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RELATIONS BETWEEN THE COUNCIL OF EUROPE AND THE OSCE

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1/ Introduction

The relationship between the Council of Europe and the OSCE (previously the CSCE) is based on the common values of democracy, human rights and the rule of law, and the commitment of these organisations to mutual reinforcement of action, taking into consideration the differences in membership and working methods.

Between 1975 and the systemic changes in the Central and Eastern European countries, the Helsinki process and the Council of Europe existed in parallel without institutional relations. When in the historic year of 1989 the CoE embarked on fulfilling its pan-European vocation by opening its doors to Central and Eastern European states, the requirement "*to apply and implement the Helsinki Final Act and the instruments adopted at the CSCE conferences*"¹ was one of the conditions for granting the "special guest status" to the national legislative assemblies of these countries. Institutional relations had started and rapidly developed. The democratic institution-building process and the promotion and protection of human rights in the European continent are all common achievements of the two organisations. Problems of co-ordination, co-operation and coherence have of course been encountered during the past two decades, but the member/participating states, with the assistance of the Secretariats, were always able to address them efficiently. The history of the CoE–OSCE relations has been always accompanied by the pursuit of more synergy.

¹ Resolution 917 (1989) on a special guest status with the Parliamentary Assembly adopted on 11 May 1989.

2/ The CoE approach (working groups, summit decisions, reports, mainstreaming the co-operation)

Since the beginning of the institutionalisation of the CSCE and following the adoption of the Charter of Paris for a New Europe in 1990, the question of pragmatic and increased co-operation between the CoE and the CSCE/OSCE has been regularly on the agenda of the Committee of Ministers. A special *ad hoc* working party of the Ministers' Deputies on relations between the CoE and the CSCE, later called the GR-OSCE, has been active since April 1994.

All CoE Summits (1993, 1997 and 2005) addressed the relationship between the CoE and CSCE/OSCE. The relevant political statements were reflected and further developed in the priorities of subsequent Chairmanships of the Committee of Ministers and other CM decisions.

Instructed by the Second Summit, the Committee of Ministers in 1998 adopted a report prepared by a "Committee of Wise Persons". In this report the Committee stressed *inter alia*:

- "*the importance of co-ordination and co-operation in national capitals, between those responsible for allocating tasks to the different European organisations, in order to ensure complementarity and to avoid unnecessary duplication and overlap.*"

- "*Co-operation and co-ordination of activities, basically complementary and mutually reinforcing, between the Council of Europe and the OSCE should be on an equal footing, practical and results-oriented. Provisions to this effect could be contained in a general memorandum of understanding to be concluded between the two organisations.*"

Since October 1998, the OSCE (representative of the country holding the OSCE Chairmanship assisted, if necessary, by a member of the OSCE Secretariat) has been invited by the Ministers' Deputies to participate in the meetings of the working group on relations with the OSCE (GR-OSCE, GR-EXT).

By decision of the Committee of Ministers or by virtue of application of CM decision, the OSCE (as an organisation or its institutions - ODIHR, High Commissioner for National Minorities) has been authorised to participate in meetings of more than 20 CoE bodies (committees of experts, steering committees, etc).

Within the reform of CoE external presence initiated in 2010, and guided by a desire to further strengthen the interaction between the two organisations, the CoE opened Liaison Offices with the OSCE in Vienna and with the OSCE/ODIHR in Warsaw in 2011.

Following the creation of the CSCE/OSCE Committee of Senior Officials, later transformed into the Permanent Committee and later the Permanent Council, the Secretary General of the CoE, by virtue of a letter sent to the CSCE Chairman-in-Office in April 1993, requested that a CoE representative be invited to attend the meetings of the CSCE bodies on a permanent basis.

A similar letter was addressed to the OSCE Chairman-in-Office by the CoE Secretary General in March 2011 (following the opening of the CoE Office in Vienna) requesting that the Head of the CoE Office in Vienna be invited on a regular basis to attend meetings of the OSCE Permanent Council.

In 2011, the CoE commissioned a study on "The Council of Europe and the OSCE: enhancing co-operation and complementarity through greater coherence".

A selection of CoE texts most relevant to the CoE-OSCE relations is reproduced in document DER/Inf(2011)2.

3/ The OSCE approach (illustrated by a selection of the most relevant texts)

On the OSCE side, the pledge to strengthen the mutually reinforcing nature of the relationship between the OSCE and other international organisations and institutions concerned with the promotion of comprehensive security within the OSCE was made in the *Platform for Co-operative Security* adopted at the OSCE Istanbul Summit in 1999.

The *OSCE Strategy to Address Threats to Security and Stability in the 21st Century*, adopted by the OSCE Maastricht Ministerial Council in 2003, recognised that the OSCE had established regular patterns of consultations at both technical and political levels with a number of organisations and institutions, *inter alia* the UN, the EU, NATO and the CoE.

