



ΙΔΡΥΜΑ ΚΑΛΛΙΟΠΗΣ ΚΟΥΦΑ  
ΓΙΑ ΤΗΝ ΠΡΟΑΓΩΓΗ ΤΟΥ ΔΙΕΘΝΟΥΣ ΔΙΚΑΙΟΥ ΚΑΙ  
ΤΗΝ ΠΡΟΣΤΑΣΙΑ ΤΩΝ ΑΝΘΡΩΠΙΝΩΝ ΔΙΚΑΙΩΜΑΤΩΝ

KALLIOPE KOUFA FOUNDATION  
FOR THE PROMOTION OF INTERNATIONAL  
AND HUMAN RIGHTS LAW

Jean Monnet Project | EURIS  
*EU Responsibility in the International System*

## Training Manual No. 5

# European Union Disconnection Clauses in International Agreements

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**EU RESPONSIBILITY IN THE INTERNATIONAL SYSTEM**

**TRAINING MANUAL No. 5**

**European Union Disconnection Clauses  
in International Agreements**

**Kalliopi Koufa Foundation for the Promotion of International and Human Rights Law**

**Aristotelous 2, 54623, Thessaloniki**

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**Kalliopi Koufa Foundation**

**Thessaloniki, 54623**

**Greece**

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## A. Disconnection clauses in CoE Conventions

International Agreement	Relevant Article	Text of the Disconnection Clause
<p><a href="#">Convention on Mutual Administrative Assistance in Tax Matters (adopted 25 January 1988)</a> <a href="#">CETS No 127</a></p>	<p><b>Art 27(2)</b></p>	<p><i>Notwithstanding the rules of the present Convention, those Parties which are members of the European Economic Community shall apply in their mutual relations the common rules in force in that Community.</i></p>
<p><a href="#">Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (adopted 25 October 2007)</a> <a href="#">CETS No 201</a></p>	<p><b>Art 43(3)</b></p>	<p><i>Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.</i></p>
<p><a href="#">Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Financing of Terrorism (adopted 16 May 2005)</a> <a href="#">CETS No 198, Art 52(4)</a></p>	<p><b>Art 52(4)</b></p>	<p><i>Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.<sup>1</sup></i></p>

<sup>1</sup> Note by the Secretariat: See the Declaration formulated by the European Community and the Member States of the European Union upon the adoption of the Convention by the Committee of Ministers of the Council of Europe, on 3 May 2005: “The European Community/European Union and its Member States reaffirm that their objective in requesting the inclusion of a “disconnection clause” is to take account of the institutional structure of the Union when acceding to international conventions, in particular in case of transfer of sovereign powers from the Member States to the Community. This clause is not aimed at reducing the rights or increasing the obligations of a non-European Union Party vis-à-vis the European Community/European Union and its Member States, inasmuch as the latter are also parties to this Convention. The disconnection clause is necessary for those parts of the Convention which fall within the competence of the Community/Union, in order to indicate that European Union Member States cannot invoke and apply the rights and obligations deriving from the Convention directly among themselves (or between themselves and the European Community/Union). This does not detract from the fact that the Convention applies fully between the European Community/European Union and its Member States on the one hand, and the other Parties to the Convention, on the other; the Community and the European Union Members States will be bound by the Convention and will apply it like any Party to the Convention, if necessary, through

International Agreement	Relevant Article	Text of the Disconnection Clause
<p><a href="#">Convention on Action Against Trafficking of Human Beings (adopted 16 May 2005) CETS No 197</a></p>	<p><b>Art 40(3)</b></p>	<p><i>Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.<sup>2</sup></i></p>
<p><a href="#">Convention on the Prevention of Terrorism (adopted 16 May 2005) CETS No 196</a></p>	<p><b>Art 26(3)</b></p>	<p><i>Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case, without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties.<sup>3</sup></i></p>

Community/Union legislation. They will thus guarantee the full respect of the Convention’s provisions vis-à-vis non-European Union Parties.”

<sup>2</sup> Note by the Secretariat: See the Declaration formulated by the European Community and the Member States of the European Union upon the adoption of the Convention by the Committee of Ministers of the Council of Europe, on 3 May 2005: “The European Community/European Union and its Member States reaffirm that their objective in requesting the inclusion of a “disconnection clause” is to take account of the institutional structure of the Union when acceding to international conventions, in particular in case of transfer of sovereign powers from the Member States to the Community. This clause is not aimed at reducing the rights or increasing the obligations of a non-European Union Party vis-à-vis the European Community/European Union and its Member States, inasmuch as the latter are also parties to this Convention. The disconnection clause is necessary for those parts of the Convention which fall within the competence of the Community/Union, in order to indicate that European Union Member States cannot invoke and apply the rights and obligations deriving from the Convention directly among themselves (or between themselves and the European Community/Union). This does not detract from the fact that the Convention applies fully between the European Community/European Union and its Member States on the one hand, and the other Parties to the Convention, on the other; the Community and the European Union Members States will be bound by the Convention and will apply it like any Party to the Convention, if necessary, through Community/Union legislation. They will thus guarantee the full respect of the Convention’s provisions vis-à-vis non-European Union Parties.”

