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## **Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union**

### **Report<sup>1</sup>**

Committee on Political Affairs and Democracy

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### *Summary*

In 2009, the entry into force of the Treaty of Lisbon ushered the European Union into a new stage of European integration, placing democracy and the respect of the rule of law and human rights at the forefront of EU policies. This emphasis on issues which are the core mandate of the Council of Europe created greater opportunities for co-operation between the two organisations. Since then, the Council of Europe and the European Union have consolidated the strategic partnership, based on the three pillars of enhanced political dialogue, stronger legal co-operation, and a wide range of joint co-operation programmes.

In 2022, the Russian Federation's aggression against Ukraine and the ensuing exclusion of the Russian Federation from the Council of Europe recast the co-operation between the Council of Europe and the European Union into a new perspective. In light of the epochal changes that Europe is experiencing, the Assembly calls for a renewed impetus towards strengthening the strategic partnership between the Council of Europe and the European Union, on the basis of their shared values and commitment to promoting peace, security and stability on the European continent and supporting multilateralism worldwide.

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1. Reference to committee: [Doc. 14866](#), Reference 4444 of 12 April 2019.



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## A. Draft resolution<sup>2</sup>

1. In 2009, the entry into force of the Treaty of Lisbon ushered the European Union into a new stage of European integration, placing democracy and the respect of the rule of law and human rights at the forefront of EU policies. This emphasis on issues which are the core mandate of the Council of Europe created greater opportunities for co-operation between the two organisations. Since then, the Council of Europe and the European Union have consolidated the strategic partnership foreseen by the 2007 Memorandum of Understanding between the Council of Europe and the European Union, based on the three pillars of enhanced political dialogue, stronger legal co-operation, and a wide range of joint co-operation programmes.
2. In 2022, the Russian Federation's aggression against Ukraine and the ensuing exclusion of the Russian Federation from the Council of Europe confirm the importance of continuing to work to promote democratic security and recast the co-operation between the Council of Europe and the European Union into a new perspective. In light of the epochal changes that Europe is experiencing, the Parliamentary Assembly calls for a renewed impetus towards strengthening the strategic partnership between the Council of Europe and the European Union, on the basis of their shared values and commitment to promoting peace, security and stability on the European continent and supporting multilateralism worldwide.
3. In order to reinforce the democratic security of European States, it has become imperative and urgent to reverse the backsliding of democracy, protect the integrity of democratic processes against external interference and innovate the good functioning of democratic institutions, including through greater citizen engagement. The choice of "A new push for democracy" as one of its six political priorities and the adoption of the "Democracy Action Plan" show a clear understanding of this need on the part of the European Commission. Similarly, the Conference for the Future of Europe, the first exercise of participatory democracy at EU level, has explored new ways to involve ordinary citizens in the EU decision-making process.
4. Strong and resilient democracies are based on the scrupulous respect of the rule of law. The Assembly takes note of the panoply of tools that the European Union has put in place, since the entry into force of the Treaty of Lisbon, to tackle threats to the rule of law in its member States. Taking note that all EU member States are also Council of Europe member States, the Assembly welcomes the active involvement of the Council of Europe in the preparation of the EU Rule of Law Report and invites the European Union to rely even more extensively on the Council of Europe's expertise, benchmarking and findings in the context of the manifold mechanisms which the European Union has set up in this area.
5. As set out in the Statute of the Council of Europe (ETS No. 1), genuine democracies are based on the respect of individual freedoms and political liberties. By establishing the European Union's legal personality, the Treaty of Lisbon created a solid basis for developing a coherent legal space in Europe, enabling the European Union to adhere to Council of Europe conventions and participate in Council of Europe mechanisms. The Treaty of Lisbon also upgraded the status of the EU Charter of Fundamental Rights to EU Treaty and made EU accession to the European Convention on Human Rights (ETS No. 5) a legal obligation.
6. The Assembly welcomes the resumption, in 2020, of the negotiations on the European Union's accession to the European Convention on Human Rights and notes with satisfaction that moving forward with this process is a priority for the European Union and for the Council of Europe, as indicated in the Council of Europe Strategic Framework 2022-2025. The Assembly reaffirms its confidence that accession will help guarantee coherence and consistency between EU law and the Convention system and lead to a single legal space in which also the European Union is subjected to the European Convention on Human Rights.
7. Since the entry into force of the Treaty of Lisbon, the European Union has acceded to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) and its additional Protocol (CETS No. 217) and participates, in different capacities, in several partial agreements, including the Group of States against Corruption (GRECO) and the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group). The Assembly welcomes these developments and looks forward to the Council of Europe and the European Union further strengthening and formalising their legal co-operation, with a view to avoiding duplication of efforts and preventing the emergence of diverging legal standards in Europe.
8. As regards EU's enlargement, a number of Council of Europe member States, including Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia and Turkey, whilst at different stages in the procedure, have expressed their wish to join the European Union. In the aftermath of the Russian Federation's aggression against Ukraine, Ukraine itself, the Republic of Moldova and Georgia have submitted similar requests. The Assembly underlines that the prospect of EU membership represents a factor of stability

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2. Draft resolution adopted unanimously by the committee on 29 March 2022.

in Europe, especially in light of the new geopolitical context. At the same time, it calls on the Council of Europe to redouble its efforts to help its member States wishing to join the European Union to make tangible and measurable progress towards meeting the necessary criteria.

9. In the current multipolar geopolitical system, relations between major powers have become increasingly confrontational and unilateral. The Assembly shares the conviction expressed by the European Commission in its “Communication on Strengthening the EU’s contribution to rules-based multilateralism” that multilateralism based on common rules is the best way to preserve peace and stability and resolutely supports the drive for the European Union to have a stronger voice on the international stage.

