



Tonje Meinich

Chairperson

Informal Working Group on the Accession of the European Union to the European Convention on Human Rights

10 May 2011

Dear Madame Chairperson

The AIRE Centre and Amnesty International address these comments to you and the Informal Working Group on the Accession of the European Union to the European Convention on Human Rights ('CDDH-UE') on the occasion of this week's meeting. Our two organisations are grateful for the opportunity we had in January to meet face to face with the CDDH-UE and to make submissions which we hope have contributed to your work. In particular, we welcome the approach the CDDH-UE has taken to the co-respondent mechanism, reflected in paragraph 37 of the Draft Revised Explanatory Report to the Agreement on the Accession of the European Union to the European Court of Human Rights (CDDH-UE(2011)8).

We are writing for two reasons. The first is related to further civil society consultation, which the CDDH urged the CDDH-UE to consider at the end of this week's meeting (CDDH-UE(2011)7, para 21). We urge the CDDH-UE to incorporate a further consultation with civil society into its work, and particularly to give our organisations and the observers to the CDDH an opportunity to present our views in person before the draft documents are completed.

The second reason we are writing is to present our views briefly on an issue we anticipate the CDDH-UE will discuss this week, namely, the participation of the European Union in the Committee of Ministers when that body exercises functions related to the Convention, in particular oversight of the execution of decisions and judgments of the European Court of Human Rights. The AIRE Centre and Amnesty International believe it is important, to ensure the proper functioning of the mechanism Articles 39 and 46 of the Convention foresee, to guarantee that those Council of Europe Member States which are also EU Member States do not act as a bloc in a way that will undermine the objectives of the Convention. Proper oversight of the execution of the Court's decisions and judgments requires Council of Europe Member States (and, after accession, the European Union) to engage in a productive, critical debate that effectively examines whether or not a Member State or the European Union has taken sufficient measures to address the human rights violation and implement the Court's decision or judgment. Given that the Lisbon Treaty foresees an enhanced level of cooperation and coordination on common foreign and security policy and foresees that the European Union delegations shall represent the Union in international organisations, we believe that clear safeguards should be devised to ensure that the Committee of Ministers' monitoring process is shielded from considerations other than those pertaining to the implementation of the Court's judgments and decisions. Given that the majority of Council of Europe Member States are members of the EU, the absence of such assurances or guarantees would mean that inclusive debates on execution would likely be hampered, and decisions on execution could effectively be taken in Brussels by the EU rather than in Strasbourg by the Council of Europe's Committee of Ministers.

Thank you again for the CDDH-UE's consideration of these views. We hope that we will be able to continue to contribute to the CDDH-UE's work before that work concludes.

Yours faithfully,

Nuala Mole
Director, AIRE Centre

Nicolas Beger
Director, Amnesty International European Institutions Office