<sup>3</sup> Note by the Secretariat: See the Declaration formulated by the European Community and the Member States of the European Union upon the adoption of the Convention by the Committee of Ministers of the Council of Europe, on 3 May 2005: “The European Community/European Union and its Member States reaffirm that their objective in requesting the inclusion of a “disconnection clause” is to take account of the institutional structure of the Union when acceding to international conventions, in particular in case of transfer of sovereign powers from the Member States to the Community. This clause is not aimed at reducing the rights or increasing the obligations of a non-European Union Party vis-à-vis the European Community/European Union and its Member States, inasmuch as the latter are also parties to this Convention. The disconnection clause is necessary for those parts of the Convention which fall within the competence of the Community/Union, in order to indicate that European Union Member States cannot invoke and apply the rights and obligations deriving from the Convention directly among themselves (or between themselves and the European Community/Union). This does not detract from the fact that

International Agreement	Relevant Article	Text of the Disconnection Clause
<a href="#">Convention on Contracts Concerning Children (adopted 15 May 2003) CETS No 192</a>	<b>Art 20(3)</b>	<i>In their mutual relations, States Parties which are members of the European Community shall apply Community rules and shall therefore not apply the rules arising from this Convention, except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">European Convention for the Protection of Audiovisual Heritage (adopted 8 November 2001) CETS No 183</a>	<b>Art 21</b>	<i>In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access (adopted 24 January 2001) CETS No 178</a>	<b>Art 11(4)</b>	<i>In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People (adopted 11 May 2000) CETS No 175</a>	<b>Art 19(2)</b>	<i>In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">Agreement on Illicit Traffic by Sea, implementing Art. 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (adopted 31 January 1995) CETS No 156</a>	<b>Art 30(3)</b>	<i>If two or more Parties have already concluded an agreement or treaty in respect of a subject dealt with in this Agreement or have otherwise established their relations in respect of that subject, they may agree to apply that agreement or treaty or to regulate those relations accordingly, in lieu of the present Agreement, if it facilitates international co-operation.</i>

the Convention applies fully between the European Community/European Union and its Member States on the one hand, and the other Parties to the Convention, on the other; the Community and the European Union Members States will be bound by the Convention and will apply it like any Party to the Convention, if necessary, through Community/Union legislation. They will thus guarantee the full respect of the Convention’s provisions vis-à-vis non-European Union Parties.”

International Agreement	Relevant Article	Text of the Disconnection Clause
<a href="#">European Convention Relating to Questions on Copyright Law and Neighbouring Rights in the Framework of Transfrontier Broadcasting by Satellite (adopted 11 May 1994) CETS No 153</a>	<b>Art 9(1)</b>	<i>In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention, except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment (adopted 21 June 1993) CETS No 150</a>	<b>Art 25(2)</b>	<i>In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall therefore not apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">European Convention on Certain International Aspects of Bankruptcy (adopted 5 June 1990) CETS No 136</a>	<b>Art 38(2)</b>	<i>In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall therefore not apply the rules arising from this Convention, except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">Protocol to the Convention on Insider Trading (adopted 11 September 1989) CETS No 133</a>	<b>Art 1 (inserted as Art 16bis of the Convention)</b>	<i>In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall therefore not apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned. (inserted as Art. 16bis of the Convention)</i>
<a href="#">European Convention on Transfrontier Television (adopted 5 May 1989) CETS No 132</a>	<b>Art 27(1)</b>	<i>In their mutual relations, Parties which are members of the European Community shall apply Community rules and shall not therefore apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.</i>
<a href="#">Second Additional Protocol to the Convention on Cybercrime on</a>	<b>Art 15(1)b</b>	<i>With respect to Parties that are members of the European Union,</i>



International Agreement	Relevant Article	Text of the Disconnection Clause
<a href="#">enhanced co-operation and disclosure of electronic evidence (adopted 12 May 2022) CETS No 224</a>		<i>those Parties may, in their mutual relations, apply European Union law governing the matters dealt with in this Protocol.</i>

## B. Disconnection clauses in other international agreements

International Agreement	Relevant Article	Text of the Disconnection Clause
<a href="#">Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (Hague XXXXI) (adopted 2 July 2019)</a>	<b>Art 23(4)</b>	<p><i>This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention as concerns the recognition or enforcement of a judgment given by a court of a Contracting State that is also a Member State of the Regional Economic Integration Organisation where:</i></p> <p><i>(a) the rules were adopted before this Convention was concluded; or</i></p> <p><i>(b) the rules were adopted after this Convention was concluded, to the extent that they do not affect the obligations under Article 6 towards Contracting States that are not Member States of the Regional Economic Integration Organisation.</i></p>
<a href="#">Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Hague XXXVIII) (adopted 23 November 2007) 47 I.L.M. 257</a>	<b>Arts 51(4) and 59</b>	<p><i>This Convention shall not affect the application of instruments of a Regional Economic Integration Organisation that is a Party to this Convention, adopted after the conclusion of the Convention, on matters governed by the Convention provided that such instruments do not affect, in the relationship of Member States of the Regional Economic Integration Organisation with other Contracting States, the application of the provisions of the Convention. As concerns the recognition or enforcement of decisions as between Member States of the Regional Economic Integration Organisation, the Convention shall not affect the rules of the Regional Economic Integration Organisation,</i></p>



