

**CDDH comments concerning Recommendation 2027(2013) – “*European Union and Council of Europe human rights agendas: synergies not duplication!*”**

**CDDH: 79<sup>th</sup> meeting – 26/29 November 2013 CDDH(2013)R79**

1. The CDDH took note of Recommendation 2027(2013) – European Union and Council of Europe human rights agendas: synergies not duplication!
2. The CDDH shares the view expressed by the PACE in this Recommendation as regards notably the Council of Europe’s role as the benchmark for human rights, rule of law and democracy in Europe, and in particular the pan-European importance of the European Convention of Human Rights as the cornerstone of an effective system of protection of human rights. The EU accession to the European Convention on Human Rights aims at enhancing coherence in the protection of human rights in Europe.
3. The CDDH also shares, in principle, the call to avoid duplication by setting up new mechanisms and to make use as much as possible of existing Council of Europe mechanisms. It considers, however, that the steps undertaken by the EU in building its own human rights protection system, including the establishment of the EU Agency for Fundamental Rights (FRA) and the appointment of a Special Representative for Human Rights should not be necessarily seen as a duplication but as a natural development of the EU’s own human rights protection system, of which the accession to the Convention will be a further step. It recalls in particular, in this respect, the very good cooperation established between the Council of Europe and the FRA in various areas – including within the CDDH - on the basis of the respective strengths and skills, which constitutes, on the contrary, an example of positive synergies.
4. In the absence of detailed information about the contents and implications of possible future EU mechanisms monitoring EU member states’ compliance with human rights and rule of law standards, the CDDH considers therefore that it would be premature, at this stage, to perceive these initiatives as undermining the role of the Convention system in the pan-European human rights architecture. Dialogue between the Council of Europe and the EU in this respect may lead to synergies also in this case, while fully respecting the principles set out in the 2007 Memorandum of Understanding where it is stated, inter alia, that the EU “regards the Council of Europe as the Europe-wide reference source for human rights” and that “while preparing new initiatives in this field, the Council of Europe and the European Union institutions will draw on their respective expertise as appropriate through consultations”.

Recommendation 2027(2013)

Final version

## **European Union and Council of Europe human rights agendas: synergies not duplication**

Parliamentary Assembly

1. The Parliamentary Assembly recalls its previous resolutions and recommendations concerning co-operation between the European Union and the Council of Europe, in particular [Resolution 1756 \(2010\)](#) and [Recommendation 1935 \(2010\)](#) on the need to avoid duplication of the work of the Council of Europe by the European Union Agency for Fundamental Rights and [Resolution 1836 \(2011\)](#) and [Recommendation 1982 \(2011\)](#) on the impact of the Lisbon Treaty on the Council of Europe.
2. It stresses that the Council of Europe's binding legal instruments – first and foremost the European Convention on Human Rights (ETS No. 5) – constitute an effective system of human rights protection and promotion of the rule of law in all its member States, including those which are also members of the European Union.
3. The Europe-wide common standards and the level of protection set by the Council of Europe's legal instruments must not be undercut or undermined by member States of the Council of Europe or by the European Union. At the same time, higher standards and stronger protection are always welcome.
4. The Assembly reiterates its view that reinventing existing norms and setting up parallel structures creates double standards and opportunities for “forum shopping”, leading to new dividing lines in Europe. Duplication of work also wastes limited budgetary resources that are needed for improving the protection of human rights and upholding the rule of law.
5. The Assembly is therefore worried that the accelerating expansion of the European Union's activities in the human rights field may result in unnecessary duplication of the Council of Europe's work. In the wake of the Charter of Fundamental Rights, the European Union established the Agency for Fundamental Rights and created the position of Special Representative for Human Rights, and is now considering setting up a monitoring mechanism for its member States' compliance with common fundamental rights and rule of law standards.
6. The Assembly recalls that many issues stemming from the co-existence of the legal orders of the Council of Europe and of the European Union will be resolved by the accession, foreseen in the Treaty on European Union, of the European Union to the European Convention on Human Rights.
7. The Assembly recognises the need for the European Union to ensure the implementation of its own legal standards by all its member States. It recalls that the expertise of relevant Council of Europe bodies, forged and funded to a large extent by the European Union's member States acting within the framework of the Council of Europe, is at the disposal of the European Union.
8. In particular, the Council of Europe's European Commission for Democracy through Law (Venice Commission) has recently demonstrated its ability to provide a well-founded, objective

assessment of the constitutional and human rights implications with respect to the situation in Hungary. The Assembly has followed up these findings in Resolution 1941 (2013) on the request for the opening of a monitoring procedure in respect of Hungary, based on a report by its Monitoring Committee, and has invited the Committee on Culture, Science, Education and Media, the Committee on Legal Affairs and Human Rights and the Committee on Political Affairs and Democracy to continue following relevant aspects of the situation in Hungary.

9. In view of the above, the Assembly invites:

9.1. the European Union to:

9.1.1. explore possible synergies with existing Council of Europe mechanisms in the fields of human rights, democracy and the rule of law before setting up new structures or further expanding the activities of recently created bodies;

9.1.2. in particular, to continue to make use of the expertise of relevant Council of Europe bodies such as the Venice Commission, the Parliamentary Assembly and relevant specialised monitoring mechanisms, including those set up under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), the revised European Social Charter (ETS No. 163), the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141), as well as the Group of States against Corruption and the European Commission against Racism and Intolerance;

9.1.3. explore modalities of co-operation with the Council of Europe in promoting and implementing the above-mentioned Council of Europe conventions and becoming a party to them as far as is possible;

9.1.4. accelerate the accession of the European Union to the European Convention on Human Rights;

9.2. the member States of the Council of Europe to facilitate co-operation between the Council of Europe and the European Union at all levels, including by ensuring that relevant conventions are drafted or adapted in such a way as to facilitate accession by the European Union;

9.3. those member States of the Council of Europe which are also members of the European Union to exercise their influence in such a way as to minimise duplication and maximise synergies between the European Union and the Council of Europe in the field of human rights, democracy and the rule of law.

10. The Assembly condemns any proposal by the European Union and/or the European Parliament to undermine or challenge the position of the European Convention on Human Rights as the definitive European legal instrument addressing human rights, democracy and the rule of law in the 47 member States of the Council of Europe.

11. The Assembly invites the Committee of Ministers to report back urgently to the Assembly on what it is doing to enhance the Council of Europe's role as the benchmark for human rights, the rule of law and democracy in Europe, as is set out in the memorandum of understanding between the Council of Europe and the European Union concluded in May 2007.

12. The Assembly invites the Committee of Ministers to take all necessary action to ensure that the European Convention on Human Rights is not undermined as the foremost European legal instrument which addresses human rights, democracy and the rule of law among all member States of the Council of Europe, including those countries which are also members of the European Union.