10. In these considerations, while reiterating its previous resolutions on relations between the Council of Europe and the European Union, the Assembly invites the European Union to:

10.1. ensure synergy and complementarity with the Council of Europe with a view to enhancing democratic security by strengthening democracy, the rule of law and the protection of human rights in Europe and projecting these values outside Europe through their external relations and neighbourhood policies;

10.2. step up political and technical consultation and concertation with the Council of Europe with a view to ensuring convergence of purpose while avoiding duplications and inconsistencies;

10.3. regularly take into account the Council of Europe’s role as the benchmark for democracy, human rights and the rule of law in Europe while preparing and implementing initiatives in these fields;

10.4. intensify political dialogue with the Council of Europe in the area of the rule of law and make greater use of the Council of Europe’s expertise, benchmarking and findings in the context of the wide range of existing EU rule of law mechanisms and tools;

10.5. pursue with resolve the negotiations aimed at achieving EU accession to the European Convention on Human Rights;

10.6. examine, in consultation with the Council of Europe, the possibility for the European Union to accede to other key Council of Europe conventions which tackle the major challenges facing European societies, including the European Social Charter (revised) (ETS No. 163) and continue its efforts in view of securing the necessary support for EU accession to the Convention on preventing and combating violence against women and domestic violence (CETS No. 210);

10.7. consider involving the Council of Europe, as appropriate, in the follow up to the Conference on the Future of Europe;

10.8. continue strengthening co-operation with the Council of Europe in the context of the implementation of the Democracy Action Plan and, in general, of the European Commission’s priority “A new push for democracy” to ensure convergence of action;

10.9. develop a structural dialogue and concertation with the Council of Europe in the context of the EU enlargement process, with a view to accompanying more effectively Council of Europe member States who aspire to EU membership to implement and sustain the necessary reforms, and giving them a concrete prospect of accession within a reasonable timeline;

10.10. involve the Assembly in the inter-parliamentary activities set up in the context of EU dialogue with countries from the Eastern Partnership and Western Balkans;

10.11. explore the possibility of making non-earmarked contributions to the Council of Europe budget.

11. Furthermore, the Assembly takes stock of the importance which the Treaty of Lisbon has given to parliamentary democracy, with the greater powers conferred upon the European Parliament in setting the European Union’s political direction, the enhanced emphasis on inter-parliamentary co-operation and the new role of national parliaments in the EU decision-making process.

12. In this context, the Assembly calls on the European Parliament to:

12.1. give concrete follow-up to a number of proposals which have been made in previous Assembly resolutions, namely:

12.1.1. the organisation of regular meetings between the respective Presidents, Secretaries General, Chairpersons of committees and between the Presidential Committee of the Parliamentary Assembly and the Conference of Presidents of the European Parliament;

- 12.1.2. the organisation of joint meetings and joint events at the level of committees and/or European Parliament delegations for relations with non-EU member States;
- 12.1.3. the mutual invitation of rapporteurs to provide input in each other's work;
- 12.2. strengthen dialogue and co-ordination with the Assembly in areas which have emerged as prominent challenges for European societies, such as:
  - 12.2.1. reversing the backsliding of democracy;
  - 12.2.2. protecting the integrity of the electoral process;
  - 12.2.3. countering disinformation and protecting freedom of expression;
  - 12.2.4. preventing threats to the rule of law;
  - 12.2.5. strengthening democratic governance and good administration as a way of reinforcing the rule of law and enhancing the citizens' trust in public institutions;
  - 12.2.6. the contribution of parliamentary diplomacy to supporting rules-based multilateralism;
  - 12.2.7. the right to a healthy environment;
  - 12.2.8. addressing the socio-economic consequences of Covid-19;
  - 12.2.9. promoting peace and security in Europe.
- 12.3. consider organising a joint debate on the European multilateral architecture and democratic security, and the respective roles of the Parliamentary Assembly and the European Parliament.

## B. Draft recommendation<sup>3</sup>

1. Referring to its Resolution ... (2022), the Parliamentary Assembly acknowledges that, since the 2007 Memorandum of Understanding, the Council of Europe and the European Union have developed a strategic partnership based on their common values. In 2009, the entry into force of the Treaty of Lisbon ushered the European Union into a new stage of European integration, placing democracy and the respect of the rule of law and human rights at the forefront of EU policies. This emphasis on issues which are the core mandate of the Council of Europe created greater opportunities for co-operation between the two organisations, underpinned by enhanced political dialogue, stronger legal co-operation and a broad range of joint co-operation programmes.
2. In 2022, the Russian Federation's aggression against Ukraine and the ensuing exclusion of the Russian Federation from membership in the Council of Europe have created the ground for recasting the co-operation between the Council of Europe and the European Union into a geopolitical perspective.
3. In light of the epochal changes that Europe is experiencing, the Assembly calls on the Committee of Ministers to strengthen the strategic partnership between the Council of Europe and the European Union, on the basis of their shared values and common commitment to promoting peace and stability on the European continent and supporting multilateralism worldwide.
4. Against this backdrop, the Assembly invites the Committee of Ministers to:
  - 4.1. strengthen the capacity of the Council of Europe Office in Brussels to act as a liaison with the EU Institutions, and ensure it has adequate resources to this end;
  - 4.2. further strengthen concertation, co-ordination, political dialogue and technical co-operation with the European Union, putting an emphasis on democratic security and rule of law issues;
  - 4.3. join Council of Europe forces with the European Union in support of global governance and rules-based multilateralism, along the lines set out in the European Commission's Communication on Strengthening the EU's contribution to rules-based multilateralism;
  - 4.4. further widen the range of joint co-operation programmes with the European Union, including new domains and addressing, as beneficiaries, EU and non-EU member States;
  - 4.5. explore the possibility of the European Union making non-earmarked contributions to the Council of Europe budget;
  - 4.6. consider organising a 4<sup>th</sup> Summit of Heads of State and Government of the Council of Europe member States, associating representatives of the European Union, with a view to reaffirming the relevance of the Council of Europe as the reference organisation for promoting democracy, human rights and the rule of law and providing, therefore, the very foundations for democratic security in Europe.

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3. Draft recommendation adopted unanimously by the committee on 29 March 2022.

## C. Explanatory memorandum by Mr Titus Corlăţean, rapporteur

### 1. Introduction

1. In 2009, the entry into force of the Treaty of Lisbon ushered the European Union (EU) into a new age, placing respect for human rights, democracy and the rule of law at the forefront of EU policies and making EU accession to the European Convention on Human Rights (ETS No. 5) a legal obligation. The new emphasis on core values and the reshaped European architecture – with greater powers for the European Parliament and the European Union having full legal personality – offered new opportunities for a reinforced partnership between the Council of Europe and the European Union and between its Parliamentary Assembly and the European Parliament.

