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The implementation of the Memorandum of Understanding between the Council of Europe and the European Union

Reply[1] to Recommendation 2060 (2015)
Committee of Ministers

1. The Committee of Ministers welcomes Parliamentary Assembly Recommendation 2060 (2015) on "The implementation of the Memorandum of Understanding between the Council of Europe and the European Union", which it has transmitted to the Steering Committee for Human Rights (CDDH) and to the Committee of Legal Advisers on Public International Law (CAHDI) for information and comments.

2. At its 125th Session held in Brussels on 19 May 2015, the Committee of Ministers took note with satisfaction of the increase in co-operation between the Council of Europe and the European Union. As indicated in the report submitted by the Ministers' Deputies,[2] the "strategic partnership" which has developed over recent years on the basis of the 2007 Memorandum of Understanding between the Council of Europe and the European Union has been further strengthened through its three pillars – political dialogue, legal co-operation and co-operation projects. Co-operation has become more structured and political through increased consultations addressing both European Union member States and those States which are not members of the European Union.

3. It is the constant ambition of the Committee of Ministers for the Council of Europe monitoring mechanisms to be strong and independent (paragraph 3.1 of the Assembly recommendation). The Committee of Ministers' commitment to guaranteeing the long-term effectiveness of the European Convention on Human Rights and to steering the reform process undertaken for this purpose is one example of this. The Committee is also presently examining proposals for reinforcing the European Social Charter mechanism.

4. The Committee of Ministers recognises the importance of maintaining regular dialogue with the European Union institutions at all levels (paragraph 3.2 of the Assembly recommendation). It is pleased to be able to inform the Assembly that such a dialogue is taking place, including at the highest political level, and refers in this respect to the above-mentioned report.

5. The Committee of Ministers reaffirms the importance it attaches to accession by the European Union to the European Convention on Human Rights and reiterates its political support for this. It expresses the hope that the process will be finalised at the earliest opportunity. Since the EU Court of Justice's opinion on this issue, formal and informal contacts between both parties have intensified and will continue with a view to overcoming the remaining obstacles.

6. The Committee of Ministers considers that European Union accession to other key Council of Europe conventions, monitoring mechanisms and bodies should also be promoted and facilitated (paragraph 4.2 of the Assembly recommendation). It notes that the European Union is already party to ten Council of Europe conventions.[3] Furthermore, discussions will continue as regards participation of the EU in GRECO, arrangements for the possible evaluation by MONEYVAL of the EU's Fourth Anti-Money Laundering Directive

1. Adopted at the 1234th meeting of the Ministers' Deputies (10 September 2015).
2. Document CM(2015)66 final.
3. In addition, the European Union has signed but not yet ratified four other conventions. Moreover, it could become party to 23 more conventions and could be invited to accede to 12 other conventions after their entry into force.

when it comes into force, completion of the modernisation of the Council of Europe Convention on Data Protection, as well as possible EU accession to other Council of Europe instruments with separate monitoring mechanisms, such as the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention), which the EU has already signed. To facilitate these future accessions, the Committee of Ministers agrees, however, with the analysis of the Secretary General in his report on the review of Council of Europe conventions according to which "this accession, alongside with or instead of its member States, may, in fact, have a number of implications on the functioning of the conventions concerned […] and the co-ordination of the action by the EU and its member States when taking positions and/or expressing a vote".[4]

7. The Committee is convinced that the new EU policy agendas in the area of freedom, security and justice for the period 2015-2020 will offer further opportunities to achieve coherence and complementarity (paragraph 4.3 of the Assembly recommendation). The Council of Europe has provided comments on the draft EU Directives in early 2015 concerning the preparation of EU legislation for strengthening procedural rights of suspected or accused persons in criminal proceeding that builds on Council of Europe standards. This type of consultation is also undertaken in the fields of anti-terrorism and anti-discrimination.

8. The Committee encourages active co-operation with the European Union in the implementation of the new "Framework to strengthen the rule of law" in European Union member States (paragraph 4.4 of the Assembly recommendation). The rule of law being one of the three pillars of the Council of Europe since its creation, the Organisation has had a long established experience in dealing with these issues and provides valuable input to the EU in implementing this new framework. Any initiative should take account of the Memorandum of Understanding in order to avoid duplication and ensure added value.

9. The Committee recognises the importance in developing appropriate synergies between Council of Europe monitoring mechanisms and bodies and any new mechanisms which may be set up by the European Union (paragraph 4.5 of the Assembly recommendation). To this end, contacts have intensified with a view to furthering synergies between the European Union and the Council of Europe monitoring and advisory bodies. As highlighted in the report submitted to the Committee of Ministers at its 125th Session, the EU actively calls upon candidate States and States negotiating association agreements with it to draw on the expertise of the Council of Europe, including that of the Venice Commission. In addition, the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) provides data on the functioning of judicial systems in the 28 EU member States used for the EC's annual "Justice Scoreboard". A successful co-operation has furthermore developed between the Council of Europe and the European Union Agency for Fundamental Rights (FRA) in various areas on the basis of their respective mandates, strengths and skills, as illustrated by the publication of several joint handbooks.

10. The Committee of Ministers agrees with the Parliamentary Assembly that the Council of Europe should seek to contribute actively to future European Union colloquia on the state of human rights in Europe, thus bringing in the perspective and expertise of the Council of Europe (paragraph 4.6 of the Assembly recommendation). The Committee of Ministers also reaffirms its strong commitment to the strengthening of the human rights protection system in Europe, of which the European Convention on Human Rights is the cornerstone.

11. The Parliamentary Assembly asks the Committee of Ministers to raise public awareness about the partnership and synergies being developed by the Council of Europe and the European Union, especially in the context of European Union accession to the European Convention on Human Rights (paragraph 5 of the Assembly recommendation). The Committee of Ministers notes that the Memorandum of Understanding provides that the Council of Europe and the European Union shall improve "co-operation in the area of communication with the aim of increasing awareness and understanding of their shared values and of their partnership among both the general public and specialised audiences". The Council of Europe's Liaison Office in Brussels and the European Union delegation in Strasbourg have significantly contributed to the development of the partnership at all levels and to its visibility. The Committee agrees that in this context public awareness around the issue of European Union accession to the European Convention on Human Rights could be further enhanced.

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4. Report by the Secretary General on the review of Council of Europe conventions, 16 May 2012, document SG/Inf(2012)12.