In the *Astana Commemorative Declaration* adopted at the 2010 Astana Summit, the OSCE reaffirmed its full adherence to all OSCE documents agreed between the participating states. Furthermore, the OSCE declared that it would "work to ensure that co-operation among our states and among the relevant organisations and institutions of which they are members will be guided by the principle of equality, partnership co-operation, inclusiveness and transparency".

4/ Common guidelines for co-operation

The various forms of consultation, liaison and co-operation which developed in the 90s were fixed in the Common Catalogue of Co-operation Modalities compiled by the two Secretariats in 2000. The Catalogue aimed "*at guaranteeing the institutional memory and ensuring that existing good practice was not forgotten or lost.*"

The Joint Statement signed by the Chairman of the CoE Committee of Ministers and the OSCE Chairman-in-Office in the margins of the Warsaw Summit in May 2005 and the Declaration on Co-operation between the CoE and the OSCE attached to it are still today the most important political guidelines for relations between the two organisations.

5/ Co-operation and meeting modalities

On the basis of the political decisions and considerations described above, the following CoE-OSCE (CSCE) meeting modalities have been developed and implemented since the early 90s (more detailed information about each of the co-operation meeting modalities is reproduced in **Appendix 1**):

- Joint meetings of the CoE Ministers' Deputies-OSCE Permanent Council;
- Participation in meetings of the OSCE Ministerial Council and the CoE Committee of Ministers, the OSCE Permanent Council, the CoE Ministers' Deputies and their subsidiary structures;
- 2+2 High-Level meetings;
- Senior Officials meetings;
- Co-ordination Group;
- Tripartite High-Level meetings CoE-OSCE-UN/UN Office at Geneva (undergoing substantive reform);
- Exchanges of views with the OSCE Permanent Council and the CoE Ministers' Deputies and their subsidiary structures.

6/ Examples of co-operation, best practices, problems

The conclusions of the above meetings were and are reflected in various forms of specific co-operation. Among the many examples of such co-operation, the following should be mentioned in particular:

- The co-operation of the CoE Parliamentary Assembly with OSCE Institutions (ODHIR and PA OSCE) in **election observation** leads to joint statements on the outcome of the observation. While these statements have generally become reference documents in election observations, regrettably, in some cases, co-operation was not without difficulties. PACE delegations were thus obliged to hold separate press conference and issue separate statements.
- **Venice Commission-OSCE/ODIHR joint guidelines** identifying and developing the existing international standards and serving as a basis for **joint expert assessments** of pertinent constitutional and legislative provisions have been established in the field of political party regulation, freedom of assembly and freedom of religion. Joint assessments are normally preceded and followed by joint visits to the country concerned. The co-operation between the two institutions and the fact that they convey a common and consistent message not only prevents forum shopping, but also reinforces the authority of the opinions.

- Co-operation in the field of the **media** takes various forms. Contacts and joint actions between the OSCE Representative on Freedom of the Media and PACE, the Commissioner for Human Rights and relevant CoE Secretariat entities.
- The same applies to the co-operation with the OSCE High Commissioner for **National Minorities** and the OSCE Special Representative and Co-ordinator for Combating **Trafficking in Human Beings**, in particular within the framework of the Co-ordination Group.
- Last but not least, the **co-operation with the OSCE field missions** should also be mentioned. Over the years, the CoE has built a constructive relationship with OSCE field missions on issues of political relevance for both organisations. All the CoE monitoring and stock-taking missions have relied on input from the OSCE field missions during such visits and in the preparation of the monitoring and stock-taking reports. A number of joint assistance activities and joint legal expertises were organised, sometimes with the participation of the European Commission. Crucial pieces of legislation in line with European standards were drafted and adopted.

In the past, these activities - especially joint expertises and legal assistance - were more numerous than at present. This is partly due to the CoE requirement that requests for legal expertises have to be made by the authorities of the states concerned. The OSCE on the other hand enjoys considerable flexibility to carry out legal expertises and provide other assistance in the legislative process. There have also been occasions when insufficient will on the part of OSCE field missions to co-ordinate with the CoE has led to duplication and has created possibilities for "forum shopping" by the beneficiary states.

7/ Proposals for possible actions for further strengthening the interaction between the two organisations

The presently utilised instruments of institutional co-operation consist of:

- 2+2 meetings
- Co-ordination Group
- Senior Officials meetings
- Tripartite meetings (undergoing substantive reform)
- *Ad hoc* participation of each others' meetings at different levels
- Co-operation in the field

In order to raise more awareness, to further facilitate the flow of information and co-ordination and to extend the co-operation to new areas and to intensify it at the project level, the following proposals *could* be considered. It is to be noted that these measures will bear fruit if they are reciprocated by similar measures on the side of the OSCE.

