The Pursuit of Undivided Europe

Experts' Views on the Political Relevance
of the Council of Europe

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FOREWORD

All international organisations are susceptible to inertia. As once observed by Adam Daniel Rotfeld, they always outlive the circumstances that brought them into existence. Even the dismantling of the Warsaw Pact had to take some time after all, and when this happened it was only after the organisation had been effectively defunct for almost two years. Francis Fukuyama has proved that even international organisations have a natural tendency to resist the change that is affecting them. Therefore, it should come as no surprise that a special working party has been deliberating over the reform of the United Nations (UN) Security Council for now twenty years. A result is nowhere in sight – although almost all the international community believes that the composition of the Council does not reflect today's political and economic realities.

Institutional conservatism need not be a bad characteristic. Sometimes the continuity factor has a benevolent impact on international relations. Several international bodies have survived the major restructuring of the entire world governance system that ensued after the First and the Second World Wars. Organisations such as the International Labour Organisation or the Universal Postal Union can be portrayed as model examples of institutional "anti-fragility" – an asset which Nicholas Taleb describes as of utmost relevance in times of transformation and turmoil, characterised by globalisation.

Europe did not revamp its institutions on a wholesale scale following the end of the Cold War. No new organisations were created, except for numerous subregional initiatives in Central Europe, the Balkans and the post-Soviet space. On the wider scale, the Western institutions, already existing at that time, were simply expanded and remodelled. This was in itself a kind of controlled revolution even if not marked by the creation of any new European institution. The European Union (EU) and North Atlantic Treaty Organization (NATO) took on new members, the Council of Europe became almost Europe-wide and the Organization for Security and Co-operation in Europe (OSCE) acquired a new name as well as an operational profile. Today, some would assert however, that the failure to mark the new beginning for Europe twenty-five years ago, through the creation of a new institution, was a fundamental mistake and that a new Europe should have started with a clean slate. Yet, the strategic decisions adopted at that time had a strong logic. Their purpose was to prevent chaos and instability. By and large this was proven correct.

Nonetheless, there was a collateral effect. It mainly lay in the profusion of institutional bodies. Already twenty years ago, analysts warned about overlaps, duplication and rivalries. The conceptual remedy was to be found in the idea of interlocking institutions. This worked fine on paper and exerted pressure on fostering

co-operation between the institutions. Inter-institutional co-operation became really impressive. However, political dynamics took its own path. The EU became the political powerhouse of Europe. The process particularly challenged the OSCE and the Council of Europe. In Vienna and Strasbourg, the syndrome of the EU shadow started to show its symptoms. Many OSCE or Council of Europe insiders felt the pressure of the actions of other institutions, the EU in particular. Some even believe that the pressure of competition was sometimes the main motive for the internal reforms undertaken by certain organisations. Such statements would probably not be entirely fair. After all, the main obvious reason was the changing landscape of Europe. Contrary to what was hoped for 25 years ago, European history since then, instead of being full of peaceful convergence and harmony, was too often characterised by tumultuous political, economic and social developments that required an effective institutionally channelled response.

Most institutional reforms result in new instruments, bodies and procedures. The human rights field is no different from the fields of arms control and confidence-building or economic governance. New conventions (directives, recommendations, etc.) have been added, new monitoring procedures established, new reporting obligations introduced, new positions created (simply consider the number of human rights, national or religious minorities commissioners that were established over the last twenty years by the EU, the Council of Europe, the OSCE and the sub-regional organisations). Very rarely do we discontinue the redundancies or we streamline and downsize the institutional circle as part of the reforms. We keep whatever looks useful while adding new instruments. The risks involved in abolishing institutions are obvious when the future becomes difficult to predict. We do not throw away umbrellas even it has not rained for a couple of weeks.

The present time is the most challenging of any period over the past twenty-five years. In the last few months, we have witnessed the most serious political tensions since the end of the Cold War. The idea of one single Europe without divisions has been put into doubt. The threat of a new dividing line looks very real: some call it geopolitical, some value-related, some even – civilisational. This is probably not a good time for any European organisation to become introverted and absorbed by internal reflection.

Nevertheless, the present crisis indeed calls for deeper analysis. The fundamental question is: why were the institutions not strong enough to prevent it or mitigate it? We can, of course, excuse them by laying the entire blame on states or some of their leaders. True, institutions are always as strong as their member states want them to be. One of the weaknesses is strategic and it boils down to a question: why has the idea of one big, equal European family of states not made enough headway despite all efforts?

But the present crisis certainly reflects some of the existing institutional weaknesses. This definitely applies all the more to the Council of Europe, should we accept that

the present state of human rights, democracy and rule of law poses a serious challenge. Europe is experiencing an unprecedented fall in the trust towards democratic institutions, combined with the spread of the anomaly of managed democracy. Corruption scandals have removed several governments and politicians from power. Intolerance and extremism have risen with hitherto unseen manifestations of anti-Semitism. Islamophobia is worrying while thousands of Europeans fight in the ranks of the Islamic State against European values. The list of disquieting developments is much longer.

One of the blunders that can easily be made is to believe that even in extraordinary situations (and one can hardly deny that what we are experiencing is quite extraordinary), routine is the best answer. Sometimes exercising routine may reach a level of overconfidence that is extremely dangerous. It is a natural tendency for arms control experts to believe that the security situation in Europe has improved because the number of notifiable military activities has dropped. Or, to claim that the human rights situation in Europe is better because the size of the backlog of cases at the European Court of Human Rights has been reduced. Sometimes the picture is by far more complicated than that.

Another misjudgement could be if one believes that only the insiders can find an appropriate diagnosis and remedy for institutional ailments. Self-sufficiency is hardly a working recipe in times of globalisation. Intellectual self-sufficiency may sometimes only lead to a *cul-de-sac* situation. It is true that people on the outside of organisations know less, do not command detail and do not embrace the complexity of problems. Nonetheless, their opinions, even unsolicited, can be of extreme relevance. They know the outside world better, which is the ultimate point of reference for the usefulness of any international instrument. However, their main advantage lies somewhere else: they do not know that "some things simply cannot be done" or that "there is no other alternative".

As Director of Policy Planning at the Council of Europe, I am proud to submit to your attention three reports, prepared at our request, by a group of outstanding scholars from several Council of Europe member states. This project was one of the main elements of our effort to develop closer links between the Council of Europe and the think-tank community. These links are traditionally strong. They focus on practical technical aspects of the Council of Europe agenda. What we have tried to add was the strategic European dimension. Therefore, the questions around which the three reports were focused, touched upon the very fundamental issues that normally are not asked in the day-to-day activities of the Council of Europe: its political relevance, its membership and its *modus operandi*.

I wish to express my sincere thanks to all the researchers involved. Special gratitude goes to Dr. André Härtel, who managed the entire process and devoted so much time and effort to bringing it to a successful conclusion.

Our contributors do not claim that they are correct in their diagnosis or the recipe. Sometimes their language is far from being diplomatic. However, they are definitely quite right in their audacity to challenge some of the unspoken axioms upon which the policies of the Council of Europe are now being based. What is above any doubt is their positive attitude towards the Organisation. They believe in a good future for the Council of Europe. Even if only for this reason alone their work deserves a constructive follow up.

Dr. Piotr Świtalski
Ambassador, Director of Policy Planning

EDITOR'S NOTE

This publication is based on a collaborative project, which was started after an initial brainstorming seminar of directors from 26 major European think tanks in December 2012, organised by the Directorate of Policy Planning and hosted by the Council of Europe's Secretary General Thorbjørn Jagland. The meeting confirmed that there was not only a high interest in an enhanced co-operation between the think tank-community and representatives of the Council of Europe, but that many of the Continent's most distinguished analysts were eager to contribute to the Council of Europe's further reform and strategic orientation with their advice.

Therefore, following the above mentioned meeting, three task forces of renowned European analysts were invited to work on a theme, which, from the Council of Europe's perspective, seemed to be of strategic importance in the near- or long-term future. The task forces have been invited to produce a report with specific proposals for decision-making entities of the Council of Europe.

While searching for the priorities to work on, we agreed that three main areas should be covered: first, the Council of Europe's general role as an international organisation and its future approach to defending and promoting human rights, democracy, and the rule of law; second, the Council of Europe's distinct and aspired-to pan-European format and the feasibility of such an ambitious project; and third, the formulation of a strategic vision for the Council of Europe's long-term future in an increasingly more complex and competitive European order. Accordingly, the following three themes were finally selected:

A) Smart Power – Ways of Enhancing the Council of Europe's Impact;
B) The pan-European Dimension: Ensuring the Use of the Council of Europe's Wider European Membership;
C) How to Make the Council of Europe a 'Club of Democracies' Again: Identifying Major Risks and Finding Innovative Policies.

During their half-year work, all task forces met once in a major European city, where the respective groups were generously hosted by one of the participating think tanks and where the analysts were able to exchange their often diverging, but nevertheless highly creative and most often reconcilable thoughts. Special thanks for their hospitality to: the Center for Applied Policy Research (CAP) in Munich and Prof. Dr. Werner Weidenfeld, to the Istanbul Policy Center at Sabanci University (IPC) in Istanbul and Prof. Dr. Meltem Müftüler-Baç, and to the Polish Institute for International Affairs (PISM) and Dr. Marcin Zaborowski. The completion of the individual reports as well as of the final publication would furthermore not have been possible without necessary technical help. I would also like to thank Denise McDonnell and Ruth Goodwin of the Directorate of Policy Planning for their indispensable work.

The main conclusion of the reports is that the Council of Europe, notwithstanding its current weaknesses and difficult environment, has a solid future as an integral part of

the European project. Yet, in order to achieve this objective, the analysts advise the Council of Europe's major entities to amplify their political impact, be pro-active in fulfilling the Organisation's mandate, develop a "smart-power"-identity and aspire to become Europe's main "Human Rights and Democracy Watchdog". In its effort to consolidate its proper place in the European project, the Council of Europe should take a more strategic perspective on its pan-European membership – one of its main assets – by using it to address Europe's "neighbourhood problem" and be part of a new East-West rapprochement. In its pivotal relationship with Brussels, the Council of Europe should ensure that it is perceived as Europe's main reference in terms of deep democracy and good governance, whilst also encouraging the EU to access to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as soon as possible and to eventually become a member of the Organisation itself. Ultimately, almost all contributors agreed that the Council of Europe's long-term future is strongly connected to its ability to become a "Club of Democracies" again, by supporting those countries who wish to become real democracies, by putting pressure on authoritarian governments, and also by regaining the trust of European citizens in basic concepts such as democratic security and in institutions such as parties and parliaments.

Finally, assuming that I can speak for all the below listed participating analysts, I hope that this publication will have an impact not only on the discussions concerning the future of the Council of Europe, but on an improved understanding for the inter-connection between lasting international peace and a thorough protection of human rights and democracy by European governments. The diagnosis and suggestions contained in the reports reflect the personal views of the contributors. They do not represent the official position of the Council of Europe. They go sometimes far beyond the horizon of the Organisation's day-to-day thinking. Yet they touch upon some of the most strategic questions related to the political relevance of the Council of Europe. Policy planners and scholars may find some useful inspiration there. But even people with a more operational profile can have some unquestionable benefit from reading the reports.

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<div align="right">Dr. André Härtel</div>

SMART POWER – WAYS OF ENHANCING THE COUNCIL OF EUROPE'S IMPACT

Executive Summary

Is the Council of Europe relevant to the European project and to European societies? It is obvious that the Council of Europe, like many other international organisations, is continuously searching for its place in a very dynamic and challenging international order. Though it rests on a firm basis, with its convention system and the high profile European Court of Human Rights, it also faces serious challenges arising from its own identity and role perception, its large and heterogeneous membership, its lack of enforcement capabilities, and from new political divisions and a conservative agenda-setting. If one takes into account the complicated relationship with the EU or the fact that the Council of Europe seems to be off the strategic agenda of many member states, the picture becomes even more worrying. Yet, we would suggest that many of these challenges can be overcome, especially if the Organisation is able to show a firm commitment to its ongoing reform process and to reinforcing its strategic vision. The following main suggestions, drawn from the report, could provide a vantage point for such an approach:

A)   A "smart power" identity firmly based on the core values enshrined in the convention system should be developed. The Council of Europe could aim to exert leadership by example, persuasion and creative thinking and see its lack of hard power resources as an advantage rather than a source of weakness. A clear incentive system, such as a Council of Europe certificate for the fulfilment of the Copenhagen criteria, would also strengthen such an identity. The Council should use its wider membership as an asset and try more assertively to take on a special role in European politics by engaging Russia, Turkey and other non-EU states. From a global perspective, the Organisation should aim to embody the European Identity in a much more straightforward way.

B)   The Council of Europe should become more political and pro-active by using the majority vote mechanism in the Committee of Ministers more frequently and by upgrading the Council of Europe's role as a moderator and dialogue facilitator between states and societies. Such an approach would dispel perceptions of the Organisation as passive and bureaucratised. An outreach strategy towards new social movements and a more field-based image would also help to improve perceptions. The overriding goal for the Organisation should be to become Europe's main "Democracy and Human Rights Watchdog".

C)   In order to become more effective and credible in the eyes of citizens, the Council of Europe should develop smart sanctions against non-compliers such as a "name and shame" scheme or public "black lists". A new "demand and support" culture could ensure the success of the Organisation's work in democracy promotion. Furthermore, the Council of Europe's main instruments of standard setting and monitoring could profit from an enhanced political follow-up through the Parliamentary Assembly of the Council of Europe (PACE), from more publicity via

rankings and from the development of a digital instrument of strategic leadership. New instruments could take the form of politically binding agreements to ensure participation and a commitment to rules. Finally, a new balance between Eastern and Western members should be developed to avoid paralysis.

D)   The Council of Europe's agenda-setting role, an important aspect of its future relevance, should be reshaped by introducing new attractive policies and instruments such as a "Charter of Political Trust", which would aim to re-generate trust in Europe's politicians and parties. A further tool could be the definition of a new human rights concept (Human Rights 2.0) with a focus on post-growth societies, immigration and digitalisation. Additionally, the "World Forum for Democracy" could be used as a permanent structure for thinking about democratic innovation inside the Secretariat. An "NGO Support Charter" could be elaborated and the Organisation could aim to become a frontrunner in youth politics by developing relevant benchmarks and widening the Schools of Political Studies network.

E)   Internally, the major administrative entities could follow a more integrated policy cycle and a decentralised approach could give, for example, Congress and the International Non-Governmental Organisation (INGO) Conference a bigger role in agenda setting. The PACE should be given the right to monitor all Committee of Ministers activities and an Assembly vote of no-confidence on the chairmanship could be introduced. Ideally, the Secretariat should be reformed to make the Organisation younger, more creative and strategy-oriented. Working with the member states, the Council of Europe could build up a strong network of high-level rapporteurs and "ambassadors" who would enhance visibility. The major organs should also invest more resources in operational activities and ensure a direct transfer of all financial resources from the member states to the Organisation.

F)   The Council of Europe could make itself more attractive to member states through frequent high-level consultations of state leaders with the Secretary General and by more participation of senior management at external events and conferences. An attractive agenda setting in intergovernmental committees and a more field-based image, by investing in the external office structure, could also reinforce the Organisation's relevance in member states. Regarding the relationship with the EU, the Council of Europe could foster stronger bonds by reinforcing its neighbourhood policy and by fostering stronger institutional links with the EU. In order to become a frontrunner in civil society co-operation the Council of Europe should complete the reform of the INGO Conference and invest in sustainable monitoring and implementation partnerships.

1.   Introduction: Major Challenges in an Ever More Dynamic Environment

The Council of Europe, an international organisation with 47 member states, is Europe's most important institution in the field of democracy, human rights and the rule of law. Its work is based on an extensive convention system with the European Convention on Human Rights at its very core. The European Court of Human Rights is the continent's last resort court in questions of human rights. The Council of Europe, based in Strasbourg and at the historic French-German border region of Alsace, is also a symbol of Europe's early post-war efforts to cooperate more closely on the basis of common values. Since the end of the Cold War, the Organisation aims to build a pan-European legal space integrating non-EU states such as Russia, Ukraine and the countries of the Balkans and the Southern Caucasus.

The ambitious mandate of the Council of Europe, transcending the international-domestic divide, and its wider European membership pose profound challenges and will do so in the years to come. This is all the more true since democracy and human rights do not seem to be as high on the agenda of many member states in a time of severe economic, social and political crisis in Europe. Especially worrying is the development of democracy and human rights in some of the Organisation's new post-Soviet member states, whose governments are questioning the core values of the Organisation. Here, the danger of a new value divide between Europe's West and East is threatening. Alarming tendencies such as non-compliance with the Council of Europe's standards and relative ignorance by member states towards the Organisation are becoming more pronounced. For the Council of Europe, this combination of high ambitions and expectations on the one hand, but also difficult political circumstances on the other, is endangering its effectiveness and relevance.

Recent developments, especially in Ukraine, but also in Moldova and Georgia, demonstrate that a lasting new East-West value divide is not a pre-determined outcome. In November 2013, when people in Ukraine protested in their hundreds of thousands for a European future for the country, it became clear to a wider European public that societies are moving forward dynamically and that the European project and European values are not losing their attraction. Thus if the Council of Europe can provide a convincing analysis of current events and a courageous description of its own role, it would be able to make a real difference to European politics by institutionally connecting the continent's East and West on the basis of common values – a purpose no other international organisation is yet living up to.

The report is structured along seven major questions, which will be essential for the Council of Europe's long term future. Although they are answered in an equal amount of chapters, in order to ensure clarity and readability, the report covers three overall subjects: The first two chapters (two and three) reflect in a more general way about the Organisation's purpose, method and self-image, thereby establishing an orientation or main argument for the more detailed parts of the document. Chapters four and five form the core of the paper and are designed to formulate new ideas,

instruments and policy approaches by openly taking on critical aspects of the Council of Europe's current work such as credibility, efficiency and agenda-setting. Chapters six and seven concentrate on the internal and external dimensions of the Organisation, they address internal structural and communication problems as well as underdeveloped external partnerships, and suggest ways to make the Council of Europe a frontrunner among international organisations. Finally, a short chapter at the end attempts to integrate the recommendations and formulate a long-term vision.

The Major Questions

It is generally recognised that in an ever more competitive and multipolar world, international organisations are, like any other actor, forced to reconsider their mandate, membership and resources in order to stay relevant and legitimate. At the Council of Europe, reform efforts in this direction began in the early 2000s and were summarised in the 2006 report by Jean-Claude Juncker 'Council of Europe — European Union: A sole ambition for the European continent'. Since that time however, and notwithstanding the efforts of the current Secretary General Thorbjørn Jagland (since 2009), reform of the Council of Europe remains an ongoing process and many main recommendations of this report have not been implemented. The following questions are relevant for finding a more innovative future strategy for the Council of Europe:

1. Concerning its mandate, the Council of Europe's aim is a pan-European legal space and it concentrates primarily on the protection of human rights, democracy and the rule of law. Is this attractive enough for the member states in order to rely on the Organisation when it comes to the defence and support for basic values? What are the unique comparative advantages of the Council of Europe? Notwithstanding the broad mandate, is there a certain issue area in current European politics where the Organisation should step in and play a more distinctive role?

2. Over decades, the Council of Europe has built up a certain self-image, which largely rests upon the conventions system and the long-term nature of its approach and instruments in protecting human rights and democracy. Thus, the Council of Europe is mostly regarded as a legal entity with the European Court of Human Rights as its core institution. To what degree is this image outdated and even harmful to the Council of Europe's impact and visibility? Should the Organisation try to refocus its identity and how can a more attractive image be constructed?

3. Effectiveness is a critical issue for all international organisations, especially for those with a large membership but limited resources. In the Council of Europe's case, due to its value-based mandate, effectiveness is also strongly connected to credibility. If Strasbourg is not able to have an impact on critical human rights issues in Western Europe, how can it be expected to convince

semi-democratic Eastern European governments to comply with its standards? Therefore, what can the Council of Europe do in order to enhance its effectiveness, to enforce the implementation of its recommendations and the Court's rulings by member states?

4. As part of its reform efforts, the Council of Europe has streamlined its activities and concentrated on the "triad" of democracy, human rights and the rule of law. This portfolio may still be too broad and the Organisation needs to define its priorities and find the right balance between traditional focus areas and new, innovative policies. What are the new policy fields the Council of Europe should invest in? The same question can be posed regarding the instruments: in a time where new conventions seem unlikely and when monitoring may be perceived as reaching overkill, are there new formats or intelligent ways of ensuring that the Council of Europe's standard setting has a bigger impact?

5. The Council of Europe shares many problems with other international organisations: an unwieldy decision-making procedure with a multitude of actors involved, over-bureaucratisation, shrinking resources and a lack of democratic accountability and legitimacy. What organisational measures could be introduced to modernise and even democratise the Council of Europe, to make it a more open and vibrant institution? In what ways could the communication strategy of the Council of Europe be improved?

6. In a period of considerably more competition and dynamic in world politics, any international organisation is forced to reconsider its environment and relationships. First of all, this concerns the member states, for which the Organisation has to offer an added value. In the future, the "embeddedness" of an institution, meaning its fruitful and sustained co-operation with other actors, will be decisive for questions of relevance and legitimacy. Are there ways for the Council of Europe to enhance its partnerships with other international organisations? How should civil society be integrated and properly engaged? Is the Council of Europe close enough to citizens? Is its field work effective?

7. Finally, what should the Council of Europe look like in twenty years from now? Can we extrapolate a vision for the Organisation from the answers found in the above questions? What will the Council of Europe's place in Europe's institutional architecture be and what are the major political steps and decisions it has to take in order to get there?

2.   The Council of Europe's Mandate: Exercising "Smart Power"

A mandate usually defines the specific field of action, but it also identifies the limits of an international organisation's activity. Yet, over time, many organisations develop

their own specific profile, due to their distinctive leadership, political circumstances or institutional culture, which often no longer corresponds to the original aims of the Organisation. Therefore, it makes sense to reflect on the mandate from time to time in order to re-focus, streamline activities and define the borders vis-à-vis other actors.

The Council of Europe's mandate *"(…) is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress."* This aim shall be reached *"(…) through the organs of the Council by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms."*

With that very broad mission statement, the Council of Europe sets itself apart from other international organisations, which mostly have a clearly defined purpose such as military alliances or environmental organisations. Two additional aspects are also obvious: first, that the Council of Europe was, already by its founders, mainly intended to enshrine and protect common European values; and second, that the Organisation should play not only a protective and thus largely reactive role, but that it should become pro-active in strengthening and developing the value base.

Stick to Values at the Core

Considering the mandate and its priorities, it may be that the Council of Europe could do more in order to fulfil its mission and thereby enhance its impact. First of all, the Council of Europe should remind itself of the simple fact that it is the only European organisation which was specifically founded in order to protect common values, derived from basic human rights, of all citizens. This very normative mission sets it apart from other European institutions such as the EU and the OSCE, who are, with their concentration on economic or security issues, not equally well suited for the promotion of a value-based agenda. Yet, in order to play this role, the Council of Europe should formulate its political strategies, decisions and communications in strict accordance with the principles enshrined in the conventions.

The conventions, most importantly the European Convention on Human Rights, should be seen as the core asset of the Council of Europe's work, providing it with moral and legal legitimacy. Thus, if freedom of assembly and association or freedom of speech is endangered in one of its member states, a firm response from the Council of Europe must follow. These cases need to be publicised widely and precisely as a violation of basic principles that all members have signed up to. Even if the Council of Europe is hardly able to sanction non-compliers, it should be more convincing when communicating human rights abuses to the political audience. It could even encourage other international organisations (especially the EU) or member states to introduce sanctions. By compromising on the basic values the

Organisation stands for, for example when criticism of non-compliant members is deliberately refrained from or when a country is offered credentials notwithstanding a poor human rights record, the Council of Europe risks losing its special place in European politics and sliding into irrelevance.

Develop "Smart Power"

The Council of Europe should make use of its special mission and look at its capabilities from a "smart" or "soft power" perspective. The fact that the Organisation does not possess any military, economic or hard power resources to enforce compliance with its standards does not mean that it lacks all weight and influence. Rather, the Council of Europe should start to re-appreciate its resources and the very method of the Organisation. In a time of ever more complex, globalised and knowledge-based societies, the expertise of the Council of Europe becomes an ever more important indirect source of power, for example in providing assistance for democratic institution-building and law-making with the help of the Venice Commission, and with the information collected and provided regularly by the Council of Europe's Group of States against Corruption (GRECO) and Group of Experts on Action against Trafficking in Human Beings (GRETA) monitoring bodies. Smart communication and political use of those "smart" resources might even be more compelling and thus influential than traditional "hard power" instruments.

"Smart power" is nonetheless not easily developed. It largely rests on the ability of an Organisation to lead by example, persuasion and creative thinking. It cannot be realised without allies such as trusted politicians, like-minded member states, NGO's and think tanks, that can reinforce and emphasise the message and its importance. As far as the Council of Europe's role as a model is concerned, two aspects are of paramount importance: credibility and legitimacy. In order to enhance the Council of Europe's profile, it should develop smart ways of responding to non-compliance and aim at being a frontrunner and not only a "copycat" in democratizing its own structure and in modernizing its relationship with the non-state sector. Regarding its method, the Council of Europe is already well equipped for a persuasive approach through its monitoring procedures, which emphasise close co-operation with the state concerned, and through methods such as "mutual evaluation" and "peer pressure". Today however, both standard setting and monitoring as the two central instruments of the Council of Europe's work are suffering from a lack of inter-institutional co-operation, measurability and publicity. Moreover, a certain proliferation fatigue is recognisable in many member states, some of whom may not take the Council of Europe's reports and recommendations seriously enough.

Why do different bodies of the Council of Europe, such as Congress and PACE, have their own monitoring procedures? It is to be feared that the sheer amount of reports produced by the Council of Europe's entities cannot be politically communicated in order to exert public pressure on the respective state. New ways should be found to communicate the results of the monitoring missions to a wider

public and the Council of Europe should not be afraid of comparing or even ranking its member states, and to do so on a regular basis with a consistent methodology. Additionally, the Council of Europe's administrative entities should try to coordinate or even integrate the Organisation's monitoring efforts. When it comes to creative thinking, the Council of Europe seems to not live up to earlier visions of developing into a kind of a "think tank", although the requisite expertise of its staff, in human rights and democracy matters, means that it is well-qualified for such a role. Consideration should be given to the possibility of investing more resources in a separate analytical structure, which would aim to develop a more strategic culture in the Council of Europe.

Finally, another crucial aspect for the Council of Europe's ability to exert smart power would be the intelligent development, communication and use of incentives in relation to its member states. Although many potential EU members such as the Balkan states see the Council of Europe as a bridge to Brussels, the functional connection is less clear. For example, the Council of Europe could agree with the EU to be able to issue certificates to countries which are fulfilling the Copenhagen criteria. This would give the Organisation a much more clearly defined role in the democratisation process of those member states and would significantly raise its profile. Linked to this, the Council of Europe could concentrate more of its resources on the ground and in technical co-operation so that the added value of its instruments is felt more strongly by both member states and citizens.

Use the Wider Membership

Next to its value-based mandate, the Council of Europe's membership structure is another unique selling point of the Organisation and could be used in a more assertive way. The fact that Russia, Turkey, Ukraine, the South Caucasian and Balkan countries are active members in the Council of Europe does not only result in a wider perspective on European politics, it also highlights the role of the Council of Europe as one of the few multilateral platforms for a sustained and equal dialogue on fundamental rights between the "EU-Europe", the countries of the former Soviet Union, the former Yugoslavia and Turkey. A major country in the region is certainly Ukraine, for it epitomises the difficult struggle for democratisation and an adequate place in the European project. Ukraine's membership of the Council of Europe should provide an excellent tool to bind Kyiv closer to Europe, to strengthen the European orientation of its government and citizens, and thereby to set an example for the Council of Europe's wider European membership. Thus, the Council of Europe, providing an institutional link to Kyiv, Moscow and Ankara, could be one of the main instruments to be used in order to avoid new dividing lines on the continent. The same concept could be useful for states such as Norway and Switzerland, that are much older members but do not belong to the EU. In Strasbourg, mutual trust is created between ambassadors, PACE delegations and Secretariat staff from EU and

non-EU member states on a daily basis, providing an anchor and a foundation for possible advanced wider European formats in the future.

