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A Summary of the Doctoral Thesis:

***Accession of the European Union to the European Convention on Human Rights.
A Theoretical Model Versus Ways and Implications of its Realisation***

Research objective

The principal objective of the thesis is a comprehensive and extensive analysis of all main problems related to the accession of the European Union to the Convention on the Protection of Human Rights and Fundamental Freedoms (the so-called European Convention on Human Rights, ECHR). This analysis is set against a broad theoretical background, which allows of critical assessment of each accession matter.

Subject and basic assumptions

The EU Accession to the ECHR, although it has not happened as yet, has been a subject of vast discussions since the seventies. Numerous questions, which now seem to be rediscovered in current negotiations, have already been reflected upon. Moreover, the existing literature allows of advancing a much broader approach to accession issues than the one which currently dominates in the negotiation process. Consequently, the thesis does not concentrate on the analysis of the already settled solutions, which would be a confined and soon-out-of-date task. The thesis is built upon a broad theoretical background of the accession, thereby allowing of the assessment of finally negotiated institutions in the context of their purposes and other possible solutions.

Therefore it draws upon a theoretical model of the accession which has been elaborated at the beginning. This model uses the Weberian concept of ideal types in order to organise and juxtapose objectives of the accession and thus to reveal that they are not only diverse, but often mutually exclusive. Not all of them might be realised fully, so each institution which is supposed to be established through the accession agreement must be a compromise between different imperatives. The theoretical model has two basic functions: firstly, it serves as a useful tool for devising a whole spectrum of solutions for each accession issue. Secondly, it allows of assessing the already agreed institutions – and the implications of their establishment – in a broader theoretical perspective. Thus the proper context might be restored to the accession debates and the hierarchy of accession objectives might be re-evaluated.

The main part of the thesis, based upon these theoretical findings, deals with particular issues related to the accession. Whenever their regulations have already been proposed in the draft accession agreements, the thesis provides a critical analysis of the negotiators' proposals and of the opinion 2/13 of the Court of Justice of the EU, whose subject is the final draft of the accession agreement from 2013. The accession of an international organisation to the convention which was initially geared towards states only entails numerous complications. Not all of them have been fully recognised by the negotiators, whereas the regulations of some of them, included in the draft accession agreements, raises manifold doubts. Particular attention has been paid to the area which is simultaneously the most complex and most neglected in scholars' contributions, namely the area of (shared) responsibility of the EU for the violation of Convention obligations and of the so-called co-respondent mechanism.

The final part of the thesis has been devoted to long-term implications of the accession. Except for the effects which are projected in advance (such as the introduction of direct responsibility of the EU for violating Convention obligations and the possibility of filing claims against the EU and its member state(s) jointly), the accession will entail further structural changes in the functioning of the human rights protection in Europe. In this

perspective the accession has been analysed as a forerunner of the evolution of human rights protection, which tends to multi-centrism and pluralisation of both sources of law and courts and tribunals which interpret them. In this regard the accession provides an enlightening case study of the increasing complication and ambivalence of applying human rights norms. In order to grasp its specificity, the thesis propounds a concept of the European model of human rights protection, which bases on the critical reworking of the pluralist approach towards multiple legal orders. This approach provides a basis for the main working hypothesis, according to which the accession of the EU to the ECHR will entail not simplification and coherence of the European human rights protection model, but its further pluralisation and multi-centrism, as well as the growth of the autonomy of each judicial instance interpreting human rights norms – on European (CJEU, ECtHR) and national levels (national constitutional courts), including the level of the national general courts.

Thesis structure

Introduction – presentation of the research objective, specificity of the subject, methodology and working hypothesis,

Chapter I, The Historical Context of the EU Accession to the ECHR – this chapter introduces the history of human rights protection within the frameworks of the ECHR and the EU (including their mutual interactions), as well as the history of the very accession project, its context and postulated ways of realisation,

Chapter II, The Objectives of the EU Accession to the ECHR – A Theoretical Model – the chapter propounds a theoretical model of the accession, i.e. the typology of its objectives coupled with the analysis of their mutual entanglements and contradictions,

Chapter III, Legal Regulations of the EU Accession to the ECHR – this chapter presents an analysis of technical legal issues pertaining to the accession (such as ways of its realisation in international law, the form of the accession agreement, procedures of its acceptance and ratification, the necessity of amending the existing normative acts as well as legal directives imposed by the Treaty of Lisbon),

Chapter IV, The Effects of the EU Accession to the ECHR – this chapter provides an analysis of institutional, procedural and material (for the ECHR and the EU legal systems) effects of the accession,

Chapter V, Responsibility of the EU for Violating the ECHR and the co-respondent mechanism – this chapter contains a complex analysis of (shared) international responsibility of the Union for violations of obligations stemming from the ECHR with a special reference to the ILC's Draft Articles on the Responsibility of States and on the Responsibility of International Organizations,

Chapter VI, The EU Accession to the ECHR and Relations Between the Court of Justice of the EU and the European Court of Human Rights – the chapter offers a theoretical approach to the relation between the two European tribunals after the accession – especially as it regards some particular issues relating to their overlapping jurisdiction, such as the *prior involvement problem* or the possibility of preliminary questions of the CJEU to the ECtHR,

Chapter VII, The EU Accession to the ECHR and the European Model of Human Rights Protection – this chapter aims to outline broad, structural implications of the accession for the growing complexity and multi-centrism of the European human rights protection model.

Conclusion – summary of research results and verification of the working hypothesis in the context of the conducted analyses.