



Resolution 2029 (2015)¹

Final version

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

Parliamentary Assembly

1. The Parliamentary Assembly strongly supports the strengthening of the partnership between the Council of Europe and the European Union, in line with the memorandum of understanding concluded in 2007, which highlights the role of the Council of Europe as “the benchmark for human rights, the rule of law and democracy in Europe” and states that the European Union “regards the Council of Europe as the Europe-wide reference source for human rights”.
2. Referring to its [Resolution 1836 \(2011\)](#) and [Recommendation 1982 \(2011\)](#) on the impact of the Lisbon Treaty on the Council of Europe, the Assembly welcomes the fact that human rights, democracy and the rule of law have been placed at the forefront of European Union policies; this has opened up new opportunities for co-operation between the two organisations based on each other’s *acquis* and comparative advantages.
3. Since the signature of the memorandum of understanding in 2007 and the entry into force of the Lisbon Treaty in 2009, the Assembly is pleased to note in particular, that:
 - 3.1. co-operation has become more structured, strategic and political;
 - 3.2. contacts between the two organisations, both at the political level, including high-level political dialogue, and technical and working levels, have been steadily increasing both quantitatively and qualitatively;
 - 3.3. the European Union has increased its role in the traditional areas of activity of the Council of Europe, such as justice, freedom, security and the rule of law, and, in the period 2010-2014, made extensive use of Council of Europe expertise in the implementation of the Stockholm Programme – An open and secure Europe serving and protecting citizens;
 - 3.4. the European Union has regularly requested input from the Council of Europe, notably in the context of the European Union Enlargement and Neighbourhood policies;
 - 3.5. consultations take place at an early stage in the process of drafting European Union legislation, including through written contributions and exchanges of views, and representatives of the European Union are regularly invited to participate in Council of Europe standard-setting activities;
 - 3.6. an increasing number of European Union documents refer explicitly to the standards and instruments of the Council of Europe;
 - 3.7. mutual representation in Brussels and in Strasbourg has facilitated co-ordination, intensified relations and enhanced impact.
4. The Assembly welcomes the comprehensive programme agreement on the financing of European Union–Council of Europe joint programmes for the period 2014-2020, which has strengthened the co-ordination, impact and sustainability of co-operation programmes, putting in place a new framework for co-

1. *Assembly debate* on 27 January 2015 (4th Sitting) (see [Doc. 13655](#), report of the Committee on Political Affairs and Democracy, rapporteur: Ms Kerstin Lundgren). *Text adopted by the Assembly* on 27 January 2015 (4th Sitting). See also [Recommendation 2060 \(2015\)](#).



operation in the European Union enlargement region, in countries covered by the European Union's Eastern Partnership programme and also in countries in the southern Mediterranean region, in a spirit of shared responsibilities.

5. While welcoming these positive steps, the Assembly points out that the memorandum of understanding is a contract with an obligation of results on both sides, and refers to [Recommendation 2027 \(2013\)](#) on the European Union and Council of Europe human rights agendas: synergies not duplication. This recommendation welcomes the possibility of higher levels of human rights protection, but warns against the setting up of parallel mechanisms which could lead to double standards, "forum shopping" and the lowering of Council of Europe standards.

6. The Assembly is convinced that only the accession of the European Union to the European Convention on Human Rights (ETS No. 5, "the Convention") can ensure in-depth legal co-operation, enhance the coherence of legal standards and provide a unique framework for human rights, democracy and the rule of law in Europe. The Assembly welcomes the agreement reached at the negotiators' level in April 2013 on the draft accession agreement and considers that the obstacles identified by the Court of Justice of the European Union in its Opinion 2/13 must be overcome as soon as possible, in line with political commitments undertaken by all sides, as reflected in the Lisbon Treaty. It therefore invites 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 resume, without delay, the negotiations on EU accession to the Convention and to give high political priority to this process.