Although it is true that the idea of pan-Europeanism has soon lost some of its attractiveness after its heyday in the early 1990s, the dynamics of European and world politics have again profoundly changed in the last decade. Confronted with a multipolar world and new rising power centres such as China, India or Brazil, there is a growing understanding in Europe that even the EU is geostrategically too weak to compete. Considering the increased rivalry with Asian or American competitors, it seems that we have restricted our perspective too much on what is European. By embracing the integration of, for example, Russia and Turkey, we would not only gain competitiveness by adding two upcoming regional powers to the European project, but also accept the historic challenge to support their modernisation and democratisation processes. However, one of the obstacles to creating this form of wider Europe is precisely the issue of fundamental rights and rule of law in countries such as Russia and Ukraine. This again reinforces the potential role for the Council of Europe.

The Council of Europe could provide the ground for a wider European vision by consistently pushing for higher human rights and rule of law standards in all non-EU countries. It should also encourage high-ranking representatives from the EU and its member states to come to Strasbourg and engage in a more fruitful dialogue with, for example, Russian or Turkish officials during Committee of Ministers meetings or PACE part sessions. At the same time, the Council of Europe should be more proactive in communicating its often successful co-operation results with those states, to the EU and other international forums. Additionally, the Council of Europe should increase its field work in non-EU countries and be more visible to their citizens.

A European Global Identity

The Council of Europe should also think of itself from a more global perspective and consider its long term meaning for the European project. We currently live in a world order where different, sometimes quickly developing, value systems compete with each other. It should be recognised not only that the rising powers such as China or India represent very different normative approaches, but also that North Americans do not share all our convictions in the spheres of human rights and democracy. These different value systems do not only compete for general supremacy and attractiveness to people, they also compete for states and regions which have not yet made a clear choice with which normative order they want to belong (regarding Europe, Russia is the best example here).

The Council of Europe has a twofold role to play here. First, what institution could be better placed to embody the European normative *acquis* with its unique mix of human dignity, liberalism and social values? Thus, the Council of Europe should aim

to represent and promote a European Global Identity institutionally and thereby aim to strengthen the commitment of states and citizens to it. This especially applies to places where this identity is still weakly developed and where additional resources should be invested. Here, the smart formulation and communication of common standards plays a pivotal role – to the outside as well. Second, the Council of Europe should also aim to engage in a dialogue with institutions, representative of the normative orders of other world regions. Differences do not mean zero-sum-games but are instead a call for an exchange of views, learning and possible approximation. The human rights dialogue started by the Council of Europe with Harvard University in the USA is a good example of this.

3.   The Image of the Organisation: Proactive, Political and Visionary

One of the main problems of the Council of Europe is that it is sometimes only recognised through the work of the European Court of Human Rights (or hardly known at all) and has thus developed a rather reactive, legal image. Yet, whereas the Court needs an application to issue a verdict and consequently have an impact, democracy and human rights have to be supported actively in order to be protected and flourish. The Council of Europe will simply not be able to support its own vision of democracy if it does not make an effort to define the term and its meaning for 21st century Europe. What do multicultural, ageing societies and a post-growth economy mean for political pluralism and respect for human rights? The Council of Europe should aim at being Europe's major trend and agenda setting institution in terms of democracy and human rights. In this context, the Organisation should think about itself as a place where essential future questions of our societies, such as globalisation, demographic challenges and intercultural dialogue, can be discussed and where new and innovate answers to them can be found.

Concerning the Council of Europe's self-image, it could view itself more as a political actor and an institution, where opinion formation takes place and where relevant decisions for the future of the continent are taken. Currently, the Organisation is too bureaucratised and suffers from its image of a "paper tiger", where major questions of democracy and human rights in Europe are either not discussed at all or where decisions such as resolutions bear no political weight. Possible reasons for the Council of Europe's non-political image could be an exaggerated culture of consensus, a limited role perception and finally, the low level of engagement of EU member states. Thinking in terms of alliance-building, it would be important to identify Council of Europe member states that traditionally care most for the Council of Europe's core values and use them as spearheads in promoting the necessary debate.

Since this aspect is directly related to the Organisation's relevance, it should be taken very seriously. Ideally, the Committee of Ministers, as well as all other Council of Europe organs, should not fear a lack of consensus but should use all

opportunities, such as the two thirds majority vote in the Committee of Ministers, to push through difficult decisions. Multilateralism in the end is about effectiveness too and not about the lowest possible denominator. The Organisation should consider reviewing its mandate to widen its role to include a capacity to function as a moderator and as a political contract facilitator between states and societies (for example, in the case of Turkey's #occupygazi movement and Ukraine's "Evromaidan"). The Council of Europe could reach out to local social movements in its member states in a way that no other body is currently doing. This could give it real legitimacy in rebuilding rights protection after the crisis. However, this would require a much more local presence and sensitivity than exists currently. These recommendations, together with an attractive agenda setting, could also make the Council of Europe more relevant again for the influential EU member states.

The Council of Europe would benefit from a clear vision to steer its activities and from a "brand" or "corporate identity" through which it would be recognisable to the European audience. An effective way to achieve this could be to develop a European "Democracy Watchdog" strategy. This would define, protect and support common values on a pan-European scale. In contrast to the EU, which, with its focus on economics and other material matters, is constantly risking to get caught in contradictions, the Council of Europe is well suited for such an ambitious task. This strategy would require three aspects: First, "focus": the Organisation should concentrate on the main substantive challenges and debates democracy faces and look at how human rights can be upheld in an era of varying types of democracy in Europe. Second, a "pro-active and intellectual" approach: the watchdog would not only watch and protect, but analyse and operationalise. Third, the "outreach" dimension: the Council of Europe is currently perceived to be a Strasbourg-based institution and many people and smaller organisations on the ground do not know about its activities. In order to change that, the Council of Europe should invest in a more field-based image and be present at relevant events in member states.

4.   New Ways to Ensure Compliance, Credibility and Efficiency

The question of credibility is of utmost importance for the Council of Europe. If the Organisation wants to be perceived as Europe's major human rights and democracy watchdog, it must ensure that the values it represents are also shared and acted upon by its member states. This would imply that the Council of Europe can ensure the implementation of the Court's rulings and that the member states implement the recommendations of the regular monitoring missions of the Council of Europe's various bodies. Compliance with rulings and recommendations is thus directly related to credibility.

The Council of Europe may further lose its credibility since some – mostly East European member states – are not implementing many of the Court's judgments at all or are just paying the compensation. Over time, many West European member

states have however also developed a "pick and choose" approach when it comes to the implementation of recommendations following monitoring missions. It would seem that Belarusian activists have become demotivated to fight for Council of Europe membership, pointing towards the Organisation's bad record in, for example, protecting the rights of Azeri civic rights defenders. Furthermore, it is even more demoralizing when old Western democracies such as the UK frequently question the authority of the Strasbourg Court.

To address these issues, the Council of Europe should consider the adoption of a "smart sanctions" approach, providing it with more leverage *vis-à-vis* non-compliant member states. It should also be more courageous in demanding improvements in the more sensitive human rights and democracy sectors. A new culture of "demand and support" would be necessary in order to ensure effectiveness. Standard setting and monitoring, the two major instruments of the Council of Europe, should be enhanced in all their dimensions (politically, procedurally and public relation wise) in order to have a bigger impact. Furthermore, the Council of Europe should develop a more balanced approach between its East European and West European members, in order not to provide non-compliant member states with an alibi. If these recommendations are thoroughly implemented, the vision of the convention system slowly becoming a European human rights and democracy "gold standard" could become a reality (and not just a lose collection of voluntarily adhered to values).

Develop "Smart Sanctions"

The Council of Europe's credibility and mission fulfilment cannot be ensured in the long run by a self-assigned "positive" or "soft power" image only. They more precisely depend on effective instruments, taking into account the changing political environment. It should be noted that, during the last decade, a profound geopolitical power shift took place on the European continent, rendering the dominance of the "EU-Europe" much more relative, with Russia, Turkey and smaller countries gaining in profile, such as Azerbaijan. Generally, this power shift and the persistence of autocratic or semi-autocratic regime types have led to a new culture of "non-compliance" in many, especially younger member states. At the same time, some older member states, be it due to a sense of superiority or recurring nationalist sentiments, are also more frequently ignoring or arguing with judgements and recommendations. With this in mind, the four following suggestions could be considered as a starting point for a necessary enforcement strategy for the Council of Europe:

The most obvious way to enhance the Council of Europe's ability to enforce compliance would be a better use of its existing instruments. Suspension of membership rights, the denial of credentials of PACE-delegations and even inter-state complaints should be used more frequently, especially since majority decisions are possible in PACE and the Committee of Ministers. This would, first of all, require better coordination between the different internal entities. In particular, the

Committee of Ministers (as the most powerful entity) is not seen as proactive enough. Furthermore, a concrete list of violations and their respective sanctions should be established in order to enhance transparency.

A second proposal concerns a more assertive use of monitoring instruments and the application of smart sanctions. For example, sanctions could be listed already in the monitoring reports and monitoring missions could be sent to problematic countries much more frequently. To do this, it is essential to change the monitoring philosophy from the simple reporting of deficiencies to a sustained pushing for reforms. Another way of exerting pressure could be the adoption of mild sanctions with the help of already existing instruments. For example, a majority in the Committee of Ministers could decide to postpone the chairmanship of a problematic member state or its representatives could be denied important positions in the Organisation.

A third opportunity to enforce compliance is inter-institutional co-operation. Here, the Council of Europe and the EU should find a coordinated way to complement each other in a joint enforcement strategy. The advantage for the Council of Europe is the EU's ability to apply an arsenal of material and political sanctions. At the same time, the EU could benefit from the Council of Europe's sustained and experienced monitoring mechanisms, in order to detect violations and react faster in a more targeted way. For example, it is now widely acknowledged that the European Commission could have partly prevented Greece's economic disaster if it had paid more attention to GRECO's reports on the country's corruption levels. The Council of Europe should convince the EU of its own capacities and try to prevent the development of a new, self-monitoring mechanism by the EU. An efficient co-operation in enforcement measures with the OSCE should also be put in place to avoid any double standards and thus loopholes in both Organisations' strategies towards non-compliers.

Finally, new instruments could be developed. One possible suggestion could be a new "shame and blame" scheme ensuring that non-compliant behaviour would be more exposed to public criticism by the Council of Europe's major entities and other institutions. For example, "black lists" with the names of politicians, judges etc. responsible for human rights violations could be made public by the Organisation. Generally, most non-compliers fear damage to their public international image. "Smart sanctions" directed at a state's image, such as Council of Europe-organised boycotts of political and other events in the respective country, could therefore also be an effective tool.

Support and Demand

The Council of Europe is recognised, especially by its newer member states, as playing an indispensable role as a provider of good governance tools through its technical assistance programmes. From the help of the Venice Commission, to establish democratic and viable constitutions, to capacity building measures in the

local democracy or anti-corruption sphere, the Council of Europe has been and remains a major supporter of successful state building and democratic transformation processes in Eastern Europe. Yet, it is also true that the Organisation took in the states of Central and Eastern Europe in a very fast manner during the 1990s and the early 2000s, at a time when no one could predict the outcome of the transformation processes in Russia, Ukraine etc.

As it turned out, the Council of Europe, with the early integration of those states, handed out a "*carte blanche*" to some states which are nowadays sometimes only *façade* democracies. Thus, the Organisation today lends a certain form of legitimacy to semi-democracies or even autocracies, which use the brand of Council of Europe membership to raise their international profile. Moreover, it seems that this lax and one-sided approach of the Council of Europe is still in place and that the Organisation is not using the value of its support as an asset to demand something in return. Such an approach would be necessary in order to have a lasting effect on the democratisation of those countries and to stay credible in the eyes of others.

The Council of Europe could adopt a more assertive policy especially towards its newer member states which, despite the early reward of membership, are still undergoing transformation processes. For example, if a country such as Ukraine wants to profit from the expertise of the Council of Europe in technical fields such as social cohesion policy, in order to modernise its related institutions, the Organisation should demand in return a major step forward in a more politically sensitive area such as the revision of the electoral code. The demands of the Council of Europe should be directed especially at the justice sector, since an independent judiciary is the best guarantor of the successful pluralisation of a political system. In general, such a support and demand scheme should aim for the adoption of laws through which, at some time, a certain "point of no return" from autocratic government is ensured.

Enhanced Standard Setting and Monitoring

Standard setting and monitoring are the Council of Europe's two major instruments with which it is trying to improve member states' performance in the fields of human rights, democracy and the rule of law, eventually leading to a pan-European legal space. In general, the sheer amount of conventions and agreements (212 as of now) and respective monitoring procedures is impressive and provides the Organisation with a strong legal and also technical basis to act. However, quantity does not necessarily equal quality and there are many problems connected with the Council of Europe's instrumental base. Three problems stand out: first, notwithstanding the fact that many agreements are signed only by few member states, it is easy to lose oversight of the vast convention and agreements system. The result is that although many standards are hardly known to a wider public, they put a lot of stress on a relatively small institution, which is simply unable to issue reports and monitor compliance regularly in so many different policy fields for 47 member states. Second,

the impact of many instruments is limited since some instruments are too strong (keeping states from joining) or too weak (resulting in non-binding recommendations only). Third, there does not seem to be a consensus for new instruments such as a proposed Democracy Charter, which would be very useful in keeping the Organisation relevant.

Although high quality reports and recommendations are produced, as far as the monitoring is concerned, it would seem that, with a few exceptions, they are lost among a mass of produced documents and thus do not exert real pressure on the respective member state to ensure implementation. Furthermore, many of the Council of Europe's bodies such as the PACE, the Committee of Ministers and the Commissioner of Human Rights have their own monitoring procedures. This creates the risk of duplication. In this context, many member states have developed a "pick and choose" mentality when it comes to the recommendations of the Council of Europe's monitoring missions.

To address these concerns, the Organisation should concentrate the core of its work on the most important Articles of the ECHR whilst also developing ideas for the mid-term realisation of new instruments in upcoming fields, such as the whistleblower protection initiative (for other suggestions see next chapter). If new instruments are adopted in the future, they should take the form of politically binding agreements that fill the gap between a strong convention and a non-binding recommendation. Thus, a reasonable number of member states would be expected to feel bound by an instrument while a sufficient level of commitment to the respective rules is ensured. An example for that could be a Code of Conduct concerning privacy and the internet.

The PACE should have the resources to report and discuss the most outstanding violations of human rights and democracy such as the Magnitsky-case (2013 report) and should not worry about idle issues in less strategically-relevant areas. The Assembly would also benefit from greater support from the Secretary General and the Committee of Ministers. These should be required to act upon requests by the PACE commissions to send rapporteurs or to follow up on an existing report. Important reports have not resulted in any action by the Committee of Ministers, which may constitute a waste of the best capital of the Organisation.

In order to avoid overlaps and make use of synergy effects, the efforts of the different monitoring bodies should be better coordinated. This can be achieved through integration of individual country reports or by facilitating the exchange of monitoring experiences, between the Congress and the Parliamentary Assembly, for example. Such an exchange could, for instance, take the form of a conference on a country specific monitoring. This would bring together elected members, secretariat staff of the monitoring commission of both bodies, as well as external experts. Furthermore, public awareness and communication are essential for putting pressure on member states to implement recommendations. This inevitably means more focus, more generalisation as well as provocation in making monitoring results and

recommendations public. This way, the Council of Europe need not refrain from country rankings or indices and should deliberately encourage reactions. Furthermore, the monitoring results could be presented on an annual basis with other institutions such as the EU or the OSCE, in order to have more media coverage.

It seems that existing instruments and mechanisms are not used and organised by the Council of Europe in a strategic manner. The Organisation itself has a fragmented policy approach. Instead it should try to collect the data of all monitoring and programme activities for each of its three policy pillars in integrated data bases. This way one could spontaneously assess the record, over time, of a certain country and thus detect where the Council of Europe should be more active and where its resources are currently ineffective. Such an instrument could develop into a tool for strategic leadership. A first step towards such an instrument might be the Secretary General's planned annual report on the performance of countries in the three pillars.

A Balance between East and West

One of the major historic developments in the relationship between the Council of Europe and its member states has been the integration of the Central, Southeast and Eastern Europe states after the fall of the Iron Curtain. Even today, the Council of Europe is the only exclusively European organisation which provides an institutional link to the post-Soviet countries. Yet, the historical difference of human rights and democracy standards between the "old" and "new" members of the Organisation has led to a certain asymmetry in the perception of Eastern and Western state's shortcomings in the Council of Europe's policy fields. This includes the understandable priority the Organisation has placed on the region. Notwithstanding the many remaining challenges in some of the "new" Eastern member states, it seems that the perceived historic dimension of the East's transformation has firstly, led the Council of Europe and many Western member states to adopt a kind of "teachers attitude" towards the new members and, secondly, to tolerate or ignore democracy and human rights problems in the West.

As a consequence, many 'old' European democracies and Council of Europe member states, such as the UK, France or Germany, are implicitly pointing to the perceived "grave problems in the East" whilst they are criticised by the Council of Europe's monitoring bodies. They have often adopted a certain "look there, why dare you spend your time on us" attitude. This results in an increasingly relaxed and sometimes even hostile reaction towards the Organisation's critiques and recommendations. This is all the more worrisome since many Western member states' human rights and democracy records have been steadily deteriorating over time, some states performing hardly better in some policy fields than their Eastern counterparts. Moreover, the perceived asymmetry has also led to a specific approach by the Eastern members, who are deeply annoyed by the tutelage of the West, especially because many of them have gained a level of stability, economic

success and thus, renewed pride. Now, in order to deflect any critique when criticised by the Council of Europe's monitoring bodies, they point to the equally big problems and cases of non-compliance in the "developed" West.

This imbalance between the Council of Europe's Western and Eastern members hinders its credibility and is inefficient. If this problem is not seriously addressed, the Organisation will come to resemble the OSCE, currently paralysed by a resurgent Russia and other post-Soviet states. In order to avoid this scenario and to aim for a more balanced approach, the Council of Europe should adopt a tougher approach towards non-compliant Western countries (such as the UK – cases of voting rights for prisoners etc.).Their lack of knowledge of the Organisation and their sometimes openly hostile attitude – especially towards the Court judgments – has already caused great harm to the Organisation's image and reputation. In such cases, the Council of Europe should get all its partners (Council of Europe friendly politicians, human rights NGOs etc.) from the respective member state on board to trigger a national debate and thereby exert pressure on the government in question. The Organisation should also be more forthright in praising Eastern European member states for major achievements such as a modernisation of their social rights systems.

5.   The Council of Europe as an Innovative Agenda-Setter: New Policies and Instruments

It is obvious that the Council of Europe, as a result of its limited resources, must focus on strategic issues and on several main policy fields it wants to invest in. Therefore, it must focus on the so called "triad" and on the Organisation's three pillars: human rights, democracy and the rule of law. However, beneath that level, the Council of Europe should think more seriously about its objectives and its place in European politics. Given the Council of Europe's challenging environment, it is of utmost importance that it constantly welcomes new issues, takes on the most important debates and re-thinks its role in the three major fields of activity. All of which the Secretary General and the Committee of Ministers could contemplate in order to render the Organisation's work even more relevant to European societies.

Become a Trust Generator

One of the most serious results of Europe's prolonged crisis is the general low level of trust people place in politicians and democratic institutions. Especially parties and parliaments –the cornerstones of representative democracy – are rated at the bottom of trust surveys. Over time, this tendency discourages people from voting, from standing for office and young people from getting politically active at all. Trust is therefore an essential prerequisite for a vital democracy; its absence makes the concept hollow and breaks the bonds between the people and the institutions. The Council of Europe could act, via its monitoring mechanisms, especially its work on corruption, the independence of the judiciary and good governance, as a "trust

generator", whose primary task would be to continuously scrutinise the work of governments and provide an honest assessment of their work.

How can the Council of Europe be identified as a generator of trust and as an advocate of good governance? First, the Secretary General must ensure, by means of effective monitoring mechanisms, that politicians' and governments' malpractice, such as corruption scandals, the misuse of administrative resources or the disregard for constitutional prerogatives, is reported in a transparent and un-edited manner. Second, the PACE, notwithstanding its time and resource limitations, should insist on discussing and on voting resolutions that concern the most outstanding cases and thus provide public condemnation. Third, the Committee of Ministers should ensure that the government in question guarantees to improve the situation with an efficient follow-up process. Concerning standard-setting, the Organisation could establish benchmarks for the appropriate conduct of politicians and government officials, such as a "Charter of Political Trust", in order to define a common standard. Finally, the significant role of political parties and parliaments should be highlighted by frequent Council of Europe campaigns.

Human Rights 2.0

The Council of Europe is primarily perceived by a larger public as a human rights protection organisation. It is indeed still the ECHR and the Strasbourg Court that make the Council of Europe unique in many ways. However, human rights are not very high on the agenda of European politics nowadays. This might be due to the fact that a particularly high standard of human rights has been taken for granted for too long by European politicians and societies. This positive picture hardly holds if we take a closer look at the manifold human rights related problems European citizens are facing: the misuse of individual's data and hate speech on the internet, the restriction of individual freedoms of migrants or inter-communal problems arising from environmental pollution etc. The truth is simply that life in the post-industrial, digital age has become ever more complex and so has the concept of human rights.

The Council of Europe, with its expertise in all human rights related fields and its standard setting experience, is extraordinarily well placed to be on top of analysis, debate and policy making of the new human rights problems. The Organisation should try to define and thereby appropriate the term "Human Rights 2.0" and strive to take public discussion beyond the usual, more traditional perception of the subject. This could mean that the Organisation adjusts its existing instruments – such as the Convention for the Protection of Individuals – to the digital age (processing personal data on the Web). It could also entail that the Organisation is busy with the ever more pressing question: how do different human rights contradict each other in our modern and ever more multicultural societies (such as religious freedom and the freedom of expression) and how can they be reconciled? In a practical manner, this would require that the Council of Europe perceive itself much more as a think tank, where essential future questions on human rights are

discussed and possible policies and benchmarks are prepared. In the long-run the Organisation could also aim at organizing regular "European Human Rights Summits" in a form similar to the World Climate Conference. Finally, all this could help bring human rights back into European politics' focus and enhance the relevance of the Organisation.

Develop an NGO-Support Charter

International organisations are currently under considerable pressure when it comes to co-operating with civil society actors. This is not only due to ever more diverse and influential national and international non-governmental sectors, but also to the many obstacles international organisations face in their work with governments – in particular if these only half-heartedly support or even reject the aims of an intergovernmental body. Therefore, an increased co-operation and integration of civil society organisations (see below) in international organisations' work is now common sense. Recently, in some of the Council of Europe's member states, such as Russia (see the "Foreign Agents" law passed in 2012) or Azerbaijan, NGOs have come under considerable governmental pressure and are thus struggling to survive. In many other countries the NGO sector is also weakened by very state-centred cultures and economic crisis, depriving many organisations of the necessary funds.

The Council of Europe, as a democracy-protection and standard-setting organisation, should not only aim at being a frontrunner in civil society co-operation, but also conceive an instrument to support the work of non-governmental organisations. This applies to the extraordinarily endangered group of human rights defenders, as well as to INGOs and NGOs operating in other policy fields. Not only is their work indispensable to the building of functioning democratic systems that the Council of Europe tries to support – especially in Eastern Europe – but their state of affairs is also an indicator on how serious governments are about human rights (freedom of expression, freedom of assembly etc.). In the light of recent developments, in Russia for example, the Council of Europe should make its position clear and develop an instrument such as a charter where clear benchmarks for the treatment of NGOs are laid out and a monitoring procedure is outlined. This would eventually lead to more awareness and support for those organisations and the people working for them.

A Place for Democratic Innovation

The Council of Europe should play a more pro-active role in the strategic future of democracy, which is one of the issues that the Organisation should address more seriously and systematically. Two basic debates should be profoundly addressed here in order for the Council of Europe to be on top of the matter.

First, the Council of Europe, with its unrivalled experience and legitimacy in the field of standard-setting for human rights and constitutional design, is the right place to host and pursue the most challenging debates pertaining to democracy such as

those on the "varieties of democracy". So, in a time when different countries around the world explore democracy and develop new forms of it, the "Western liberal model" seems to be only one viable alternative among others. Here, the ultimate challenge from a human rights perspective is to combine a core set of universal rights with institutional variation in democratic representation. The Council of Europe's baseline work on standard-setting would enable it to lead a strategic assessment of this highly topical policy question.

Second, the phenomenon of "hybrid regimes" is of special relevance for the Council of Europe, since several types of that policy exist among the Organisation's member states – especially in Eastern Europe. The Council of Europe's philosophy has always been to provide a "school for democracy" under which these countries would gradually deepen their commitment to democratic consolidation. However, this assumption of incremental democratic improvement is more questionable today because many of the respective states appear to be permanently stuck between "autocracy" and "democracy". Hence, from the Organisation's perspective, working from bottom-up by setting legal standards has not generated much political momentum for achieving democratisation in many cases. The Organisation should therefore aim for a better analysis of: why this form of democracy support has not worked as foreseen, what could be done to address the growing challenge of "hybrid regimes" and how to get the "stuck" countries back on track towards democratisation.

From a structural perspective, the Council of Europe, with the annual World Forum for Democracy, has already begun to establish itself as a place where innovative, forward-looking thinking on democracy takes place, although this one-event structure is hardly sufficient to obtain a real impact on the matter. The Organisation should rather perceive the World Forum as a kind of a brand under which different formats, such as standing groups of experts, are assembled. These groups work on specific questions or experiment on innovative web-based projects with new voting mechanisms, for example. The World Forum should thus aim at lasting results on an idea- and project-based level instead of only concentrating on bringing people together once a year.

Be More Active for the Youth

In a time of heavy youth unemployment almost all over Europe, it has become ever more obvious that one of the major long-term challenges of the Continent is a generational one. Young people between the age of 16 and 35 suffer from the financial crisis more than any other age group. They are also under-represented in the political realm. Thus, they are increasingly losing trust in their political systems and are raised with a negative image of the European project. One does not need much imagination to forecast where this could lead when this young generation comes of age and is able to influence political life. Therefore, the Council of Europe should focus its work more strongly on the younger generations and use the already

available expertise on the topic, the structures of the Youth Department, and the European Youth Centres in a more strategic way.

The most important goals here should be to enhance the protection of European youth's rights, in an increasingly difficult political and economic environment, to give them a bigger and more audible voice in European politics and to raise awareness of their problems in general. In practice, this could be realised by setting benchmarks for more youth oriented policies, such as lowering the voting age, a certain representation of young people in parliaments or a better integration of the education system into labour markets. Eventually, the Council of Europe could invent a so-called "Youth Stamp" to mark projects and policies which are specifically focused on the protection and support of the younger generations. Moreover, a charter of young people's rights could be developed, in order to raise awareness and create a reference point for them to defend their legitimate interests.

An important part in the youth strategy of the Council of Europe should be reserved for the Schools of Political Studies (SPS) network, for emerging democratic leaders. This currently consists of 19 schools in Central, Eastern and South Europe and North Africa. In many of the Council of Europe's member states, the schools provide a form of refuge and shelter for the younger political generation where it is possible to learn and develop a democratic culture outside the boundaries often set by the older, more authoritarian political elite. Also, bringing together young Armenian and Azeri or Serb and Kosovar politicians could be a bridge for stronger regional co-operation and might even lead to conflict reconciliation when this next generation comes to power. We do think that the SPS network should be perceived as a model of how the Council of Europe can reach out not only to the governments, but to young multipliers in the societies of its member states. Furthermore, it can fulfil its mandate by creating more room for political communication and it can spread its message into societies. Therefore, the Organisation should invest in building new Schools across its membership (especially in Western Europe), try to strengthen its fundraising efforts to increase the number of participants and further involve the alumni network of the schools in its current and future work in the member states.

6.   The Council of Europe from the Inside: Re-thinking Structures, Staff and Communication

The Council of Europe has a long tradition as an international organisation that dates back to the Treaty of London in 1949. However, it was not before the 1990s and the decision to open itself to the countries of Central and Eastern Europe that the Council of Europe and its different entities confronted a major structural challenge. Today, with 47 member states, it receives tens of thousands of applications to the Court of Human Rights each year – but only has a budget of around 240 Million Euros (2013). Therefore, the Council of Europe has indeed reached a certain impasse, which makes structural reform profoundly necessary. In fact, it has been

stated in a 2006 Resolution of the PACE that: "If one wants to prevent the Council of Europe from institutional backwardness and from turning, to a certain extent, into a "fossil", far-reaching institutional reforms will be required." Still, it does not appear that the structural reform efforts, also pushed forward by the Juncker Report of 2006, have yet led to the envisaged "institutional balance".

