

# BEYOND THE LISBON TREATY: STRENGTHENING THE STRATEGIC PARTNERSHIP BETWEEN THE COUNCIL OF EUROPE AND THE EUROPEAN UNION

**Assoc. Prof. Titus CORLĂȚEAN, PhD**

*Christian University "Dimitrie Cantemir", Bucharest, Romania*

*Visiting scholar 2018/2019 at Harvard University –*

*Center for the Study of World Religions\**

*titus.corlatean@senat.ro*

---

## **ABSTRACT: Beyond the Lisbon Treaty: Strengthening the Strategic Partnership Between the Council of Europe and the European Union.**

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 organizations, at the level of a Strategic partnership. Since then, the Council of Europe and the European Union have consolidated this partnership, based on the three pillars of enhanced political dialogue, stronger legal co-operation, and a wide range of joint co-operation programmes. Goals such as the accession of EU to the European Convention on Human Rights will strongly enhance this co-operation.

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\*.

**Keywords:** *Council of Europe, European Union, strategic partnership, human rights, Convention, accession, multilateralism, democracy, rule of law.*

---

## I. Introduction

On 26 April 2022 the Parliamentary Assembly of the Council of Europe (PACE) adopted in Strasbourg the Resolution 2430 (2022)<sup>1</sup>, the Recommendation 2226 (2022)<sup>2</sup> and the report of its Committee on political affairs and democracy<sup>3</sup> with the title: “Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union.”

When starting the preparation of this report, the intention of the rapporteur was to take stock of the cooperation between the Council of Europe and the European Union (EU) and suggest areas where their interaction could be improved.

The Russian Federation’s large-scale aggression against Ukraine has added urgency and relevance to this report.

Using the expression strategic PARTNERSHIP to describe the cooperation between the Council of Europe and the European Union has never been more meaningful than in the current historical context.

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<sup>4</sup>. Items like the fundamental human rights and liberties, such as the right to life<sup>5</sup> (seen as intangible<sup>6</sup>), the right to liberty and security, the freedom of thought, conscience and religion (so important, as

---

\* The author is grateful to Sonia Sirtori, the Head of the Political affairs and democracy Department, Parliamentary Assembly of the Council of Europe, for her support.

1 See “Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union”, Report | Doc. 15495 | 08 April 2022, Summary, <https://pace.coe.int/en/files/29900/html>

2 <https://pace.coe.int/en/files/29991/html>

3 <https://pace.coe.int/pdf/d55612f885088b3e40a108ea7236a1691b7254151ecb61aaa6febf701bb430a/recommendation%202226.pdf>

4 Rapporteur Titus Corlăţean, Romania, SOC

5 Explanatory memorandum by Mr Titus Corlăţean, rapporteur; <https://pace.coe.int/en/files/29900/html>

6 See the “European Convention on Human Rights, article 2, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf); also see the “EU Charter of Fundamental Rights”, article 2, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

we saw, during the Pandemic...), the freedom of expression or the freedom of assembly and association, so pertinent for both European organizations, became even more relevant in the current context of social-economic, health and international security challenges.

For 30 years the PACE has been examining the relations between the Council of Europe and EU and consistently calling for the EU accession to the European Convention on Human Rights<sup>7</sup>. The foundation of the partnership became 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”<sup>8</sup>. Over the last 12-13 years, the PACE adopted several reports, resolutions and recommendations on the synergies developed between the Council of Europe and EU bodies, their co-operation, but also on the increasing risk of overlapping of their specific domains of competences.

Essentially, the Resolution 2430 (2022) and the above mentioned report emphasised the following...

## II. Synergy while avoiding duplications

Following the entry into force of the Lisbon Treaty in 2009, the European Union expanded its activities into areas covered by the mandate of the Council of Europe touching upon democracy, human rights and the rule of law.

This increased the focus on these values in EU member States *domestically*. It also positioned the European Union as a key player and a strong promoter of those values *internationally*, through its external action.

Given this overlapping of competences, however, the Lisbon Treaty made it even more crucial to avoid duplications and the risk of diverging standards between the two Organisations.

Thanks to an intense political and technical dialogue, these risks have been largely averted. But it is only through synergy that the two Or-

---

7 Harris, O' Boyle & Warbrick, *Law of the European Convention on Human Rights*, p. 66-67

8 Beyond the Lisbon Treaty..., revised preliminary draft report, AS/Pol (2022) 02, 24 January 2022, Apdoc02\_22, Restricted, item 2 para. 8

ganisations can enhance each other's impact and tackle the challenges confronting Europe.

### **III. Democracy**

In order to reinforce the democratic security of European States, it has become imperative to reverse the backsliding of democracy, protect the integrity of democratic processes against external interference and innovate the 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.

### **IV. Rule of law**

Strong and resilient democracies are based on the scrupulous respect of the rule of law. Since the entry into force of the Treaty of Lisbon, the EU has introduced a large range of tools to tackle threats to the rule of law in its member States. Given that all EU member States are also Council of Europe member States, the active involvement of the Council of Europe in the preparation of the EU Rule of Law Report is certainly to be welcome. The European Union should rely even more extensively on the Council of Europe's expertise, benchmarking and monitoring findings in this area. Bodies such as the Venice Commission, GRECO, Moneyval or the European Court of Human Rights and its jurisprudence are fundamental pillars provided by the Council of Europe from this perspective.

### **V. Human Rights**

By establishing the European Union's legal personality, the Lisbon treaty 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 made EU accession to the European Convention on Human Rights a legal

obligation, therefore creating the basis for the creation of single human rights space on the European continent.

The Assembly welcomed the resumption, in 2020, of the negotiations on the European Union's accession to the European Convention on Human Rights and called for this process to be pursued with resolve.

