

OPINION 2/13

Public International Law: Alternative Seminar

KEY REASONS WHY EU CANNOT BECOME PARTY OF THE ECHR

- Autonomy (para 179 et seq) = on international and MS' laws
- Dispute resolution mechanism (Art. 344 TFEU) (para 201 et seq) – Solely the CJEU may decide on disputes over interpretation and application of EU law
- The co-respondent mechanism (para 215 et seq) – the final say as to the division of powers between EU and its member state would have the European Court of Human Rights
- A “prior involvement” of the CJEU (para 236 et seq) – a case with an EU-law element may arise, which would find its way directly to Strasbourg, and therefore no involvement of CJEU

CONCLUSION

- The Accession to the ECHR would not be compatible with the EU primary law

DISCUSSION

- Pros and cons