



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 5 January 2010

17807/09

**JAI 948
INST 255**

"I" ITEM NOTE

from : Presidency

to : COREPER

Subject : Request for the participation of a delegate of the Court of Justice of the European Union as an observer, at the next consultations with the Member States, pertaining to the accession of the European Union to the European Convention on Human Rights (ECHR)

On 17 December 2009, the Swedish Presidency consulted the delegations of the Member States with a view to opening, under the Spanish Presidency, discussions on the accession of the European Union to the European Convention on Human Rights (ECHR), as established by Article 6(2) of the Treaty on European Union.

During these consultations, the delegations were asked about the possibility of allowing a delegate from the Court of Justice of the European Union to attend, **as an observer**, the discussions regarding a draft recommendation for the opening of the negotiations with a view to the accession of the European Union to the European Convention on Human Rights, as from their preparatory phase.

Given the technicalities of the accession of the European Union to that Convention, and in particular considering its procedural and jurisdictional aspects and the effect that such accession could produce in relations between the Court of Justice of the European Union and the ECHR, the delegations agreed that an involvement of the Court of Justice in these discussions would be of paramount importance.

Bearing this in mind, COREPER is invited to allow the participation- as an observer- of a delegate from the Court of Justice of the European Union, already in the current preliminary meetings held at Justice and Home Affairs Counsellors level and possibly in the meetings of the Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons, throughout the duration of the discussions on a draft recommendation for the opening of negotiations for the accession of the European Union to the European Convention on Human Rights.
