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Co-operation between the Council of Europe and the European Union

Overview of arrangements for co-operation between the Council of Europe and the European Union

Prepared by the Directorate of External Relations

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- Arrangements regulating the institutional relations between the Council of Europe and the European Union can be found on the website of the Directorate of External Relations: www.coe.int/DER (European Union/ Documents).

- 'Real time' information regarding activities implemented under the ongoing Joint Programmes, as well as on Joint Programmes already completed can be found on the CoE/EU Joint Programmes website: <http://www.jp.coe.int/default.asp>

I. Introduction

1. The present document is an **overview of the arrangements for co-operation** between the Council of Europe (CoE) and the European Union (EU) further to the entry into force of the **Lisbon Treaty** on 1 December 2009 and the **reform** of the CoE launched by the Secretary General in 2009. It does not aim at presenting an inventory of activities carried out in the framework of such arrangements.

II. The general framework of co-operation: the 2007 Memorandum of Understanding

2. The 2007 Memorandum of Understanding (MoU)¹ between the CoE and the EU is guiding, governing and structuring relations between the two organisations. The MoU provides that "the CoE and the EU will take all the necessary measures to promote their co-operation..." "The co-operation will take due account of the comparative advantages, the respective competences and expertise of the CoE and the EU – avoiding duplication and fostering synergy-, search for added value and make better use of existing resources." The MoU also confirms the role of the **CoE as "the benchmark for human rights, the rule of law and democracy in Europe"**². "The European Union regards the CoE as **the Europe-wide reference source for human rights**"³. In June 2012, the CoE Committee of Ministers considered that "the further intensification of co-operation and coordination of actions between the two organisations has been successfully achieved on the basis of the existing MoU which will continue to remain in the foreseeable future a sound basis to guide and structure this co-operation"⁴. This approach was confirmed at the 2013 Ministerial Session⁵.

3. As from 1 December 2009, CoE – EU co-operation has also been triggered by the novelties brought by the **Lisbon Treaty** - which, *inter alia*, increases the role of the EU in the traditional fields of activity of the CoE- and by the **reform of the Organisation** launched by the Secretary General in 2009. At its Ministerial Session in May 2010, the Committee of Ministers "noted that the entry into force of the Lisbon Treaty and the Charter of Fundamental Rights has created new opportunities to enhance further the values-based partnership between the CoE and the EU, with a view to achieving a strong and coherent system of human rights protection in Europe."⁶

¹ The MoU is building on a number of previous arrangements regulating the institutional relations between the two organisations, such as the 1987 "Arrangement" between the Council of Europe and the European Community, the exchange of letters of 1996 supplementing the 1987 "Arrangement", the 2001 Joint declaration on co-operation and partnerships between the Council of Europe and the European Commission and, more recently, the Declaration and Action Plan of the Third Summit of Heads of State and Government of the Council of Europe held in Warsaw in 2005. The MoU also pays tribute to the "strategic vision" contained in the report on the relations between the Council of Europe and the European Union prepared by Mr Jean-Claude Juncker in 2006 ("Council of Europe- European Union: a sole ambition for the European continent").

² § 10 (emphasis added).

³ § 17 (emphasis added).

⁴ GR-EXT (2012)7, 1 June 2012.

⁵ CM (2013)43, 22 April 2013.

⁶ Decisions of the Committee of Ministers on Relations between the Council of Europe and the European Union, 11 May 2010.

4. In accordance with the Lisbon Treaty, EU's relations with the CoE are the competence of the **High Representative of the Union for Foreign Affairs and Security Policy**, heading the European External Action Service established by the Treaty. In January 2011, a Delegation of the EU to the CoE, under the authority of the High Representative for Foreign Affairs and Security Policy, was officially opened in Strasbourg (see also part VI below).

5. As from 2014, the CoE Committee of Ministers' annual reports on cooperation between the CoE and the EU refer to the "**Strategic Partnership**" developed between the CoE and the EU through **political dialogue, cooperation projects and legal cooperation**⁷. On the EU side, on 24 January 2017, when addressing the Parliamentary Assembly, Commissioner Hahn stressed that "the CoE and the EU should combine their strengths in a strategic partnership to boost their shared values in a time of change".