International Agreement	Relevant Article	Text of the Disconnection Clause
		<p><i>whether adopted before or after the conclusion of the Convention.</i></p> <p><i>(1) A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by the Convention.</i></p> <p><i>(2) The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.</i></p> <p><i>(3) At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare in accordance with Article 63 that it exercises competence over all the matters governed by this Convention and that the Member States which have transferred competence to the Regional Economic Integration Organisation in respect of the matter in question shall be bound by this Convention by virtue of the signature, acceptance, approval or accession of the Organisation.</i></p> <p><i>(4) For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic</i></p>

International Agreement	Relevant Article	Text of the Disconnection Clause
		<p><i>Integration Organisation makes a declaration in accordance with paragraph 3.</i></p> <p><i>(5) Any reference to a "Contracting State" or "State" in this Convention shall apply equally to a Regional Economic Integration Organisation that is a Party to it, where appropriate. In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 3, any reference to a "Contracting State" or "State" in this Convention shall apply equally to the relevant Member States of the Organisation, where appropriate.</i></p>
<p><a href="#"><u>Convention on Choice of Court Agreements (Hague XXXVII) (adopted 30 June 2005) 44 I.L.M. 1294</u></a></p>	<p><b>Art 26(6)</b></p>	<p><i>This Convention shall not affect the application of the rules of a Regional Economic Integration Organisation that is a Party to this Convention, whether adopted before or after this Convention:</i></p> <p><i>a) where none of the parties is resident in a Contracting State that is not a Member State of the Regional Economic Integration Organisation;</i></p> <p><i>b) as concerns the recognition or enforcement of judgments as between Member States of the Regional Economic Integration Organisation.</i></p>
<p><a href="#"><u>International Health Regulations (adopted 23 May 2005) WHA58.3/2005/REC/1</u></a></p>	<p><b>Art 57(3)</b></p>	<p><i>Without prejudice to their obligations under these Regulations, States Parties that are members of a regional economic integration organization shall apply in their mutual relations the common rules in force in that regional economic integration organization.</i></p>
<p><a href="#"><u>Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters (adopted 21 May 2003) ECE/MP.WAT/11-ECE/CP.TEIA/9</u></a></p>	<p><b>Art 20(2)</b></p>	<p><i>In their mutual relations, Parties which are members of the European Community shall apply the relevant Community rules instead of articles 15 and 18.</i></p>
<p><a href="#"><u>Convention on Stolen or Illegally Exported Cultural Objects</u></a></p>	<p><b>Art 13(3)</b></p>	<p><i>In their relations with each other, Contracting States which are Members of organisations of economic</i></p>

International Agreement	Relevant Article	Text of the Disconnection Clause
<p><a href="#">(adopted 24 June 1995) 34 I.L.M. 1322</a></p>		<p><i>integration or regional bodies may declare that they will apply the internal rules of these organisations or bodies and will not therefore apply as between these States the provisions of this Convention the scope of application of which coincides with that of those rules.</i></p>
<p><a href="#">Convention concerning International Carriage by Rail (adopted 9 May 1980)</a></p>	<p><b>Arts 3(2) and 5bis(1) of the Appendix E to the Convention</b></p>	<p><i>The obligations resulting from § 1 for the Member States, which are at the same time Members of the European Communities or States parties to the European Economic Area Agreement, shall not prevail over their obligations as members of the European Communities or States parties to the European Economic Area Agreement.</i></p> <p><i>The provisions of Article 5 as well as those of Articles 6, 7 and 22 shall not affect the obligations which the parties to the contract of use of infrastructure have to meet under the laws and prescriptions in force in the State in which the infrastructure is located including, where appropriate, the law of the European Union.</i></p>

### C. Other special clauses relating to regional organisations

International Agreement	Relevant Article	Text of the Disconnection Clause
<p><a href="#">Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (adopted 10 October 2018) CETS No 223</a></p>	<p><b>Art 17(2)</b></p>	<p><i>A Party shall not, for the sole purpose of the protection of personal data, prohibit or subject to special authorisation the transfer of such data to a recipient who is subject to the jurisdiction of another Party to the Convention. Such a Party may, however, do so if there is a real and serious risk that the transfer to another Party, or from that other Party to a non-Party, would lead to circumventing the provisions of the Convention. A Party may also do so if bound by harmonised rules of protection shared by States belonging to a regional international organisation.</i></p>