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One Set of Rights Is Enough

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STRASBOURG – Respect for human rights is one of the core values of the European Union. Yet the Treaty of Rome was mute on this topic and the Maastricht treaty was laconic. Filling this void is one of the challenges facing the 1996 lntergovernmental Conference.

Essentially there are two ways of doing it: a difficult one and an easy one.

The difficult option is to work out a brand new EU catalogue of human rights, to be inserted into the new treaty. Many interest groups have strong views on what should be included.

The easy way is to skip all negotiations and use what is already on the shelf: the Council of Europe's Convention of Human Rights, which was approved long ago by all member states of the Union.

Developed through case law and additional protocols over the last 45 years, the convention has become a powerful tool for legal protection and harmonization. More than 100 laws in various European states have already been changed after judgments of the European Court of Human Rights in Strasbourg.

All 36 members of the Council of Europe are required to accept the convention and the right of individual application. This has created a common legal space in Europe on human rights.

The Strasbourg principles are particularly important in the transition from communism to democracy. In recent years they have served as guidelines for legal reforms throughout Central and Eastern Europe.

Adjusting to Council of Europe standards also helps the new democracies prepare for EU membership. The same principles are accepted as binding on legislators and governments in Dublin and Tirana, Rome and Riga, Lisbon and Bratislava.

But there is a conspicuous hole in this web: Brussels. While EU citizens may challenge their governments' legislation and practice by bringing an application to Strasbourg, there is no corresponding right to complain about Union law and practice.

In effect, there is no great divergence; the European Court in Luxembourg often refers to Strasbourg case law. But it is not formally obliged to apply the rights convention.

Requiring less from EU legislation than from national legislation is clearly untenable. European integration should be based on an explicit recognition of judicially enforceable fundamental human rights.

The choice between the two options should not be too hard. The practical solution of EU accession to the convention has long been advocated by the European Commission as well as the European Parliament and the Parliamentary Assembly of the Council of Europe.

Negotiating a specific EU catalogue of human rights would not only be time-consuming, it would entail other drawbacks as well.

Rolv Ryssdal, presiding judge of the European Court of Human Rights, warned recently of the dangers of “a two speed Europe of human rights.” If we are to have one set of rules for the 36 members of the Council of Europe and a different one for the 15 members of the Union, there will be a great deal of confusion – both in the present Union states and in the candidates for membership. There would be additional hurdles to expanding the EU.

Reinventing the wheel appeals to the enterprising policy-makers who want to do everything by themselves.

But this particular wheel has been spinning reasonably well for 45 years. If it is still deficient in some respects (delays are far too long in Strasbourg), it is better to improve it than to start all over again.

And such improvement is already under way. Within a few years the Strasbourg court will function full-time, with far greater capacity than today. With the Union firmly hitched to the convention, the process of strengthening and adding to its guarantees would also receive a fresh impetus.

The Intergovernmental Conference will have a staggering agenda. This particular item, however, should not be too difficult to tick off.