6. At its Ministerial Session in Nicosia on 19 May 2017, on the occasion of the **10th anniversary of the Memorandum of Understanding** between the CoE and the EU, the Committee of Ministers:

1. [...] welcomed the development of an enhanced partnership built upon the strategic vision between the Council of Europe and the European Union based thereon, as reflected in document CM(2017)28-final;

2. expressed its determination to further strengthen this values-shared co-operation in order to protect and promote human rights, democracy and the rule of law in the face of the challenges confronting Europe today, ensuring coherence and complementarity of activities, while taking into account the comparative advantages and specific characteristics of the Council of Europe and the European Union, in line with the principles of the Memorandum of Understanding,⁸
[...]

7. On the EU side, "**EU Priorities for co-operation with the Council of Europe**", adopted by the Foreign Affairs Council, are also guiding its co-operation with the CoE.

⁷ See <http://www.coe.int/en/web/der/european-union-documents>

⁸ See full decision: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680714102

III. Consultation modalities

- *Representation of the EU at the Committee of Ministers*

8. In 1996, the Committee of Ministers “agreed that the meetings and activities of the Committee of Ministers, Ministers’ Deputies, rapporteur groups and any other working party convened by it will henceforth be **open to the Commission** at the invitation of competent CoE authorities. The Commission will not enjoy voting rights and will not be involved in the organisation’s decision-making process⁹. Further to the entry into force of the Lisbon Treaty and the opening of a Delegation of the EU to the CoE, the Head of the **EU Delegation** participates in meetings of the Ministers’ Deputies, their Rapporteur Groups and in meetings of Steering Committees¹⁰. The CoE’s subordinate Committees generally invite the EU to be represented in their activities.

- *High-level political dialogue*

9. The High level political dialogue is mainly carried out on the CoE side by the Committee of Ministers, the Secretary General and Deputy Secretary General and, on the other hand, by the leaders of the EU Institutions (the European Council, the Council, the European Commission, the EEAS, and the European Parliament). It has resulted in increased policy co-ordination and a further reinforcement of the benchmarking role of the CoE in EU policies, with respect to its member states and in the context of EU Enlargement and Neighbourhood Policies.

- *Senior Officials’ meetings*¹¹

10. Senior Officials’ meetings, bringing together an official of the CoE secretariat¹² and an official of the EEAS¹³, are designed for planning and coordinating co-operation at the technical level. Their annual meeting, attended by other relevant members of both secretariats, takes place in turn in Strasbourg and Brussels and allows them to keep co-operation under review and make proposals for further action. Senior Officials also act as focal point in this respect.

⁹ See the modalities of such participation at:

[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec\(96\)579/2.1&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Del/Dec(96)579/2.1&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

¹⁰ Exchange of letters between the Commission of the European Communities and the Secretary General of the Council of Europe, 25-30 November 2009. « The Secretariat General of the Council of Europe – Protocol,...concerning the entry into force of the Lisbon treaty... has the honour to inform the Council of the European Union and the Commission of the European Communities that it will take the necessary steps in this respect and records the « Delegation of the European Commission » as the « Delegation of the European Union » in the list of Diplomatic Missions with effect 1 December 2009.» PROT/RB/if/EC30112009.

¹¹ Established by the “Arrangement” between the Council of Europe and the European Community concluded by an exchange of letters on 16 June 1987, building on CM resolution (85)5. The 1996 exchange of letters supplementing the “Arrangement” and the 2001 Joint Declaration on co-operation and partnership between the Council of Europe and the European Commission also refer to the role of Senior Officials.

¹² The Director of External Relations.

¹³ The Director of Human Rights, Global and Multilateral Issues. In the past, it was an official of the European Commission.

- **Consultations on Joint Programmes**

11. Joint Programmes between the CoE and the EU are one of the major expressions of the EU-CoE partnership and mutual commitment to promoting democracy, human rights, and the rule of law at pan-European level and beyond. These Joint Programmes represent the largest source of funding sustaining Council of Europe technical assistance and co-operation projects in support of democratic stability in the **EU Enlargement Region**, the **Eastern Partnership and Southern Mediterranean countries**. In addition, EU support to the project "HELP in the 28" allowed for first-time **EU member States** to benefit from tailor-made training on priority issues for the EU (such as data protection, the fight against racism and xenophobia, labour rights, as well as the right to integrity and asylum)¹⁴.