For a More Integrated Policy Cycle and Democratisation

Despite all the reform efforts under the current Secretary General, Thorbjorn Jagland, the Council of Europe's institutional structure still suffers from imbalances between the different entities, unclear statutory questions, a lack of transparency and coordination. The Strasbourg Court, for example, still plays a very autonomous role whilst the comparatively strong prerogatives of the Committee of Ministers make the Council of Europe a very top-heavy institution. At the same time, the Committee of Ministers does not seem to use its wide ranging prerogatives, especially when it comes to major political statements. Generally, there are certain "glass walls" between the different entities, in spite of most being under "one roof". These sometimes act autonomously in what is supposed to be an efficient organisational set up for protecting and injecting life into the conventions. Therefore, the Secretary General should pursue the structural reform process of the Organisation in a much more insistent manner. There should be two principles guiding all efforts: the realisation of an effective integrated policy cycle and the democratisation of the Council of Europe as an international organisation as such.

The Council of Europe, with its ambitious mandate, is called on to protect the conventions and to develop new standards, thus to slowly create a pan-European legal space. It is of utmost importance to build an effective institutional structure and ensure a functioning policy cycle that covers the usual dimensions of agenda-setting, policy formulation, decision-making, implementation and evaluation. This policy cycle must be brought in line with the complex three-pillar structure of governmental, parliamentary and judicial branches. On the basis of the ongoing discussions about the relationship of the Committee of Ministers and the Court, concerning the execution of judgments or about the rights of the PACE to bring serious human rights violations before the Court, the Organisation is currently far from ensuring an efficient policy cycle. Therefore, the Secretary General should seriously consider further investing in a debate about the institutional structure along the following lines:

First, in the agenda-setting dimension, the Committee of Ministers should be required to listen not only to the PACE, but also to the Congress, the INGO Conference and the Commissioner for Human Rights, on a regular basis. This would ensure the presentation of non-governmental as well as regional or communal perspectives and could make the Committee of Minister's agenda much more comprehensive. Procedures should be made as transparent as possible to ensure that the Committee of Minister's agenda does not only reflect current political alliances and priorities of some member states. Second, the PACE should have a

more audible voice in policy formulation and thus on the formulation of major political declarations by the Committee of Ministers. For example, via a provision demanding the Committee of Ministers to present and discuss all major decisions before adoption in the Joint Committee. At this stage, the INGO conference or INGOs/ NGOs with special expertise on a subject should be able to take part in Committee of Ministers meetings and present their opinion. As for the implementation dimension, it is of utmost importance that the Committee of Ministers be compelled in the future to act both on the non-execution of Court judgments and certain types of PACE Resolutions resulting from the Assembly's monitoring efforts. Next to these policy-cycle oriented recommendations, the reform of the intergovernmental committee structure should be finalised by ensuring the representation of high-level participants, such as ministers or state secretaries, at Committee of Ministers meetings and a provision guaranteeing an instant Deputies follow-up on ministerial decisions.

A second principle for guiding the Council of Europe's structural reform efforts is democratisation. This is a very timely task for international organisations, which are under immense pressure nowadays to legitimise their activity as political actors. This is even more urgent for the Council of Europe, as an organisation which is trying to act as a flagship for democracy and human rights. Therefore, the Organisation should aim at being a frontrunner among international organisations, by democratising its structure and making it less dependent on the member states only. This is all the more natural since international organisations are increasingly regarded as actors in their own right, in an ever more complex global arena.

The centrepiece of the Council of Europe's democratisation agenda should be the PACE, representing the parliamentarian branch of the Organisation, which has until now enjoyed only very limited rights as compared to the Committee of Ministers. The PACE should have the right to fully monitor all activities of the Council of Europe (and therefore the Committee of Ministers) and be able, in cases of serious controversies, to hold a vote of no confidence on the CM Chairmanship. Moreover, the Parliamentary Assembly, for example, by way of a veto right, should be allowed to take part in the Committee of Minister's decision-making, especially on major questions such as the setting up of new bodies or the integration of new members. In order to achieve a truly legislative function for the PACE, it should also act as an equal partner with the Committee of Ministers when conventions and other legal instruments are being adopted. Finally, the dual mandate of the parliamentarians should be used more since this lends a kind of enhanced legitimacy to the Assembly's members, who should be more assertive in demanding to be heard by their representatives in the Committee of Ministers. Yet, in order to live up to its potential, the legitimacy of the PACE must itself be strengthened by improving its accountability *vis-à-vis* national parliaments. It is simply too seldom the case that national parliaments are aware of PACE Resolutions, let alone that there is a mechanism by which the Assembly's Resolutions are transferred into national

legislation. Here, the member states, but also the PACE delegations still have enough room for persuasion.

The Secretary General should have a more pronounced role among the organs of the Council of Europe. It was already mentioned in the Juncker Report that she or he needs to be the face of the Organisation to the outside world and that it is of utmost importance for the Council of Europe's visibility to sharpen the post's profile in international politics. Yet, in order to live up to this vision, the Secretary General must be enabled by the Statute to play a central political role inside the Council of Europe and to successfully drive political initiatives and campaigns. The current prerogatives of the post are very limited and it seems that the Secretary General is too often lost in a role of arbitrator between the Committee of Ministers and the PACE. A statutory resolution on the matter should thus lead towards a clearer definition of the Secretary General's role and provisions, allowing the respective person to acquire a higher political profile.

Finally, it is strongly felt that the major organs of the Council of Europe do not use the current Statute's potential to its full. Although significant statutory resolutions have already been adopted in recent years, a motivation in living up to them remains to be seen. Also, the Council of Europe could do far more for its statute, in order to raise its profile, for instance, by crafting a new status for neighbouring countries. The main suggestion here would be that the Secretary General set up an independent committee for the Statute revision (comparable to the Special Committee on the Charter of the United Nations), which takes a comprehensive look at the current provisions by considering the changing environment.

The Secretariat – A New Culture of Networking and Flexible Recruitment

It can also be observed that the Secretariat still seems to be a very traditional, if not "old-fashioned" institution. There are too many layers of very strictly interpreted hierarchy. In general, it seems that operative and strategic divisions are not very well integrated. This leads to a policy fragmentation with therefore suboptimal results. Another aspect setting the Council of Europe's Secretariat apart from other international organisations such as the UN is the fact that its staff is slightly over-aged and not very mobile. Under these circumstances, it is hardly possible for the Secretariat to fulfil its function as an efficient servant of the political entities in the long run.

It would be recommended that the Secretary General introduce a road map aiming at a more network-oriented culture inside the Secretariat. This could, for example, be achieved by strengthening horizontal coordination elements. Joint working groups or more temporary structures, where people from different directorates are brought together for a limited period of time in order to work on issues or projects whose complexity extends beyond a single Directorate's expertise, are an example. The efficiency of a large organisation such as the Council of Europe depends on the

individual manoeuvring space for creating and driving projects in a bottom-up manner. Therefore, the Secretariat should do its utmost to avoid long hierarchy chains and to provide mid- and upper-level managers with the authority to support and encourage individual project proposals. In order to strengthen the strategic side of the Organisation and the Secretariat's work, one would recommend: that the respective directorates become more involved in the operative divisions' work; that their opinion be requested before setting up a new project; and that existing projects and programs be evaluated more frequently and in a structured way to verify their compliance with the strategic-political priorities of the Organisation. A certain "lack of life" in the corridors of the Council of Europe's buildings is apparent. Even during the PACE and the Congress sessions there is no real movement inside many parts of the Organisation. A lobbyism and advocacy culture is largely lacking at the Council of Europe. Therefore, the Secretary General could introduce measures towards a more open and vibrant culture. Campaigns run with human rights defenders and/or a more intensive co-operation with the neighbouring European Parliament during its sessions might be a solution.

It is perhaps high time for the Organisation to re-think its staffing strategy. Its current staff is slightly over-aged and lacking in 'outside' experience. This is a result of traditional permanent contracts. Moreover, the Council of Europe, as any international organisation, suffers sustained budgetary pressure. This makes new appointments increasingly difficult and rules out awarding permanent contracts. The Organisation should consider Europe's changing employment and working culture, especially for the younger generations, among whom short-term 2-5 -year positions with moderate salaries at the Council of Europe would be still highly attractive. This way, the Organisation could be more flexible in its recruitment policy and concentrate on bringing in younger people without irresponsible or long-term budgetary commitments. As for individual recruitment, the Council of Europe should try to attract people with different institutional backgrounds and mobile CV's in order to bring fresh perspectives and new networks into the Organisation. Increasingly, work at the Council of Europe should be understood as a temporary experience in order to motivate people to remain mobile and prevent them from developing a kind of blindness towards the outside world.

More Visibility via High Level Appointments

One of the main weaknesses of the Council of Europe is the lack of high-level representation in nearly all entities. The current Secretary General Jagland is the first Secretary General with a correct political profile as a former prime minister and former foreign minister. It is rare that foreign ministers of more influential member states attend the annual Committee of Ministers meetings, specialised ministers are rarely present in inter-governmental committees and front-bench parliamentarians from the member states seldom join the PACE delegations. In fact this "lack of fame" extends to the NGO sector. It is not present with the most important organisations

and representatives in Strasbourg. This holds true also for other international organisations.

Changing that picture is of utmost importance to the Organisation and foremost a task for the Secretary General and the Committee of Ministers. The Council of Europe should stick to the policy of choosing a Secretary General with a high profile. It should also refrain from still popular "in house"-solutions (many former SG's have been selected because of their long-term connection with the PACE). It is indispensable for the Organisation to be represented by a well-known public figure, able to communicate informally with heads of states, prime ministers and heads of other international organisations due to his or her former political post. In addition, it should be one of the main priorities of the Secretary General to convince high level personalities, such as former ministers or well-known diplomats, to act as rapporteurs for the Council of Europe's missions. Only then can it be ensured that the respective report will trigger a media response and that public pressure can be accrued to support the implementation of recommendations.

Finally, concerning the Council of Europe, member states should take their responsibility more seriously. It is obvious that if one of the bigger states (such as Germany) convinced its foreign minister to come to Strasbourg even only once every two years, this would result in other foreign ministers attending a Committee of Ministers meeting or summit, too. The member states could also be more co-operative and support the Secretariat in finding prominent personalities for rapporteur positions. All this of course must be accompanied by a strategy to make the Committee of Ministers and intergovernmental committee meetings more attractive for the member states (see below).

A New Communication Strategy and the Resource Question

The Council of Europe has a serious communication strategy problem: the Organisation and its work are not very well known in European societies. Indeed, the Council of Europe is frequently confused with EU organs. Generally, only the Court of Human Rights is well known to Europeans, whereas the other Council of Europe entities – not to mention policies and projects – are almost unknown. Considering the Organisation's extensive and sensitive mandate, it is surprising that much smaller organisations such as INGOs (Amnesty International, Human Rights Watch, Transparency International) and their reports are 'go-to' reference sources in debates about corruption or observance of human rights for the European (and indeed global) public. Citizens are now overwhelmed with information from political entities. The Council of Europe only has very limited resources, so it is conceivable that the Council of Europe's public image and popularity could be improved by a new strategy. This all the more timely, since the Council of Europe conducts a lot of successful projects, which deserve to be known and supported by a wider public in the future.

If it is the Council of Europe's aim to reach out to more people and enhance its public profile it should actually concentrate more on multipliers such as the members of the PACE and the Congress. The participants of the Schools of Political Studies, which are ideally positioned to spread the Council of Europe's values in their respective constituencies and communities should also be considered. Here, the Secretariat and its Communication Division should not refrain from encouraging the multipliers by way of regular contacts, providing them with information outlets and merchandising goods, or even with a short communication training before they leave Strasbourg. Furthermore, the Council of Europe should look for celebrities sympathetic to the Council of Europe's mission for media campaigns, like athletes or actors. The member states should also be more active in encouraging their foreign ministries or well-known national politicians to actively promote the Council of Europe's public image by mentioning it in related speeches. The Council of Europe should also professionalise its communication via the web, which does not appear to be very up to date. Short and precise information on the Council of Europe's work is difficult to find (even the Wikipedia entry is relatively short in many major languages). Social networks could be used in a much more straight-forward and effective way, for example, by inviting people to discuss certain policies through provocative Facebook and Twitter posts.

Last but not least, a small note on the Council of Europe's resources. It is common knowledge that the Organisation is not an economic one and that material resources thus do not play a major role. It however needs a sound financial basis in order to fulfil its mandate and activities in 47 member states. Currently, two worrying trends are obvious: the Council of Europe does not command sufficient resources for its operational activities, which stand in stark contrast to its large membership and the needs of its citizens. Also, the Council of Europe's autonomy is severely limited by the fact that a big amount of its resources is channelled through the EU by the member states (joint programs) and not received directly. If this practice continues, the dependency of the Organisation on the EU, with all the connected contradictions and difficulties, will only increase.

7.   The Council of Europe's Members and Partners

International organisations are part of an ever more multipolar, interdependent and globalised world, in which an increasing number of actors competes for influence and resources. In order to preserve its relevance and legitimacy or even have more impact, the Council of Europe will have to increase its effectiveness in engaging member states, find ways to co-operate in a systemic way with other international organisations and integrate the non-governmental, for example, civil society and academic sphere in its work. By offering an increased openness to other actors and new methods in order to attract the member states' attention, the Council of Europe

could aim for a frontrunner role: making multilateralism both more democratic and more effective.

Be More Valuable to the Member States

As in any traditional inter-governmental organisation, the member states are the most important source of power and legitimacy for the Council of Europe. It is urgent that the Council of Europe has a solid place on the agenda of the foreign ministries and that the member states be willing to use the Council of Europe as their human rights and democracy policy instrument. This should be reflected in a willingness to contribute to the Organisation's agenda and to its effectiveness in living up to conventions, but also by sending high-level representatives to inter-governmental committees, PACE and Congress delegations. Considering this preferred state of affairs, the Council of Europe is currently far from the desired form of effective co-operation with the member states. Rather, the Organisation has waned from the foreign ministries' radars, especially of the bigger EU states. It is therefore not seen as an effective multilateral system having much added value for governments. One obvious result is the relaxed political profile of many member states in Strasbourg and the often non-executive representation in many Council of Europe entities.

In order to change this worrying state of affairs, the following three recommendations are proposed: first, the Council of Europe seems to suffer from a lack of visibility for societies as much as for member states. Therefore, it is the main task of the Secretary General to more frequently meet with heads of states, with foreign and other responsible ministers in the respective capitals and make them aware of the Council of Europe's possible contribution to the most pressing political issues of the day. With the bigger member states, such as France, Germany, Russia and Turkey, these meetings should take place at least once a year. Moreover, the Secretary General should be present at major international events and global forums (such as Davos, not to mention the Bled, Belgrade or the Havel Forum) of both a governmental and a non-governmental nature, to speak on behalf of the Council of Europe and its mission. A more assertive outreach should be a general policy for all major organs of the Organisation and even senior Secretariat staff. One should not shy away from putting the Council of Europe and its priorities on the agenda of institutions and forums, beyond an exclusive human rights focus (economic, environmental or security related).

Second, the Council of Europe needs to make the member states a more attractive offer through an enhanced agenda setting. More high-level personnel from the member states can only be attracted if the Committee of Ministers and its committees discuss the most relevant and urgent issues connected to human rights and democracy. The Secretariat should avoid overloading the Committee of Ministers' agenda with secondary subjects in cultural or social policy fields and discuss major topics such as immigration, the degrading state of Europe's youth or citizens' personal rights in the digital age. More frequent high level meetings,

between the President of the EU Commission or the Enlargement Commissioner and the Secretary General for instance, would also be very conducive to the Organisation's profile and visibility. These meetings should have an *ad-hoc* character, where special, cross-cutting issues can be discussed. The Council of Europe now appears to not be flexible enough in its relationship with other political actors, although its core issues such as human rights and democracy have an interconnection with nearly all aspects of modern political life. The Secretary General should thus make more use of flexible instruments and offer up the Organisation as a forum for heads of states, foreign ministers, leaders of international organisations or even influential scientists and businessmen, to discuss current issues.

Third, the Council of Europe's value for the member states is directly connected to an efficient technical co-operation with the governments in the field. When the Organisation is present in the capitals and directly helps governments, by adopting new laws or by developing efficient anti-corruption systems, its value is directly visible. However, the Council of Europe is perceived too much as a Strasbourg-based institution and its country offices are too small and lacking appropriate resources in order to have a strong impact on debates and political processes in its member states. Therefore, the Council of Europe should not only invest in the existing offices of the newer member states, add personnel and resources, but also consider opening offices in the "older" and allegedly more "advanced" member states. Discretionary funds should be made available for the heads of national Council of Europe offices. These are to be spent on various outreach and advocacy projects (conferences, publications) and to build partnerships with local NGOs and think tanks, working in the area of democracy and human rights.

Striving for More Complementarity with Brussels

Among other international organisations the EU is, of course, the most important partner for the Council of Europe. The partial overlap in membership, the common history and sense of belonging to the same European project, but also joint interests in many policy fields make efficient co-operation between the two organisations deeply necessary. Moreover, the EU is an important monetary source for the Organisation, which does not possess the same material means as Brussels. Although the relationship has improved (regular high level meetings since the signature of the Memorandum of Understanding between both institutions in 2007), Strasbourg is still worried about the "parallel structures" Brussels allegedly builds in the human rights and democracy sphere and mostly, about the power asymmetry between both actors.

On the general level, it is felt that there is still enough space for a second organisation in the European project and that the Council of Europe's independent contribution and voice is of utmost importance to current European politics. In a time of profound economic, financial and also political crisis, the EU, with its focus on economic matters, is not very well positioned to protect the moral basis of the

European integration project and to regain its societies' trust. In the light of manifold crisis on the European Continent (and the EU's subsequent loss of legitimacy), the Council of Europe's value-based mandate is more topical than ever. The Organisation should optimise this opportunity by playing a more significant role as both advocate and promoter of human rights and democracy in the EU member states. This should also extend to a structural dialogue on values with EU institutions, especially with the European Parliament. This argument became even more coherent after the latest European elections, where right wing, nationalistic and xenophobic parties got a strong foothold in the European Parliament.

The Secretary General, the Committee of Ministers and the PACE should make good use of this opportunity and courageously take on and communicate the Council of Europe's role of a trust generator and value protector for the European project. This should go hand in hand with an offer to the EU's member states and the Commission. Developing benchmarks for good governance or post-crisis strategies for minority protection and the fight against corruption, but also by a constant intervention and critique of the EU's often too bureaucratic policies from a human rights and democracy protection perspective, could be examples. The Council of Europe should focus on core political standards, while the EU focuses on broader governance norms, but Brussels should be encouraged not to act in a way that undermines democracy standards as it sometimes does.

A second issue for an enhanced co-operation can be found in the newer EU member states. In 2014 the EU will celebrate the tenth anniversary of the 'big-bang' enlargement to the East. This is an opportunity for stock-taking concerning the impact of the enlargement on democracy and human rights in new member states. While it is often acknowledged that enlargement is the EU's most effective instrument for democratisation, it is equally clear that the EU lacks effective benchmarks and instruments to prevent democratic backsliding in member states, both old and new. The Council of Europe seems ideally placed to fill this void, even more so if the reforms, which this paper recommends, are implemented. In its role of a Human Rights Watchdog and with enhanced policy analysis capacities (go-to democracy think-tank), the Organisation could become more relevant than ever for a number of EU institutions, including the European Parliament and the Commission.

The biggest potential for interaction is the European Neighbourhood Policy. This is all the more urgent since the ENP and enlargement schemes will come under considerable stress in the near future, due to budgetary constraints and an increased enlargement fatigue of many member states. At the same time, the EU needs a long-term political investment in its Eastern and Southern neighbourhoods, if it wants to avoid the creation of new dividing lines on the Continent and to preserve the chance of democratic change. Here, the Council of Europe focusing on long-term co-operation and far-reaching change (by relying on the Venice Commission's advisory function on constitutional matters) can provide a necessary anchor for Brussels until the EU regains the strength for bigger initiatives. The Organisation could develop a

fruitful co-operation and synergy with the newly established European Endowment for Democracy, supporting it with expertise needed for effective grant making in its mandated area. Unlike in the 1990s, when the Council of Europe played a significant role as a "corridor" for EU integration of the Central European states, it can now act as facilitator and partly as substitute for ensuring a successful democratic transition in the neighbourhood.

Practical co-operation between the Council of Europe and the EU, which already covers the political, legal and assistance dimensions, could also be strengthened. The EU's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms is a big symbolic step that the Council of Europe should make use of, in order to enhance its own political profile regarding Brussels and position itself and the convention system as a moral authority for the European project. Hence, the ECHR should be only the beginning and the Council of Europe should convince the EU to join additional conventions and agreements in order to strengthen its impact on the EU's human rights *acquis* and develop a closer institutional link between both organisations.

Everyday co-operation should be extended beyond the high and working level dialogues and aim at establishing more binding mechanisms for co-operation and early warning for forthcoming legal initiatives. For example, the Commission should systematically invite Council of Europe officials to the relevant expert meetings and both organisations should establish senior coordinators for the respective substantial issue area. Ideally, a proactive dossier-based coordination would be that desk officers talk to each other and exchange opinions on forthcoming initiatives. Lastly, the Council of Europe should, in order to avoid negative consequences of alleged "parallel structures" and to look for real synergies, establish a regular dialogue mechanism with the EU's Fundamental Rights Agency.

Be a Front-Runner in Civil Society Integration

The Council of Europe's relationship with civil society organisations such as INGOs or national NGOs could be one of the decisive issues for its future existence and relevance. In today's global politics, an efficient and lively co-operation with the non-governmental sector is of utmost importance to ensure the inflow of necessary information about specific on the ground issues and in order to have experienced partners with local expertise and governance capacity in the field. This is especially true for the Council of Europe, which needs local partners for its monitoring and implementation activities in 47 member states. Furthermore, a sustained network with civil society can be a significant source of democratic legitimacy for today's top-heavy international organisations. Thus helping them to overcome the impression of a distant bureaucratic elite making decisions without listening to societies.

The Council of Europe has been a frontrunner in the co-operation with civil society by already introducing a consultative status for INGOs and NGOs in the early 1970s.

Since 2003, there is a participatory status for INGOs and a partnership status for NGOs. The INGOs meet regularly in the so-called Conference of International Non-Governmental Organisations, which is now officially part of the institutional system of the Council of Europe (Quadrilogue concept). Yet, the co-operation of the Council of Europe with civil society organisations is not very lively or efficient and needs serious improvements. For example, many important INGOs and NGOs are not present in Strasbourg. The co-operating organisations are not very active in the Council of Europe's fora and there is no real interaction between the Committee of Ministers and NGOs. This situation increasingly becomes a problem if we consider the value-based mandate of the Organisation, which cannot be fulfilled without a close link to the citizens, the necessary knowledge of people's problems and the institutional assistance to solve them. This picture should be changed as soon as possible, especially as the Council of Europe, with its existing structures, is well suited for a close partnership and involvement of civil society and should strive to being a model and a frontrunner on the issue again.

It is recommended that the Council of Europe should first get more selective about its civil society partners and select the most important INGOs and national NGOs for its work. With those partners, the Council of Europe should aim at developing an effective pragmatic relationship, eventually leading to more structured long-term monitoring and implementation partnerships. As for the INGO Conference, this structure would profit from more direct contact with the member states. This could be achieved via simultaneous meetings of the Conference and the Committee of Ministers (with the UN as an example). This format would allow more awareness for the respective activities, a coordinated agenda and joint meetings or even working groups. It is also believed that the Council of Europe should invest more in its work with civil society, for example by appointing civil society liaison officers in any bigger directorate and field office and by allocating a small budget for funding INGO or NGO activities in the Council of Europe's policy fields. From a more political perspective, the Secretary General could, as mentioned earlier, raise the issue of protecting the work of civil societies in the PACE and the Committee of Ministers. This could eventually lead to the innovative result of a protection charter. Finally, new methods should be tested in co-operation with civil society. Consultations could take place on different levels (regional-, subject- or policy-oriented) and in different formats (online, expert groups or conferences).

8.   A Visionary Outlook: The Council of Europe at 80

It is not an easy task, especially given the dynamic circumstances of the current international order, to forecast the future of an international organisation. Yet, without a firm vision of how the Council of Europe should look and of where its long-term place in European politics should be in 20 years from now, actual reform efforts will lack a clear orientation and could even be destined to fizzle out. Therefore, and

based on the afore-mentioned recommendations, a visionary outlook for the Organisation which will celebrate its 80 years in 2029, could be along the following three lines: its role in European politics, its agenda and its characteristic as an international organisation.

First, the Council of Europe could, provided ongoing reform, by its 80th birthday, be the main organisation referred to in questions of human rights and democracy on the European Continent – a kind of institutional conscience for the protection of Europe's core values. As a "watchdog" it would not only protect individual citizens with the help of the Strasbourg Court, it would report, discuss and act on any democratic malpractice in its member states. If the Council of Europe also manages to take on a more pro-active and strategic role, it could also further develop the concept of human rights, host the respective debates and define the very terms of new policy approaches. These could eventually lead to the Organisation's human rights *acquis* forming a gold standard for good governance and for a form of human capitalism in Europe. With its very method of emphasizing smart power and persuasion instead of imposition and conditionality, it could well be an ideal addition to the EU inside the European project. Performing that role, the Council of Europe would conserve and foster the soft components of the integration project on a pan-European scale.

Second, given that the Organisation manages its own transformation into a more think tank and strategically oriented body, it could regain the interest of member states and societies and develop into a leading actor for the development of democracy, human rights and the rule of law. The Council of Europe could be identified as the one force pre-occupying itself with the most difficult political questions of the future, such as our living together in multicultural societies or the meaning of the digital age for human dignity. This could transform it into "the place to be" for Europe's policy makers and into an open forum for discussion and elaboration of new political strategies. As a front of this vision, the "World Forum for Democracy" could be a brand and a kind of second organisational tier inside the Council of Europe, by which European experiences and attitudes towards democracy and human rights could be provided to countries and regions undergoing transformation processes worldwide. If this could be done, the Council of Europe would really develop into *the* international organisation embodying Europe's unique value system.

Finally, the Council of Europe could well develop into a frontrunner for the necessary democratisation and general opening of international organisations worldwide. In fact, the Council of Europe's mandate, already transcending the international-domestic divide, would even pre-suppose such a development. Provided that the PACE develop into a much stronger parliamentarian force inside the Council of Europe's structure, that INGO's and NGO's are engaged in a smart way and that a strong relationship with the academic world can be built, the Council of Europe could even become a model institution for global governance.

THE PAN-EUROPEAN DIMENSION: ENSURING THE USE OF THE COUNCIL OF EUROPE'S WIDER EUROPEAN MEMBERSHIP

Executive Summary

Is the Council of Europe's present big membership of 47 states an asset or a liability? Is the pan-European idea, forming the basis of the Organisation's speedy enlargement in the 1990s and early 2000s, an outdated concept or does it still hold a promise for the future of the European project? The Council of Europe includes different categories and regional groups of member states with seemingly diverging foreign policy interests, but also democracy and human rights policies. How should the Organisation approach its Wider European members? Can Turkey and Russia be accommodated despite their own ambitions to become attractive integration poles? Can the relationship with the EU be taken to a higher level? And how can EU states be motivated to invest more in the Organisation? What about a neighbourhood policy for the Council of Europe? And finally, is there a certain *raison d'être* the Council of Europe can find in its membership? The following principal recommendations could form the basis of a new approach:

A) The Council of Europe is the Continent's only real pan-European organisation in the political field. Although pan-Europeanism seems to be under increasing pressure these days – that does not mean that it is void of potential. The Organisation should use its encompassing membership to progressively address the strategic challenges of the European project, to be part of a new quest for East-West rapprochement and a solution for the "neighbourhood problem", and use the institutional link it provides to Moscow, Ankara and Kyiv for a new European division of labour with the EU. The Council of Europe is well placed to bring about a conceptualisation of a wider Europe without dividing lines.

