



Resolution 1836 (2011)¹

Final version

The impact of the Lisbon Treaty on the Council of Europe

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the fact that, with the entry into force of the Lisbon Treaty on 1 December 2009, the values on which the Council of Europe is based and which it shares with the European Union, namely respect for human rights, democracy and the rule of law, have been placed at the forefront of European Union policies. The treaty aims to bring Europe closer to its people and create an open and secure space for all. For this purpose, it has in particular:

1.1. created an obligation for the European Union to accede to the European Convention on Human Rights (ETS No. 5, “the Convention”); allowed for European Union accession to other international human rights legal instruments, such as the United Nations Convention on Persons with Disabilities, to which the European Union acceded in 2010; and gave the European Union a legally binding bill of rights of its own, namely the Charter of Fundamental Rights;

1.2. introduced the European Citizens’ Initiative; extended the mandate of the European Ombudsman; substantially strengthened the role and powers of the European Parliament; and enhanced the role of the national parliaments in the European Union decision-making process.

2. Having acquired legal personality, the European Union has also acquired a new status and voice within international and regional organisations, including in the United Nations. The European Union’s role has, moreover, been increased in the traditional areas of activity of the Council of Europe such as justice, freedom and security. This has, *inter alia*, affected the interaction between the European Union and its member states when participating in Council of Europe steering committees and when negotiating new Council of Europe conventions on matters falling within these areas.

3. The Assembly welcomes the fact that, in line with the Lisbon Treaty, “The Stockholm Programme – An open and secure Europe serving and protecting citizens”, while emphasising the need for evaluation of the implementation of European Union policies in these areas, provided that “duplication with other evaluation mechanisms should be avoided, but synergies and co-operation should be sought, in particular with the work of the Council of Europe”.

4. The Assembly therefore notes that the entry into force of the Lisbon Treaty has opened up new opportunities for a reinforced partnership between the Council of Europe and the European Union, based on each other’s *acquis* and comparative advantages. In the Assembly’s view, such a partnership should aim to ensure coherence between, on the one hand, the pan-European project promoted by the Council of Europe and, on the other, the integration process initiated by the European Union. It should ultimately lead to a common space for human rights protection across the continent in the interest of all people in Europe.

5. While welcoming the steps already taken in the right direction, the Assembly expects that the role of the Council of Europe, defined in the 2007 Memorandum of Understanding as “the benchmark for human rights, rule of law and democracy in Europe”, will be further enhanced, fully reaffirmed and effectively recognised by

1. Assembly debate on 5 October 2011 (33rd Sitting) (see Doc. 12713, report of the Political Affairs Committee, rapporteur: Ms Lundgren; Doc. 12743, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Omtzigt; Doc. 12741, opinion of the Committee on Culture, Science and Education, rapporteur: Mr Flego; and Doc. 12746, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Mendes Bota). Text adopted by the Assembly on 5 October 2011 (33rd Sitting). See also Recommendation 1982 (2011).



all European Union institutions. Building on this memorandum between the two organisations, the Lisbon Treaty and the perspectives opened up by the ongoing reform of the Council of Europe, the recently reinforced partnership between the two organisations should be further consolidated and regular policy co-ordination should be further developed at all levels.

6. Referring to its previous resolutions and recommendations, which for some thirty years have called for European Union accession to the European Convention on Human Rights, in particular Resolution 1610 and Recommendation 1834 (2008) on the accession of the European Union/European Community to the European Convention on Human Rights, the Assembly:

6.1. reiterates that accession will not only offer a unique opportunity to achieve a coherent system of human rights protection across Europe, but also afford its people protection against the European Union's action similar to the one they already enjoy against action by all its member states, in particular now that the Lisbon Treaty has led to a substantial transfer of powers from the European Union member states to the European Union;

6.2. welcomes the Resolution of the European Parliament of 19 May 2010 on the institutional aspects of the accession of the European Union to the European Convention on Human Rights, which advocated European Union accession to the Convention as "an essential first step", to be completed by European Union accession to other Council of Europe conventions;

6.3. notes with satisfaction that, at expert level, informal negotiations on an agreement on accession of the European Union to the European Convention on Human Rights, opened in July 2010, were conducted smoothly and led to the elaboration of a draft accession agreement at the end of June 2011; they were facilitated by a Joint Communication, issued in January 2011, by the Presidents of the European Court of Human Rights and the Court of Justice of the European Union;

6.4. welcomes the constructive spirit in which its representatives and those of the European Parliament reached agreement within a Joint Informal Body, in June 2011, on arrangements related to the participation of European Parliament representatives in the sittings of the Assembly and its relevant bodies when the latter exercise their functions related to the election of judges to the European Court of Human Rights; these will have to be approved by the Assembly and the European Parliament in due course;

6.5. welcomes the fact that representatives of civil society have been consulted throughout the informal accession negotiations and invites them to ensure public awareness and actively promote European Union accession to the European Convention on Human Rights in their dealings with national parliaments and governments, as well as with European Union institutions.