12. Strategic co-operation on a programmatic level shall be facilitated by a **Statement of Intent** for the co-operation between the European Commission and the CoE, signed in 2014, which covers the EU Enlargement Region, the Eastern Partnership and Southern Mediterranean countries. On 23 May 2016, this framework was completed by a **Horizontal Facility** for the Western Balkans and Turkey. In the countries of the Eastern Partnership, co-operation has been implemented through a **Programmatic Co-operation Framework** (PCF), renamed the Partnership for Good Governance (PGG) in June 2017. These frameworks also provide regular opportunities for consultations.

13. Once a year, a **"Scoreboard" meeting** is organised to discuss and evaluate Joint Programmes between the CoE and the EU. In addition, on a regular basis, the CoE and the EU review progress made under the Joint programmes through **Steering Committees**.

14. Working contacts between the CoE and the EU also take place in the **field**. They concern the identification of co-operation areas for new Joint Programmes, project monitoring and evaluation, as well as donor co-ordination.

- **Consultations on legal issues**

15. The MoU underlines the importance of ensuring **coherence** between EU law and the standards of the CoE. It also foresees that both organisations will **consult each other at an early stage in the process of elaborating standards**. The entry into force of the Lisbon Treaty and the Charter of Fundamental Rights has **increased** the need to ensure such coherence.

16. Recent initiatives of the EU institutions on **rule of law-related matters**¹⁵ have also provided opportunities for consultations, notably through expertise provided by the

¹⁴ For details see Joint Programmes between the Council of Europe and the European Union in 2016 –

Information document https://search.coe.int/cm/pages/result_details.aspx?ObjectId=09000016807123e7

¹⁵ Initiative of the former European Commission establishing a "new EU framework to strengthen the rule of law" aimed at addressing systematic threats to the rule of law in any of the EU member States (Communication from the Commission to the European Parliament and the Council: A new EU Framework to strengthen the Rule of Law, COM(2014) 158 final, 11 March 2014). The initiative of the Council of the EU on ensuring respect for the rule of law and establishing a dialogue among all member States within the Council

Venice Commission¹⁶. The CoE provides a valuable input in view of its long experience in this field.

17. In the area of **justice and home affairs** (JHA), the CoE Secretariat is regularly meeting the representative of the EU Council Presidency, through the chair of its competent Committee ("**CATS**")¹⁷. Such meetings take place during each EU Presidency, i.e. twice a year¹⁸. These meetings have demonstrated their value for discussions towards harmonious development of standard-setting and policies on legal issues and strategic topics in the fields of the justice, security and related priority matters¹⁹.

18. In 2011, an informal **Mutual Information Mechanism (MIM)** has been set up to provide more early information on respective normative initiatives. It gathers CoE officials and, from the EU, representatives from the General Secretariat of the Council, the Commission and the EEAS.

- **Consultations in the framework of the European Neighbourhood Policy and the Enlargement Process of the EU**

19. Consultations between the CoE Secretariat and EU Officials on potential synergies in the framework of the EU **Neighbourhood Policy** and the **Enlargement Process** have become regular practice in order to share information and discuss modalities of co-operation. Consultations cover a number of areas where CoE expertise and activities can provide added value. Co-operation has also developed with respect to the countries participating in the EU **Eastern Partnership**²⁰. Further to the development of the **policy of the CoE towards neighbouring regions**, consultations now also include countries covered by this policy.

IV. Examples of sectorial cooperation

20. Further to the invitation in the MoU to strengthen the parliamentary dimension of interaction between the CoE and the EU, an Agreement was concluded on 28 November 2007 between the **Parliamentary Assembly** and the European Parliament. Co-operation between both organs takes a variety of forms, including the organisation of

to promote and safeguard the rule of law (Conclusions of the Council of the EU and the Member States meeting within the Council on ensuring respect for the rule of law, document 17014/14, 16 December 2014).

¹⁶ See also the Venice Commission's Report on the Rule of Law (CDL-AD(2011)003rev) and the "Check list on the Rule of Law", adopted by the Venice Commission on 11-12 March 2016.

¹⁷ EU "Committee of Article Thirty Six", the "CATS", is a Committee of member states representatives provided for in former Article 36 of the Treaty on the EU, the role of which is to coordinate the competent working groups in the field of police and judicial co-operation in criminal matters.

¹⁸ Meetings between the CoE Secretariat and the CATS (Presidency, future Presidency, the General Secretariat of the Council, the European Commission and EEAS). See Meeting Reports on DER website: <http://www.coe.int/en/web/der/european-union-documents>.

