

Court of Justice, Opinion 2/13, Draft Accession Agreement of the EU to the ECHR, 18 December 2013

156. Unlike any other Contracting Party, **the EU is, under international law, precluded by its very nature from being considered a State.**
157. As the Court of Justice has repeatedly held, the founding treaties of the EU, unlike ordinary international treaties, established a new legal order, possessing its own institutions, for the benefit of which the Member States thereof have limited their sovereign rights, in ever wider fields, and the subjects of which comprise not only those States but also their nationals.
158. (...) **the EU has a new kind of legal order, the nature of which is peculiar to the EU, its own constitutional framework and founding principles, a particularly sophisticated institutional structure and a full set of legal rules to ensure its operation (...).**
165. [The **specific characteristics of the EU and EU law**] include those relating to the constitutional structure of the EU, which is seen in the **principle of conferral of powers** referred to in Articles 4(1) TEU and 5(1) and (2) TEU, and in the **institutional framework** established in Articles 13 TEU to 19 TEU.
166. To these must be added the **specific characteristics arising from the very nature of EU law** [, notably] the fact that **it stems from an independent source of law, the Treaties, by its primacy over the laws of the Member States, and by the direct effect of a whole series of provisions** which are applicable to their nationals and to the Member States themselves.
167. These essential characteristics of EU law have given rise to a structured network of principles, rules and mutually interdependent legal relations linking the EU and its Member States, and its Member States with each other, which are now engaged, as is recalled in the second paragraph of Article 1 TEU, in a 'process of creating an ever closer union among the peoples of Europe'.
168. This legal structure is based on the **fundamental premiss that each Member State shares** with all the other Member States, and recognises that they share with it, a **set of common values on which the EU is founded**, as stated in Article 2 TEU. That premiss implies and justifies the **existence of mutual trust between the Member States** that those values will be recognised and, therefore, that the law of the EU that implements them will be respected.
169. Also **at the heart of that legal structure are the fundamental rights recognised by the Charter [of Fundamental Rights of the EU]** (which, under Article 6(1) TEU, has the same legal value as the Treaties), respect for those rights being a condition of the lawfulness of EU acts, so that measures incompatible with those rights are not acceptable in the EU.
172. **The pursuit of the EU's objectives**, as set out in Article 3 TEU, **is entrusted to a series of fundamental provisions**, such as those providing for the free movement of goods, services, capital and persons, citizenship of the Union, the area of freedom, security and justice, and competition policy. Those provisions, which are part of the framework of a system that is specific to the EU, are **structured in such a way as to contribute** — each within its specific field and with its own particular characteristics — **to the implementation of the process of integration that is the *raison d'être* of the EU itself.**

173. Similarly, **the Member States are obliged, by reason, inter alia, of the principle of sincere cooperation** set out in the first subparagraph of Article 4(3) TEU, **to ensure, in their respective territories, the application of and respect for EU law.**
174. In order to ensure that the specific characteristics and the autonomy of that legal order are preserved, **the Treaties have established a judicial system intended to ensure consistency and uniformity in the interpretation of EU law.**
175. In that context, **it is for the national courts and tribunals and for the Court of Justice to ensure the full application of EU law in all Member States and to ensure judicial protection of an individual's rights under that law** (Opinion 1/09, EU:C:2011:123, paragraph 68 and the case-law cited).
176. In particular, **the judicial system as thus conceived has as its keystone the preliminary ruling procedure provided for in Article 267 TFEU**, which, by setting up a dialogue between one court and another, specifically between the Court of Justice and the courts and tribunals of the Member States, has the object of securing uniform interpretation of EU law, thereby serving to ensure its consistency, its full effect and its autonomy as well as, ultimately, the particular nature of the law established by the Treaties.