- a/** Have an item "Co-operation with the OSCE" regularly on the **agenda of GR-EXT** meetings. This would allow for regular exchanges of views on the co-operation and with the OSCE representatives.
(Since the merge of three working groups of the Ministers' Deputies [GR-EU, GR-OSCE and RAP-UN] into one [GR-EXT] in 2006, the clear priority has been relations with the EU. As such, the time devoted to the CoE external relations, including with the OSCE, has been substantially reduced.)
- b/** **Re-initiate direct contacts and dialogue** between the Ministers' Deputies and the OSCE Permanent Council at the level of plenary meetings and/or Bureau/Troika and/or Chairs of the subsidiary structures.
(This could bring more coherence in the approaches in Strasbourg and Vienna, especially in issues which are on the agendas of both organisations.)
- c/** Start dialogue between the Ministers' Deputies and the OSCE Permanent Council with a view to introducing (for the time being) one more **priority area of co-operation** into the agenda of the of the Co-ordination Group.
(The documents establishing the Co-ordination Group in 2004 and 2005 - decision CM/895/1.12.2004 and Declaration on Co-operation between the CoE and the OSCE of May 2005 - stipulate that the areas indentified as priorities by both sides are "subject to review" and that the four priority areas identified in 2005 were "to start with". There is a CoE proposal on the table to add another topic: freedom of the media.)
- d/** **Intensify contacts and co-ordination** between the respective field presences. Field presences should interact through the project cycle in order to achieve more coherence, co-ordination and, ultimately, more efficiency in addressing the common challenges.
(The reform of the field presences aims at making the CoE side ready and able for such an approach by deploying relevant capacities in the field, ensuring information flow and creating the necessary co-ordination tools at headquarters.)

Appendix

Short overview of co-operation meeting modalities

(containing more detailed information about the period 2005-2011, i.e. after the adoption of the Declaration on Co-operation between the CoE and the OSCE in May 2005)

The following CoE-OSCE (CSCE) meeting modalities have been developed and implemented since the early 90s:

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- Participation in meetings of the OSCE Ministerial Council and the CoE Committee of Ministers, the OSCE Permanent Council, the CoE Ministers' Deputies and their subsidiary structures
- 2+2 High-Level meetings
- Senior Officials meetings
- Co-ordination Group
- Tripartite High-Level meetings CoE-OSCE-UN/UNOG (undergoing substantive reform)
- Exchanges of views with the OSCE Permanent Council and the CoE Ministers' Deputies and their subsidiary structures

Joint Meetings of the CoE Ministers' Deputies-OSCE Permanent Council

- 1st meeting - Strasbourg, March 1997, at the initiative of Norway
Exchange of views and experience on methodology of implementation of commitments and monitoring mechanisms
- 2nd meeting - The Hague, June 1998, hosted by the Netherlands
Relationship between the CoE and the OSCE - a broader look
- 3rd meeting - Vienna, 4 October 1999, hosted by Norwegian OSCE Chairmanship
Monitoring of commitments
- 4th meeting - Strasbourg, 18 April 2005, co-chaired by Poland (CoE) and Slovenia (OSCE)
Finalisation of the draft text of a declaration on co-operation between the CoE and the OSCE

Participation in the meetings of the OSCE Ministerial Council and the CoE Committee of Ministers

The two Secretaries General are regularly invited to the respective annual ministerial meetings and have the right to address the meetings.

At seven respective meetings held between 2005 and 2011, the CoE was represented four times by the Secretary General and three times by a Secretariat Senior Official, whilst the OSCE was represented three times by Secretary General, once by the Director of the Conflict Prevention Centre and three times by the External Co-operation Officer of the Secretariat.

Participation in the meetings of the OSCE Permanent Council, the CoE Ministers' Deputies and their subsidiary structures

The representative of the CoE Secretariat (liaison officer, Head of the Liaison Office) has the possibility to join the delegation of the country which chairs the Committee of Ministers in the plenary and informal meetings of the OSCE Permanent Council, however without the right to take the floor. At the invitation of the respective Chairman, the CoE representative may inform subsidiary structures of the OSCE Permanent Council about relevant CoE activities.

Since October 1998, the OSCE (representative of the country holding the OSCE Chairmanship assisted, if necessary, by a member of the OSCE Secretariat) has been invited by the Ministers' Deputies to participate in the meetings of the CoE Ministers' Deputies working group on relations with the OSCE (GR-OSCE, GR-EXT).

Following the creation of the CSCE/OSCE Committee of Senior Officials, later transformed into the Permanent Committee and later the Permanent Council, the Secretary General of the CoE, by virtue of a letter sent to the CSCE Chairman-in-Office in April 1993, requested that a CoE representative be invited to attend the meetings of the CSCE bodies on a permanent basis.