B) With democracy and human rights records challenged nearly everywhere in a post-crisis Europe and a "new authoritarianism" gaining ground in Eastern Europe, a new "value divide" seems to be emerging between Europe's East and West, but it is also running through each of its societies. It is crucial for the Council of Europe to prevent this from happening. It should devise strategies for countries and societies that want to become real democracies, position itself as a forum for dialogue between parts of Europe which are on different paths in their democratic development, and it should institutionalise the communication of the EU with Wider European countries such as Russia and Turkey. The Organisation as such should define itself more clearly as an authority on the state of democracy and human rights others can refer to and represent a vision of Europe larger than the EU.

C) Wider Europe is the Organisation's main challenge and place in which to invest. The Council of Europe, considering the EU's enlargement fatigue, is the only institutional instrument in a position to bring about a sustained rapprochement between Europe's different regions. First, the big players Turkey and Russia,

notwithstanding the important differences between them, should be engaged by efficient legal-technical co-operation, a strong commitment to basic values including necessary critique, and a multi-level dialogue with civil society. Second, the Council of Europe should offer its support for an overhaul of the EU's neighbourhood policy and convince Brussels to develop human rights *acquis* in the neighbourhood through its mechanisms: an emphasis on local governance and empowerment of local communities, a bolder role in protecting media freedom and freedom of expression (via development of an own instrument) and with a proper debate on public budgets.

D)   In order to devise a strategy for the Council of Europe's work with its encompassing membership and immediate neighbourhood, it makes sense to think of the latter in four categories or circles. Next to the EU countries, there are the countries willing to join the EU (Georgia, Moldova and Ukraine) and with whom a dialogue based on strict monitoring and conditionality should be furthered. With the countries for which full EU accession is off the table and democracy under pressure (Russia and Azerbaijan), a kind of conditionality-light approach should be applied, based on monitoring instruments and self-assessment. Finally, for the neighbourhood (Maghreb), the focus should be on awareness-raising, concerning standards and best practices of governance. Although it makes sense to think in different categories of the membership, a self-induced disintegration of the membership circle should also be avoided. The support and inclusion of sub-regional organisations, connecting different regional groups of the Council of Europe's membership, could be a structural solution here.

E)   An effective co-operation between the Council of Europe and the EU will be one of the solutions to European stability. The forthcoming accession of the EU to the ECHR is a first step in the right direction, but should be accompanied by others. The Organisation should encourage the EU to see it as the main point of reference for "deep democracy" and "good governance" in Europe and to integrate its expertise. An own EU role in standard-setting in the realm of values should be avoided by the Council of Europe developing timely and effective new standards and by an improvement of the implementation of existing ones. EU member states should be encouraged to be more active in the Organisation, by an improved agenda-setting, regional priorities and more vision, for instance. Finally, the Council of Europe could play a very useful role for the EU in post-accession monitoring and as a gatekeeper for EU accession candidates ("Copenhagen Certificate").

F)   Last but not least, the Council of Europe should be very careful in developing its own neighbourhood policy. It does not have its own foreign policy capacities and should concentrate on its already challenging core business. Rather, it should focus on countries that really aspire to become democracies and focus on the transgression of European values. An extension of the new "partner for democracy" status with the Assembly and a new status at the Council of Europe as such could be envisaged. The Schools of Political Studies and the INGO Conference should be

opened to the neighbours as well. For the sole European non-member Belarus, a strategy based on conditionality, a clear red line (no membership for the Lukashenko regime) and civil society co-operation should be adopted. Kosovo[*] should be encouraged to finally apply for membership (road map) and engagement of the NRE's could be extended.

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[*] All references 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.

1.   Introduction

This report addresses the following essential concepts and questions:

Pan-Europeanism: The Council of Europe is the Continent's only pan-European organisation in the political field. Having been hostage to the East-West divide of the Cold War until the early 1990s, it was one of the few international organisations which upheld the promise of a "Common European Home" and integrated in its ranks most Central, Southeast and Eastern European countries until the early 2000s. The overall majority of European citizens today is able to defend their basic human rights at the Strasbourg European Court of Human Rights and enjoys the protection of the most important Council of Europe conventions (with the notable exception of the people of the sole non-member state, Belarus, and possibly new aspirants like Kosovo*). Yet, considering the multipolar challenge of the new Europe and the various processes of disintegration and differentiation on the Continent, does pan-Europeanism still makes sense as a concept for the European project and the Council of Europe?

A Community of Values: Since 1949, the Council of Europe has, with its conventions and agreements covering a wide spectrum of basic human, social or minority rights, developed into the most important standard-setting organisation in Europe. With its monitoring mechanisms and first of all through the European Court of Human Rights, it is working to protect and promote European values on a pan-European level. At the same time, it seems that there is less and less agreement between different states, most obviously between the EU and Russia, on what those core values should be, how they should be interpreted, how a political system should look like or what balance between individual and group rights should be sought. Is this divergence a temporal, politically motivated phenomenon or does it reflect a deeper rift in the values of European societies? This growing divide poses these questions: what are the exact non-negotiable *acquis* that the Council of Europe wants to defend? How and through which instruments and formats should it address the existing differences between states and ensure a dialogue?

Wider Europe: From a geostrategic perspective, the Organisation's Wider European membership should be seen as one of its unique features (Europe is more than the EU!) and therefore also as a comparative advantage to the Organisation. The fact that Russia, Turkey, Ukraine, the Balkan and the South Caucasian states are members should give the Council of Europe a quite natural prominent place in the Continent's current, most topical debates, such as the remodelling of EU-Russian relations, the integration of Turkey into the European project or the peaceful transformation of still young and troubled states into a functioning democratic order. On the other hand, the Council of Europe's Wider membership is also a challenge to an Organisation concentrating on the protection and support of human rights and democracy as many of the respective states are not yet fully-fledged democracies or

are even challenging the Organisation's core standards. Is the Council of Europe's wider membership an asset or a liability to the Organisation? What are its strategic benefits and how can it be reconciled with the mandate of the Council of Europe?

The Council of Europe and the EU: The EU and its member states are the most influential group inside the Council of Europe (28 out of 47 member states). Taken as a bloc, the EU can enjoy the absolute majority in the Committee of Ministers. With the addition of candidate countries and like-minded states, it could technically quite easily manage the necessary bar of the qualified majority needed on practically all decisions of substance. In addition, the EU has its own mechanisms and instruments for human rights protection. This is giving the EU a lot of influence inside the Council of Europe. Brussels' pending accession to the ECHR is an important step, but also a challenge. The prevailing view is that the EU, acting as a bloc inside the Council of Europe, would be fatal for the Organisation. But the EU is the only realistic source of political leadership in preparing the Council of Europe's decisions. A lack of any co-ordination within the EU debilitates the decision-making capacity of the Council of Europe and leads to a situation where the lowest common denominator becomes the only option for the Committee of Ministers' decisions. This low common denominator sometimes becomes the rationale for the EU to develop its own policies and standards. The double-membership of the EU states sometimes tends to undermine the Council of Europe's influence there. Which strategic role has the Council of Europe yet to play in states and regions that are already part of the EU? How should the EU position itself inside the Council of Europe? How can the relationship with the EU be improved and how should Strasbourg handle the challenge of Brussels' own human rights policies?

Neighbourhood: For decades the Council of Europe has been a source of attraction for European countries that wanted to join the European Community or later the EU. For a long time Strasbourg has acted as a kind of "waiting" and "preparation room" for European integration, supporting EU accession candidates' efforts to fulfil the Copenhagen Criteria. Today, the Council of Europe has also become a source of attraction and reference for states outside Europe aiming to build a democratic future. Recent developments in Northern Africa and even Central Asia are posing the question of whether the Council of Europe should develop a more ambitious Neighbourhood Policy or in some way even give aspiring democracies a certain status in the Organisation. Is such an ambitious project feasible or does an own Neighbourhood Policy overstretch the Council of Europe's resources? The canonical philosophy of the Organisation's attitude to the non-member states has been based on a "demand-driven approach". Whilst the approach sounds generous and technical, it poses a risk of transforming itself into a deliberate abdication of any political strategy towards partners. Some of them cynically seek one-sided gains from the co-operation (political, in terms of good image, or even material, in terms of access to legal means to pursue their own agenda). Can the Council of Europe have any clear strategy on co-operation with non-members? What could it look like?

Finally, special questions exist, especially now that the Council of Europe is serious about creating a pan-European legal space without "black holes": How should it approach the only non-member state Belarus, the not yet universally recognised Kosovo* and non-recognised or breakaway entities such as Transnistria?

2.   The Ups and Downs of pan-Europeanism and the Council of Europe

Pan-Europeanism (the idea of creating a democratic political community including all states geographically located in Europe) once at least intellectually vibrant, has faded from the radars of European politicians over the last two decades. It gravitated in part towards the EU. In its true sense it found at least indirect institutional incarnation in the Helsinki Process and the Final Act of 1975, when 35 countries decided to follow a functional approach towards a reduced East-West divide, covering the areas of security, trade and contact between people. It persevered until the fall of the Berlin Wall and the Conference on Security and Co-operation in Europe (CSCE) "Charter of Paris for a New Europe" of November 1990. Even at that time though, shortly before the collapse of the Soviet Union, the envisioned format, famously termed by the Americans "Europe – whole and free", was a Western one, concentrating on democracy, the rule of law and economic liberalism far from propagating some kind of third way whatever it might mean.

After an initial romantic period in European East-West relations, political realities turned pan-Europeanism once more into the somewhat utopian political concept it had been for decades. The CSCE, the only real pan-European international organisation at the time, failed to develop into the leading organisation of Post-Cold War Europe, whereas NATO and the EU soon abandoned the idea of alternative solutions to enlargement and quickly became the major poles of attraction for most countries in the Central East European (CEE) Region. Today's OSCE format is based on a transatlantic and Eurasian understanding of pan-Europeanism. The latest conceptual embodiment of pan-Europeanism has been the idea of a security community promoted by the OSCE. But the divisions make this concept quite elusive. For many, pan-Europeanism became nothing more than a mere illusion. Many feared that it could be used as a tool to prevent them from seeking membership in the Western structures (NATO or the EU) or even as a disguise to push Americans out of Europe. Pan-Europeanism became politically suspicious as a term.

All factors thus played into the logic of strengthening and expanding the existing Western organisations and not towards the strengthening of a single organisation that had been created to promote the idea of an "undivided Europe". The post-Soviet countries were the main 'losers' of these processes: for different reasons they could not find anchorage in the newly emerging political map of Europe.

The Council of Europe is the only organisation which opted to enlarge its membership beyond Central and Eastern Europe and take in former Soviet and Yugoslav countries during the 1990s and the early 2000s, even at the price of lowering the performance expectations. This could be considered as a true impact of the pan-European philosophy. Yet, everyone, even back then, understood that the EC or later the EU was the main political organisation in Europe, while for the Central and Eastern European countries, Council of Europe membership was seen merely as a demonstration that they now belonged to the club of liberal democracies. The Post-Soviet countries, which did not have an EU membership perspective or did not aspire to have one, also perceived Council of Europe membership as a source of democratic and international legitimacy, while their representation in Strasbourg provided them with at least an institutional link-up to the European project.

Two decades later, the picture of European international politics has significantly changed again. The EU, almost solely embodying the idea of Europe in the Post-Cold War era, has reached a certain enlargement deadlock. During this time, Russia and Turkey have become much more powerful actors. Russia, pursuing its own integration projects for its neighbourhood over the years, is now more and more seen as the alternative to the EU. "Wider Europe", the space between the three dominant European actors – the EU, Russia and to some extent Turkey, is more and more troubled and reminiscent of a geopolitical grey zone, torn between domestic transformation and fragility on the one hand and a lack of strategic offers and orientation on the other. At the same time, this unsettled geostrategic context contributes to a renewed East-West divide, exemplified by growing disagreements on basic concepts, such as democracy or human rights, and a simultaneous lack of structures and policies eventually enabling all actors to find a common ground again. Consequently, there seems to be sufficient demand at least on the intellectual plane for organisations like the EU or the Council of Europe, to develop strategic alternatives.

Do those challenges imply that pan-Europeanism is once again on the table? If so, what should be the Council of Europe's role, especially since its membership already reflects a Wider European approach? Currently, the mid-term perspective of a pan-European revival looks rather grim. For example, whereas the Russians have most probably never been really sincere about their proposals of a pan-European security treaty in 2008 and a pan-European free trade area in 2010, the EU and the Council of Europe have not even begun to consider the implications of the new strategic challenges for their vague vision of the European architecture. However, there seems to be no political momentum for a new pan-European umbrella organisation or other arrangements. For many nations it became clear that the political priority is simply to get anchored as soon as possible in the Western institutions. Furthermore, for the Council of Europe, 'consolidation' seems to turn into a catchword for the next decade as incumbent members, especially in its Wider European neighbourhood, show major democratic deficits and could backslide into defective democracies.

Yet, this does not mean that the Council of Europe is unable to address the strategic challenges of the European project. The Organisation should be part of a quest for a new East-West rapprochement and a solution for the "neighbourhood problem". The Council of Europe, with the institutional link it provides to Moscow, Ankara or Kyiv, can have a clear guidance on how to find its place in a division of labour between different international actors in the European project, due to its encompassing membership. That is because in recent decades, the term 'Europe' is increasingly associated with the EU. Consequently, the EU dominates both the definitions of and the debate about what constitutes Europe and where its borders lie. This leads to the concept of Europe being defined along very narrowly perceived lines, and in this way, the Council of Europe, just by the very nature of its pan-European character, is sidelined in the European identity debate. Yet, precisely because of its more encompassing character, the Council of Europe is a better candidate to bring about a conceptualisation of a wider Europe. The main driver in this endeavour should be the EU. It should demonstrate that it does not want to take the entire burden of managing the Wider European space on its shoulders while sometimes competing in this area with actors like Russia. For Russia or even the EU it may sometimes be tempting to turn this management into a bilateral exercise or a system of bilateral political or economic exercises (EU-Russia, EU-Turkey, EU-Ukraine, Russia-Ukraine, Russia-Georgia, etc.). The EU in particular would be better off if its leadership role is more focused on a level-playing field, as offered by the Council of Europe. The EU should put this concept into policy relevant discourse. It should recognise that the Council of Europe has more than just a technical, think-tank utility for the EU.

Geostrategically, the Council of Europe could also try to identify regional groups of members with distinct political features such as the EU group, the Wider European and even an own neighbourhood group. Thereby, and for example by linking up with regional initiatives such as the Black Sea Co-operation or the Baltic Sea Co-operation, the Council of Europe might have a stronger impact on the necessary strategic realignment of the European project than by using the ailing concept of pan-Europeanism as a vantage point.

3.   The Necessity of a Continental Dialogue on Values

The Council of Europe Value Acquis and the Challenges to Democracy

The Council of Europe is an organisation firmly underpinned by a value-based mandate, calling upon it to protect and support democracy, human rights and the rule of law.

In 2014, 65 years after the foundation of the Organisation, the value *acquis* of the Organisation have grown considerably beyond the European Convention on Human Rights, guaranteeing the right to life, liberty, security, a fair trial, family life and

freedom of thought, conscience, religion and expression. The 212 conventions, treaties and partial agreements, cover currently in particular social values (European Social Charter – safeguarding rights regarding employment, social and legal protection, housing, health and education), national minorities (Framework Convention for the Protection of National Minorities), culture (European Cultural Convention), but also human trafficking, terrorism, cybercrime, local self-government and many others. The Council of Europe is also aware of significant gaps in its legal framework, such as freedom of expression, and tries to establish instruments in those fields.

These values are European. They reflect the Continent's history and long struggle against war, totalitarianism and even genocide. In the 1990s and early 2000s, when many Central East and East European countries joined the Organisation, observers thought that this would mean that the Cold War "is over again" and that we would finally see a merging of what democracy and human rights mean to people in Eastern and Western Europe.

Francis Fukuyama's prominent 1992s thesis of the "End of History" and a worldwide victory of democracy have not materialised to date. Rather, what we have observed on a worldwide and regional level during the last two decades are new challenges for democracy and human rights, arising from a number of factors such as the insecurity of a new multipolar world order, the continuous pressure of globalisation, new technical opportunities of the digital age and even migration and demographics. Contrary to Fukuyama's thesis, "new authoritarianisms" have developed and the progress of democracy has slowed down, with China as the most prominent example. These, sometimes quite hybrid, regimes are obviously able to combine one party-rule with capitalism and economic success. For developing or emerging countries, this has created a template, allegedly releasing them from the tough task of democratising their polities before enjoying growth and welfare. In some Latin American or Eastern European countries, which were supposedly on a transformative track towards democracy for years, we even witness a systematic return to dictatorial and repressive governance methods. Democracy has also come under pressure in traditional, old democracies in Northern America and Europe. Here, economic crises, the pressure of migration and the erosion of social contracts are providing fertile ground for populists and have resulted in a growing distrust in democratic parties and institutions.

Addressing the Emerging Value Divide

The Council of Europe has experienced that a wide variety of different types of political regimes must be accommodated under the same institutional "roof" without abandoning the concept of democratic values as a criterion for membership (including liberal democracies in Western and Central Europe, hybrid regimes such as Ukraine till 2014 or Armenia and as far as those of clearly authoritarian state structures such as that in Azerbaijan). Core human rights issues, such as those of

political prisoners, the treatment of NGO's or LGBT rights, are heavily contested in different parts of the European Continent and a new value divide seems to be emerging between the East and the West of the Continent. Elites in some countries are openly contesting what they themselves call "European values" (in particular, tolerance and non-discrimination of sexual minorities). As of recently, pro-democratic events in Ukraine, Georgia and Moldova have shown that such a divide has not yet petrified itself. But the danger, in particular when following the media in Russia, is real. Finally, it must be emphasised that problems in regard to democracy and human rights are not exclusive to the countries of the Wider Europe area, they also exist in EU states. The value divide runs through every society.

Regime types are developing very dynamically and so is Europe's normative order. This calls upon European organisations to devise strategies supporting those countries and populations that want to become real democracies and to anchor themselves in the European project. The Council of Europe should take on this role in a much more assertive way and position itself as a *forum for dialogue* between different parts of Europe, which might be at different stages of democratic development, but whose societies nevertheless share core European values. One of the most important tasks here is for the Council of Europe to ensure the institutionalisation of communication between EU representatives on one side and Wider European countries such as Russia, Turkey, or the Caucasian states on the other. In the absence of deepened, not to mention institutionalised bi-lateral frameworks between those actors, multilateralism becomes even more important. The Council of Europe should be seen as an agent for upholding the concept of Europe, without dividing value lines, of a diversified and heterogeneous Europe constructed on the common value basis.

Second, the Council of Europe, with its in-house and field office expertise on the different countries, should define itself as an *authority on the state of democracy and human rights* that others can refer to. In the current environment it seems that not much is known about the existing standards and many stereotypes exist in EU states; for instance on the state of political systems, the judiciary or civil society in Russia or Turkey. Here, a fundamental explanation is necessary in order to avoid misunderstandings and counterbalance effective propaganda, which will only increase the prospect of a genuine value divide. Another issue is that the importance of values on the political agendas of many European countries has diminished. The golden years of human rights, as a policy issue, were in the 1970s. After the fall of communism in the 1990s, the value factor played an important role again, this time in assessing the aspirant countries' readiness to join the Western structures. Now it seems its importance is waning. The numerous arrests of political opponents on the eve of the Azerbaijan chairmanship of the Council of Europe Committee of Ministers was not referred to in Council of Europe's member states' speeches in Strasbourg. Finally, the Organisation should invest more in projects that create lasting co-operation and communication between experts, activists and students from both

sides, to provide a political and social place for an eventual rapprochement of the diverging sides.

Third, the Council of Europe should address more openly the issue of diversity of regime types and ways to approach democracy and human rights policies among its membership. The heterogeneity of concepts, practice and quality of democratic government, constitutionalism and rule enforcement should be better known. It seems that the "gold standard" of democracy, human rights and the rule of law is something all members have to struggle towards individually and they do so with different methods and levels of success in the field of corruption, fragile institutions, media control, etc. Awareness of these differences might imply establishing best practices and a basis for knowledge transfer.

Europe Is More Than the EU

One of the principal problems with European values and their promotion is the fact that many people today see the EU as the main embodiment of those values. The current definitions and the debate about what constitutes Europe and where its borders lie are dominated by Brussels. This fact in turn leads to the domination of a very limited Christian-cultural Western perspective and the consequential exclusion of Turkey, for example, or other Orthodox dominated societies, from the mainstream of the European project. In contrast, the Council of Europe, with its pan-European membership and its emphasis on democratic principles constituting "Europeanness", could stand for another, much more legitimate, non-ethnic and open idea of Europe. Therefore, the Organisation should be much more courageous and portray itself as a potential model of what Europe could be actually seen as. In other words, the Council of Europe has the capacity to represent a wider Europe and its core values, much more legitimately than the EU. However, to achieve that is not an easy task.

To be able to do so, the Council of Europe should take on two major tasks. The first is a more straightforward definition of what European values are. Here, the Secretary General should invest more energy in trying to elaborate the meaning of values and formulate the definitions connected with those values. For example, the Council of Europe should hold debates and initiate campaigns on how our values, such as personal dignity and the freedom of expression, can be reconciled with the most challenging political developments of our time, such as immigration, demographics or economic inequality. A second task could be to facilitate a regular dialogue on values between different regional groupings of its membership. It is of utmost importance, especially in a time of perceived divergence, that an honest dialogue on values is upheld and that differences such as those in the sphere of LGBT-rights are clearly expounded. The Council of Europe could make its position visible only through the method of long-term persuasion, hopefully leading the way to a more democratic Europe at large.

If these two tasks are successfully completed, the danger that the EU will go on with its own process of defining its values and human right standards – while refusing to become victim of the lowest common denominator diktat of the Council of Europe (determined in fact by "outliers" and "spoilers") – can be avoided.

The Method of Value Promotion

Values are a sphere intrinsically bound to the historical and cultural heritage of people. Convictions in this field therefore seldom change overnight. An Organisation such as the Council of Europe that focuses on technical co-operation, the consent of the state concerned and an approach emphasising persuasion rather than enforcement, is already well placed for the task of value promotion. In order to be more successful, the Organisation should learn to nurture a certain "smart power" approach and emphasise its original institutional methods such as learning, peer pressure and dialogue. At the same time, it should be more creative in finding methods enabling it to demonstrate the long-term influence of its work. In today's very fast and digitalised world, people tend to forget about the fact that some political processes need more than a governmental policy in order to materialise. This in turn increases the chances of democratic backslide. An open and visible support by the Council of Europe to democratic consolidation and its long term commitment would be needed to prevent such backslides. It should be made clear to the public and other political actors that the Council of Europe's precise and unique task is the ability to engage in a long-term democracy and human rights nurturing, which can be processed with delayed results and even setbacks along the way.

4.   The Council of Europe's Wider European Membership

Why Wider Europe is the Council of Europe's Major Challenge

Next to its unique convention system, the Council of Europe is the only significant international organisation on the Continent that includes countries from the former Soviet Union, Western Balkans and Turkey. The scope of its membership is the Organisation's unique selling point. It should see its strategic value in working towards a sustained rapprochement between Europe's different regions. The major powers among the Council of Europe's Wider European members, Russia and Turkey, are especially under-represented in the European project. On paper, Council of Europe membership provides them with one of the few institutional links to Europe. Yet, their performance deficiencies with regard to human rights, the rule of law and democracy, provide little incentive to invest more into making the Council of Europe stronger. Quite naturally then their policy strategy towards the Organisation looks like a defensive one. However, a differentiation between Russia and Turkey should be highlighted in this context: Turkey has been included in the European institutions; from 1949 in the Council of Europe and from 1952 in NATO, and is a candidate since 1999 for the EU and negotiating for accession with it since 2005. For

Turkey, therefore, the Council of Europe is not the only institutional link to the European project, whereas this is clearly the case for Russia. Seen from the Organisation's point of view, although the leverage of Strasbourg over Moscow or Ankara seems limited, their presence in the Organisation provides an opportunity for long-term dialogue and change. In a more than ever multipolar Europe, the Council of Europe should be the one organisation delivering the necessary mechanisms and creative formats that facilitate East-West and North-South co-operation on the Continent. It is also possible to observe that the size of a member country and its relative power position in the larger global setting shapes the ability of the Council of Europe to foster political change in those countries. Thus a question that remains to be answered is whether the Council of Europe could have a more substantial impact in the relatively smaller countries in Europe, those which need the Organisation to anchor and validate their status as part of the European project.

For the smaller countries of "Wider Europe" the Council of Europe is foremost an extension of the European project beyond the EU and a source of international and democratic legitimacy. The heterogeneity of this group is rather big. We also find states aspiring to EU membership such as Moldova or Serbia, states with domestic instability and fluctuating foreign orientation such as Ukraine and countries which do not seek to be anchored in Western institutions such as Azerbaijan. Here, the Council of Europe can at best serve as a kind of gate towards later EU membership or act, in a minimal scenario, as a last resort protector of European values and human rights for people living under authoritarian regimes. In any case, the Organisation should be aware of the fact that "Wider Europe", especially with the EU experiencing a serious enlargement-fatigue, is still its main challenge and place where it ought to invest – especially if we take a less governmental and more societal perspective. The wider Europe area seems to be highly varied within itself, both with regards to the size of the countries included in this perspective and with regards to their different levels of integration and commitment to the European project. However, it is highly likely that EU membership might no longer be an option for most of those states in the Wider European belt. In the absence of an EU incentive and anchor, the Council of Europe might remain the only viable option for these countries, rendering the Organisation the only European institution with multiple integration patterns.

While it is true that "pan-Europeanism" has somewhat also lost force among the societies of "Wider Europe", this is largely the result of a misunderstanding. It is first of all the EU's European Neighbourhood Policy (ENP), with its emphasis on complex harmonisation – a myriad of regulations and above all a lack of vision – which has triggered disappointment and a certain Euro-fatigue among its partners. On the other hand, for those countries on the EU accession track, such as Turkey and the Western Balkans, EU accession seems elusive at times and subject to the fulfilment of much tougher EU criteria. Yet, the broader and more abstract notion for which the "European model" stood, remains as appealing as ever for the peoples of non-EU

states: a good, effective and decent system of governance. It suffices to look at the latest events in Moldova and Ukraine, but also at the growing dissatisfaction with corruption levels in Russia, for example, to understand that good governance and a functioning and independent judiciary is something to which the peoples in Wider Europe countries aspire. Thus a big opportunity for the Council of Europe, which could be the main reference and the bearer of a pan-European "gold standard", as regards democracy and human rights.

There are also several small states in the Council of Europe family for whom the Organisation is one of the few real platforms to manifest their distinct political identity. The recent chairmanship in the Committee of Ministers of such countries as Andorra or previously San Marino proves that these countries value this opportunity.

The Role of Key Non-EU Members

Russia (member since 1996) and Turkey (member since 1949) are two of the Council of Europe's biggest member states and their presence in Strasbourg does make the Council of Europe a genuine pan-European organisation. Through its offices in Ankara and Moscow, their permanent representations in Strasbourg and their delegations sent regularly to both PACE and Congress, the Council of Europe functions as one of the few institutionalised links between the European project and those major European powers. Both Turkish and Russian citizens have access to the ECHR mechanism and therefore to the protection of the convention system. Yet, one needs to differentiate between Turkey and Russia. Turkey has a longer membership period in the institution, but more importantly it is closely linked to the EU. Turkey is an associate member of the EU since 1963, is a candidate since 1999, and began accession negotiations with the EU in 2005, whereas Russia has no such institutional links with the EU. The EU's role in monitoring Turkey's democracy is significant, including through its Progress Reports and the continuous evaluation of its democratic transition by the European Parliament. In any case, the Council of Europe and the EU have a mutual interest in promoting democratic consolidation and their joint efforts increase their leverage on Turkey. Russia is further away from the European project compared to Turkey in that aspect.

Yet, the often challenging relationship between the Organisation and Moscow or Ankara is also easily revealed by the number of cases brought against them to the Strasbourg Court (together they account for more than 30% of all cases). In the recent past, Russia diverted from the initial transformation phase, supposedly "converting" it into a democracy, and represents today more or less a case of a stable new authoritarian order with strong personal leadership. This coupled with a certain impressive economic success, but also a decreasing respect for democracy and human rights. The case of Turkey is different in many respects but the recent developments in that country are sometimes diagnosed by experts as having to do with the worsening of democracy quality and the rule of law. Inside the Council of Europe the problem of both countries' role is exacerbated by the considerable power

they can exert in the different bodies. They often form alliances against certain policies or simply try to water down the standards of the Organisation. How can perspectives of a leading Russian and Turkish role in the Council of Europe be reconciled with the recent developments?

