community.
4. The Assembly considers that henceforth accession must be the priority in the dialogue between the two organisations.
5. Whereas accession to the ECHR is one of the conditions of entry into the European Union listed among the 1993 Copenhagen criteria, the institutions of the European Union/European Community are presently not bound by the ECHR. The fact that the European Union member states – all member states of the Council of Europe and parties to the ECHR – have transferred substantial powers to supranational institutions without transmission of the responsibilities accruing from the ECHR conveys a negative message by giving the impression of disparate legal protection.
6. Non-accession has adverse effects on the proper functioning of European justice as it imperils the coherence of the system of human rights safeguards in Europe. As long as the European Union has not acceded to the ECHR:
 - 6.1. there will be divergences in human rights standards both at European level (between European institutions) and between the European Union and its member states;
 - 6.2. the European Union institutions will not come under external judicial supervision where respect for human rights and fundamental freedoms is concerned;
 - 6.3. the coherence of European legal protection will not be fully assured, since the case law of the European Court of Human Rights and the Court of Justice of the European Communities might not be appropriately harmonised;
 - 6.4. European citizens will not have direct access to the European Court of Human Rights when they consider that their fundamental rights have been violated by the European Union's institutions;

1. *Assembly debate* on 17 April 2008 (17th Sitting) (see [Doc. 11533](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Marie-Louise Bemelmans-Videc). *Text adopted by the Assembly* on 17 April 2008 (17th Sitting).



- 6.5. execution of the judgments of the European Court of Human Rights will remain a difficult undertaking in cases involving European Union law.
7. Accession will convey a strong message of a clear commitment to the protection of human rights not only within the boundaries of the European Union but also Europe-wide, in keeping with the community of values shared by the Council of Europe and the European Union.
8. Accession will also confirm the European Union's essence as a "community based on law" and will strengthen the principle of legal certainty, to the extent that the European Union institutions will be subject to the same external review of the conformity of their acts and decisions as are member states.
9. The Assembly considers it high time for the declarations of intent to be translated into action by the European Union's prompt accession to the ECHR.
10. In this context, the Assembly questions the expediency of the procedural changes added by the Treaty of Lisbon, which provides that the decision on the agreement on European Union accession to the ECHR be adopted by the Council of the European Union unanimously, only after approval by the European Parliament. These additions may well have the effect of slowing down the accession procedure.
11. The Assembly is convinced that there is no longer any need for delay in opening negotiations on practical questions linked with accession, since there is a clear political will on both sides and a legal framework permitting accession.
12. The Assembly therefore calls upon the governments of the European Union member states to apply themselves to this task without delay while adopting a positive, creative approach in order to find workable and effective solutions to the technical and legal questions raised by accession, and calls upon the European Union to expedite the conclusion of the necessary instruments for accession.
13. The Assembly also urges the European Parliament to take timely steps for the prompt approval of the decision on the agreement relating to the accession of the European Union to the ECHR.
14. Finally, the Assembly urges the parliaments of all member states to act quickly to ratify the necessary instruments for accession.