2. More than ten years later, originating from a motion for a resolution<sup>4</sup> which was tabled by the former Chairperson of the Committee on Political Affairs and Democracy, Ms Ria Oomen-Ruijten, the present report takes stock of key achievements of the strategic partnership between the two organisations while identifying future priorities, challenges and prospects. It also suggests how to further deepen the Council of Europe–European Union strategic partnership and explores ways to strengthen inter-parliamentary relations.

3. In the preparation of this report, I have been able to rely on exchanges of views with high level officials of the Council of Europe and the European Union, either in the context of bilateral meetings or committee hearings. On 23-24 February 2022 I also carried out a visit to the EU Institutions.

4. On 24 February, while I was holding meetings in Brussels, the Russian Federation launched an aggression against Ukraine. This is a serious violation of international law and a major threat to peace and security which will have immense consequences on the European architecture, including on Council of Europe-European Union relations. The impact of these unfolding events could not be fully taken into account in the present report. Further reflection is needed, at the highest political level, to shape the Council of Europe-European Union relations in the new geopolitical context, with a view to better defending and promoting our common values.

### 2. The keys to a successful partnership: synergy, complementarity and avoiding duplications

5. Since the entry into force of the Treaty of Lisbon, the Assembly has closely followed its implementation and assessed its impact on Council of Europe-European Union relations, consistently calling for synergy and complementarity and warning against duplications, in line with the 2007 Memorandum of Understanding between the two organisations which states that “the European Union regards the Council of Europe as the Europe-wide reference source for human rights” and that “the Council of Europe will remain the benchmark for human rights, the rule of law and democracy in Europe”.

6. Similarly, the Committee of Ministers of the Council of Europe has repeatedly stressed its determination to strengthen co-operation between the two organisations, on the basis of their shared commitment to effective multilateralism, and reiterated its encouragement for the European Union to accede to Council of Europe instruments, in particular the European Convention on Human Rights,<sup>5</sup> as indicated in the Lisbon Treaty.

7. In the current Strategic Framework of the Council of Europe, presented by the Secretary General and covering the period 2022-2025, the first expected deliverable is precisely the accession of the European Union to the European Convention on Human Rights, which is defined as a key priority for both the Council of Europe and the EU.

### 3. Evolving nature of EU competencies

8. I believe that the post-Lisbon expansion of the European Union’s activities into areas covered by the statutory mandate of the Council of Europe and touching upon democracy, human rights and the rule of law is positive in itself. It not only places a strong focus on democracy, human rights and the rule of law in all EU countries domestically but also positions the EU as a key player and a strong promoter of those values

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4. [Doc. 14866](#).

5. 129<sup>th</sup> Session of the Committee of Ministers (Helsinki, 17 May 2019), 131<sup>st</sup> Session of the Committee of Ministers (Hamburg, 21 May 2021), [Co-operation between the Council of Europe and the European Union](#).

internationally, through its external action. Given this overlapping of competences, however, it is crucial to avoid duplications and the risk of diverging standards: this is one additional reason for the two organisations to strengthen dialogue and co-operation.

9. In line with the approach chosen by previous Assembly rapporteurs on the Lisbon Treaty, I have decided not to cover the area of migration and asylum, which is dealt with in detail by the Committee on Migration, Refugees and Displaced Persons through a wide range of reports and activities. Furthermore, it is beyond the object of this report to reflect all the wide-ranging spectrum of co-operation between the Council of Europe and the European Union, and some aspects have been left out as they have been recently covered by other Assembly initiatives.

### **3.1. Democracy**

10. The Treaty of Lisbon formulates the following three fundamental principles: democratic equality, by which the European Union must observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies; representative democracy, meaning that EU citizens are directly represented at EU level by the European Parliament; and participatory democracy, by which EU citizens have the right to participate in EU decisions and interact with the EU institutions, for example, through dialogue by means of civil society organisations in which they are members.

11. The Treaty also seeks to address the democratic deficit in the EU decision-making process by strengthening the legislative and oversight role of the European Parliament and establishing a stronger bond with national parliaments of EU member States. To this end:

- the ordinary legislative procedure (former co-decision) becomes the default legislative procedure, by which the European Parliament is on an equal footing with the Council as co-legislator;<sup>6</sup>
- the treaty establishes the right for national parliaments to be informed by the EU Institutions and receive draft legislative acts; to oversee the respect of the principle of subsidiarity;<sup>7</sup> and to take part in inter-parliamentary activities;<sup>8</sup>
- in addition, it sets out that national parliaments take part in the evaluation mechanisms for the implementation of EU policies in the areas of freedom, security and justice, including through the political monitoring of Europol and the evaluation of Eurojust activities.<sup>9</sup>

12. As a result of the Treaty, the European Parliament is also granted a more prominent role in setting the European Union's political direction, as it acquires the power to elect the President of the European Commission, a decision which must reflect the results of the European elections and, therefore, the voters' choice.

13. Along these lines, the Treaty of Lisbon seeks to create a stronger direct relationship with citizens. To this end, it introduces the following measures:

- it asks EU institutions to maintain an open, transparent and regular dialogue with representative associations and civil society, and asks specifically to the Commission to carry out broad consultations with parties concerned to ensure that the Union's actions are coherent and transparent;
- it gives EU citizens the possibility to initiate the EU legislative process through the [Citizens' Initiative](#), by which not less than one million citizens – under certain conditions – may invite the Commission to submit a proposal;
- it makes the Charter of Fundamental Rights legally binding, giving it the same legal value as the EU treaties.

14. So far, six Citizens' Initiatives have been tabled, having collected a sufficient number of signatures and met the requirements for registration. All of them have been considered by the Commission. In two cases – concerning vivisection and the so-called 'Minority Safepack' – the Commission decided to follow up with a number of non-legislative actions while in two cases – concerning water and environmental issues – citizens' initiatives have led to the EU introducing new legislation.