7. In order to complete the process, there is now a need for the active support of all European governments and parliaments, which will have to renew the political commitment they undertook when ratifying the Lisbon Treaty and/or Protocol No. 14 to the European Convention on Human Rights (CETS No. 194). Therefore, the Assembly urges the parliaments and governments of member states of the Council of Europe, as well as all European Union institutions, to:

7.1. take all measures within their areas of competence to enable rapid conclusion of the agreement on the accession of the European Union to the Convention, its endorsement and its entry into force, guided by the principle that such accession aims to increase human rights protection;

7.2. ensure that accession modalities are kept as simple as possible and that the Convention system is preserved as it stands, with a minimum of adjustments necessary to take into account the specificities of the European Union as a non-state party with a particular legal and institutional system;

7.3. ensure that civil society will be consulted also in the context of negotiation of the relevant European Union internal rules;

7.4. raise awareness among people about the enhanced protection of their rights following European Union accession to the Convention and relevant procedures.

8. With a view to pursuing further the building of a common space for human rights protection at pan-European level and ensuring coherence of standards and of the monitoring of their implementation in areas falling within the remit of both organisations, thereby avoiding duplication and monitoring fatigue, in particular at a time of economic crisis, the Assembly invites the European Union to:

8.1. accede to key Council of Europe conventions tackling major challenges of today's European society, such as: the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126); the Council of Europe Convention on Action against

Trafficking in Human Beings (CETS No. 197); the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201); the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210); the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data (ETS No. 108); the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196); the Criminal Law Convention on Corruption (ETS No. 173); the Civil Law Convention on Corruption (ETS No. 174); the Convention on Cybercrime (ETS No. 185), the Council of Europe Convention on Access to Official Documents (CETS No. 205), the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164), the Anti-Doping Convention (ETS No. 135), as well as to the revised European Social Charter (ETS No. 163);

8.2. join Council of Europe monitoring mechanisms and bodies, irrespective of whether or not they are convention based, such as the Group of States against Corruption (GRECO), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the European Commission against Racism and Intolerance (ECRI), the European Commission for the Efficiency of Justice (CEPEJ) or the European Commission for Democracy through Law (Venice Commission) and, pending that, enhance its participation in their work;

8.3. co-ordinate action with the Council of Europe in the areas of trafficking in human beings, violence against women, migration and asylum and ensure appropriate follow-up to the high-level meeting on Roma issues organised by the Council of Europe in October 2010;

8.4. promote accession to key Council of Europe conventions and to monitoring mechanisms and bodies among its member states and in the context of its enlargement and neighbourhood policies, as appropriate;

8.5. ensure systematic and open consultations with the relevant bodies of the Council of Europe, throughout the European Union legislative process, in particular in the areas of freedom, security and justice, so as to allow for an adequate assessment of European Union activities against the human rights benchmarks set by the Council of Europe;

8.6. enhance consultations with the Council of Europe Commissioner for Human Rights, especially as regards the implementation of human rights standards by European Union member states.

9. Moreover, the Assembly:

9.1. calls for coherence of the normative activities within the two organisations, which should be ensured in particular through prior consultations at as early a stage as possible and at high political level, in addition to inter-secretariat information sharing at operational level;

9.2. notes with interest the manner in which the European Court of Human Rights and the Court of Justice of the European Union ensure coherence in their case law with respect to human rights standards;

9.3. urges the creation of appropriate synergies between Council of Europe monitoring mechanisms and any new evaluation mechanisms to be set up by the European Union;

9.4. welcomes the fact that, pending full European Union accession to GRECO and evaluation of European Union institutions by the latter, negotiations will soon start on an enhanced European Union participation in GRECO which should allow for synergies to be developed with the proposed European Union Anti-Corruption report. Negotiations should soon start also on European Union accession to the Council of Europe Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data, and European Union accession to the Convention on Cybercrime is also being considered;

9.5. supports the ongoing convention review within the Council of Europe, which should identify ways of facilitating European Union accession to key Council of Europe conventions, while ensuring that each convention system is preserved as it stands with only minor adjustments;

9.6. notes that arrangements agreed in the context of European Union accession to the European Convention on Human Rights regarding the participation of the European Union and its voting rights within the Council of Europe Committee of Ministers might serve as a precedent for future European Union accession to other Council of Europe conventions;

9.7. invites the Secretary General of the Council of Europe to present a list of concrete implications and advantages of European Union accession to relevant Council of Europe conventions or monitoring mechanisms, as well as partial agreements, thus helping the European Union to form a long-term vision on synergies with the Council of Europe, building also on the position already taken in this respect by the European Parliament.

