Every contributor to a *liber amicorum* is bound to heap praise on the person to whom it is dedicated. However, for me this is a very special case. Marc Maresceau was my first European law teacher, I was his first university assistant, I was one of his first PhD students, and for a couple of years, his colleague in Ghent (and in Brussels). In all these years, he was an impressive mentor and example, and I am forever indebted for what I learned from him and for his help and assistance. This paper is but a small token of recognition. It focuses on a concept, direct effect, which has been at the heart of Marc Maresceau’s own intellectual journey—the subject of his own PhD, later turned into a marvellous monograph which continues to repay close study.¹ But my aim is not to look backward, but forward—also something which Marc has constantly done, throughout his rich academic career.

1. **Introduction**

The EU is in the process of negotiating its accession to the ECHR.² It is under a constitutional obligation to accede (Art 6(2) TEU), though obviously subject to the agreement of all of the ECHR Contracting Parties. The negotiation takes


place against the backdrop of a proliferation of sources of EU human rights law. The Lisbon Treaty has incorporated the EU Charter of Fundamental Rights, as having equal value with the founding Treaties (Art 6(1) TEU). In addition, it has maintained the legal category of ‘general principles of EU law’, which include fundamental rights (Art 6(3) TEU). Upon accession, there will therefore be three sources: the Convention as such, as an agreement binding on the EU (Art 216(2) TFEU); the Charter and the general principles of EU law. The relationship between them is not constitutionally regulated—Art 6 TEU simply juxtaposes them. To make matters even more obscure, there is very significant substantive overlap between the three sources: the ECHR rights are part of each of them. EU human rights law, after accession, is a kind of 3D movie, one which can only be properly viewed with the right spectacles; and no one really knows where to find those.

The aim of this paper is to explore, prospectively, what the status of the Convention in EU law could, and should be, once the EU has become a Contracting Party. The paper does so, at one level, on the basis of the existing principles regarding the effects which international agreements have in the EU legal order. However, I also try to underpin my analysis with a more theoretical conception of the evolving relationships between legal orders in Europe. That conception, more extensively developed elsewhere, challenges what has become the orthodox conceptualisation: legal/constitutional pluralism. Instead, I argue that European legal systems are increasingly integrated, in particular in the field of human rights. The EU’s accession to the ECHR is a further episode in the integration-of-laws story.

The structure of the paper is straightforward. In a first section, I analyse the scope of the ECJ’s jurisdiction to interpret and apply the Convention, once it is concluded. The following section examines the potential legal effect of the Convention—in its actual provisions—in EU law. Would the Convention have direct effect, and what could such direct effect mean? I then turn to a more institutional, and indeed more sensitive question: what will be the effect of judgments of the ECtHR in the EU legal order? Are they binding on the EU institutions, including the CJEU, or do they have some lesser status?