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6. Article 294, Treaty on the Functioning of the European Union.

7. [Article 12, Treaty on European Union](#).

8. [EUR-Lex – 12016E/PRO/01 – EN – EUR-Lex \(europa.eu\)](#).

9. Articles 88 and 85, Treaty on European Union.



15. Over the past few years, in addition to its own democratic functioning, the EU has started to pay greater attention to the issue of democracy in its member States. This new emphasis is formulated in the choice of a new push for democracy amongst the six political priorities of the Commission led by Ursula van der Leyen.<sup>10</sup> In addition, for the first time, of a member of the Commission is specifically dealing with the issues of democracy and demography. The mission letter of Commissioner Dubravka Šuica, also Vice-President of the Commission, specifically mentions, as matters under her remit, youth participation, non-discrimination, and children's rights, as well as the organisation of the Conference for the future of Europe.<sup>11</sup>

16. The Conference for the future of Europe is the first exercise of participatory democracy carried out on a large scale at European level.<sup>12</sup> Through citizens' panels, conferences and other online and in person events, it addresses topics such as climate change and the environment; values and rights, rule of law and security; digital transformation; democracy; migration; the EU in the world. The Conference is expected to reach conclusions by Spring 2022. The European Parliament, the Council, and the European Commission have made a commitment to follow up on the recommendations made by the Conference within their respective spheres of competence.

17. While the Secretary General of the Council of Europe participated in the opening of the Conference in Strasbourg, the Council of Europe as an Organisation has not been involved. As I was told during my visit to Brussels, this is not surprising, as the exercise was not supposed to be institutional but of participatory nature, with the active involvement of citizens and ordinary people.

18. The future of Europe concerns all Europeans, whether they are citizens of EU member States or not. This future will embrace a number of issues which are the core values of our Organisation. Despite this lack of formal, institutional involvement in the Conference, I think that the Council of Europe should remain vigilant and receptive to the recommendations that will emerge from the various citizens' panels and take them into account in its own work.

19. In December 2020, the European Commission presented its European Democracy Action Plan,<sup>13</sup> which aims at empowering citizens and building more resilient democracies across the EU through three main lines of action: promoting free and fair elections, strengthening media freedom, and countering disinformation. In 2023, a year ahead of the next European elections, the Commission will review the implementation of the Action Plan. It is evident that the regular co-operation already established with regards to the implementation of the Action Plan was essential to ensure consistency and to enhance each other's impact on the ground, in an area which has become strategic to ensure the democratic security of our member States.

20. On 25 November 2021, the Commission adopted a package of measures to reinforce democracy and protect the integrity of elections. The package includes a Communication,<sup>14</sup> a legislative proposal on transparency and targeting of political advertising,<sup>15</sup> two legislative proposals on the right to vote and stand as candidates of EU citizens residing in a member State of which they are not nationals in elections to the European Parliament and municipal elections,<sup>16</sup> and a legislative proposal to update EU rules on the funding of European political parties and foundations<sup>17</sup>.

21. In the area of media freedom, the Commission will be presenting an initiative to curb the abusive use of strategic lawsuits against public participation (SLAPPs), an issue on which also the Assembly will be working with a report under preparation in the Committee on Culture, Science, Education and Media.<sup>18</sup> The Commission will also work closely with EU member States through a structured dialogue and providing sustainable funding for projects on legal and practical assistance to journalists, and will be putting forward further measures to support media pluralism and to strengthen transparency of media ownership and State advertising, among others, through the new Media Ownership Monitor.<sup>19</sup> On this issue, one should also mention the regular dialogue and consultations between the European Commission and the Council of Europe Secretariats.

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10. [A new push for European democracy.](#)

11. Mission letter of Dubravka Šuica, European Commission.

12. [What is the Conference on the Future of Europe?](#)

13. [European Democracy Action Plan | European Commission \(europa.eu\).](#)

14. [Communication on protecting election integrity and promoting democratic participation.](#)

15. [Legislative proposal for a regulation on the transparency and targeting of political advertising.](#)

16. [Recast of Council Directive on the electoral rights of mobile EU citizens in municipal elections; Recast of Council Directive on the electoral rights of mobile EU citizens in European Parliament elections.](#)

17. [Recast of Regulation on the statute and funding of European political parties and European political foundations.](#)

18. [Doc. 15419.](#)

19. [Media Ownership Monitoring System | Shaping Europe's digital future \(europa.eu\).](#)



“increase EU participation in the Council of Europe bodies, making co-operation at service level stronger and more systematic”. The communication acknowledges that “the institutional and political responsibilities of both institutions” has to be “full[y] respected”.

28. Following these communications and input from various sources, the EU has introduced a framework to enhance its ability to address rule of law issues in its member States and to give effect to the three stages of prevention, protection and response to rule of law problems and infringements. This framework is based on the Rule of Law Mechanism, a process based on dialogue between the Commission, the Council and the European Parliament together with member States, as well as national parliaments, civil society and other stakeholders on the rule of law. The Rule of Law Report is the cornerstone of this process, which is carried out on an annual basis.

29. The first edition of the Rule of Law Report was published on 30 September 2020<sup>26</sup> and was followed by a second edition in July 2021<sup>27</sup> while a third edition is currently under preparation. The reports have a similar structure, with country-specific chapters in addition to a general communication by the Commission focusing on selected issues of concern.

30. The main chapters of the 2020 Rule of Law Report included national justice systems, anti-corruption frameworks, media pluralism and freedom, and other institutional issues related to the checks and balances essential to an effective system of democratic governance; while the 2021 edition explored matters such as ongoing reforms to strengthen the independence of media regulators, improvements and obstacles related to the transparency of media ownership, political pressure and influence on the media, and the impact of the pandemic on media freedom and media pluralism.