10. The Assembly further notes that the Lisbon Treaty has put emphasis on issues related to human rights, the rule of law and democracy in the European Union's co-operation with neighbouring countries, thus allowing for enhanced co-operation with the Council of Europe also in this respect. Recent events throughout the southern Mediterranean have created new opportunities for co-operation in the context of a revised European Union European Neighbourhood Policy and a new Council of Europe policy towards neighbouring regions, of which an important element is the partnership for democracy status created by the Assembly for parliaments in these regions. The Assembly therefore calls on the European Union to:

10.1. make better use of the Council of Europe's benchmarking and advisory role and expertise in the context of its enlargement and neighbourhood policies, in particular to the extent that these policies apply to countries which are either full Council of Europe member states, and thus benefit from the Organisation's monitoring procedures, or belong to its neighbourhood and have thus joined or may join open Council of Europe conventions or partial agreements, such as the Venice Commission and the European Centre for Global Interdependence and Solidarity (North-South Centre), and whose parliaments have been or may be granted partnership for democracy status with the Assembly;

10.2. further develop joint actions and joint programmes with the Council of Europe in the latter's member states or in countries in its neighbouring regions, with a view to supporting the reform agenda in these countries, including through a more stable financial partnership with the Council of Europe, which would allow for increased strategic co-operation and joint long-term planning.

11. As regards relations between the European Ombudsman and the Council of Europe Commissioner for Human Rights, the Assembly welcomes their ongoing informal co-operation, including for the purpose of co-ordinating activities among European ombudspersons, and calls for this co-operation to be further developed on all matters related to individuals' rights.

12. Welcoming the informal contacts established between the Council of Europe and the European Data Protection Supervisor of the European Union, the Assembly invites the Council of Europe's Data Protection Commissioner and the European Data Protection Supervisor to reinforce their mutual co-operation.

13. For its part, the Assembly welcomes improved co-operation with the European Parliament following the entry into force of the Lisbon Treaty, under which the latter has become co-legislator, together with the European Union Council, in a number of key policy areas falling within the Council of Europe's remit, including those relating to freedom, security and justice. Building on the Agreement on the strengthening of co-operation between the Parliamentary Assembly of the Council of Europe and the European Parliament of 28 November 2007, the Assembly resolves to further enhance its relations with the European Parliament, in particular by:

13.1. reinforcing the practice of regular meetings between, on the one hand, the respective presidents and, on the other hand, between its Presidential Committee and the Conference of Presidents of the European Parliament on an agenda-driven basis;

13.2. pursuing the work of their Joint Informal Body, created on the initiative of the European Parliament to improve information sharing between the two bodies and which initially met within the context of European Union accession to the European Convention on Human Rights, with a view to discussing other topical issues of common interest, in a variable composition, as appropriate;

13.3. further pursuing exchanges of views, joint activities and information exchange between members of the Assembly and of the European Parliament at committee level, and establishing regular meetings of chairpersons of relevant committees from the two bodies;

13.4. considering ways to contribute to the effective strengthening of relations between the European Parliament and the national parliaments of European Union member states, as a body bringing together members of all these parliaments;

13.5. organising jointly with the European Parliament interparliamentary conferences on specific topics of common interest;

13.6. enhancing co-operation in joint electoral observation missions.

14. The Assembly calls on the governments and parliaments of Council of Europe member states, as well as the European Union, to promote the visibility of the reinforced partnership between the two organisations, in the present post-Lisbon-Treaty period and raise public awareness about the need to further consolidate such a partnership in the interest of all people in Europe. It particularly calls upon parliaments of European Union member states to do so through regular debates on issues related to the relations between the two organisations, including those between the Assembly and the European Parliament, as well as through parliamentary questions to governments.

15. The Assembly believes that the entry into force of the Lisbon Treaty, with all its legal and political consequences and the ensuing reshaping of the European architecture, gives fresh topicality to the perspective of European Union accession to the Council of Europe Statute (ETS No. 1) and considers that the time is now ripe to give serious consideration to this perspective.