In the current context, any visionary schemes for the Council of Europe, based in particular on Russia's membership, are seen by many experts as wishful thinking. Russia's leadership is strengthening authoritarian tendencies and has just clearly broken international law with its annexation of Crimea. For its part, Turkey has witnessed some turbulence and experts believe that it all leads to more anti-democratic policies. However, what would be won by the exclusion of Russia from the Organisation? Whilst the Council of Europe would regain some credibility and might have an easier time enforcing its standards elsewhere, it would lose the opportunity to assess developments in Russia with its monitoring mechanisms. This would mean the exclusion of Russian people from accession to the ECHR mechanism, and it would lead to the abandonment of one of the last institutional links and forums of dialogue with the country. Therefore, another strategy must be found. Three pillars are necessary for that: functioning legal-technical co-operation, a strong commitment to basic values by the Council of Europe authorities, and the initiation of a multi-level dialogue with authorities, eventually contributing to enhanced formats of co-operation.

Yet again, one needs to bear in mind that these two countries cannot be considered as two similar cases. Quite the contrary, because the Council of Europe has a much stronger leverage on Turkey compared to that on Russia, precisely because of Turkish integration in all the other main European institutions and largely because of its ongoing accession process to the EU. The Council of Europe is the only institutional link for Russian inclusion into the European project. For Turkey it is among the many institutional links, but the only one with clear political priorities and objectives.

Legal-Technical Co-operation: Membership in the Council of Europe has helped advance the 'European legal culture' in Russia and the ECHR's judgments are referred to in Russian courts. This slow and un-even progress is, in the long run, better than nothing as this may help Russia in its drive for modernisation and the gradual rooting of the rule of law and legal certainty in the country. In that respect, the Council of Europe provides a strong institutional learning framework and democratic norm transfer across Europe. The best way ahead for the Council of Europe is thus a legal-technical approach to Russia and Turkey, offering help to build strong institutions and engaging in area-specific co-operation where European support and expertise are requested (mostly in the realm of the rule of law). Thereby, the EU method of functionalism – where co-operation on more and more fields follows simple functional projects – could be a reasonable approach.

<u>Strong Commitment to Basic Values</u>: Critics of this functional approach will argue that stability will not materialise in the long run without some political change. Therefore, critique and shaming should not be avoided deliberately for the sake of internal peace or personal interests. On the contrary, it is obligatory for the political bodies of the Council of Europe to insist on the fundamental values of the Organisation and to criticise Russian or Turkish authorities openly in case they clearly break their commitments. Sensitive monitoring reports such as the PACE Magnitsky Report should therefore be properly debated on all levels and lead to political decisions. But instead of threatening the Russians with sanctions which would only lead to their self-exit, the Council of Europe should use all its resources to make shortcomings public and address human rights abuses in its different fora. Last but not least, the monitoring reports the Council of Europe provides are a valuable source for other actors such as the EU to more effectively criticise Russian behaviour. Since the EU is already evaluating the Turkish political situation in line with the EU's political criteria, a similar mechanism could be possible for Russia as well. The EU anchor for Turkey is critical so that the Council of Europe's position is taken seriously in Ankara in this respect.

<u>A multi-level dialogue and vision</u>: In order to be credible and have a bigger impact inside both countries, the Council of Europe should enlarge its network of personal contacts beyond the PACE delegations and reach out to the level below the realm of high politics. For example, the Turkish accession process to the EU already incorporates a civil society pillar, based on increased dialogue between civil society stakeholders – a similar mechanism could be developed within the Council of Europe framework. There simply might be more people who have the freedom and the willingness to work with the Organisation. This approach should also extend to civil society representatives or even business people who are interested in joint projects. In that way, the Council of Europe could provide a missing institutional link between the European project and Moscow or Ankara. This might also contribute to the development of new formats and mechanisms of co-operation between the EU, its member states and Russia or Turkey. It also needs to be noted that Russia is a critical interlocker for the ENP countries, whereas Turkey's role for the Council of Europe might be increasingly important for links with the Middle East and the Arab Spring countries. Thus, the Council of Europe's ability to anchor Russia and Turkey firmly into the European project carries repercussions for the institution's ability to deal with the newly arising challenges in Europe's surrounding regions.

There are also other major non-EU countries for which the Council of Europe has a political value in itself. States like Norway or Switzerland are leaders in human rights performance, are wealthy and carry a respectable political weight. Their serious investment in the Council of Europe is visible. What they could further do is to show increased interest in deep and high-level political dialogue in the Organisation, in particular in the Committee of Ministers. After all, unlike the EU countries and countries like Russia or Turkey, they have fewer opportunities to engage in

multilateral dialogue on matters such as developments in Ukraine, Russia or the Western Balkans.

Sometimes the interest of non-EU countries in political dialogue in the Council of Europe looks doubtful. The three biggest non-EU countries (Russia, Turkey and Ukraine) were not represented at a political level at the 2013 Committee of Ministers session (neither were the three biggest EU states – France, Germany and UK). But fortunately their ministers were already present at the 2014 Vienna Ministerial.

The Council of Europe and the European Neighbourhood Policy

Today, the area between the EU and Russia is the most important geostrategic region on the Continent. As recent events in Ukraine and the Crimea-conflict have shown, domestic instability there is very high and can create international security implications far beyond the region. A major reason for that is the unfinished domestic transformation of the respective countries and, interconnected, the open question of their international orientation. This, connected with a certain enlargement fatigue, has so far prevented the EU from proposing more ambitious designs for Moldova, Ukraine and Georgia, which are the most pro-European countries in the region. In fact, after the tumultuous experience of negotiating and signing the Association Agreement with Ukraine, the EU faces the necessity of a complete overhaul of its neighbourhood policy. Yet, regardless of the eventual outcome, the EU will not be able to give a credible membership perspective to these states, and it will have to invest many more resources in the development of "good governance" and the anchoring of "deep democracy" – which are not classical EU issues. The lack of European credibility in engaging these countries in the European project has led to an increased Russian presence there as well.

Therefore, the Council of Europe could play a much more enhanced role in this region. In general, the Council of Europe serves, through its wider membership, as an implicit agent for the extension of EU values. Specifically, the Council of Europe has advantages (in contrast to the EU) when it comes to its expertise and its inter-governmental method, which could serve as a basis for the development of a pan-European "gold standard" in regards to democracy, human rights and the rule of law. Yet, the Organisation lacks, unlike the EU, the material instruments to stimulate political change. It remains to be seen, therefore, what the political impact of the Council of Europe can be without the tangible material benefits that organisations such as the EU carry. In addition to its expertise, method and the fact that the Council of Europe is not seen as an outsider to the states concerned, the Organisation's biggest advantage is its exclusive focus on values, an area that Brussels has to constantly calibrate with other priorities, mostly economic and geopolitical. The Council of Europe should thus be much bolder in convincing the EU to develop human rights *acquis* in the neighbourhood via the Organisation and to use it as a neutral forum for dialogue on value questions with non-EU countries. The Council of Europe itself should focus on its historic role as a standard setter and

value promoter. Thereby it could create a culture of helping the neighbourhood, accompanied by a strong demand from the respective states.

How to Prevent a New Value Divide – The Instrumental Level

In order to be operational, the concept of good governance must be developed and concretised in a few areas of action, with appropriately devised monitoring tools and action plans.

There is a number of areas in which the Council of Europe has both a clear mandate and better expertise than the EU. The most obvious is local governance: the Organisation is well placed to help. It has the right framework for dialogue between central and local authorities in its member countries. This helps promote decentralisation, which is indirectly a tool to advance democracy in general. Even in semi-authoritarian systems with controlled politics, empowering local communities represents a step towards nascent pluralism. In other countries, with pluralist but disorganised politics, locally elected institutions can function, in the right framework, as counter-weights to the patronage system directed from the centre. Most countries of relevance for our deliberations (Western Balkans, post-Soviet space and Turkey) are signatories of the European Charter of Local Self-Government, and in the past they have been keen to stay engaged. When not directly using the technical assistance provided (for example, by the screening of new legislation), they at least benefit from the prestige associated with the approval stamp from the Council of Europe. This means that their local governance system meets the Charter's minimal standards.

Since the EU has no instrument in this area, and there has been no dedicated chapter of negotiation on local democracy with candidate countries, the Council of Europe should agree with the EU on playing an enhanced and more formal role on monitoring (a) prospective candidate countries and (b) other countries with which the Union intends to develop partnerships. The monitoring should take place on something similar to the Copenhagen Criteria, applied to candidate countries: minimal requirements on administrative reform (de-politicisation of civil service; functional decentralisation) and independence of the judiciary. And since, as noted, joining the Union is not an immediate prospect for most of the countries discussed, the evaluation on criteria can take the form of periodically repeated exercises (every two years), either by experts or by using peer review missions, on behalf of the EU Commission. The model for such co-operation can be the Support for Improvement in Governance and Management (SIGMA) program, jointly operated by the EU and the Organisation for Economic Co-operation and Development (OECD), but with an emphasis on evaluation rather than direct technical assistance, as it was the case with SIGMA.

The Congress of Local and Regional Authorities, with the support of the Centre of Expertise on Local Government Reform, could function as a platform for such an

effort at the Council of Europe. The Venice Commission can be a co-ordinating platform for similar activities in the area of judiciary reform, with the final aim of encouraging partner states to live up to minimal standards of judiciary independence and human rights protection. A good model would be the Co-operation and Verification Mechanism (CVM) set up by the EU Commission for Romania and Bulgaria, in order to press reforms in this *non-acquis* domain. The benchmarks and monitoring style should be naturally adapted to the local conditions and the degree of leverage Europe has in the respective state. However, it is essential to have such instruments that rely on true achievements – assessing outputs from the system – not only on institutional changes which are easily circumvented in practice afterwards. In other words, not only the adoption of legislation but its implementation and enforcement need to be checked and monitored by the Council of Europe.

Coming back to the issue of local governance, the Centre of Expertise on Local Government Reform has launched, for example, the European Label of Governance Excellence (ELOGE) initiative, a method of ranking with multiple criteria, based on self-assessment of the quality of local governance in a certain country. Such initiatives should be promoted more aggressively, and the EU should invest more resources to support all the partner countries concerned. Adaptable to local conditions and 100% nationally administered, ELOGE does not trample political sensitivities. At the same time, even if self-assessments may be manipulated to some extent (which is unavoidable in such environments), they still indirectly increase awareness and create a positive demonstration effect by allowing a large number of stakeholders from municipalities to at least find out about the European standards of good governance and have them as a mental reference.

ELOGE also marginally touches on the issue of fair treatment towards minorities. It remains to be discussed whether it makes sense to develop a similar but dedicated instrument of self-assessment in this respect. This too is an area in which the EU as such has no clear mandate: treatment of the vulnerable groups (minorities, but not only). Unlike the reports currently submitted by Council of Europe members, which are written by the governments, or the monitoring missions by members of PACE or the Office of the Commissioner for Human Rights such instruments would also have a valuable "pedagogical" dimension by forcing the societies under scrutiny to internalise some standards, even if for the moment they do not live up to them.

It definitely makes sense to be bolder in protecting the freedom of the <u>media/ freedom of expression.</u> This is a crucial dimension of a liberal state and a building block of good governance. The current change of paradigm in the mass media, triggered by the advance of the internet, is a shift of the public to social networks and free online content. This leads to the erosion of traditional business models and conquers the difficulties created by the economic crisis to all commercial sectors, even in the countries with a diversity of media outlets. Quality news and investigative reporting, which are at the core of the media's public function and had never been

well developed in these parts even before the crisis, are particularly threatened in the entire Wider Europe space these days. Not only because of political pressures, but mainly because they are difficult and expensive to produce, so they are the first under the axe when commercial budgets are cut. With poorly paid journalists and pliant media owners chasing contracts with public institutions – when these owners are not themselves politicians controlling public institutions – there is little public space left where the basic facts of domestic politics and policy can be debated free of manipulation and no-go areas. This is, of course, a European-wide problem not necessarily specific to the struggling democracies in the wider European space. Yet, the magnitude of the problem in these countries is alarming, specifically regarding basic rights of expression.

It is imperative to develop monitoring tools and, where the conditions permit it, support programs for the truly independent media – either traditional operations or new forms, such as freelancing co-operatives of investigative journalists publishing online. It is also important not to fall for easy relativism and compare the situation of the press in the Balkans or Wider Europe zone with that in old member states, where bias and a certain ideological leaning do exist. Traditionally, the size of the domestic markets and the business model – in which media channels are just annexes of parties or business groups, used as tools for extracting favours in those sectors – makes the situation radically different. The latest round of CVM reports on Romania, for example, highlighted the threat posed by a clientelistic press to the independent judiciary, through campaigns to slander and apply pressure on individual magistrates. Indicators to measure could be: (a) bias and politicisation in the media reporting on various issues; (b) ownership concentration of the main media operations and; (c) direct political connections of the main media groups. These indicators are not difficult to build and they can be used in independent reporting. However, we question why the Council of Europe has so far not invested any political capital in the development of a respective instrument – that should be done as soon as possible.

Good governance also means more transparent and socially negotiated resource allocations, which all comes down to a proper debate on public budgets. At the limit, such things can be considered as part of the matrix of fundamental rights in a modern democracy. There is a lot to be said about the failure – even within the EU – to live up to such standards, as we have seen during the recent crisis. There is no doubt that, among non-member states in the Wider Europe zone, the need to tackle the problem is even bigger, but so are the difficulties and sensitivities. More than one year ago, the EU Commission set up a technical committee of experts to develop an evaluation framework for "good governance" (read, corruption), based on "objective criteria" and measuring the reality "out there" – for example, not on opinion polls (such as the TI index) nor on government's policy responses to corruption (such as those used by GRECO). This is a challenging intellectual exercise, even before embarking on the task of measuring the indicators in practice. But progress has been

made and the final intention is to deploy a set of instruments within a common assessment framework in all EU member states. Operational dimensions, on which indicators to estimate clientelism could be built, may be the politicisation of the civil service and state-owned enterprises; siphoning off public resources through SOEs; territorial financial allocations to local communities, especially for investment purposes; or the entire process of public procurement (for instance, cost benchmarks). It is the obvious comparative advantage of the Council of Europe that it could adapt this list to other non-EU regions and encourage its members to sign up for an assessment exercise. The Council of Europe must speed up the change of paradigm in combatting corruption. This is no longer an aspect of criminal law but a real threat to democracy and good governance.

Towards A Political Strategy

When a set of instruments – such as the ones suggested above – is prepared, even in pilot form, the Council of Europe can use them in its dialogue with the EU non-member countries, in line with the Memorandum of Understanding between the Council of Europe and the EU. In the same manner in which the International Monetary Fund is working together with the EU Commission in tackling macro imbalances in various states, the Organisation could perform the same kind of broader technical monitoring / advice in areas where the Union has no direct mandate. Hereby it could build the results into the EU non-member state dialogue, sometimes even in the form of conditionality. The nature, scope and strength of this co-operation will vary depending on the types of countries concerned. There will be at least three categories:

- In countries that are willing to join the EU – which do not contemplate an alternative geo-political model and for which the EU perspective is distant, but not completely unrealistic (Moldova, Georgia, or in some ways Kosovo*) – the dialogue based on strict monitoring and conditionality carries considerable strength, no matter how remote the prospect. The experience of the new member states shows that substantial progress can be made on the relevant dimensions by using such tools – and in particular before accession.

- In countries where the EU engagement and interests are strong but, for various reasons, full accession is not on the table (Azerbaijan, Belarus and Russia), the monitoring instruments should be adapted (conditionality-light?) and the exercise should rely more on self-assessment. The fundamental incentive for co-operation is that these societies share many structural socio-economic challenges with the EU member states, more or less, but without having the right set of institutions to address them in the long run, or the resources necessary: geopolitical fears, demographic risks, loss of economic competitiveness and crisis in their social sectors (education, health care). The free travel of their citizens is also something these regimes truly care about.

- In countries with weaker ties with the EU, or where European interests are less multi-dimensional (Maghreb), increasing the awareness within those societies, at sub-national level, about standards and best practices of governance in crucial areas, as they are applied in Europe, should be regarded as the main benefit.

The grand vision behind such efforts is that a common European space of values, based on the notion of good governance, is a goal still worth pursuing, because it is grounded in peoples' genuine aspirations. This, regardless of the current level of enthusiasm in the EU for further enlargement, or the objective difficulties presupposed by the inter-governmental method of the Council of Europe. In this sense, Europe is a menu of (rather liberal) solutions for public matters that can be adapted locally (but not endlessly). It is similar to Wittgenstein's idea of family resemblances: particular elements can be dropped or added at the margins, so that there is no thread shared by all family members, but still the whole is recognised as a family by outsiders. Good governance may be regarded as a "family resemblance", when it comes to being captured and evaluated with indicators. Also, even if monitoring on the proposed benchmarks is not perfect and self-assessments are biased in the countries where such an exercise is a novelty, it is still important to engage stakeholders and local governments – above the head of the central governments – in a process of social learning about good governance standards.

Sub-Regional Organisations: A Helpful Tool?

Finally, the Council of Europe should – next to the above outlined country-group approach – think about co-operation forms between countries of different categories or types. This would take into account the growing complexity of European structures, forums and areas of co-operation and at the same time help avoid a self-induced disintegration of the Council of Europe's membership circle.

We currently observe contradictory trends across Europe, such as integration, disintegration, regionalisation and trans-nationalisation. At the same time, we have entered a post-enlargement era and a period of flexible integration in Europe, when even EU members participate in integration elements to different degrees. For the Council of Europe (which is, next to the OSCE, the only real pan-European structure in this framework), it seems of utmost importance to link up to the larger integration processes and formats such as the EU (see next chapter) as well as to lower-level processes, which might help foster the homogeneity of its big membership, bridge the dividing lines between different types of members (for example, EU states and Wider European or even Neighbourhood states) and finally, to ensure a better compliance with its standards. An especially valuable partner here could be sub-regional organisations.

Sub-regional organisations, such as the Council of the Baltic Sea States (CBSS), the Visegrad Group, the Black Sea Economic Co-operation (BSEC) or the Barcelona

Process are sometimes called the "Cinderellas of European Co-operation", due to their underused potential. For the Council of Europe, those sub-regional forums imply several promises: firstly they could be tools to bridge the divide between its EU and Wider European members on a sub-regional level. This would be of high importance in the Balkans, where increased co-operation in the Regional Co-operation Council (RCC) could ease the cleavages arising from some states entering the EU (Croatia) and some which are very far from it (Bosnia and Herzegovina and Kosovo*). Secondly, a strengthened co-operation with sub-regional forums would also enable to keep co-operation and communication with the Russians alive below the politicised forums, including the Council of Europe. For example, the CBSS and the BSEC can contribute to drawing Russia into co-operative frameworks on a more technical and regionally focused level. Finally, due to better local knowledge and expertise, concentrated in sub-regional forums, the latter could also function as valuable proxies for the Council of Europe when promoting democracy, human rights and the rule of law. This would mean that the Council of Europe, in the case of a problematic country, could rely on neighbouring countries, which share the same historical experiences and are more knowledgeable in approaching the government, addressing and maybe even already solving the problem at a lower level.

Such a strategy could at some point develop into an "EU-Council of Europe Sub-Regional Trilateral Framework for Democracy and Human Rights Protection". It would also suppose that the Council of Europe supports strengthening already existing sub-regional frameworks and encourages their foundation in other regions (in the Southern Caucasus, for instance). The Council of Europe, which once had ambitious plans concerning sub-regional organisations (The Vilnius Declaration), seems to have abandoned this dimension almost entirely. It could be revived within the proposed trilateral format.

5.   The Council of Europe, its EU Members and EU Accession Candidates

The EU and the Council of Europe in a Functioning Partnership

The relationship with the EU and its member states is of utmost importance for the Council of Europe, both in political and material terms. Politically, the Council of Europe depends on an active role of the EU and its member states, which still form the core of the organisation and its "best pupils", as well as on the willingness of Brussels to accept the Organisation as a standard-setting organisation for its membership. For quite some time already the Council of Europe has depended on EU contributions which have been perceived via so called "Joint Programmes" (81.9 million Euros alone in 2013) and other common activities. Although the current Secretary General has invested a lot of effort in an improved, practical relationship with the EU, the atmosphere between Brussels and Strasbourg is still suffering from the EU's continued pursuit of its own human rights policy. Yet, there exist a solid

basis with the 2007 Memorandum of Understanding between both organisations and the EU's bi-annual Priorities for Co-operation with the Council of Europe.

Nonetheless, the pending accession of the EU to the ECHR bears a lot of potential for further improvement of the relationship. As an effect, it will strengthen the Convention as the main benchmark for human rights policies on the Continent. The Council of Europe should use this moment to develop the relationship further, allowing it to be the main point of reference for issues such as "deep democracy" and "good governance" in Europe. The EU should be encouraged to integrate the Organisation's expertise very practically and visibly in its assessments on the state of democracy and human rights in the member states. Thus, the Council of Europe's main challenge is not the EU building institutions in the human rights field (which can, as the Fundamental Rights Agency or the EU's Special Representative for Human Rights show, strengthen compliance with the Council of Europe's standards), but a possible future role for Brussels as a self-sufficient standard setter in the human rights field. This can only be avoided if the Organisation improves its standards and effectively develops new ones for upcoming policy fields such as the digital space.

It is an often-heard story that, due to its politically numerical majority, the EU acting as a bloc inside the Council of Europe's major organs would lead to the Organisation's paralysis. However, the past has shown that such a scenario is unlikely. History shows that the Council of Europe has often been used by EU states to continue their open disputes over European issues, so more unity than less would be necessary. Therefore, it will not be difficult to keep the EU from acting as a political bloc inside the Organisation, but it should be encouraged to do so at least in urgent cases such as in the current Ukraine crisis. The EU needs to know when to use its might as a bloc. For the future, the Organisation and the EU should even think about a possible full membership of the latter within the Council of Europe, as suggested in the Juncker Report. EU membership would give a signal that Brussels appreciates the Council of Europe and its independent contribution to European politics and that it is willing to accept Strasbourg's superiority when it comes to values in Europe. Moreover, the Council of Europe would gain the political support of an entity representing 28 states and more than 360 million people, which would in turn also be a significant driver for a necessary re-mobilisation of the EU states inside the Council of Europe.

Facilitating a Renaissance of the Founding Member States

One of the most problematic aspects of the Council of Europe's membership is the obvious growing disinterest, in some cases even hostility, of many West European democracies, amongst which are a lot of the founding member states of the Organisation. How can this be explained? Mostly, a high standard in regard to human rights and democracy is taken for granted and other political issues are dominating the agenda. Furthermore, they concentrate their multilateral efforts on

the EU, which has also developed its own human rights *acquis,* at least for its own members. Ultimately, many of the more progressive countries, due to the strong influence of states with problematic compliance records inside the Council of Europe, such as Russia or Azerbaijan, do not see the Organisation as an effective tool for improving democracy and human rights records in the Wider European area. Yet, without a decisive impact of the big EU member states such as France or Germany, the Council of Europe will hardly be able to form the strong political alliances necessary for protecting the conventions and pressuring non-compliant members.

In order to overcome the bigger EU states' fatigue and to facilitate the founding member states' renaissance, the Council of Europe could do the following: first of all, attractiveness depends on the agenda. The Organisation is mainly underused by the EU states because its agenda is too broad, not very specific and even less visionary. If the Council of Europe manages to define the right priorities for the next 10-15 years, mainly with the help of its Secretary General, it will get back on the EU heads of states' radars and governments. The Secretary General should clearly announce his or her regional priorities, such as Ukraine, Georgia, Moldova and the Western Balkan states; his or her political priorities such as the aim to build an independent judiciary in the ENP countries; or the introduction of devolution elements and local/regional politics in Eastern Europe's over-centralised states. A visionary outlook would be, for example, announcing a willingness to invest in new instruments in the sphere of media freedom and the protection of civil society actors.

Next to its agenda, the Secretary General should also be more aware of a strong political leadership necessity. It should be the utmost priority for the head of the Organisation to constantly work on the formation of political alliances for the Council of Europe's major objectives. In the case of Ukraine and the Organisation's now expected enhanced role there, the Secretary General should try to speak and gather the strategically most interested and thus most important states such as Germany, Poland, Sweden and the Baltic countries. Why should the Council of Europe not be the one place where strategic answers on such a political crisis are discussed between the concerned states' representatives and the Organisation's representatives, who have the expertise on how ideas can be implemented on the ground? This does not mean that the heads of states or governments should attend, but Strasbourg could be the place where a higher ministerial level from the member states discusses and co-ordinates the international response on major developments in the Wider European region.

Finally, the Organisation will not be taken more seriously by the EU states that truly want to use it as a norm and value transfer mechanism to Eastern Europe, if it is as underrepresented in the respective countries as it is right now. It is simply not serious to state that the Council of Europe is *the* institution aiming at a pan-European legal space, while there are offices with sometimes only a handful of people in Kyiv, Chisinau, Tbilisi or Sarajevo. Thus, the Council of Europe needs to invest in its local

offices and develop a stronger field image. It can only be taken seriously and attract more contributions from EU states if the technical-legal co-operation the Council of Europe praises itself for is backed up by considerable on-site presence.

Monitoring Post-EU-Accession: The Council of Europe and the New EU Members

There are different categories, even among the Council of Europe's EU members, especially if one takes into account increasingly heterogeneous democracy and human rights records across the Union. It is evident here that some of the younger EU member states, who joined in 2004 and 2007, are far from being consolidated democracies. Especially since a couple of them have even taken a worrying political course, characterised by populist, nationalist and authoritarian tendencies. Whilst, for example, Hungarian Prime Minister Viktor Orban has used his absolute majority in parliament to change the constitution in his favour and sometimes resorts to strong nationalist rhetoric to please his electoral base, Bulgaria is plagued by a constant crisis resulting from high corruption levels and an ineffective judiciary. Romania also experiences similar political tensions.

The integration of these countries into the EU might have made the Council of Europe (and Brussels itself) turn its attention away from them. Above all, the current negative trends show that a formal fulfilment of the Copenhagen Criteria is no guarantee for sustained high levels of democracy and human rights. Rather, norm compliance must be ensured on a continuous basis. The Union is not very well equipped for that however. Although it has some instruments at its disposal to sanction non-compliant members, the multiplicity of political and economic agendas it has with its member states makes a necessary focus on values and the commitment to them rather unlikely.

Here, the Council of Europe, with its sole focus on value protection, is much better positioned and could thus co-operate with the Union more effectively. The EU and the Council of Europe could agree on a partnership for the common defence of their (already very similar) human rights *acquis*, thanks to Brussels' future accession to the ECHR. In this way, the EU would outsource the post-accession monitoring of new member states to Strasbourg. This would induce a much more efficient disclosure of the newer EU states' shortcomings, whereas the Commission would be less prone to critique by the non-compliers and would therefore not run the risk of getting drowned in conflictive political priorities so much.

EU Accession Candidates – The Council of Europe as a Gate to the EU

If we talk about the necessity of post-accession monitoring, it becomes clear that an even bigger field for EU-Council of Europe co-operation exists in the area of pre-accession. This means the preparation of EU integration candidates along the Copenhagen Criteria. This task would not be entirely new to the Council of Europe: a majority of the countries that joined the Council of Europe over the past two decades

are members of the EU today, or at least (potential) candidates. In this regard, Council of Europe membership has helped pave the way to EU membership. In fact, the EU now insists that all countries applying for membership should first be exemplary members of the Council of Europe. Meaning adhesion to human rights and democracy principles, as set out in its conventions and provisions must be incorporated into domestic legislation. The Organisation is participating in the accession dialogue concerning relevant chapters. Yet, until now, the link between Council of Europe and EU accession has not been systematically addressed by Strasbourg. In the meantime its own impact on new members has been limited, considering the rather hasty accessions of many new members to the Council of Europe in the 1990s.