31. It is clear that the main issues addressed by the Rule of Law reports coincide with the Council of Europe’s core expertise. It is a positive development, therefore, that for the preparation of the reports, the Secretary General of the Council of Europe and the EU leadership have developed early consultations and hold regular exchanges of information. A Council of Europe contact person has been appointed to ensure that work in this area is mutually reinforcing and to co-ordinate the Council of Europe contribution to the report, as recalled by Mr Sannino during the committee hearing of 10 December 2020. Additional ways in which the Council of Europe contributes to the EU mechanism include:

- the consultation of the Venice Commission by the European Commission in the context of specific rule of law challenges;
- the regular contribution of the Council of Europe European Commission for the Efficiency of Justice (CEPEJ) to the Commission’s Justice Scoreboard, which is one of the toolkits of the EU Rule of Law Mechanism.<sup>28</sup>

32. The panoply of instruments which the European Union has put in place to prevent rule of law threats in its member States is now very extensive. In addition to the Rule of Law Mechanism and Report, in which the Council of Europe is involved, it includes:

- procedures initiated under Article 7 of the Treaty of Lisbon, such as those against Hungary and Poland;
- the Rule of Law dialogue;
- the Peer Review mechanism, with 5 member States being discussed in each semester;
- the possibility to open infringement procedures before the European Court of Justice;<sup>29</sup>
- and the newly adopted conditionality regulation,<sup>30</sup> which allows the EU to withhold funds from the EU budget in the case of non-compliance with the rule of law, the legality of which has been confirmed by the European Court of Justice.<sup>31</sup>

33. In January 2021, Didier Reynders, EU Commissioner for Justice, devoted a great part of his address before the Parliamentary Assembly to the issue of the rule of law, reiterating the centrality of this issue for the Commission and highlighting the role of the Council of Europe and the inclusive approach used in the preparation of the annual report. He also defined this work as essential for the credibility of the EU in its

26. [2020 Rule of law report](#), European Commission.

27. [2021 Rule of law report](#), European Commission.

28. [CEPEJ Study for the EU Justice Scoreboard](#).

29. [Infringement procedure](#) | European Commission (europa.eu).

30. [Rule of law conditionality regulation](#) | European Commission (europa.eu).

31. European Court of Justice, judgements in cases C-156/21 Hungary v. Parliament and Council and C-157/21 Poland v. Parliament and Council, 16 February 2022.

external action, saying that “when we promote the rule of law in our neighbourhood and with other international partners, we must be credible internally”.<sup>32</sup> Indeed there should be coherence between the EU’s emphasis on democracy and the rule of law in its own functioning, in its member States and in its external action.

34. The Russian Federation’s aggression against Ukraine cannot but confirm the importance of strengthening democracy and the rule of law in Europe, as a precondition for the overall stability and security of the whole continent. I am deeply convinced that the Council of Europe and the European Union should strengthen their co-operation to meet this common challenge.

### **3.3. External action**

35. In its [Resolution 1836 \(2011\)](#) “The impact of the Lisbon Treaty on the Council of Europe”, the Assembly noted the increased emphasis put on issues relating to human rights, the rule of law and democracy in the European Union’s co-operation with neighbouring countries and underlined the new opportunities for synergy with the Council of Europe as a whole in the context of its Neighbourhood Policy and with the Assembly in the context of its external relations. With this consideration in mind, the Assembly called on the European Union to:<sup>33</sup>

- “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;
- 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”.

36. Examining the situation more than 10 years later, it is clear that the area of external relations is one in which the co-operation between the two organisations has been particularly intense, especially in view of the EU’s further enlargement. The Council of Europe has played a historic role in the process of EU integration, promoting and consolidating the development of democracy, human rights and the rule of law in central and eastern European countries and enabling them to meet the criteria for EU accession. In the same vein, the Council of Europe continues to be an asset and an engine to sustain reforms and generate progress in the context of the EU enlargement process.

37. While the Western Balkans and the Eastern Partnership countries are neighbourhood for the European Union, they are member States of the Council of Europe. The relevance of the Council of Europe is particularly important in relation to the benchmarking of progress towards reform for Council of Europe member States who aspire to EU membership. The EU benchmarking relies to a large extent on the findings of Council of Europe monitoring mechanisms and other bodies.

38. Since the entry into force of the Treaty of Lisbon, the geopolitical context has evolved, with considerable power shifts and the emergence of new global players. Relations between major powers are increasingly confrontational and unilateralist. Multilateral rules and organisations are being questioned. In many countries democratic standards are backsliding and human rights are being flouted. Societal and technological developments create new opportunities but also new challenges. These trends had already been visible for some time; the Covid-19 pandemic has amplified some of them, in addition to heightening socio-economic tensions and increasing global inequalities.

39. It is in this general context that the EU has reiterated its support for the respect of democracy, human rights and the rule of law as universal values and taken a strong stand in support of rules-based multilateralism. Two documents encapsulate this approach.

40. The first one is the EU Action Plan on Human Rights and Democracy for 2020-2024.<sup>34</sup> This document sets out the EU priorities in this field in its relations with all third countries and seeks to enhance coherence and consistency in promoting human rights and democracy in all EU external policies. It underlines that “the

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32. [Verbatim records of the debates of Tuesday 26 January 2021, afternoon.](#)

33. Paragraphs 10.1 and 10.2.

outbreak of the Covid-19 pandemic illustrates the importance of multilateralism, global co-operation and solidarity. Respect for human rights, democracy, and the rule of law, as well as a gender responsive approach must remain at the heart of responding to the pandemic and supporting the global recovery”.

41. The five overarching priorities include:

- protecting and empowering individuals;
- building resilient, inclusive and democratic societies;
- promoting a global system for human rights and democracy;
- harnessing the opportunities and addressing challenges of new technologies;
- delivering by working together.

42. The second document is the Communication on Strengthening the EU’s contribution to rules-based multilateralism.<sup>35</sup> The underlying conviction of this text is that multilateralism based on common rules is the best way to preserve peace and stability in the current multipolar geopolitical system. It calls on the EU to be more assertive and to establish partnerships with like-minded States and organisations. Amongst them is the Council of Europe, which is defined as a natural ally in supporting democracy and promoting and protecting human rights, fundamental freedoms and the respect for human dignity including gender equality, the rights of the child, and LGBTI rights.

43. In my opinion, co-operation in the area of external action is crucial for both organisations. Working in synergy can enhance their impact and capacity to effectively and coherently address emerging challenges. It can lend additional weight to the support of multilateralism. This is even more important in light of the Russian Federation’s aggression against Ukraine, which opens a new stage in European history and demands greater firmness on our common values and principles from both Organisations.