¹⁹ See CM(2017)28-final, Report on co-operation between the Council of Europe and the European Union, (Nicosia, 19 May 2017).

²⁰ As an Eastern dimension within the European Neighbourhood Policy (Communication from the Commission to the European Parliament and the Council – 3/12/2008 – SEC (2008) 2974).

meetings between presidents, leaders of political groups, rapporteurs and committees. In its Resolution 2029 (2015) on the implementation of the Memorandum of Understanding between the CoE and the EU, the Assembly invited its President and/or its presidential Committee to consider updating the Agreement in order to take into account the most recent developments since the entry into force of the Lisbon Treaty.

21. The MoU also invites the **CoE Congress of Local and Regional Authorities** and the EU Committee of the Regions to increase co-operation, building on their co-operation agreement (a first version signed in April 2005 and a revised one in November 2009). Since 2016 the Congress and the Committee of the Regions hold annual meetings of their joint High Level Group in order to increase their political co-ordination and exchange of information on their respective work on priority issues of common interests.

22. Following the conclusion of the MoU, the **European Court of Human Rights** and the European Court of Justice agreed to intensify their contacts through more frequent working visits. Presently, they take place annually.

23. There is also substantial co-operation between the **Commissioner for Human Rights** and relevant EU institutions, covering consultations and exchange of information. Co-operation between **ECRI** and the Fundamental Rights Agency (FRA) includes joint statements, participation in events, consultations and exchange of information. The EU regularly participates in ECRI meetings without the right to vote. It should be noted that the MoU specifically invited the Commissioner for Human Rights, the CPT, ECRI and other specialised bodies of the Organisation, as well as the relevant EU institutions to reinforce their co-operation. The latter takes place in the full respect of their rules, confidentiality in particular.

24. In 2008, an **Agreement**²¹ established “a co-operation framework between the Agency for Fundamental Rights and the Council of Europe in order to avoid duplication and ensure complementarity and added value”.²² On the basis of the Agreement, a **contact person** at the secretariat level has been appointed by each side to deal specifically with matters relating to their co-operation. In addition, as stipulated in the Regulation establishing the Agency, an **independent person** appointed by the CoE, sits on the Management and Executive Boards of the Agency. Regular exchanges between the contact persons ensure consultation on all the most pertinent documents, including in particular the Annual Work Programme and the Annual Report of the Agency, and updated information on the on-going activities. Co-operation also takes the form of **joint projects**, of joint implementation of specific activities and of participation in relevant meetings. At the inter-institutional level, regular exchanges of views take place between the competent Rapporteur group of the Committee of Ministers and the Director of the Agency, as well as with the independent person appointed by the CoE.

²¹ Agreement between the European Community and the Council of Europe on co-operation between the European Union Agency for Fundamental Rights and the Council of Europe, 18 June 2008.

²² § 2.

25. In addition, the CoE's **European Commission for the Efficiency of Justice (CEPEJ)** has continued to provide data on the functioning of judicial systems in the 28 EU member States used for the EC's annual "Justice Scoreboard." Co-operation in criminal matters has also increased at a practical level between Eurojust, the European Judicial Network (EJN) and the relevant CoE counterpart.

26. The EU - CoE **Youth Partnership** is meant to create synergies between the commitments and activities of the two partner institutions in the youth field in situations and on issues that justify a common European approach. It is based on the principle of a balanced involvement of the partner institutions in terms of political priorities, management, funding and visibility.

27. As from May 2012, the CoE has also developed co-operation with the **European Border and Coast Guard Agency** (commonly called Frontex) through its representative in the Consultative Forum. The provisions of the Code of Conduct for joint return operations coordinated by Frontex reflect the principles contained, among others, in the "Twenty guidelines on forced return" of the CoE Committee of Ministers.

28. Finally, the EU is Party to a number of **CoE Treaties**. This provides opportunities for consultations and co-operations activities (see part V below).

29. Close co-operation also exists **on the ground** between the CoE offices and delegations of the EU in a number of member states.

V. Participation of the EU in the CoE legal instruments

30. The EU is **Party** to a number (i.e. 17, to date) of CoE **Treaties**, which provides opportunities for consultations and co-operations activities²³. Such participation of the EU in CoE instruments significantly enhances **coherence** among European legal norms, as required by the MoU, as well as **synergies** between the EU and CoE monitoring and advisory bodies.