For a number of reasons, the Council of Europe is rather well placed for helping the EU with new member preparation. Accession and observance of the Council of Europe *acquis* – especially where no such EU *acquis* exist (cf. Chapters 23 and 24 of the EU's accession negotiation framework) – is essential in the EU assessment on whether an aspirant country meets its membership criteria. The link in various EU agreements and initiatives between access to EU funds and compliance with Council of Europe norms particularly enhances the 'persuasiveness' of the normative pressure exercised by the Council of Europe. Candidate countries' governments wish to avoid the material disadvantages that are indirectly implied by Council of Europe criticism. This link with the EU enables the Council of Europe to use social influence when promoting democratic behaviour. The Organisation is armed with a significant institutional mechanism for 'shaming' states that do not conform with its standards. Also, the Council of Europe offers advice in designing democratic institutions and looks to make them work (via the Venice Commission, for example). Perhaps its biggest contribution to the development of democracy lies in its role as a third party enforcer. Because it is not part of the EU's institutionalised interaction, the Organisation is able to offer reforms that reflect an awareness of competing power relationships from a neutral position.

In practical terms, the EU and the Council of Europe could agree on a kind of joint accession management. This would entail that the EU encourages the Organisation to issue a "Copenhagen Certificate" on its behalf, to the Council of Europe countries whose democracy, human rights and rule of law records are already in line with the EU's demands. For the EU, this would have the advantage that a big part of its work, during the integration process, could be outsourced to another organisation, whereas the Union could instead place more focus on the fulfilment of economic and other criteria. Furthermore, in case the division of work is being taken seriously by both organisations and should the Council of Europe develop the necessary procedure, the EU could be somewhat relieved of the political pressure which is usually connected with the integration process. The Council of Europe's profit from the co-operation arrangement would mainly consist of the fact that Strasbourg could apply some conditionality to the members who would like to join the EU. In that way, the

Organisation would largely be able to convince members to comply with its standards. Finally, the overall strategic value of a common accession policy could be a more homogenous approach to European integration. This would ensure that the non-EU members of the Council of Europe are already much better connected to the EU, even before accession, and that the prospect of a new value divide is reduced.

6.   The Council of Europe and its Neighbours

How Much Engagement?

The question of how far to engage with the Council of Europe's different neighbourhoods has gained significantly more weight due to the "Arab Spring". Obviously, if states at Europe's borders wish to develop into real democracies – be it in the Maghreb or Central Asia – European democracies are the model they want to follow and learn from. In which way can and should the Council of Europe help those states and societies? Is a neighbourhood policy feasible for an Organisation such as the Council of Europe? First of all, it must be said that the Council of Europe can and should not ignore developments in its direct neighbourhood, for instability or authoritarianism there might easily affect the human rights situation in the member states. Many of the most urgent challenges for the Organisation, such as the consequences of immigration, are also connected to what is happening beyond the borders of the membership. Yet, the Council of Europe is already a rather big international organisation, struggling to make its impact felt in 47 member states, with an annual budget of a middle-sized West European municipality. This could be seen as a clear expectations and capabilities gap, where the Organisation is expected to do a great many deeds with very meagre means.

Therefore, we are rather sceptical about whether the Council of Europe should really adopt a systemic neighbourhood policy comparable to Brussels' European Neighbourhood Policy. Two reasons for that are paramount: one, the Organisation has no real foreign policy capacities and two, an administrative overstretch and even of a fraying out would be possible. Thus, the Council of Europe should rather concentrate its resources on its core business: its current membership, which includes the Wider European space and already poses a multitude of critical challenges. Any 'neighbourhood strategy' of the Organisation should therefore be limited. Yet, there is also a fine line the Council of Europe could walk between integration and ignorance, in regard to neighbouring states interested in co-operation, without having to invest many additional resources.

A Neighbourhood Strategy

First of all, the Council of Europe should have a clear vision of how to approach the neighbourhood. The EU's European Neighbourhood Policy, for example, still suffers from its limited strategic choice of simply creating a stable and democratic ring of states around it. From the very outset, the Organisation should opt for an envisaged

transgression of European values towards its neighbourhood, where no "*cordon sanitaire*" but rather a progressive Europeanisation policy of now hybrid regimes is projected.

The following points should form the basis of any engagement of the Council of Europe with the neighbourhood: the Organisation should generally try to support any neighbourhood country that wants to become a democracy with its own existing instruments; the Council of Europe should not develop a comprehensive neighbourhood policy (which would raise unjustified expectations), instead work with countries that want to restructure their polities along the lines of a European model of governance (but it makes no strategic sense to apply a demand-driven approach, where the Council of Europe invests its expertise without having any say in the strategy of the countries); all support needs to be financed from extra-budgetary resources, while costs for the necessary additional staff should be included. Finally, due to the recent history of and the current dynamic political processes in the Middle East and North African region and in Central Asia, the Secretary General and all other major political bodies of the Organisation should avoid using the same terminology and objectives as for membership, but take a more long-term approach in emphasising the importance of core human values and be prepared for democratic setbacks.

The following more detailed recommendations could be envisaged for the co-operation with neighbouring countries: The national parliaments of all southern Mediterranean and Middle Eastern countries participating in the Union for the Mediterranean-Barcelona Process (including the Palestinian Legislative Council) and of Central Asian countries, participating in the OSCE (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), should be in theory eligible to request the new "partner for democracy" status with the Assembly. However, requests from parliaments of other states may also be considered if the Bureau of the Assembly so decides. The aim of this new status is to create a framework for institutional relations and co-operation with Parliaments of neighbouring countries, on the basis of clearly expressed commitments towards democracy, respect for human rights and the rule of law. Unlike observer status, designed for accomplished democracies, the new status is tailored for countries which have made a choice for democracy and that wish to use the Council of Europe's experience and expertise in democratic transition. Therefore, unlike Observer status, it foresees country-specific commitments, defined on a case-by-case basis with the country concerned, with a follow-up mechanism. So far, the Assembly has granted the status to the Parliament of Morocco, the Palestinian National Council and the Parliament of Kyrgyzstan. The same could also be done with the Congress of Local and Regional Authorities. Consequently, a new status should be invented at the Council of Europe for neighbourhood countries (and not only parliaments) which have made their choice for democracy clear. But this new status should offer a qualitatively new level of rights and commitments and not simply a new label for co-operation.

Especially interesting for the neighbouring countries are those Council of Europe activities as well, which are especially designed to support democratic transformation. Thus, the Schools of Political Studies, where young multipliers and future leaders come together for national and regional seminars on the Council of Europe's major topics, should be extended to the neighbourhood. Thereby, the Organisation can provide a new generation of democratically-minded elites with the much needed capacities and expertise (teachers), in order to become more autonomous from the old authoritarian minded generation. The Council of Europe should furthermore try to extend its work with civil society and the INGO Conference to the neighbouring countries. Seminars open to an interested public offering possible engagement with interested opinion leaders in these countries, could be a potential strategy to elicit interest both in the Council of Europe and in the process of democratisation itself. Additionally, the Organisation should make more use of existing formats to co-operate with neighbouring countries. For example, the Venice Commission is open for requests from non-members, who can also participate in around 150 open Council of Europe treaties such as the European Convention for the Prevention of Torture. Furthermore, the Committee of Ministers and the Assembly are open to non-members as observers. It is, therefore, possible to extend the Council of Europe's leverage and impact into the European periphery without a full-fledged neighbourhood policy, by increasing political engagement in these countries and by drawing these countries closer to the Council of Europe's orbit.

Special Cases: Belarus, Kosovo* and the Non-Recognised Entities (NRE's)

Among the non-members of the Council of Europe there are also three special cases, which do belong to Europe territorially but do not, for different reasons, qualify yet for accession. Belarus is the only European state still outside the Organisation, because it continues to exercise the death penalty and as a result of its bad human rights and democracy records and the general repressive nature of the regime. Yet, the absence of Belarus also creates problems for the Council of Europe: while the Belarusian people have no access to the Court mechanism, the Organisation as such is deprived of the necessary instruments to have an impact on the human rights situation in the country. Kosovo* is in a comparable situation, although its outsider status has nothing to do with its human rights or democracy records. Rather, the Council of Europe has until now – despite a majority of member states recognising Kosovo's* independence – avoided an open debate about membership. While the so called Non-Recognised Entities such as Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh not only pro-forma belong to another category (their non-membership stemming from the fact that they lack international recognition), the consequences are the same: the existence of "black" spots in Europe, where the Organisation cannot protect citizens from human rights violations and anti-democratic rule. In these breakaway regions Council of Europe monitoring activities

practically do not take place. The Organisation should do its best to extend the scope of its instruments to all these territories.

The difficult political and legal circumstances of all these cases do not mean that co-operation is impossible. For Belarus, for example, the Council of Europe should develop a more strategic approach in order to be efficient and to avoid unpleasant surprises (what would the Organisation do if Belarus unexpectedly abolishes the death penalty? Grant membership?). The following strategic suggestions could be considered:

Getting Straight About the Situation and Major Objectives: It is the Council of Europe's mission to try to protect individuals and societies and though Belarus is not a member state, a complete renunciation of any co-operation would reduce its influence on a possible change of the country to a minimum. For now, the Council of Europe does not really exert any influence on the regime or protect the Belarusian people. It is, notwithstanding the above-mentioned projects, practically absent from the country. What the Organisation would thus need is a clear objective-setting and a vision on how it sees the country's mid-term future: the Committee of Ministers should thus aim at a sustained improvement of the democracy- and human rights record in the country, a guarantee of modest political freedoms and a certain protected niche (institutional guarantees) for opposition and civil society actors.

Apply Strategic Conditionality: Clear conditionality would mean that bigger co-operation activities with clear benefits for the Belarusian state (in fighting corruption for example) should be directly connected to appropriate measures of the regime, regarding the release of political prisoners, a decreased practice of the death penalty or the freedom of press sphere. A clear list of incentives and concessions on one side and respective expectations and conditions on the other side, should be developed by the Committee of Ministers as a basis of the Council of Europe's Belarus policy.

Make the Red Line Clear and Avoid Single Issue Traps: Progress on the issue of the death penalty (non-implementation or possible moratorium) and the release of political prisoners are seen by the PACE as the very first steps the Belarusian side should take in order to make a real rapprochement possible. However, in a long-term strategy on Belarus, the PACE and the Committee of Ministers are well advised to avoid being held hostage by single issue traps, since symbolic movement on the above issues does not entail big costs for the regime and will not change its nature. Rather, it must be clear from the outset that co-operation with the Lukashenko regime can never lead to membership in the Council of Europe. This should be made conditional on regime change and a significant democratisation of the political system.

Intensify Co-operation With Civil Society: In the case of a dictatorial regime such as in Belarus it is in no way acceptable for the Council of Europe to work exclusively or even mainly with the authorities. On the contrary, the Secretary General should

make our long-term vision of a democratic Belarus clear by pushing the Secretariat to lay a special emphasis on co-operation with civil society actors. This is easier said than done though. Although Belarusian civil society is, according to experts, the most developed and active in the Eastern Neighbourhood countries, there is a lack of will for fundamental political change and a tendency towards opportunistic strategies. On the other hand, the regime will not allow the Council of Europe to work with civil society organisations inside the country without its blessing. In such a situation, all the Council of Europe's entities should insist on the integration of domestic civil society actors in any project conducted with the authorities. It should also support organisations working in exile, and exert pressure on the authorities and respectively lend its expertise to the establishment of an independent human rights institution.

In Kosovo*, whose independence is already recognised by a majority of Council of Europe member states and where a legal basis for Council of Europe co-operation exists (UN Resolution 1412), the Organisation already has an office and conducts various projects with the authorities, such as in the field of minority protection. However, Kosovo* membership until now has not really been an issue, due to the expected resistance of Serbia, Russia and a few EU states – most of them wary of setting a precedent. This should not deter the Council of Europe's major political bodies to encourage the Kosovar authorities to officially apply for membership and act on an application. The sooner Kosovo* enters the Organisation, the sooner its people are protected by the conventions. This is essential because of the still difficult relationship that exists between different ethnic communities (Kosovars, Serbs and Roma). In order to circumvent the difficult question of immediate membership, the Council of Europe could at least work on a road map and invent different intermediate steps and statuses until complete accession is also politically feasible.

As for the Non-Recognised Entities (NRE) it must be emphasised that, although the consequences of their isolation from the Council of Europe are similar, they all represent very different cases. Common to all is the complete lack of any legal basis for the Organisation to enable co-operation with the authorities. Yet, here the Council of Europe has a few advantages in comparison to other international organisations: it is less political than the EU, concentrates on values rather than security, economics or even legal status, and it mostly includes all the countries concerned, such as Azerbaijan and Armenia in the case of Nagorno-Karabakh. Moreover, due to its concentration on observation and monitoring, the Organisation could be far more engaged in NREs and fill an obvious gap there, by offering monitoring reports and even CBMs. In order to avoid pitfalls, such as the tough balancing between more engagement and member states' interests (politicisation risk) or the likelihood of ending up with the EU's negative image in NREs, there could be an inclusive and Caucasus-wide engagement strategy by the Council of Europe, the use of local NGOs and INGOs as indirect entry points, and the creation of a kind of "mixed project bag" for target groups such as students and journalists. Above all, any engagement strategy for the NRE's presupposes the political will of the Secretary

General, who should make those "black holes" in the envisaged pan-European legal space a priority for the future.

7.   The Strategic Value of the Wider Membership

The Council of Europe's membership circle is both a serious challenge and an asset for the Organisation. The Organisation is no longer seen as an exclusive club as was the case before the end of the Cold War, neither is it an easily accessible organisation (like the OSCE). After a period of fast enlargement during the 1990s and the early 2000s a certain overstretch of the Council of Europe could not be denied, especially after it became clear that many of the new members still had a long way to go in order to comply with its values and convention system. Today, with such a large membership of 47 states, any international organisation which mostly works on a consensual basis, would also confront a serious challenge to its effectiveness – the Council of Europe's problems with the implementation of Strasbourg Court judgments or its current inability to drive progressive agendas is a proof of that. On the other hand, this report shows that the Organisation's multifaceted membership also creates certain opportunities and good prospects for the Organisation's future.

First of all, the Council of Europe is the Continent's only real pan-European organisation, which, considering the emerging value divide between Europe's East and West, could make it a political player of prime importance for European international relations. With the membership of problematic states, such as Russia and Azerbaijan, and with its focus on human rights and democracy, the Organisation is well positioned to provide a necessary forum for a structured pan-European value dialogue and an eventual reduction of tensions and rapprochement between EU members and Wider European states. If the Council of Europe manages to take on this role and at the same time develop into a more creative actor, envisaging new concepts and arenas for East-West co-operation, it could significantly enhance its value for European politics.

The Organisation has a special role to fulfil in the countries between the EU and Russia, which are part of Brussels's Eastern Partnership framework. This current "greyzone" of European politics will be a major task for international actors in the years to come. A successful transformation of Ukraine, Moldova and Georgia into functioning states and democratic polities will be vital to stabilising the entire region. In fact, the EU and the Council of Europe should join their efforts here for a European stability policy, aimed at firmly anchoring the respective countries in a future European order, thereby preventing them from becoming objects of an anachronistic "spheres of influence"-policy again. The Organisation, especially in the light of the EU's sustained enlargement fatigue, should use all its instruments and the membership of the respective countries for a large, field-oriented initiative aimed

at capacity building, education and civil society engagement, in order to make "deep democracy" possible.

The EU member states have not played a big role for the Council of Europe in recent years, as the focus of the Organisation had turned mainly Eastwards. The Council of Europe needs both a revitalisation of its relationship with its founding member states and a strategy for an increasingly less homogeneous EU space, in terms of democracy and human rights. Both aspects are interrelated – if the Organisation manages to make a serious offer to Brussels and the bigger member states to take over a post- and pre-accession monitoring role, it might get more attention in the big Western European capitals too.

Finally, what vision can we extrapolate from the Council of Europe's pan-European membership? The French historian and slavicist Georges Nivat has just argued that the Maidan revolution in Ukraine might open an opportunity for yet another advance of the European project, following 1945 and 1989. Such a "third Europe" would – after the Central European countries joined the European project after 1989 – welcome the future democracies of the post-Soviet area. Here, Nivat not only speaks about Ukraine or Moldova, but eventually also about Russia and even Belarus. As ambitious as it might sound, the Council of Europe, already including the states concerned and with its values reflecting the domestic vision of this "third Europe", should try to think as big and make more use of its comparative assets.

HOW TO MAKE THE COUNCIL OF EUROPE A 'CLUB OF DEMOCRACIES' AGAIN: IDENTIFYING MAJOR RISKS AND FINDING INNOVATIVE POLICIES

Executive Summary

The Council of Europe considers itself to be the most significant organisation in Europe in the fields of human rights, the rule of law and democracy. Is the Council of Europe really living up to its long-term objective of creating a pan-European legal space based on European values? One should consider the general crisis of the term "human rights", Europe's new value divide and the fact that several (new) members of the Organisation are either not democracies or are furthering authoritarian policies. Which strategy should the Council of Europe apply in order to become a "Club of Democracies" again? Which issues should it tackle in a more progressive and forward-looking way in order to stay credible in the eyes of member states and societies? The following key suggestions could provide an answer to these questions and help the Organisation back to its roots and get new direction:

A)   The Council of Europe has to re-think the concepts its stands for. Democracy, democratic security and democratic support are primary terms here. First, the Organisation should establish its activities and promote a version of democracy based on fundamental norms. These would be: personal liberty, political pluralism and freedom of speech. The Organisation should reassure itself in regards to the concept of democracy it stands for, without giving in to democracy's enemies that entrap us into conceptual innovations. Second, it should think creatively about trust inducing methods in democratic governance and demonstrate its superiority. The Council of Europe should advise institutions on how to become more transparent and responsive, encourage politicians to be more engaging and parties to become less elitist and more meritocratic.

B)   The Secretary General should be much more forward-looking and imaginative about future threats and challenges to human rights and democracy. In fact, the Council of Europe should be the one institution to first come up with threat assessments to human rights and democracy, based on its own monitoring mechanisms. Special focus should thus be given to the growing gap between states and societies, as well as to new forms of protest and governance gaps. The Organisation should concentrate on the erosion of democratic institutions and authoritarian alternatives, and lobbyism. The Council of Europe should direct its energies towards the danger of big data becoming a gateway for dictatorship, migration and the related problem of xenophobia, and finally the rise of inequality that tears societies apart. Otherwise, a few completely new trends, such as the influence of robotics on the work-culture, a gender divide or the consequences of ageing societies should be thought about and strategically addressed by the Organisation.

C)   In order to become a "Club of Democracies" again the Council of Europe needs to first come up with a political strategy on how to reach its long term objective of a pan-European space of common legal values. We strongly encourage the Secretary General to direct the transformation of the countries that really want to become democracies, such as Ukraine, Georgia and Moldova. Only by building stable democracies in these countries will it be possible to put pressure on other countries with authoritarian structures. We also suggest that the Organisation, which is presently still engaged in too many different fields, re-thinks its priorities and puts the most urgent human rights and democracy related challenges on top of its agenda. Such challenges concern political prisoners, freedom of speech and assembly, media freedom, free elections and "fake democracies".

D)   In order to address these major challenges and threats to democracy and human rights effectively, the Council of Europe should also invest in new instruments. A standing Expert Commission on Political Prisoners, for example, would complement the European Court of Human Rights, by assessing if there are systemic repression patterns. A comparable mechanism should be established in the field of media freedom, where the Organisation has no structures at hand yet. Generally, the Council of Europe should get closer to the people concerned by human rights violations, such as the families or lawyers of political prisoners. It should make the public aware of the dire consequences that taking an active political role has for those people and it should act as a forum where practical solutions and support opportunities are discussed.

E)   Finally, in order to improve the Organisation's role in strengthening European values, we urge the Secretary General to invest more resources in education and in forming a close partnership with Higher Education institutions and schools. By involving people during their young and formative years, the values the Council of Europe stands for, and its own role, can be cultivated. Thus, a human rights mentality can be created. From a structural perspective, the Organisation should engage other actors to establish more MA programs at universities in the field of human rights and initiate an "Erasmus for all"-campaign. Concerning democracy, the Council of Europe should reconsider the "healthy democracy"-concept and the practical suggestions of the 2004 Green Paper "The Future of Democracy in Europe". Moreover, the Organisation should help strengthen the image of parties, parliaments and other indispensable institutions of democracy.

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1.   Introduction

Over decades the Council of Europe has played a significant role for the European project and has been an institutional guarantee for its core values: democracy, human rights and the rule of law. From 1949 onwards, a convention system was created, with the ECHR as its central pillar. Until the present day, it provides orientation and a strong legal basis for action, on behalf of the Council of Europe's main bodies. The Organisation has also expanded considerably over the years and now includes every European state except for Belarus. Unlike many other international organisations, who, after the end of the Cold War, had to look for a new mission and justification for their existence, the Council of Europe managed to extend its role – on the surface – as a protector and supporter of European values. The Organisation went well beyond the former dividing lines and took on a real "pan-European" character through enlargement.

Yet, during the last decade, beneath the surface, the Organisation has come under serious criticism for its growing lack of visibility and impact on the state of human rights and democracy. There are several reasons for that. First of all, the Council of Europe is victim to a general human rights crisis in the West. Contrary to the 1960s, 1970s or the 1990s, the concept seems to have lost its appeal for the European people and a certain "human rights fatigue" can be felt among political elites, media and societies. Efficient human rights protection and democratic systems are partially taken for granted by many nowadays. Such values are also easily neglected on the priority list in times of economic crisis, fierce competition among global orders and a profusion of international crises. A second reason for this is an ever growing value divide inside Europe that runs between East and West as well as through most societies. In some countries, leaders have developed stable authoritarian systems that openly challenge the EU states' pluralism. Even traditional democratic societies are plagued by a new wave of populism, xenophobia and illiberal movements. And lastly, the crisis is also a systemic one and therefore perpetuated by institutions such as the Council of Europe itself.

Today, it is very obvious that the Council of Europe grew much too hastily during the 1990s and early 2000s. Many of the "newcomers" can hardly be called democracies and do not care much about their human rights record. Rather, they seemed to be primarily interested in international recognition and prestige, while Council of Europe-membership also helps them setting the very terms of the European human rights regime and, in the worst case, instrumentalise membership for their anti-democratic practices at home. However, the Organisation itself is in many ways proof of Europe's fatigue with human rights and democracy, as it is currently not a progressive agenda-setter or campaigner for human rights nor a place where democracy – in all its facets and future challenges – is discussed.

This report asks how the Council of Europe can be brought back on track, how it can set the right political priorities, concentrate on the most urgent topics and challenge

anti-democratic behaviour and human rights violations without applying double standards. The Organisation is still uniquely set among Europe's human rights institutions to play a leading role in defending core values. While we believe that the Organisation can change, many worrying signs such as the image-destructive chairmanship of Azerbaijan, the neglect shown towards the Council of Europe by many older and powerful EU member states, and the competition of the EU on the human rights field, might make the question above one of organisational survival.

2.   Definitions: No Conceptual Debates Needed?

In the light of our experiences with democratic transformation – especially in Eastern Europe – there is a long-running debate among practitioners and scholars: will we have to change our very definition of democracy? On one side, some argue that we should be more aware of local circumstances, of the necessity to socially and economically embed democracy and that the neo-liberal version of democracy, promoted by the Washington Consensus of the 1990s, has been too Western in nature and could therefore not work. On the other side, we find those who argue for purity and who defend a slim, accessible definition of democracy that is able to reach and attract as many people as possible and make the concept immune to its enemies' and sceptics' repeated attempts to water it down. The same discussion applies to the human rights sphere, where a growing number of politicians is increasingly keen to lead debates about what the concept should include, how it should be brought in line with national traditions, civilisation questions etc.

Although there are plenty of reasons to criticise Western policy-makers (for their naivety and shortsightedness while pursuing the 1990s' Washington Consensus and "shock therapy"-methods of market and democracy promotion), the argument that we should adapt our concept of democracy to local circumstances takes things too far. What we now see in former transition states is the development of a new form of authoritarianism with a democratic mask, not the willingness to build genuine political pluralism while paying respect to a country's history, culture etc. A second factor is that today, liberal political norms seem to be rather under- than over-stressed. Their most likely proponents in the EU and the USA sometimes seem unsure about these themselves. The empty place left by democrats is used only too eagerly by its enemies: the new multipolar world order has increased the competition between different political orders, among states and within, with a liberal democracy apparently no longer that dominant or attractive.

That being said, there seems to be an increasing part of our societies, among which are many young people, for whom the concept of liberal democracy and its features such as elections, parties and parliaments have lost appeal and meaning. A major reason for that might be the distrust they have in democratically elected politicians, many who have used those very features or institutions to enrich themselves, manipulate the media, produce scandals or hold on to party cartels. Another reason might be the emergence of false alternatives to liberal democracy, propagated by

leaders such as Viktor Orban in Hungary or Marine Le Pen in France. Thus, illiberal democracy in Europe is taboo no longer. Instead, it increasingly appeals to young people who are tired of the frequent low effectiveness of democratic governments, high unemployment, ignorance towards younger voters' problems and a lack of vision. Therefore, we have to ask ourselves: is it enough to just uphold and underline the moral superiority of liberal democratic values? Is more creative thinking necessary to fight false alternatives? How long can democracy survive without delivering good governance, public goods and jobs? What's the missing link that enables us to trust our politicians again?

To sum up, there is indeed no reason for which fundamental norms, such as political pluralism, the separation of powers, or the freedom of speech and assembly, should be reconsidered. Neither are they – due to their simplicity – irreconcilable with different contexts, nor is there any cause to propagate them with too much reservation. In fact, activists and opposition politicians, from most autocratic states, are urging the West to stand up for basic democratic and human rights in their countries, and are longing for the exact same values even we tend to question sometimes. Thus, what is necessary is an open commitment to core democratic and human rights in a time of crisis and competition, and an alliance of true democrats to confront an ever more sophisticated alliance of new authoritarianisms.

Yet, at the same time, we have to invest more creativity and energy in regaining societies' trust, for which democracy has become a concept that is taken for granted and whose institutions garner less and less support. A clear commitment to values is therefore not enough. We need new instruments to demonstrate the benefits of democratic governance and its long-term superiority over alternative forms of rule, as well as new ways to win back the youth, especially, for democratic politics. There is no alternative for institutions becoming more transparent and responsive, for politicians refraining from taboos and engaging in real dialogue, and for parties to become less elitist and recruit in a more meritocratic and newcomer-welcoming way.

3. Why the Current Council of Europe is no Club of Democracies

The Council of Europe looks strange in 2014. Once founded as an organisation whose main purpose should be the protection of democracy and core human rights, the Strasbourg-based Council of Europe of today seems to have fallen out of time with its political approach and whole outlook, stuck in the "good 90s" or even earlier, the Cold War periods. Reflecting on major decisions of the CM and PACE, the readings of monitoring reports or the speeches of the Secretary General, one has the impression that there are only minor problems with the protection of democracy and human rights in Europe and that the Council of Europe is short of materializing its vision of a common legal space for the entire Continent. The reality could hardly be more different, as many member states today question the authority of the European Court of Human Rights, neglect the recommendations of the Council of Europe's monitoring bodies or restrict the Organisation from any activity on their

territory. Moreover, its provincial location is mirroring the Council of Europe's absence from core human rights and democracy debates and isolates it from the much more vivid debate and the exposure of political actors in major capitals.

3.1   Good Intentions and Western Naivety

To some degree the Council of Europe's rapid growth during the 1990s and early 2000s was a mistake. At the time the decision was made, Europe still fantasised about convergence, a fast transformation of all former autocracies into Western-style democracies and market economies. The Organisation was, back then, pushed by many member states and the EU into becoming the first organisation to represent the "new Europe" and take in countries, which only very recently freed themselves or were freed from autocratic rule. This sort of fast track-integration further coincided with the Organisation's mission to create a pan-European legal space along with the conviction that a country was much easier to influence in its democratisation if already a member. For example, only after becoming member of the Council of Europe could a country's people launch a complaint against their government for human rights abuses at the ECHR. Yet, while the Council of Europe fatally lost the "membership carrot" to influence states' behaviour, no one could presume at the time that some Eastern newcomers especially would develop into facade democracies.

The Council of Europe is thus confronted with a dilemma nowadays. On the one hand, the rise of a new authoritarianism in many Eastern, along with Western member states, undermines not only the Council of Europe's credibility as a democracy and human rights defender, but makes it increasingly difficult to uphold the high standards the Organisation has committed itself to in its statute and the conventions. On the other hand, evicting autocratic states from the Council of Europe would make it equally tough for Strasbourg to have any positive impact on the respective countries. This would further strip the population from access to the European Court of Human Rights and would imply that the solution lies somewhere in the middle – if the presence of such regimes would not wield an even bigger danger.