#### **4. The three pillars of the Council of Europe – EU strategic partnership: key achievements and challenges**

44. Since the Memorandum of Understanding of 2007, the partnership between the Council of Europe and the European Union has been based on three pillars which have contributed to the coherence and complementarity between the two organisations:

- enhanced political dialogue;
- stronger legal co-operation;
- co-operation programmes.

45. In my opinion, these pillars are still the most relevant to guide our strategic partnership in going forward.

##### **4.1. Enhanced political dialogue**

46. According to the Memorandum of Understanding, the Council of Europe and the European Union should consult regularly and closely both at the political and the technical levels on matters within shared priority areas. I cannot but confirm the conclusion made by previous rapporteurs on the Treaty of Lisbon that high-level political dialogue between the two organisations has constantly improved since the entry into force of the Treaty.

47. The willingness to continue along this path was confirmed following the election of Marija Pejčinović Burić to the functions of Secretary General of the Council of Europe and the formation of the Commission led by Ursula van der Leyen. The first working visit of the new Secretary General of the Council of Europe was to the European Union, in February 2020.<sup>36</sup>

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34. 12848/20, Council of the European Union.

35. [Joint Communication to the European Parliament and the Council on strengthening the EU’s contribution to rules-based multilateralism](#).

36. The Secretary General met with the President of the European Parliament, David Maria Sassoli, the Executive Vice-President of the European Commission, Frans Timmermans, Commission Vice Presidents Věra Jourová (Values and Transparency) and Dubravka Šuica (Democracy and Demography) and Commissioners Olivér Várhelyi (Neighbourhood and Enlargement), Helena Dalli (Equality) and Didier Reynders (Justice), as well as with the EU’s Political and Security Committee. Here is the text of her [speech](#) before the Political and Security Committee.

48. Since then, political dialogue has been particularly intense, with a high number of bilateral meetings between the Secretary General, the Deputy Secretary General, the Special Representatives of the Secretary General and EU leaders, highlighting the wide spectrum of thematic co-operation. This dialogue is complemented by the regular contacts between secretariats of both organisations, facilitated by the Council of Europe Office in Brussels and the EU Delegation in Strasbourg.

## **4.2. Stronger legal co-operation**

### *4.2.1. EU accession to the European Convention on Human Rights*

49. A further confirmation of the renewed impetus in European Union–Council of Europe relations is the resumption in October 2019 of the EU accession negotiations to the European Convention. The Lisbon Treaty created an obligation for the European Union to accede to the Convention. The process, however, had been put on hold due to a ruling of the Court of Justice of the European Union (CJEU) of 18 December 2014 which held that the draft Accession Agreement, prepared following lengthy negotiations between the EU institutions and the Council of Europe, to be incompatible with EU Treaties, raising complex legal and political issues.<sup>37</sup>

50. In June 2018, President Juncker assured that he had taken the initiative to reinvigorate work on EU accession. Accordingly, the European Commission submitted a “consolidated paper” to the Council with suggestions to overcome issues raised by the CJEU. The EU Finnish Presidency (July–December 2019) indicated that it was committed to reach an agreement by the end of 2019.

51. In a letter dated 31 October 2019, following EU Council’s decision of 7 October, the then President and the Vice-President of the European Commission informed the Secretary General of the Council of Europe that the EU stood ready to resume the negotiations on its accession to the Convention.

52. As a result, in January 2020, the Committee of Ministers adopted *ad hoc* terms of reference for the Steering Committee for Human Rights (CDDH) to “finalise as a matter of priority, in co-operation with the representatives of the European Union, in an *ad hoc* group 47+1, and on the basis of the work already conducted, the legal instruments setting out the modalities of accession of the European Union to the European Convention on Human Rights, including its participation in the Convention system and, in this context, to examine any related issue.”

53. The global health crisis slowed down progress but negotiations have now resumed and, on 29 September 2020, the Council of Europe [Secretary General](#) and the EU Commission’s Vice President for Values and Transparency, Věra Jourová, issued a statement stressing that “accession will help to guarantee coherence and consistency between EU law and the Convention system. It will also ensure that the EU is subjected to the same international oversight on human rights as its 27 member States and 20 other Council of Europe countries which are not members of the EU. It means that citizens will be able to challenge the EU’s actions before the European Court of Human Rights. The EU will also be able to join its member States in proceedings at the European Court of Human Rights concerning alleged violations resulting from EU law”. They both hoped that the negotiations could be brought to a speedy and successful conclusion<sup>38</sup>.

54. It should be stressed that accommodating the particularities of the EU legal order, whilst to some extent necessary, must not lead to a distortion of the Convention system, give exceptional privileges to EU bodies or create a two-tier or two-speed protection system.

55. Accession will require technical changes to the control mechanism of the Convention and will also have direct implications for the Assembly, including in its role in electing judges of the Court. In this regard, the 2011 agreements made through the “Joint Informal Body” set up between the Assembly and the European Parliament to improve information sharing within the context of EU accession to the Convention will need to be updated and finalised.

56. On 31 January 2020, the Bureau of the Assembly took note of a memorandum prepared by the Secretary General of the Parliamentary Assembly and invited its President to contact the President of the European Parliament with a view to resuming the joint work in this respect.<sup>39</sup> The Committee on Legal Affairs and Human Rights is currently preparing a report on the “Legal aspects of the accession of the European Union to the European Convention on Human Rights”, for which I have the honour to be the rapporteur.<sup>40</sup>

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37. Opinion 2/13.

38. [The EU’s accession to the European Convention on Human Rights](#).

#### 4.2.2. EU participation in other Council of Europe conventions and mechanisms

57. The Treaty of Lisbon gives the EU full legal personality. As a result, the Union acquires the ability to sign international treaties in the areas of its attributed powers or to join an international organisation.

58. The European Union takes part in a number of Council of Europe instruments and mechanisms. Co-operation in the area of the rule of law is particularly significant: Venice Commission opinions, the GRECO reports, the judgments of the Court and the Committee of Ministers' decisions have been regularly used by EU bodies, particularly the European Parliament and the European Commission.

