



EUROPEAN COUNCIL

**Brussels, 18 June 2013
(OR. en)**

EUCO 132/13

**CO EUR 11
POLGEN 95
INST 283
OC 377**

LEGAL ACTS

Subject: EUROPEAN COUNCIL DECISION on the examination by a conference of representatives of the Governments of the Member States of the amendment to the Treaties proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and not to convene a Convention

COMMON GUIDELINES

Consultation deadline for Croatia: 19.6.2013

EUROPEAN COUNCIL DECISION

of ...

on the examination by a conference of representatives of the Governments of the Member States of the amendment to the Treaties proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and not to convene a Convention

THE EUROPEAN COUNCIL,

Having regard to the Treaty on European Union, and in particular Article 48(3) thereof,

Having regard to the proposal for the amendment of the Treaties submitted to the Council by the Czech Government on 5 September 2011 and submitted to the European Council by the Council on 12 October 2011,

Having regard to the consent of the European Parliament not to convene a Convention¹,

Having regard to the opinion of the European Parliament²,

After notification of the proposal to the national parliaments,

Having regard to the opinion of the European Commission³,

¹ Consent of 22 May 2013 (not yet published in the Official Journal).

² Opinion of 22 May 2013 (not yet published in the Official Journal).

³ Opinion of 4 May 2012 (not yet published in the Official Journal).

Whereas:

- (1) On 29 and 30 October 2009, the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, agreed that they would, at the time of the conclusion of the next Accession Treaty and in accordance with their respective constitutional requirements, attach the Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).
- (2) On 5 September 2011, the Czech Government submitted, in accordance with the first sentence of Article 48(2) TEU, a proposal for the amendment of the Treaties in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic.
- (3) On 12 October 2011, in accordance with the third sentence of Article 48(2) TEU, the proposal of the Czech Government was submitted by the Council to the European Council. It was also notified to the national parliaments.
- (4) At its meeting on 23 October 2011, the European Council decided, in accordance with the first subparagraph of Article 48(3) TEU, to consult the European Parliament and the Commission on the proposed amendments. It also decided, in accordance with the second subparagraph of Article 48(3) TEU, to request the consent of the European Parliament not to convene a Convention given that, in its view, the convening of such Convention was not justified by the extent of the proposed amendments.

- (5) On 4 May 2012, the Commission adopted a favourable opinion on the proposed amendments. On 22 May 2013, the European Parliament adopted its opinion, calling on the European Council not to examine the proposed amendment. At the same time it gave its consent not to convene a Convention on account of this not being justified by the extent of the proposed amendments.
- (6) After the date of its accession, Croatia should be included in the list of High Contracting Parties to the proposed Protocol.
- (7) It is appropriate that, in accordance with the second subparagraph of Article 48(3) TEU, the European Council decide that a conference of representatives of the governments of the Member States should examine the amendments proposed by the Czech Government, define the terms of reference of that conference and decide not to convene a Convention,

HAS ADOPTED THIS DECISION:

Article 1

The European Council hereby decides that a conference of representatives of the governments of the Member States shall examine the amendments proposed by the Czech Government in the form of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic, to be annexed to the Treaty on European Union and to the Treaty on the functioning of the European Union, in the wording as attached to this Decision, which will constitute the terms of reference of that conference. In view of the extent of the proposed amendments, a convention under Article 48(3) of the Treaty on European Union shall not be convened.

The text of the Protocol is attached to this Decision.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the European Council
The President

DRAFT PROTOCOL
ON THE APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS
OF THE EUROPEAN UNION
TO THE CZECH REPUBLIC

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

hereinafter referred to as "THE HIGH CONTRACTING PARTIES",

TAKING note of the wish expressed by the Czech Republic,

RECALLING the Presidency Conclusions approved by the European Council at its meeting on 29 and 30 October 2009,

RECALLING that the Heads of State or Government meeting within the European Council on 29 and 30 October 2009 agreed that they would, at the time of the conclusion of the next Accession Treaty and in accordance with their respective constitutional requirements, attach to the Treaty on European Union and the Treaty on the Functioning of the European Union a Protocol concerning the application of the Charter of Fundamental Rights of the European Union to the Czech Republic,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

ARTICLE 1

The Protocol on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom shall apply to the Czech Republic.

ARTICLE 2

The title, preamble and operative part of the Protocol referred to in Article 1 shall be modified in order to refer to the Czech Republic in the same terms as they refer to Poland and to the United Kingdom.

ARTICLE 3

This Protocol shall be ratified by the High Contracting Parties, in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Protocol shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

ARTICLE 4

This Protocol, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the Governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Protocol.

Done at ... on the in the year ...