3.2   The Azerbaijan Case

The current CM chairmanship of Azerbaijan (June till November 2014) is indicative of an even bigger danger, connected to the presence of autocracies inside the Council of Europe. Whereas decision-making in the CM and PACE has already become more difficult in recent years, due to diverging perspectives on human rights and democracy between West and East European members, Azerbaijan has also managed to use its Council of Europe membership to legitimise its repressive policies at home. Be it on the question of political prisoners or election monitoring, Baku, by way of "lobbying" PACE members to vote against respective resolutions or by manipulating election observers and reports, has repeatedly used its Council of Europe membership to get a "carte blanche" from Strasbourg. This climaxed in early

August 2014 when Azerbaijan, now with the cover of the prestigious Council of Europe chairmanship, assertively took strong actions against many remaining human rights activists, journalists and lawyers. It has been confirmed that Baku is very well aware of its ability to use the Council of Europe for its repressive policies, when it infamously stated – in a reply to the German PACE member Christoph Strasser after a failed resolution vote in 2013 – "(…) that the Council of Europe belongs to Azerbaijan (…)".

Therefore, the Council of Europe has to be aware of the fact that it can become a victim of repressive governments who instrumentalise their Council of Europe membership in order to legitimise deliberate human rights violations or anti-democratic policies, in the very name of democracy and human rights. This biggest danger – the Organisation as an accidental henchman of autocrats – is also perpetuated by the fact that the EU member states inside the Council of Europe are not very attentive to what is going on within, not to speak of roughly open Western admirers of Azerbaijan's political model and economic beneficiaries. If that kind of instrumentalisation strategy proceeds and even finds imitators in the future, the Council of Europe might develop into a problem rather than an asset for the human rights movement.

It is especially worrying to observe that Azerbaijan's behaviour has not led to any serious debate, let alone Council of Europe-internal political campaign against Baku's approaching chairmanship. Rather, the Council of Europe's leadership found that the chairmanship might be a chance to force Azerbaijan, now in the spotlight of international politics, to make its actions more transparent and improve its human rights record. The imprisonments of early August in fact show that this strategy did not work and that the Organisation is indeed confronted with a credibility gap. Chapter five will outline a strategy on how to tackle this central political problem of the Council of Europe.

4.   Major Risks and Challenges to European Democracies

Next to those general political challenges the Council of Europe faces as an actor in the field of human rights and democracy protection, its seems that the Organisation has not managed to catch up with the most important trends in European politics and societies so far. These are – due to their direct importance for human rights and democracy – directly falling into its mandate. We argue here that the Council of Europe needs to be a much more strategic thinking entity and an actor, leading others in approaching upcoming risks and challenges. If the Organisation does not manage to re-think its own role along these lines and topics, it might become meaningless to member states and societies or taken over by other, more flexible and forward thinking actors. The following major challenges should be tackled by the Council of Europe.

4.1   State-Societies Gap

The rift between traditional politics and societies is widening and our political systems and democratic procedures seem to be increasingly unable to provide effective solutions. A major reason is that national politicians are unable to keep promises they have made to voters as they surrender ever more power, over trade and financial flows, to global markets and supranational bodies, for example. Here, we witness the emergence of a more polycentric world, characterised by power shifting away from states. Political parties will have less of a political monopoly, while different networks and civil society organisations will provide important platforms for a new generation of activists who wish to influence and shape the political agenda as well as deliver public goods.

A direct consequence of the widening gap between traditional political institutions and voters, is the growing number of – often unexpected – mass demonstrations with no centralised leadership, where the protesters are not affiliated to any specific political party (for example, lately in Turkey, but even Germany's "Stuttgart 21"). As a result of mass demonstrations, there are often a growing number of restrictions towards freedom of assembly (new anti-protest laws) such as lately in Ukraine (the infamous laws of 16th January 2014), but also in Spain and Poland. Thus, two major challenges do arise: first, governance gaps grow as the mechanisms for inter-state relations fail to respond adequately to global public demands; and second, while the central influence of traditional party politics and governance structures tends to wane, there is an increased pressure of new, civil society actors for direct political participation.

In light of this, a new approach to NGOs, networks, and the private sector should be designed and decentralised power considered. Moreover, there is a need for new forms of political control and participation, including checks and balances on central power at the sub-state level.

4.2   Erosion of Democratic Institutions

Democratic political institutions are also put under pressure by more centralised and authoritarian alternatives. Many new authoritarian models are gaining attractiveness for voters because of their allegedly better position to provide effective governance and simple solutions to complex contemporary problems, but also because of their apparent economic success (the attraction of the "China model", for example). Consequently, the shift of nominal democracies towards autocracy will increase. While they will maintain the appearance of democracy through elections, they will neglect the rights and institutions as equally important aspects of a functioning democratic system (with Russia as Europe's prime example).

The challenge to democracy is especially clear in the young democracies and states of Central Eastern and Eastern Europe. A reason for why so many democratic experiments have failed recently is the excessive emphasis on elections and too little

on the other essential features of democracy. The power of the state needs to be checked and individual rights, such as freedom of speech and freedom to organise, must be guaranteed. An associated problem is that if opposition comes to power, after decades or years of authoritarian leadership, it can hardly govern anymore. Rather, the lack of leadership skills and governmental experience can create situations in which societies soon lose faith in democracy and opt for a rollback instead.

Another problem for democratic institutions is lobbyists' increasing power. Lobbyism and big money dominate democratic politics – with North American democracy said to be "for sale" already. The rich obviously seem to have more power than the poor – even as lobbyists and donors insist that political expenditure is an exercise in free speech. Both the short term, electoral view on democracy and the growing power of business interests undermine the credibility and effectiveness of democratic institutions as well as citizens' trust in them.

The challenge is thus to refocus from elections to other essential democracy features, checks and balances, for example, control over government plus training officials etc. Rather than only artificially creating democracies by ensuring free and fair elections (which are but all important!), European institutions should help provide the necessary conditions for "deep democracy" and good governance, by developing people's knowledge, their individual capacity to govern and by improving institutions' activity.

4.3   Human Rights in the Digital Era

Although a debate has already begun about "big data", the role of Internet "giants" such as Google and about freedom on the web, the relationship between human rights and the new realities of the digital era is still far from being properly elaborated, let alone regulated. Whilst Internet users are likely to engage more in politically motivated networking and demand unfettered access to the Internet, freedom of media restrictions will continue. It is likely that some governments will be more concerned with cyber security, control, surveillance and regulation than with protecting freedom of access. The challenge for basic freedoms in the digital era also emanates from another direction: economic interests drive internet companies. Citizens are therefore vulnerable to the abuse of stored information by a de-facto monopoly of internet giants. This will also increase privacy threats, with the ultimate danger of everyone's personal life being accessible and economised.

A more general danger connected to the digital era is the approaching digital divide – the fact that new information technologies are and will remain unavailable to many people because of a lack of resources, illiteracy and even access to electricity. It should indeed be asked whether internet access should be qualified as a human right as such – with almost any public and social communication organised by and an ever growing number of essential services offered through it.

The challenge is thus threefold. First, one needs to define the scope and limits of freedom on the internet and develop something like "good web-governance" guidelines, in order to guarantee a restricted but nevertheless effective protective role of the state in the internet. For example, the state should be able to punish those who engage in hate speech or abuse the web for criminal activities; its role should be limited when it comes to freedom of speech and the use of stored data. Second, internet governance has to be organised on a global scale. Internet giants should be controlled and monopolies broken. Third, the digital divide should be eased by providing connections to as many people as possible as well as by ensuring that old fashion communication instruments can still provide an alternative. In a developed region such as Europe, a human right on internet access should be possible to implement.

Yet, dangers connected to big data can also arise from governmental sources, especially if the new technologies are increasingly used by governments to build surveillance states, to control societies and hold on to the political status quo. Many states have already begun to install and invest in the means to store huge amounts of data, with the excuse of threats such as terrorism or trans-national economic crimes. This gives them a considerable competitive edge over other actors, in regard to information access. This tendency might, over time, cancel the checks and balances-principle of our democracies and benefit dictatorships and authoritarian trends. In order to stop the process, "the right to be forgotten" has to be implemented thoroughly by governments. Laws and institutional structures have to be created to prevent state authorities and bureaucracies from storing, controlling and using data they do not need to fulfil their foreseen prerogatives.

Finally, the issue of big data may be linked indirectly with another crucial forthcoming challenge, such as the governance of global commons. There is obviously little the Council of Europe could do regarding the open seas or space, but there might conceivably be a role for the Organisation in European efforts to regulate the cyberspace (and especially its malevolent uses).

4.4   Migration and Diversity

Western European societies have already changed a lot during the recent decades. This is due to waves of immigrants trying to find better living conditions, a safer life or simply a perspective of life in Europe. Except from traditional immigrant societies, such as the UK, most states were hardly prepared to accommodate millions of foreigners. Due to this nationalism and xenophobia are surging with different degrees.

Non-European immigrant communities that reside in European countries have a higher birth rate than the rest of the population. This will account for profound changes in the demographic structure of European societies. According to one study, the number of Muslims in Europe is expected to increase from 6% in 2010 to

8% in 2030. As the related numbers vary considerably from country to country, some societies may be affected differently than others by this development. Although reactions may also vary considerably, xenophobia (directed either against immigrants in general, and Muslims and/or Roma in particular) is on the rise in most European countries, as the Old Continent becomes less homogeneous. More diversity should, under normal circumstances, be considered beneficial for a society (and this has been, in the past, both the official policy in a number of European countries as well as the dominant public perception). However, the speed and extent of this change is causing mostly negative reactions among Europeans.

The truth is that the West will have to cope with an even bigger and continuous immigration from the East, but especially from the South, where revolts, failed and fragile states are forcing millions to leave. Therefore, resurgent nationalism will remain the most potent challenge for European democracies, and may cause further societal fragmentation and conflict. Many natives will become more open to exclusive-nationalist and even racist propaganda. The surge of populists and anti-democratic forces, the isolation of the newcomers and the potential refusal of their rights to cultural and religious freedom, may promote radicalisation and even the rise of fundamentalism.

The challenge is to avoid new dividing lines through our societies and the likely consequences for our democracies. We have to work more assertively on how to live together in multicultural societies. This vision should be based on a shared perception of basic human rights and democracy.

4.5   The Rise of Inequality

Equality is a main principle we connect with democracy. Although states and societies with a more social-democratic tradition have a slightly different perspective on equality than societies with liberal traditions, there is wide agreement that at least there should be a guarantee of equal chances for everyone to achieve certain life goals, be they of material or idealistic nature. Equality, to such a minimal or a larger extent, is something that holds societies together, preventing them from developing parallel societies, social unrest and even decline. Yet, not only popular studies indicate that inequality is on the rise, with "the rich getting richer and the poor poorer", but they also indicate growing trends towards unequal access to public goods, such as the health and education systems. It is now an established fact that, for instance, people with private health insurance get much better access to doctors than people covered by public insurance; this is creating a "two class-medicine" in many countries. Furthermore, at a time when proper education is essential for personal development, children from poor or immigrant backgrounds have much more difficulty, if any chance at all, to improve socially in comparison to their parents.

One does not have to be a Marxist either, to observe that – especially during and after the recent financial crisis – there is an extremely uneven share of the losses.

Whereas many middle- and lower-income families, small and medium sized businesses are still suffering today, an upper level business circle in the banking and investment sector is already enjoying the same bonuses as before. Therefore, in many developed states, equality has developed into a myth and it has become even more sensible that only those with a certain background, capital and networks are able to climb the social ladder. This inequality undermines our societies' cohesion and destroys inter-communal communication. As a result, the lack of societal consensus grows as urgent as it can make politics non-functional. The violence we saw in many major European capitals over the last years, the formation of parallel societies of long-term unemployed people and the existence of elite cartels, totally isolated from the rest of society, are not only symptomatic of the old European democracies. A new class-battle could therefore be on the horizon, with all its consequences for democracy, its institutions and the respect for human rights.

4.6   Robotics, Gender and the Demographic Challenge to Our Values

New technologies do not only comprise the internet and big data-connected issues, they also include the availability of increasingly sophisticated robots. These are able to perform progressively more tasks that only human beings were capable of before. In many industries robots already replace human beings, a process which will – experts say – intensify over the next years and decades. It has therefore been acknowledged in many industrialised countries, that the future of human labour mainly lies in the innovative and higher educated professions and that many job positions in the so called low-pay sector will fall away. What about the people who do not have the intellectual capacities for higher paid jobs and professions, those nobody will need in the future? Do we have to anticipate that work will be a luxury in the future and that large numbers of people will just stay at home and live off social benefits provided by the working? What about the aspirations and motivations of those who are not working? How to secure their "income" and social security? What about their basic rights; the rights and possibilities of their children to become eligible for work? What about their political voice?

The heatedly debated gender issue could also become a challenge to our societies and human rights. Although gender equality is on the rise (not only in the West) – and it is argued that, for example, women in politics have a violence-reducing effect – the methods and long-term consequences of gender dynamics and politics are heavily debated. The quota, (legal provisions regulating the number of women in boards of management, for instance) is already interpreted to disadvantage men and to lead to gender confrontation. On the other hand, women often feel harassed by growing career pressure, especially as education or professional training last ever longer and endanger family plans. Therefore, companies eager to employ more women are trying to influence their decisions on "family" (see the recent offer by American internet companies' to pay for the freezing of ovaries) – a trend which could seriously affect basic human rights in the future and which raises tough

questions concerning our societies' procreative capacity and the protection of family as an institution.

We ultimately have to follow the impact of demographics on values and their respective protection and promotion. The older people get, the more conservative they become. They tent to put order and personal security ahead of pluralism and the equality of chances. Additionally, older people have lived in culturally and ethnically monotonous contexts for most of their life. This often leads to negativity towards foreigners and multicultural societies. As the majority of European societies grow older by the day, there is a big chance that they will be hit by a certain value sclerosis, or even by a trend towards more authoritarian thinking and intolerance. How can such a challenge be addressed and a new generational divide be avoided? Is there a need for a new societal contract?

5.   The Political Foundations for a "Club of Democracies"

The Council of Europe has long taken pride in being the only real pan-European international organisation of relevance – a bridge-builder between East and West – able to accommodate existing differences with its legal-technical approach, based on a strong culture of consensus. Yet, it is quite clear, in chapter three, that the Organisation confronts a major political crisis. It could soon fall victim to a perceived human rights crisis and an advancing value divide between East and West. The immediate danger is the following: if the Council of Europe fails to protect the EU states' vision of human rights and democracy on a wider, more inclusive territorial basis, the EU – with its several new institutions in the human rights sphere – will take over as a means to preserve the expected high standards, at least for the EU's citizens. In this case, the Organisation would become a playing field dominated by semi-democratic or even openly autocratic states. These will try to use whatever is left of the institution's credibility and name in order to internationally legitimise their regimes and have at least a small stake in an agonizing European project.

How can this scenario be avoided? One has to be aware, of course, of the fact that the Council of Europe has its own distinct characteristics as an international organisation. Its legal-technical self-perception, its emphasis on incremental improvement by co-operation and its inclusiveness come at the price of little leverage vis-à-vis the member states. Therefore, a confrontational strategy emphasizing tough sanctions is unlikely to be successful and will only lead to the exit of powerful members and eventual collapse. Rather, the Organisation should aim at improving the things it already does (standard-setting and monitoring), combined with a more active political approach and a priority setting: to expose the most urgent human rights and democracy problems. Such an approach should – even if the membership now includes different political models and regimes – show very clearly, that the Council of Europe at least aims to become a "Club of Democracies" again.

5.1   Thinking Strategically

One of the Council of Europe's biggest problems nowadays is the lack of strategy concerning democracy, its protection and support in the membership and beyond. What are our medium and long term-objectives? The means to get there? Our most important problems on the one side and our biggest allies on the other? Right now, the Organisation applies a "one size fits all"-tactic without much prioritisation nor thought as to the consequences of its actions. What if the authoritarian states the Council of Europe offers much help in – such as in fighting corruption or human trafficking – are only using the Organisation to create stronger state structures; thereby perpetuating and legitimizing their anti-democratic rule? How can authoritarian tendencies be countered and pro-democratic governments effectively supported?

The Council of Europe's long-term objective should be: creating a value-based pan-European legal space, a true Community of Democracies. That is a vision which can only be implemented in a step-by-step manner. This means that an appropriate medium-term objective should clearly be defined, such as: seizing democratic practices and institutions in a majority of the countries in transition or in younger Council of Europe members. As the Organisation's resources are limited – especially when it comes to monetary resources and sanctions – strong partnerships with national governments in old democracies, the EU and other international organisations such as the OSCE are crucial. The Secretary General should especially spend more time and resources on effective alliance building with countries most interested in the protection of democracy, be it for ideological or security reasons.

From our point of view, finding a strategy based on those assumptions would mean that the Council of Europe is active especially in those countries and regions where governments and societies are clearly committed to Council of Europe values and want to become full-fledged democracies. Examples for that are Ukraine and Georgia (where the willingness to overcome the Soviet past is the strongest), and Moldova. Those countries strongly depend on the Organisation in their quest for European integration and de-Sovietisation, for they are and will not become members of the EU in any foreseeable future. Such a strategy, based on countries who want to change, implemented through clear funding priorities, personal resources and capacity-building on the ground (especially in building functioning state institutions), is the only way to counter authoritarian tendencies in other Council of Europe states. When confronted with successful democratisation projects in their regional environment, it will be much harder for authoritarian governments to legitimize themselves and avoid spill-over.

5.2 Setting the Right Priorities

Many of the challenges the Organisation faces are connected to its very broad mandate. It not only covers the triad: human rights – democracy – rule of law, but social, cultural, and other issues such as terrorism as well. The danger that the Council of Europe might fizzle out as an organisation has been recognised in the past, especially if it engages into additional policy fields. Change is happening too slowly. While it is true that the human rights sector has many facets, the Organisation does not have the resources to cover all of them. That does not mean that promising projects in the cultural sphere, for example, should be abandoned. There should preferably be a clear distinction between the political and the operative level, with the former concentrating on core human rights, democracy and rule of law-related problems of our time. The beginning of a new mandate at the end of 2014 would give the Secretary General the chance to set the right priorities and thereby demonstrate that the Council of Europe aims to take the lead in defending human rights and democracy standards in Europe. The following list of priorities should be considered:

Political prisoners

One of the most egregious current human rights challenges in Europe today is the growing number of people in certain Council of Europe member states who are incarcerated for no other reason than for having disagreed with their government. If the Organisation can address this issue successfully, it would make a major contribution to human rights on our continent. If it fails, it risks its overall credibility as a standard-setting institution.

Unfortunately, it is currently failing and facing a serious credibility crisis over its response to political prisoners. Instead of being at the forefront and speaking out forcefully against human rights violations, it tends to present a fig leaf to offenders. After the resolution on political prisoners' failure, in January 2013, President Aliyev repeatedly claimed, including this year in Brussels, that the Council of Europe "confirmed there were no political prisoners in Azerbaijan". In Russia, people who participated in peaceful protests in Moscow's Bolotnaya Square, after Vladimir Putin's re-election in 2012, have received severe sentences. Many other activists and government critics have also been brought before the courts. Ukraine, until recently, held political prisoners. There are serious issues about people incarcerated in Turkey today. At this very moment, in Azerbaijan, we witness a wave of repression against independent journalists, youth protesters, election observers, opposition leaders and Muslim believers. Many of them receiving long penitentiary terms.

Freedom of Speech and Assembly

The ability to make one's opinion public and to demonstrate or protest against perceived political and social deficiencies are basic human rights and prerequisites for a functioning democracy. Unfortunately we observe that many European

governments are trying to restrict journalists' and protesters' freedom, by inserting special laws; and prevent or complicate the access to social media such as Twitter and Facebook. In doing so, authorities become ever more sophisticated. They mention the frequent presence of hate speech on the web or the violation of privacy rules and moral standards as excuses for repression. While states such as Russia (see the post-Balotnaya fines and penalties for participation in unauthorised protests) and Turkey (see Erdogan's attempted Twitter ban) stand out here, EU governments sometimes ignore higher standards for the sake of other concerns such as security- or economy-related interests.

The Council of Europe should be more widely aware of developments connected to the new digital era – as that is a steadily growing space to watch over – concerning freedom of speech and assembly restrictions. Because it is still under-regulated it therefore serves as an experimental sphere for activists and governments alike. Close observation should also be kept on how journalists are treated and on the huge arsenal employed to restrict their freedom. They are put under tight state control or in some contexts, their work is made impossible. The case of Azerbaijan, and its frequent sudden campaigns against journalists, shows that the Organisation lacks an early warning system and effective tools to immediately address the respective government and put it under international pressure. The Council of Europe should be especially more active here and view itself as an exposer, campaigner and alliance builder, when concerning such grave human rights violations. Currently though, the Organisation has no strategy other than a symbolic-rhetorical one.

Media Freedom and Anti-Propaganda Measures

The conflict in Ukraine has shown that an independent media is largely absent in much of the former Soviet Union. Concentrated and non-transparent ownership structures are a problem in other Council of Europe member states as well. In Russia and Ukraine, there is an underdeveloped culture of an independent, unbiased mass communication that lacks experience. Political intervention and the use of mass media for state propaganda are often taken for granted. In Russia especially, we have noticed that the state was able to control most media outlets as well as systematically instrumentalise them, over months, to pursue a professionally concerted propaganda campaign against the Ukrainian authorities. Without many alternative information sources – the separatists in the Donbass even allegedly shut off any Ukrainian TV channels – people could be easily manipulated. In fact, it seems difficult to comprehend, from a West and Central European perspective, to what degree people's world view can be controlled in an illiberal communication space.

The Council of Europe as yet has no instrument in the media freedom field. It should however, do its utmost to force governments to: respect media freedom, establish independent broadcasting commissions and nurture an independent journalism

culture. For example, the Organisation could support alternative TV stations' initiatives, such as Meidan TV (Azeri), to build a network of independent TV stations across the Post-Soviet space. This measure is directly trying to break up the illiberal media space in the region. The Ukraine crisis has also shown that propaganda can be an extremely successful tool in the new media age. It might be conceivable that authorities in other states will try to learn from the Russians. A completely developed anti-propaganda campaign and an establishment of guidelines for "good journalism" should therefore be initiated.

Free elections

Free and fair elections are still the main prerequisite for a functioning, developing democracy. Even if in some contexts where there might be serious problems with rule of law, independence of the judiciary or the existence of a flourishing civil society, democratic elections provide the opportunity for change and put pressure on autocratic leaders – sometimes leading to the self-destruction of the regime. Yet, elections in some of the Council of Europe's member states are still neither free nor fair. In many others – old democracies as well – problems are obvious: the use of administrative resources by incumbent governments, high barriers for the registration of new parties and candidates or gerrymandering. Furthermore, the Organisation's record in monitoring elections and reporting shortcomings has come under a lot of criticism in recent years. The last presidential election in Azerbaijan is a prime example. The host government's considerable influence on the final report, a lack of communication with other observers, more focus on election day than on the pre-election period and of course possible corruption, are some of the most important problems with Council of Europe election monitoring.

In order to change this picture, the Secretary General might, first, invite a group of eminent international judges and election experts. They could investigate how it is possible for the PACE observers' judgements to differ from those of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) long-term observers and others in the past. Second, the previous practice of observer missions bargaining over elections' assessment, in the hours before a press conference, deserves to end. Third, while being part of observer missions, parliamentarians should not speak for their institutions. They should present their observations on elections as members of national parliaments or as members of a specific political group in the PACE. Fourth, short-term monitors should not be given a mandate (by their assemblies) to judge whether an election meets international standards, on the spot and based on limited observation only. At the same time, the Organisation should never shy away from clear language, lest it betray the hopes of democrats and the values and standards it is set to defend.

The Council of Europe should also try to invent smart approaches, in order to avoid that the very components of democracy (and the Organisation's work) is used to legitimise anti-democratic regimes and politicians. It should make use of ideas that

are already implemented in other areas, such as "crowdsourcing" (gaining data on elections from thousands of voters and observers by mobile phones and the internet) or the development of an election perception index that targets non-observable cheating measures. Furthermore, the international community could invent a smart-sanctions mechanism for the respective regimes, that focuses on their domestic and international legitimacy.

Authoritarianism and "fake democracy"

A certain "rollback" has been observed during the last decade, after the more or less hopeful period of democratisation in the 1990s. What we witnessed in the last years can only be called the return of authoritarianism with a new face. In Russia and Azerbaijan complete "fake democracies" have already emerged, but the trend also looks serious in other states such as Turkey, Armenia or even in an EU member state, Hungary. Here, some leaders have – to different degrees – reorganised political systems in a way that allows them to monopolise politics, isolate opposition and control society. This new kind of authoritarianism also comes with a very special trait: using the image and the very terms of democracy in order to gain legitimacy. In Russia, for example, parliaments, parties and elections still exist. However, they are skilfully created as facades and pre-arranged by the Kremlin to give the population and the outside world the impression of pluralism, in order to be able to shrug off critics. The Kremlin-invented concept "delegated democracy" is a good case in point: while "democracy" is too astute and comfortable a term to be dropped – the preceding adjective turns the entire expression into a contradiction in terms.

The Council of Europe seems to overlook two things today: first, while concentrating on many different and detailed aspects of human rights and democracy in the member states, it tends to negate the fact that some of the political systems are not democratic and often not willing to protect basic human rights. Rather, the Organisation – via membership granting – has given those regimes a democratic legitimation and moral "carte blanche". This of course makes it tough right now for the Secretary General and the CM to confront the bigger truth. Any confession by the Council of Europe's authorities, that we not only face a temporal or partial (in the sense of just the electoral regime, the judiciary etc.) but a serious systemic problem with democracy, would further discredit the Organisation. Second, the Council of Europe should not underestimate the degree to which the enemies and "democracy fakers" might be able to inspire others and build Organisation-internal alliances; in the PACE, for example, with right- and left-wing forces who also harbour anti-democratic and authoritarian sentiments.

A cure to the serious problem the Council of Europe faces with authoritarian members lies in strong moral leadership and a change of attitude towards leadership in the Organisation. The Secretary General and the CM need to understand that the uncommented presence of authoritarian regimes already discredits the Organisation. This will not only cast doubt on the Council of Europe's reputation as a human rights

and democracy-defending body, but will certainly turn it into a type of "fake organisation" in the future. In order to prevent this scenario, only open criticism and exposure of the "democracy fakers' methods can help. Thus, the Secretary General should not shy away from openly addressing the nature of the respective regimes and declare that the Council of Europe has a different vision of the concerned countries' development. This is especially important in countries on the brink, such as Turkey, where independent institutions still exist but where the majoritarian trend has to be countered in order to avoid an even worse scenario. Also, more resources should be invested. Through co-operation with researchers in the field of transition and democratisation, for example, to expose the sophisticated methods by which facade democracies are built. The results should be made public and addressed with specific recommendations in monitoring reports.

5.3   Create Innovative New Mechanisms: The Case of Political Prisoners

Next to setting the most imminent political priorities, new mechanisms should also be considered. The Council of Europe should react on recent political developments and human rights crises, where serious systemic violations merit focus and where routine mechanisms – such as sending a rapporteur – are unlikely to bear fruit (or have already failed to do so in the past). The issue of political prisoners and the latest developments in Azerbaijan are a good case in point here.

There is a need for more effective mechanisms on the basis of the 2012 political prisoners' definition. There are several institutions that need to act. The Committee of Ministers, the PACE, the Secretary General and the Human Rights Commissioner of the Council of Europe should all be involved in helping establish new permanent mechanisms to deal with systemic abuse that cannot be dealt with by the European Court of Human Rights. The Committee of Ministers has so far been largely silent concerning specific human rights violations in member states. Member states need to become more active in the Committee and speak out forcefully against systematic violations of the Organisation's values. The Committee of Ministers and the Secretary General should commit themselves to organizing an independent investigation, whenever there is a clear discrepancy between PACE rapporteurs' assessments and reputable human rights organisations.