59. Substantial co-operation has also been achieved in the framework of the EU's enlargement process, regular contribution to the preparation of EU human rights instruments and the definition of the EU's Pillar of Social Rights, as well EU participation in several Council of Europe standard setting activities. In several other areas co-operation is also strong, such as countering torture, abolition of the death penalty, violence against women, children rights, data protection and cybercrime.

60. During the discussion of this report, several members of the Committee expressed the wish that the European Union consider accession also to other Council of Europe instruments, including the European Social Charter (revised) (ETS No. 163) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, Istanbul Convention). I can fully support these proposals, which are in line with the positions already expressed by the Assembly's competent committees.

61. The tables below provide an overview of the current state of play as regards the EU's participation in Council of Europe instruments and mechanisms. It should also be recalled that the EU participates – without the right to vote – in the work of all the Council of Europe steering committees. Its contribution in the Ad Hoc Committee on Artificial Intelligence (CAHAI) has been particularly significant given the extensive work in this area being developed by the European Union.

##### *Council of Europe treaties acceded to by the European Union following the Treaty of Lisbon*

| Treaty  | Signature  | Ratification | Entry into force |
|---|------------|--------------|------------------|
| <a href="#">Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 217)</a> | 22/10/2015 | 26/06/2018   | 1/10/2018        |
| <a href="#">Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)</a>                            | 22/10/2015 | 26/06/2018   | 1/10/2018        |

##### *Council of Europe treaties signed and not ratified by the European Union following the Treaty of Lisbon*

| Treaty   | Signature  |
|--|------------|
| <a href="#">Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210)</a>                                     | 13/06/2017 |
| <a href="#">Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)</a> | 2/4/2009   |

| List of partial agreements in which the EU participates   | Status      |
|---|-------------|
| European Pharmacopoeia  | member      |
| Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (Pompidou Group)   | participant |
| Co-operation Group for the Prevention of, Protection Against, and Organisation of Relief in Major Natural and Technological Disasters | participant |
| European Audiovisual Observatory  | member      |
| Group of States against Corruption (GRECO)  | observer    |

39. From an institutional point of view, once a new version of the Accession agreement is agreed upon and after it has been considered compatible with the EU treaties by the EU Court of Justice, the Assembly will be asked to provide the Committee of Ministers with an Opinion on this re-negotiated version, prior to its adoption by the Committee of Ministers.

40. [Doc. 15014](#).

62. Following the entry into force of the Lisbon Treaty, the European Union is invited to participate, as an observer, in the work on the Council of Europe intergovernmental committees. Whenever such a committee is mandated to elaborate a new legal instrument, for instance a new convention, the EU is representing its member States insofar and to the extent that it has a competence on the subject matter. I think it would be important to encourage EU member States to continue nonetheless to actively participate in such intergovernmental activities by sharing their own national experience and expertise, even if their position has been previously coordinated at the EU level. This participatory dialogue and exchange of information would facilitate the smooth conduct of standard-setting work, avoiding giving the wrong impression that the EU replaces the active engagement of EU member States in Council of Europe work.

#### **4.3. Co-operation programmes**

63. With a volume of 207.4 million euros in 2021, the EU is the largest contributor to the Council of Europe extra-budgetary resources, accounting for 57% of annual receipts from all extra-budgetary resources.

64. This funding allows in particular for the implementation of three large-scale comprehensive multi-country and multi-annual programmes called “regional programmatic facilities”:<sup>41</sup>

- the Western Balkans and Turkey through the Horizontal Facility, which is funded at 85% by the EU;
- in the countries of the EU Eastern Partnership area through the Partnership for Good Governance (PGG), which is funded at 80% by the EU;
- the Southern Neighbourhood through the South Programme.

These programmes are complemented, where necessary, by country-specific and regional thematic interventions. In addition, the co-operation in Central Asia is implemented through a large-scale regional programme, the Central Asia Rule of Law Programme.

65. The projects aim at strengthening democracy, the rule of law and human rights in the beneficiaries, helping them get closer to EU standards and complying with the recommendations of Council of Europe political and monitoring bodies. The implementation of these projects is facilitated through the Council of Europe offices in the field.

66. It should be noted that in recent years, Framework Agreements with DG REFORM, have allowed to increasingly reach EU member States. This co-operation with EU member States is very much demand-driven and makes recognised contributions to the structural reform processes in EU member States, for instance in the area of justice, good governance and local democracy. This is an important shift, which confirms the potential for the Council of Europe to play a greater role in strengthening the rule of law and democracy also in EU member States. During my visit to Brussels, I enquired about the technical possibility to expand the scope of co-operation with DG Reform also to new areas, such as migration. I also raised the question whether it would be possible to support structural reforms in non-EU member States, namely candidate countries. Although this cannot be envisaged at the moment, it would be important if these countries could at least be associated in DG REFORM activities, for instance those aimed at sharing good practice.

67. Finally, as suggested by Ms Verena Taylor, Council of Europe Director of the Office of the Directorate General of Programmes, parliamentarians could be more closely associated in the implementation of these projects, as mainstreaming the parliamentary dimension throughout our projects could be a clear asset.

### **5. The role of national parliaments and interparliamentary co-operation**

68. The Treaty of Lisbon placed special emphasis on the parliamentary dimension in two ways: by strengthening the powers of the European Parliament and acknowledging the role of national parliaments in enhancing the good functioning and ultimately the democratic legitimacy of the European Union.

69. As a result of the Treaty and its Protocols, national parliaments have the right to receive a broad range of information from the EU institutions, which are required to forward all draft legislative acts and notify national parliaments of applications for accession to the EU. National parliaments are also involved in the procedures for revising the Treaties as well as in the evaluation mechanisms for the implementation of EU policies in the areas of freedom, security and justice.

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41. [EU Co-operation \(coe.int\)](http://coe.int).