31. **EU accession to the ECHR** is an obligation under the Lisbon Treaty and, as provided by the MoU, would "contribute greatly to coherence in the field of human rights in Europe". Following the – negative - 2014 Opinion of the EU Court of Justice on the compatibility of the draft accession agreement with EU Treaties, work in the EU has

²³See: http://www.coe.int/en/web/conventions/search-on-states/-/conventions/treaty/country?_coconventions_WAR_coeconventionsportlet_formDate=1500908871729&_coconventions_WAR_coeconventionsportlet_mode=states_noncoe&_coconventions_WAR_coeconventionsportlet_codePays=1&_coconventions_WAR_coeconventionsportlet_codesMatiere=&_coconventions_WAR_coeconventionsportlet_codeSignature=&_coconventions_WAR_coeconventionsportlet_dateStatus=24%2F07%2F2017&_coconventions_WAR_coeconventionsportlet_dateStatusDay=24&_coconventions_WAR_coeconventionsportlet_dateStatusMonth=6&_coconventions_WAR_coeconventionsportlet_dateStatusYear=2017
After the entry into force of the Lisbon treaty, the EU acceded to the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access. The EU also signed the Council of Europe Convention on the Prevention of Terrorism and the Additional Protocol to this Convention, as well as the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention); for details see <http://www.coe.int/fr/web/conventions/>

continued- EU and CoE representatives having reiterated their commitment to accession. Contacts between the CoE and relevant EU representatives have continued.

32. Participation of the EU in **other** CoE relevant treaties remains a **common goal**. The EU reiterated its commitment to acceding to a number of CoE Conventions, in particular the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)²⁴, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention) and the Convention on the Manipulation of Sports Competitions. However, given the internal EU procedures, accession of the EU to some of these instruments has not yet taken place. Discussions also continued on participation of the EU in the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data which is being modernised. Consultations are also on-going on the possible evaluation by MONEYVAL of the EU's Fourth Anti-Money Laundering Directive when it comes into force.

33. The EU also continued to actively call upon its member States, candidate States and States negotiating association agreements to join CoE instruments and draw on its expertise.

34. Moreover, the MoU foresees that both organisations will further cooperate by using the opportunities provided by existing **Partial Agreements**. The EU is indeed a member of some Partial and Enlarged Partial Agreements²⁵ and participates in others.²⁶ It also participates in the European Commission for Democracy through Law (**Venice Commission**) which is an Enlarged Agreement.

35. The **Group of States against Corruption** (GRECO) has been involved in discussions with the European Commission concerning options for its participation in GRECO, in particular with a view to promoting synergies and avoiding duplication in connection with anti-corruption monitoring. The analysis of the implications of the EU's full participation in GRECO is still ongoing.

²⁴ Signed on 13 June 2017 by the Presidency-in-office of the Council of the EU and the EU Commissioner for Justice, Consumers and Gender Equality on behalf of the EU.

²⁵ European Pharmacopoeia; European Audiovisual Observatory.

²⁶ Co-operation Group for the Prevention of, Protection Against, and Organisation of Relief in Major Natural and Technological Disasters (EUR-OPA); Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou). The North-South Centre of the Council of Europe, of which the European Commission and the European Parliament are stakeholders, is another key tool for co-operation between the CoE and the EU in the fields of intercultural dialogue, education and youth co-operation.

VI. Institutional presence in Strasbourg and Brussels

36. In its Resolution (74) 13 adopted on 6 May 1974, the CoE decided to establish a **Liaison Office in Brussels**. The latter was upgraded in late 2008 with the appointment of a Head of office at Ambassadorial level. The CoE representation in Brussels has also been reinforced reflecting the continuous intensification of relations between the CoE and the EU both in qualitative and quantitative terms. In 2010, the terms of reference of the Office were updated by Resolution [CM/Res\(2010\)5](#) on the status of CoE offices.

37. In January 2011, further to the entry into force of the Lisbon Treaty, a **Delegation of the EU to the CoE**, headed by an Ambassador, was officially opened in Strasbourg.

38. The **enhanced reciprocal representation** of the CoE in Brussels and of the EU in Strasbourg, at Ambassadorial level, is a key development in terms of facilitating increased co-operation, contacts and dialogue in all areas of the MoU.

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