The European Commission of Human Rights existed until 1998. It played a leading role in assisting the European Court of Human Rights from 1953 to 1998. Commission members were elected by the Committee of Ministers and would hold office for six years (during which time they were to act independently, without allegiance to any state). Its role was to consider if a petition was admissible to the Strasbourg Court. If so, the Commission would examine the petition in order to determine the case's facts and look for parties that could help settle it in a friendly manner. If a friendly settlement could not take place, the Commission would issue a report on the established facts with an opinion on whether or not a violation had occurred. A Committee of three people determined the admissibility of a petition.

Difficult decisions, however, were handled by a Chamber consisting of seven people. The Commission was not a court. Its opinions had influence on the basis of the credibility of its members.

In the early 2000's, the Council of Europe used three separate mechanisms to address the issue of political prisoners: There was a *panel of experts (2001-2004),* appointed by the Secretary General, that worked only on the issue of political prisoners. It examined individual cases in Armenia and Azerbaijan. This mechanism appeared to have been inspired by the European Commission of Human Rights and was indeed led by the Commission's former president, Stefan Trechsel. However, it only looked at cases in two countries, during a specific period, and was discontinued in 2004 once that was done. Its work was crucial to support the efforts of the Council of Europe's other institutions in those years. There were *special PACE rapporteurs* for political prisoners (in Azerbaijan), appointed by the Committee for Legal Affairs and Human Rights. There were two rapporteurs before 2005 and one rapporteur from 2009-2013. Finally, there was also a *special monitoring group ("Ago Group")* set up by the Committee of Ministers and composed of diplomats who looked into human rights issues and political prisoners in Azerbaijan.

After 2009, only one of these mechanisms was recreated in response to a new wave of repression. When PACE tried to use the rapporteur mechanism again from 2009-2013, to address rising problems in Azerbaijan, the draft resolution produced by the rapporteur was rejected in a plenary vote. Currently, none of these three mechanisms is active.

The concrete proposal here is to establish a standing Expert Commission on Political Prisoners. The Council of Europe needs a new professional and credible mechanism to address the issue of political prisoners. The mechanism must be potentially applicable to any member state where a systemic repression pattern is suspected. Its work must be compatible with and complement the work of other institutions (the Strasbourg Court and rapporteurs). A new Expert Commission on Political Prisoners could meet both requirements.

The initiative for creating such a panel could come from the Secretary General or the Committee of Ministers. The panel would be set up by the Committee of Ministers, which is authorised to set up "advisory and technical committees or commissions". This would require a two-thirds majority vote, cast with a minimum of 24 votes in favour and no member state would have a veto. This panel would become active if one of the Council of Europe institutions indicated below finds a systemic pattern of politically motivated repression. The proposed panel on political prisoners could be composed of three to seven experts. These should be former judges, presidents of national courts or senior human rights lawyers. They would act in their individual capacity. The panel would receive necessary resources and a budget for travel, translation, legal aid, and other expenses.

The institutions which would have the right to appeal independently to this Expert Commission, to start work and examine the situation and cases in any country where they suspect systemic repression are: PACE rapporteurs of any committee; the president of PACE; or the PACE bureau; the Council of Europe's Commissioner for Human Rights; the Secretary General; a number (to be determined) of member states of the Committee of Ministers. A new PACE rapporteur on political prisoners could also ask the Commission to examine – with more resources than a rapporteur will ever have – whether there is a pattern of systemic repression, which would make his or her political work easier.

The commission's work would consist of investigating individual cases in a quasi-judicial capacity – but not leading to legally binding judgements – to see if there is a systematic pattern of abuse. Suggestions of cases to examine would be submitted by both the Council of Europe's own institutions and by local and international NGOs or human rights defenders. The panel would select a limited number of pilot cases and examine them first. Then, it would complete draft opinions on whether these individuals are political prisoners (according to the PACE 2012 definition) and ask the country's authorities for feedback. After this, it would finalise its opinions and set a reasonable deadline for the authorities to react, by granting a release or retrial and carry out reforms to stop systemic abuse of this kind.

After the deadline, either the Secretary General or a PACE rapporteur for political prisoners or the Commissioner for Human Rights should assess whether the authorities have acted on the expert's findings. If not, the Assembly and the Committee of Ministers should consider sanctions, including boycotting official Council of Europe meetings in this country and a loss of voting rights. Also, no such country would be able to assume Council of Europe chairmanship as long as the situation is not resolved. A similar panel of legal experts was already successfully used by the Organisation in 2001-2004 for Azerbaijan. The combined efforts of the experts and PACE rapporteurs led to determining that there were 62 presumed political prisoners in Azerbaijan and to releasing hundreds of alleged political prisoners in the country.

Comparable mechanisms could be invented in other fields such as in that of media freedom, where currently no concrete legal basis exists. For years now, the Committee of Ministers is active in the field, with concrete governance assistance and transfer, concerning national oversight commissions and broadcasting agencies. However, the Secretariat lacks a more autonomous mechanism or body that regularly assesses the record of the member states in the field. This naturally leads to political bias and mutual neglect, especially in cases of big and influential member states. An expert panel, that consists of media experts such as scholars, journalists, broadcasting commissions and NGO representatives (Association of European Journalists), could therefore be formed in order to assess whether restrictions to media freedom are of systemic nature and give improvement recommendations.

5.4   Get Closer to the People Concerned

One of international bodies' main problems is the considerable – and to a degree understandable – distance between them and the citizens whose lives they ought to improve. As most international organisations can only act with the consent and through the structures of national governments, they often tend to ignore the individual level and are subsequently perceived as very elitist and far off. In fact, the Council of Europe seems to have acquired such an image over the last decades. As organisational life is mostly restricted to Strasbourg, missions do not exist and offices in member states are rare and small. The Organisation's visibility and credibility strongly depend on a better image among European societies – an image that presents the Council of Europe as able to solve real life problems. Therefore, the Organisation should invest more in helping the individuals who are directly affected by major human rights violations. Again, the political prisoners issue in Azerbaijan is illustrative:

Repressive governments not only target dissidents, but their families and associates too. Families are often burdened with legal fees as they struggle through trials and appeals. Relatives and friends may lose their jobs or see their career opportunities shrink. One example is the families of eight Azerbaijani youth activists sentenced in May 2014, who are now in dire financial circumstances. Lawyers defending political prisoners face pressure from the authorities as well. In 2011, three lawyers who had defended activists and opposition figures were disbarred in Azerbaijan. Another well-known human rights lawyer was detained and beaten by Turkish police at the Ataturk airport as he was returning from an OSCE-sponsored conference. A fifth lawyer who represented families evicted from their homes, as a result of Baku's urban reconstruction projects, was arrested on extortion charges. He was later sentenced to eight years in prison. In many cases, these courageous lawyers work *pro bono* for their clients.

Some recent prisoners have attracted Western media attention: Mikhail Khodorkovsky, Yulia Tymoshenko or Pussy Riot band members; unfortunately, many, beyond the narrow circle of human rights defenders have not. European press monitoring in 2010-2013 shows that there was little mention of the Council of Europe's work, and almost no reporting on the 2013 resolution failure on political prisoners in Azerbaijan. Many of the new prisoners are unknown outside the circles of human rights organisations themselves. There is a need to enhance public attention to politically motivated persecutions. This should be a primary role for the Organisation.

The Council of Europe – in particular its Commissioner for Human Rights – should host regular conferences with leading human rights defenders. This might make the public aware of the long standing and the new cases of political prisoners and other human rights violations. Also, the Organisation should be willing to act as a forum where very practical suggestions and solutions on the matter are discussed. The

suggested topics could thus be: How can one most effectively mobilise support for political prisoners' families and lawyers? What existing aid channels are there, and which organisations have already been involved? Where do gaps exist? Are there opportunities for better co-operation in raising awareness of the need for support among different member states, NGOs and other actors?

The general suggestion also applies to other fields such as to journalists, restricted from doing their work, opposition politicians, banned from running for election, to harassed civil society representatives and other victims of authoritarian regimes. That kind of individual approach also entails a chance for the Organisation: to use actual faces in order to raise awareness for the Council of Europe's role and to get out of its sole image as a technocratic-legal agency working somewhere "beyond" the facts and problems of everyday life in Europe.

6.   Practical Instruments for a Renaissance of Core Values

It has to be highlighted again, that the political level should necessarily be somewhat differentiated from the more practical and operative level. Yet here, the Council of Europe needs to work on its priorities if it wants to succeed in the future. At a time when majorities in favour of creating new standards are hard to gain, and when monitoring fails to have much impact on the respective governments, it might be the right moment to invest in other fields and methods – namely democratic education and governance transfer. In addition, the Organisation should target young leaders with its activities more eagerly, through the Schools of Political Studies and improve the image of these basic ingredients: democracy, parties and parliaments.

6.1   Education

It takes time to introduce democratic practices, build democratic institutions and change mind-sets. There is no quick fix. Education is indispensable if one wishes to establish a lasting trust between citizens, structures and societal institutions. It is through education that children and young people develop civic competences, such as respect for the values of democracy, rule of law and human rights. Equally important: that they develop the capacity to act within such a framework. Furthermore, in authoritarian contexts, the democratic education of a new generation is sometimes the only opportunity for long-term change. Here, the Council of Europe's education activities can provide shelter against the one-dimensional educational approach of a repressive government.

Living democracy and Experiencing Democratic Governance

In order to become active citizens, one must learn about democratic principles and rules. But primarily, one must experience what democracy means through participation in public debates and in decision-making processes. Learning to respect human rights is not enough. To really understand Human Rights Conventions one must learn to respect and promote human dignity in its essence.

For many children, school represents not only their first encounter, but their first formative encounter with a public institution as well. They experience institutional governance, rules and structures, leaders' accountability and transparency in terms of decision-making processes. Students may have the opportunity to experience what their engagement entails: "Learning Through".

Schools can use this "institutional privilege" to provide children with a foundation of knowledge and trust in democratic principles and mechanisms. More importantly, trust in their own capacity to take part in democratic governance of public affairs and institutions. This is invaluable for sustainable democratic societies. Yet education's role is rarely prioritised, though often mentioned. This is also the case for the Organisation. Though both policies and instruments are in place, education for democratic culture is an underestimated task. Clarity and support from Council of Europe leadership towards education is required. It should not only promote its policies in member states, but equally challenge them to think about how concrete implementation measures could look on the ground, by highlighting current examples of possible practices (soft peer pressure).

Schools have the potential of becoming democracy labs. They nurture future citizens – and future leaders alike – for many years. When talking about involving young people in democracy, we might think that it also refers to involving them from a young age, while they are making their first experiences with democracy at school. Yet, at no point during the first two years has the Council of Europe "World Forum for Democracy" – while focusing on young people, particularly on young leaders – explicitly referred to education as one of the main pillars. It is urgent that this fundamental connection be made more visible.

For a long time, the Organisation has supported strengthening civil society organisations as a democratic developments fostering tool. The Council of Europe Networks of Schools of Political Studies (presently 21 Schools) are very well established in their contexts and are particularly attractive to young people who have left the education system. By creating closer partnerships with Higher Education institutions, these schools could serve as an efficient structural framework that promotes the importance of education and educational institutions, by shaping a democratic society. A few Schools of Political Studies are currently developing strategies in that direction. This is promising, especially in situations where schools are constantly under autocratic government pressure.

Strengthening Education for a Culture of Democracy

According to the Council of Europe, the purpose of education is not only to prepare for the labour market and individual development, but goes beyond. It includes building a broad knowledge base and preparing to become active citizens in diverse societies. Education needs to get young people ready to live together. This point of view is highlighted by the Council of Europe Secretary General´s 2014 "Annual Report on the State of Democracy, Human Rights and the Rule of Law in Europe":

"…we often see political prioritisation on education for employability. If this is not balanced with education on democratic citizenship, it can promote a concept of students as a labour force, rather than citizens". It is important to remember that, in the EU context, education belongs to the national domain, therefore the Council of Europe will prefer to address this issue as part of the pan-European agenda.

How do we know if an education system fulfils its purpose? It will be probably more discernable when it does not: when we have high levels of intolerance and discrimination against individuals or groups of people; when corruption is rampant; when the rule of law is connected to the survival of the fittest; and when citizen's rights and responsibilities mostly have a theoretical meaning.

Schools are a place of value transmission, whether that is intentional or not. And schools reach all members of society. The choices that educators make can support students' core democratic values or quite the opposite. Invariably, their choices will have lasting influences on young people's lives.

The Council of Europe's current work on democratic and intercultural competences descriptors will be designed as adaptable guidelines to be used by member states. Support in mainstreaming the descriptors into educational systems is preferable. They could potentially have a major impact – if mainstreamed into the educational systems through curriculum development, textbooks and other educational resources – and be supported through both in-service and pre-service teacher training. If, as one of the purposes of education, these professionals are intended to prepare students to become active citizens they must know what competences to teach, how to teach them and how the learning outcomes can be measured. This ambitious initiative deserves attention and ample institutional and political support.

At the same time, these initiatives could be extended to students. Could a Europe-wide curriculum on the Council of Europe, its history, *acquis* and current policies, be developed in partnership with relevant European Universities? In this way, the Organisation and its values could not only be a course of study in specialised law or political science faculties, but could – given the prominence of the subject of human rights – maybe also become part of a future "*studium generale*" for all European students. In addition, one could think about whether there is scope for developing an international distance learning MA programme on "Democratic Citizenship and Human Rights" (eventually driven by an online faculty), in partnership between the Council of Europe and interested universities.

Education as a Means of Prevention of Intolerance and Discrimination

Social media enables people to actively participate in the public sphere; ergo it can have a democratizing effect. At the same time, the growth of hate speech on the internet, targeting different groups or individuals, is a serious threat to democracy. It is obvious whom this hatred affects the most. Women who choose to be active and visible in the public sphere are often subject to hate speech. We also know that

particular groups, such as Roma, migrants, Muslims, Homosexuals and the disabled, are a favourite target as well.

Those who belong to a group that is being demonised, harassed or dehumanised see their personal integrity violated. It is a fact that a growing amount of these people renounce to the right to participate in the public sphere because of threats. In many ways it seems that the civilizing principles that apply in the physical public sphere – with the written and unwritten rules governing our behaviour – do not apply online.

We hear many stories about slander and threats on the internet. The first thing we often hear, when it comes to action, is just prosecuting or removing hate speech. However, the danger with this focus is that it only affects the symptoms and not the causes. A more long-term work is needed in order to prevent the expansion of hatred and people being trapped by closed ideologies. This work should focus on the mechanisms and attitudes that lead to hate speech and how best to prevent and combat it. Once again, education has a fundamental role to play in order to prevent hate speech, discrimination and anti-democratic behaviour and attitudes.

Democratic values are enshrined at all levels of European education systems' steering documents, but in practice this is often difficult to manage. The solution is to give school administrators, teachers – and other adults in the school – necessary tools, expertise and especially the confidence to deal with hate speech and challenge the anti-democratic attitudes within the context of school life.

Hate speech is often related to the current difficult and controversial themes – equality, immigration, religion, etc. Our experience is that many teachers are reluctant to take up these issues in the classroom, due to various reasons such as uncertainty or even fear of the themes themselves. They might be afraid to offend someone, thus it can be difficult to manage such discussions and conflicts, etc. One consequence of such uncertainty is that young people are left to themselves with questions, attitudes and prejudices. If you want to educate young people so they become informed, active and responsible democratic citizens now and in the future, they must learn about controversial topics and be taught how to handle them; and learn to cooperate with others to discuss and resolve potential conflicts. We cannot afford to leave them ignorant and unprepared to deal with some of these issues that majorly affect their present and future lives. Such a task must occur within a safe framework. The school can offer this safe space.

Schools should have an important function and potentially can be a fully effective preventive arena for young people. Professionally, in the classroom and throughout the school's organisation and learning environment, within the formal education system, there must be the necessary expertise to address and learn about controversial topics that can lead to hate speech and discrimination.

Prevention does not happen overnight, but is always the result of a long term effort. It takes continuous effort to provide school administrators, teachers and other adults

in the school – including parents – with the necessary tools, skills and confidence to attack the issue in a way that enables students to independently detect, assess and combat discrimination, racism and hate speech-online and offline. The Council of Europe can take the lead in promoting this approach; strongly supporting current initiatives and promoting new ones and their effective dissemination.

Finally, we should look at education from a broader context as well and include all age groups and professions in our strategies. We must think about how to reach them with our value-based mandate, how to promote the spirit of the conventions and help them become more tolerant and open-minded, and looking for already successful instruments is sometimes enough. For example, the European Commission has just discovered that the Erasmus student exchange program is a huge success in promoting inter-cultural dialogue, European values and democracy. The Council of Europe could use that as a template and try to start-up an "Erasmus for All"-initiative, where not only students, but for example teachers, nurses and other people change countries for a few months.

6.2   Healthy Democracy

How do we confront democratic institutions' erosion in Europe and is there a way to even reverse the course of events?   Next to increased activities in the field of education, we deem it necessary for the Council of Europe to establish a vision of healthy democracy for all its members. Notwithstanding the urgency of authoritarian tendencies in the East of its membership, democracy also shows worrying trends of instability and mutation in the West. We only have to cite the term "cartel democracy" (the trend that the traditional parties tend to form informal cartels against newcomers, resulting in virtual debates and a decrease of political competition) to show how urgent the problem is. As with human rights, there even tends to be a certain democracy fatigue. While referendums, demonstrations, debates about direct democracy and a certain single issue-activism are very popular elements, traditional forms such as parliaments, parties and sometimes even elections, have taken on a negative connotation for many people.

The Council of Europe should thus ask the following questions in order to establish a "healthy democracy"-concept: What are the reasons for people's dissatisfaction with democratic politics, parliaments and parties? Are the basic underlying principles of democracy such as "government by the people and for the people", pluralism and political competition, the separation of powers, and the alternation of governments still understood in their substance? Which aspects of participation (elections, party membership, civil society engagement) are decisive and how can one increase participation levels? Are parties, in their current form, too elitist, too multi-dimensional and therefore unattractive, especially for young people? How to increase intra-party democracy? How can people be motivated to stand for office and what can be done in order to improve the image of parliaments? These questions should be discussed as soon as possible – for example at the World

Forum for Democracy – and innovative concepts should again be taken up, such as the ones formulated by the Green Paper "The Future of Democracy in Europe".

The Council of Europe should therefore not only lead the debate on democracy and its future outlook, it should also initiate experiments and encourage a member state or a group of them to function as a laboratory, for example, by granting voting rights to "denizens", by introducing shared mandates, yellow-card provisions for parliaments or vouchers for civil society organisations and party budgets. These suggestions of the Green Paper (so far under-appreciated) show that democracy can only be healthy if it is understood as a dynamic concept, where – aside from basic principles – methods and techniques should be modernised and changed from time to time, so as to remind people that democratic government cannot be taken for granted and has to be fought for on a continuous basis.

6.3   Young Leaders

It has already been mentioned before that the Council of Europe – as many international bodies – only has a very lose connection to individuals and the people who are the object of its work. A special group the Organisation should lay more focus on is young leaders. They still have the capacities and the open-mindedness to come together to discuss the human rights and democracy-related situation in their country in a non-biased way and learn about possible improvement. In the framework of the Schools of Political Studies, the Council of Europe already supports national and regional seminars of prospective leaders on those topics. The network has grown in recent years, including some Northern African states as well. Yet, the Organisation still seems not to make the Schools a priority, as Council of Europe funding is far from sufficient, as some Schools hardly exist and the opportunities connected with the network are not properly used.

The Organisation should focus on turning the Schools of Political Studies into a structure capable of producing a new, human rights and democracy-committed European elite of politicians and leaders – not only in politics, but also in other fields such as business, science or even culture. By investing in young leaders below the age of 35, the Council of Europe has the best chance of transferring its values and securing an important place for itself on those leaders' future agenda and priority lists. This is especially important in authoritarian contexts: aspiring youth often has few other information sources and needs a sort of structural and spiritual breathing space or alternative insight, to develop at least for some years out of the rules of the old system. It is only by providing such insights with regular seminars and contact with people from EU countries, that there can be a chance the mindsets of the new generations will at least function a bit differently than the older ones.

Thus, the Schools should first of all have more funding, guaranteed by the Council of Europe, so that its priorities and policy fields matter most in their work. They should be extended regarding the number of seminars and people, and there should be

more focus on alumni work and engagement. The Organisation should try to make more use of the network in order to spread its message in the respective countries and implementing projects.

6.4 E-Democracy

How is the Council of Europe supposed to answer on the above outlined challenge of the digital age; on the question of endangered privacy; and on the many potentials arising from a more interconnected world and improved communication between people of different nations? It has to be emphasised so far that the Organisation seems to be too withdrawn from debates in the field and that it is not living up to its possible role yet. The Council of Europe should see this field as a task for standard-setting, as well as for the development of projects that support and experiment with the use of new technologies in the field of human rights and democracy.

First of all, the Organisation should immediately engage in the high-profile debate about freedom and privacy on the web, the role if internet business giants and the collection of mass data by secret services and other actors. A mandate for this can easily be drawn from the Human Rights Convention, whose provisions are directly affected by those trends. Any initiative should preferably be taken in close co-operation with other international actors such as the UN and technical agencies, in order to contribute to a sustainable global solution. The high demand for regulation is providing space for the Council of Europe and it should at least start thinking about certain guidelines, if not about a proper instrument to protect people from the misuse of their data, hate-speech and the like. It could also lead the way to making the EU and its representatives in the competition field more attentive to the power of internet business monopolies and the need for clear regulation and more players in the field. Lastly, the Council of Europe's current structures, the Information Society Department, and resources invested in the field hardly seem to correspond to the topic's urgency.

Next to the protective dimension, the Organisation should also more actively be thinking about and developing ideas on how to make use of new technologies for the advancement of human rights awareness and improved democratic participation. This could start with new website projects that highlight human rights violations victims, such as journalists or minorities. Many of the Organisation's problems with its visibility and the communication of its successes are due to it playing no creative role on the web, for example, European Court of Human Rights rulings in high-profile cases. Furthermore, the Council of Europe had already been active in the E-Voting field, but seems to not have followed up on it in the recent past. Yet, the new technologies potential for a more vivid and direct democracy, with an effect on the sometimes rather reluctant youth especially, is still underused and not seen. The Organisation could use online surveys and social media to discuss certain human rights' challenges and its policies. This would help with a problem also addressed above: getting in direct contact with people. To sum up, the digital age needs a

transformed Council of Europe (not a mere observer), able to adapt its traditional perspective on human rights and democracy and be an active force in the debate about the many challenges it brings.

6.5   Local Democracy

It is not enough to only think in big terms and address the existing problems at the national level, in order to strengthen democracy and its institutions. Most citizens' only involvement in democracy at the national level is through elections. However, the regional and local levels are more likely to closely involve citizens in the democratic process. Most people think they have far more influence over local government decisions than over national government. Therefore, the Council of Europe should invest more strategic and operative resources on those levels and improve its relationship with regional authorities, mayors and city councils. That emphasis on the sub-national level would also give the Organisation a moderating role concerning existing or potential secessionist conflicts (Scotland, Catalonia, Flanders, Basque region), thus bringing the Council of Europe closer to the people.

Strategically, the Congress of Local and Regional Authorities is the body most concerned here. This institution is still undervalued. It is unique in its purpose: bringing regional and local authorities together, monitoring local democracy and governance, and exchanging best practice on the local fight against corruption and other issues. Yet, the Congress' profile is still weak and its main representatives unknown to the public. Furthermore, it does not seem that the Congress focusses on the most important problems on the communal level: what we see there, foremost, is the rise of megacities such as Moscow, Paris or London, which have to handle many of the big national problems (demographics, migration, pollution, inequality) with much bigger urgency (as in a pressure cooker) but very limited resources. Therefore, the Secretary General should increasingly put regional and local issues on the CM agenda and initiate campaigns for local democracy on the Council of Europe's behalf. Additionally, the Council of Europe should also think about Congress representation in its foreign offices or in big cities where the most urgent problems on the local level exist.

On the operative side, the Council of Europe should spend more resources on local and regional levels and initiate and support pilot projects. For example, there is a lot of talk at the local level about co-designed decision-making processes, built around a certain issue, between councillors and the coalitions, about new forms of accountability lines as such. It also is becoming increasingly obvious, especially at the local level, that we are living in the networked age; that we should be exploring how our political structures and the local models of doing business, engaging into cultural or sports activities, can be relevant in this new era. Finally, the Council of Europe should support and find ways to integrate other forms of participation, such as the extremely active volunteer initiatives, that are somewhat distant from politics as of yet.

6.6   Parties and Parliaments

Parties and parliaments are especially important democratic institutions because of their inter-mediate character between society and government institutions, and their difficult task to organise political interests in a way that allows democratic decision-making. Curiously however, this special role does not translate into a very positive image: parliaments have, among all the big political institutions, by far the lowest public support ratings, and parties are widely perceived as vehicles to advance individual political careers and elite networks. Considering the imminent role of both institutions, this is a dangerous development that is already leading to a decline in party membership and a certain anti-party attitude in all generations. And though new civil initiatives and forms of political organisation and protest are to be valued as such, the question arises: how is representative democracy going to survive without the traditional party? There is no alternative to the organisation of political interests on a national or even European level without it.

So what can the Council of Europe do to improve the image of these important "linkage-organisations"? First, the Organisation should see itself as a parties and parliaments promoter and lead campaigns that aim at a better explanation of those institutions' imminent role for democracy and an improved image. The Parliamentary Assembly – with its members both representing national party members and members of PACE political groups – should especially lead the way here. Parties should not be represented as artificial factionalism, but as expressions of an overall political orientation, with a high regard for individual opinion on one side, and a certain ability to compromise on the other. Parliaments should be featured in their role as arbiters between different political formations giving a voice to minority factions and opinions as well, and being expressions of a democracy's ability to combine pluralism with efficient decision-making.

Second, the Council of Europe – with its 47 political systems – could also be a place where modernizing party structures, programs and decision-making takes place; where parliamentarianism is discussed in its challenges and potentials. Thereby, the frequent misuse of the concepts could be singled out too, for example, through the Organisation's opinions on party programs and the respective shaming of populist or extreme parties. Last but not least, parties and parliaments should be granted a special place in the envisaged Democracy Charter of the Council of Europe, so as to prevent any further discrediting.

7.   Conclusions

The Council of Europe is still Europe's biggest and most important international organisation regarding the protection of human rights and democracy. It is however an organisation under siege: by a general crisis and unpopularity of the human rights issue, by a growing value divide running through Europe, and by authoritarian regimes of a modern and very sophisticated type. All that poses a threat to the

Organisation's effectiveness and legitimacy, while at the same time, the EU – somewhat annoyed by the Council of Europe's current *status-quo* approach – is increasingly developing its own human rights *acquis*.

The cure to the problem lies in three core recommendations: First, on a political level, the Council of Europe has to return to its earlier vision of being "a Club of Democracies". The Organisation should defend a pure and basic concept of human rights and democracy – such as enshrined in the conventions – in order to be credible and understood by the people it stands for. The Secretary General should develop an agenda emphasizing the most important human rights- and democracy-related problems of our time: political prisoners, freedom of the media, facade democracies or free elections. The Committee of Ministers should develop new mechanisms to answer these problems. All parts of the Organisation need to think about how to get closer to the people concerned. Second, the Council of Europe needs a political strategy in order to live up to its vision of a pan-European legal space and to its value-based mandate. Therefore, it should concentrate its efforts and resources in those countries such as Ukraine, Moldova and Georgia, who really strive to become democracies and share European values. Building functioning democracies is the only way to put pressure on autocrats elsewhere and maintaining the faith and trust of societies under authoritarian rule. Third, on the operative level, the Council of Europe needs to develop instruments – beyond its current emphasis on standard-setting and monitoring – in order to find answers on the most important future challenges for our societies. It needs to develop a human rights education strategy, invest in young leaders, in local democracy and improve the eroding image of democratic institutions, such as parties and parliaments.

Both representatives and employees of the Council of Europe have to understand that the current situation and the eventual willingness to change could be a question of organisational survival for the Organisation. Since its foundation, the picture has never been as bleak externally (considering the human rights fatigue and the growing rift between the EU and non-EU Europe), or internally, due to the presence of openly authoritarian regimes, the ignorance of many founding members, and the Organisation's inability to have a clear impact on human rights and democracy records. It is thus decisive that the political strategy – now mainly based on consensus and inclusiveness – is changed towards a more assertive and progressive one, which means, above all, not being afraid of confronting own members and telling the truth.