70. The main innovation consists in the right of national parliaments to scrutinise EU legislation. According to Protocol 1 of the Lisbon Treaty on the role of national parliaments in the European Union, within 8 weeks of their transmission, national parliaments can review draft legislative acts which do not fall under the exclusive competence of the European Union. If they consider that the draft is not in line with the principle of subsidiarity, they can issue a 'reasoned opinion' or even a 'contribution', the latter going beyond subsidiarity and raising also substantive issues. According to the Early Warning Mechanism, provided that a certain majority of them agrees, national parliaments can even block legislative proposals, asking the EU legislative authority to review the text or to take a formal decision to keep it.

71. As of December 2021, a total of 1050 draft legislative acts have been sent to national parliaments for examination. In response, 3 680 submissions from national parliaments have been received, of which 511 reasoned opinions and 3 170 contributions.<sup>42</sup> The Early Warning Mechanism has been triggered three times since the entry into force of the Treaty of Lisbon.

72. The Protocol on the role of national parliaments in the EU also formalises the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union (COSAC), a platform for national parliaments to share information related to subsidiarity control.<sup>43</sup>

73. Political dialogue between EU institutions and national parliaments is very intense and has not decreased because of the outbreak of the Covid-19 pandemic. Since March 2020, however, most meetings have taken place by videoconference. In addition, more than a quarter of opinions sent by national parliaments to the Commission in 2020 concerned the response to the Covid-19 crisis, which demonstrates their strong engagement and oversight in times of crisis.<sup>44</sup>

74. In addition to bilateral political dialogue between EU institutions and national parliaments, there exists a number of inter-parliamentary fora bringing together national parliaments of EU member States, such as:

- the inter-parliamentary Conference on Stability, Economic Coordination and Governance in the European Union;
- the inter-parliamentary conferences for the Common Foreign and Security Policy and the Common Security and Defence Policy;
- the Europol Joint Parliamentary Scrutiny Group;
- the inter-parliamentary committee on the evaluation of Eurojust activities;
- the high-level inter-parliamentary Conference on Migration and Asylum;
- the inter-parliamentary conferences on “the European Green Deal and the Common Agricultural Policy (CAP)” and “for a social and fair Europe”.

75. It should be kept in mind that the EU has also established strong co-operation with national parliaments of non-EU member States in the context of its external relations, such as Euronest Parliamentary Assembly – bringing together a delegation of the European Parliament and delegations from the EU's Eastern European Partners – or the European Parliament–Western Balkans Speakers' Summit, which held its second edition in 2021.

76. Against the backdrop of this intense political dialogue involving national parliaments who are also represented in the Parliamentary Assembly of the Council of Europe, I think it is not only possible but also necessary to further strengthen the strategic partnership between the Assembly and the European Parliament.

77. As mentioned above, [Resolution 2277 \(2019\)](#) and [Recommendation 2153 \(2019\)](#) “Role and mission of the Parliamentary Assembly: main challenges for the future”, already highlighted the need to step up political dialogue between our Assembly and the European Union. The report was based on the findings of the Ad hoc Committee of the Bureau, which was set up in 2017 upon the proposal of Mr Michele Nicoletti, former President of the Assembly, to improve the Assembly's efficiency and impact, and enhance its political relevance.

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42. [State of Play Note | Subsidiarity and IPD | Relations with National Parliaments | European Parliament \(europa.eu\)](#).

43. [Home \(cosac.eu\)](#).

44. [Annual reports on the application of the principles of subsidiarity and proportionality and relations with national Parliaments | European Commission \(europa.eu\)](#).

78. As regards the relations with the European Union, many contributors highlighted the need to build up common synergies and partnerships with the European Union, in particular with the European Commission and the European Parliament, as this would prevent unnecessary duplication of work and resources.

79. Concrete proposals included setting up a network of European parliamentarians, comprising the Assembly, national parliamentarians and members of the European Parliament, to co-ordinate political action and create permanent channels of communication, or establishing direct contacts with the COSAC.

80. Earlier Assembly resolutions,<sup>45</sup> based on reports prepared by the Committee on Political Affairs and Democracy, made similar proposals, including:

- pursuing the work of the Assembly–European Parliament Joint Informal Body to discuss topical issues of common interest, in a variable composition;
- setting up regular meetings of chairpersons of relevant committees from the two bodies;
- organising joint events with the European Parliament interparliamentary conferences;
- updating the 2007 agreement on strengthening co-operation between the Assembly and the European Parliament to take into account post-Lisbon developments.

81. I believe that specific areas in which co-operation can be envisaged include:

- how to strengthen parliamentary democracy;
- protecting the integrity of the electoral process against emerging threats;
- countering disinformation and protecting freedom of expression;
- guaranteeing the good functioning of democratic institutions and prevent threats to the rule of law;
- how to develop mechanisms of participatory and deliberative democracy to complement representative democracy and strengthen the legitimacy of the political decision-making process;
- inter-parliamentary co-operation;
- how to strengthen co-operation in the area of election observation;
- strengthening democratic governance and good administration as a way to reinforce the rule of law and enhance the citizens' trust in public institutions;
- digitalisation: a challenge and an opportunity for parliaments;
- the contribution of parliamentary diplomacy to supporting rules-based multilateralism;
- the right to a healthy environment;
- addressing the socio-economic consequences of Covid-19.

82. In the face of the Russian aggression against Ukraine, I believe that members of the Assembly and members of the European Parliament should come together to hold a debate on the implications of this major event on the European multilateral architecture and democratic security in Europe.

## 6. Conclusions

83. More than a decade since the entry into force of the Lisbon Treaty, this report expresses appreciation for the state of co-operation between the Council of Europe and the European Union. Despite the huge disparity in terms of resources, competencies and powers, the two organisations have been able to avoid major duplications, to work in synergy and complementarity and have even enhanced their political and technical dialogue, achieving what can be defined as a strategic partnership. The accession of the European Union to the European Convention on Human Rights will represent a historical step in sealing this relationship.

84. The Council of Europe and the European Union are based on the same values, principles and aspirations. In the face of the dramatic events unfolding in Ukraine, it is necessary more than ever to continue to strengthen our partnership with a view to reaffirming the relevance of the Council of Europe as the reference organisation for promoting democracy, human rights and the rule of law and providing, therefore, the very foundations for democratic security in Europe.

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45. [Resolution 1836 \(2011\)](#), [Resolution 2029 \(2015\)](#).