A similar letter was addressed to the OSCE Chairman-in-Office by the CoE Secretary General in March 2011 (following opening of the CoE Office in Vienna) requesting that the Head of the CoE Office in Vienna be invited on a regular basis to attend the meetings of the OSCE Permanent Council.

At this date, no such an invitation has been approved by the OSCE Permanent Council.

2+2 High-Level meetings

These meetings take place once or twice per year. They are organised in turn by the Chairs-in-Office of the CoE and the OSCE respectively.

These meetings provide a forum to discussing topical political issues of mutual interest, reviewing the relations, assessing the ongoing co-operation and devising orientations for future co-operation.

The participants are the Chair of the CoE Committee of Ministers, the OSCE Chairman-in-Office and the two Secretaries General. The Presidents of the two Parliamentary Assemblies have also been invited to some meetings.

Seven 2+2 High-Level meetings took place between 2005 and 2011 (two meetings in 2006 but no meeting in 2009). With one exception, all meetings were attended by both Secretaries General.

Senior Officials meetings

Meetings at Senior Officials level have taken place, with some exceptions, once a year. They are organised in turn by the CoE and the OSCE Secretariats respectively.

The main aim of these meetings is to have a "desk-to-desk" informal discussion on concrete topics of co-operation, in particular in the field.

They are chaired alternatively by the heads of the respective external relations units.

Co-ordination Group

The Council of Europe/OSCE Co-ordination Group was set up in late 2004 by two parallel decisions of the CoE Committee of Ministers and the Permanent Council of the OSCE. Four priority areas for co-operation were agreed upon and Focal Points for each theme were appointed within each organisation. The priority areas/themes are as follows:

- the fight against terrorism
- the protection of national minorities
- tolerance and non-discrimination
- the fight against trafficking in human beings

The Group meets twice per year.

Since the autumn of 2009, the protection of national minorities and tolerance and non-discrimination have been on the agenda of a "spring" meeting held in Strasbourg, and the fight against terrorism and the fight against trafficking in human beings has been on the agenda of the "autumn" meeting held in Vienna.

The participants are as follows:

Council of Europe

- Chairman of the Ministers' Deputies, Chairman of GR-EXT, members of the Bureau of the Committee of Ministers

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- Focal Points (Permanent Representatives/Ambassadors appointed by the Committee of Ministers)
- Secretariat

OSCE

- Members of the OSCE Troika
- Focal Points (representatives of OSCE Institutions, namely HCNM, ODIHR, the Representative on trafficking in human beings, the Anti-Terrorism Unit)
- Secretariat

Tripartite High-Level Meetings

Since July 1993, High-level "Tripartite" meetings were organised regularly once a year, in turn, by the CoE, the OSCE and the UN Office at Geneva. The Secretaries General of the CoE and the OSCE and the Director General of the UN Office at Geneva were the main participants.

The main aim of the Tripartite consultations was to build mutual awareness of the organisations' respective activities in order to facilitate practical co-operation in conflict prevention and democratic institution-building, to share information and to improve practical co-operation by drawing on each other's expertise and know-how.

No meeting was held in 2011. At the initiative of the CoE, the three organisations are currently re-thinking the concept of the Tripartite meetings in order to make it more relevant and efficient.

Exchanges of views with the CoE Ministers' Deputies, the OSCE Permanent Council and their subsidiary structures

OSCE

The representative of the Chairman-in-Office, the Secretary General, the Heads of OSCE Missions, the Director of ODIHR, the Representative on Freedom of the Media and the Representative on Trafficking in Human Beings have had exchanges of views with the CoE Ministers' Deputies or their working groups.

The Secretary General of the Council of Europe addressed and answered questions from the OSCE Permanent Council in Vienna.

From 2005 to 2011:

CoE Ministers' Deputies and the OSCE Permanent Council

The **CoE Secretary General** addressed the OSCE Permanent Council four times (2005,2007,2008 and 2010). The **OSCE Secretary General** had two exchanges of views with the CoE Ministers' Deputies (2006 and 2010).

CoE working groups

- GR-DEM, 9 February 2006
Exchange of views with Ambassador Werner Wnendt, Head of the OSCE Mission in Kosovo*
- GR-DEM, 20 April 2006
Exchange of views with Ambassador William Hill, Head of the OSCE Mission in Moldova
- GR-DEM, 13 November 2008
Exchange of views with Ambassador Lamberto Zannier, Special Representative of the UN Secretary General, and Ambassador Werner Almhofer, Head of the OSCE Mission in Kosovo*
- GR-DEM, 17 May 2011
Exchange of views with Mr Gary Robbins, Head of the OSCE Mission to Bosnia and Herzegovina

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.