7. The Assembly welcomes stronger European Union action in the fields of justice and home affairs and the rule of law, inasmuch as democracy, the rule of law and respect for human rights are thereby better upheld in the 28 member States of the European Union. With a view to pursuing further the building of a common space for human rights protection, ensuring complementarity and coherence of standards and the monitoring of their implementation, while avoiding duplication of work, the Assembly invites the European Union to:

7.1. resume, without delay, negotiations on the accession of the European Union to the Convention in light of Opinion 2/13 of the European Union Court of Justice and give high political priority to this issue;

7.2. take into account the Council of Europe's role as the reference for human rights, the rule of law and democracy in Europe while preparing new initiatives in this field;

7.3. examine with the Council of Europe the possibility for the European Union to accede to key Council of Europe conventions tackling the major challenges facing European society today, including the European Social Charter (revised) (ETS No. 163);

7.4. pursue full accession to the Group of States against Corruption (GRECO) as soon as possible, and respect the principle of equal treatment among members of GRECO, which involves the evaluation of European Union institutions by GRECO's mechanisms, taking into account its specificity as a non-State entity;

7.5. carry on discussions concerning the terms of participation of the European Union in Council of Europe non-convention-based monitoring mechanisms and bodies such as 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);

7.6. make full use of reports by Council of Europe monitoring bodies and mechanisms, such as those by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and by the Group of Action against Trafficking in Human Beings (GRETA), and of the monitoring mechanisms of the Framework Convention for the Protection of National Minorities (ETS No. 157) and the European Charter for Regional or Minority Languages (ETS No. 148), and to co-operate with the Council of Europe in the relevant fields;

7.7. use, and thereby strengthen, the channels of regular and structured consultation, at least once per European Union presidency, especially on normative developments in the fields of human rights, justice, the rule of law and home affairs, and consistently consult the Council of Europe on relevant European Union draft legislation;

7.8. follow up on existing Council of Europe monitoring procedures and recommendations issued to member States by the Council of Europe, enforce their implementation in European Union member States and facilitate the implementation of the decisions of the European Court of Human Rights;

- 7.9. ensure that human rights standards upheld by the European Union do not fall short of those upheld by the Council of Europe in order to avoid double and lower standards and subsequent “forum shopping”;
 - 7.10. implement the new European Union framework to strengthen the rule of law in a way which builds on and complements the instruments and expertise of the Council of Europe;
 - 7.11. intensify co-operation with the Council of Europe in the context of the new strategic guidelines for legislative and operational planning within the European Union’s area of freedom, security and justice for the period 2015-2020, as defined by the European Union;
 - 7.12. co-ordinate the European Union annual colloquium on the state of human rights in Europe with the work of the Council of Europe;
 - 7.13. continue promoting accession to key Council of Europe conventions and monitoring mechanisms and bodies among European Union member States and in the context of the European Union enlargement and neighbourhood policies, as appropriate;
 - 7.14. ensure complementarity in the context of the European Union Strategic Framework and Action Plan on Human Rights and Democracy focusing on European Union external actions.
8. The Assembly calls on parliaments of the European Union member States to continue enhancing the visibility of the reinforced partnership between the two organisations, including those between the Assembly and the European Parliament.
9. For its part, the Assembly welcomes the recently intensified contacts between its president and the leadership of both the European Parliament and the European Commission and invites its president and/or its presidential Committee to:
- 9.1. increase the number of regular meetings and informal exchanges with the European Union leadership on current political challenges;
 - 9.2. explore ways of expanding co-ordination and co-operation between the two parliamentary bodies of the European Union and the Council of Europe and their political groups.
 - 9.3. consider updating 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, with a view to taking into account the most recent developments since the entry into force of the Lisbon Treaty.
10. In conclusion, the Assembly believes that, while the memorandum of understanding remains a sound basis to continue guiding and structuring relations between the Council of Europe and the European Union, only genuine, continuous and substantial co-operation between the two organisations can help create a truly secure and just European Union where human rights and the rule of law are fully respected, protected and promoted. This should ultimately lead to the accession of the European Union to the Statute of the Council of Europe (ETS No. 1) in line with the recommendation included in the 2006 Juncker report “Council of Europe – European Union: ‘A sole ambition for the European continent’”.