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 and its additional Protocol and participates, in different capacities, in several partial agreements, including GRECO. The Assembly therefore invited the Council of Europe and the European Union to further strengthen and formalize their legal co-operation, with a view to avoiding duplication of efforts and preventing the emergence of diverging legal standards.

## **VI. Enlargement and multilateralism**

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 openly challenged. These trends had already been visible for some time; the Covid-19 pandemic amplified some of them, in addition to heightening socio-economic tensions and increasing global inequalities.

The Russian Federation's aggression against Ukraine has added another layer of complexity to the current situation.

In the light of the new geopolitical context, it should be recognised that the prospect of EU membership represents a factor of stability in Europe. At the same time, the Council of Europe should 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.

From this perspective, it is important to be mentioned the fact that in the area of EU enlargement, the Council of Europe has played a historic role, promoting and consolidating the development of democracy, human rights and rule of law standards in central and eastern European countries and enabling them to meet the criteria for EU accession. In the same vein, the Council of Europe should continue to be an asset and an engine to sustain reforms and generate progress in the context of the EU enlargement process.

While the Western Balkans and the Eastern Partnership countries are neighbourhood for the European Union, they are member States of the Council of Europe. There is, therefore, a continued, profound relationship between the two Organisations, as the standards, monitoring mechanisms and scrutiny carried out by the Council of Europe on its member States lead to stronger democracies, contributes to the goal of EU integration, and help position the EU as a global actor.

In the same time, the PACE also affirmed the conviction 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.

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. Societal and technological developments create new opportunities but also new challenges. While these trends were already visible before, the Covid-19 pandemic has amplified some of them, in addition to heightening socio-economic tensions and increasing global inequalities. It is in this general context that the EU has taken a strong stand in support of rules-based multilateralism. The two organisations can work more closely together to promote multilateralism and intergovernmental co-operation as opposed to inward-looking approaches and unilateralism

As a consequence, the PACE strongly supported the initiative to organize the fourth Summit of the Council of Europe, decision that was taken recently, on November 7 by the Committee of Ministers of the organization based in Strasbourg.<sup>9</sup>

## VII. Conclusion

In the face of a new dividing line in Europe, the strategic partnership between the Council of Europe and the European Union must be the anchor of European stability.

---

<sup>9</sup> Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union, Report | Doc. 15495 | 08 April 2022, Explanatory memorandum by Mr. Titus Corlăţean, rapporteur, item 2 para. 5, <https://pace.coe.int/en/files/29900/html>

In the face of violent threats to the rules-based world order, the common attachment of both European organizations to the values of democracy, human rights and the rule of law must be the compass to guide their actions, to deliver prosperity, democratic security and peace for European citizens.

## References:

- ✦ Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union, Report | Doc. 15495 | 08 April 2022, Explanatory memorandum by Mr. Titus Corlățean, rapporteur, item 2 para. 5, <https://pace.coe.int/en/files/29900/html>
- ✦ Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union, revised preliminary draft report, AS/Pol (2022) 02, 24 January 2022, Apdoc02\_22, Restricted, item 2 para. 8, <https://pace.coe.int/>
- ✦ European Convention on Human Rights, Article 2, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf);
- ✦ EU Charter of Fundamental Rights, article 2, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>
- ✦ Harris, O' Boyle & Warbrick, *Law of the European Convention on Human Rights*, p. 66-67
- ✦ <https://www.coe.int/en/web/portal/-/4th-summit-of-heads-of-state-and-government-of-the-council-of-europe>



Parliamentary Assembly  
Assemblée parlementaire

<https://pace.coe.int>



Resolution 2430 (2022)<sup>1</sup>

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

Parliamentary Assembly

1. In 2009, the entry into force of the Treaty of Lisbon ushered the European Union into a new phase of European integration, placing democracy and respect for the rule of law and human rights at the forefront of the European Union's policies. This emphasis on issues which are at the core of the 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, which was 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 reframe the co-operation between the Council of Europe and the European Union from a new perspective. In the 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 functioning of democratic institutions, notably through greater citizen engagement. The choice of "A new push for European democracy" as one of its six political priorities and the adoption of the "European Democracy Action Plan" show a clear understanding of this need on the part of the European Commission. Similarly, the Conference on the Future of Europe, the first exercise of participatory democracy at European Union level, has explored new ways to involve ordinary citizens in the European Union's decision-making process.

4. Strong and resilient democracies are based on scrupulous respect for the rule of law. The Assembly takes note of the paucity 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 European Union 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 European Union's "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 respect for 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

1. *Assembly debate* on 26 April 2022 (11th sitting) (see Doc. 15495, report of the Committee on Political Affairs and Democracy, rapporteur: Mr Titus Corlăţean). *Text adopted by the Assembly* on 26 April 2022 (11th sitting).

See also Recommendation 2226 (2022).





*Resolution 2430 (2022)*

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 Charter of Fundamental Rights of the European Union to a European Union Treaty and made the accession of the European Union to the European Convention on Human Rights (ETS No. 5, the Convention) 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 the Council of Europe, as indicated in the Strategic Framework of the Council of Europe 2022-2025. The Assembly reaffirms its confidence that accession will help guarantee coherence and consistency between European Union law and the Convention system and will lead to a single legal space in which the European Union is also subject 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 Council of Europe International Co-operation Group on Drugs and Addictions (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 effort and preventing the emergence of diverging legal standards in Europe.

8. As regards the European Union's enlargement, a number of Council of Europe member States, including Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and Turkey, while 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 European Union membership represents a factor of stability in Europe, especially in the 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 "Joint Communication to the European Parliament and the Council 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 view of 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 duplication 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 European Union mechanisms and tools regarding the rule of law;

10.5. pursue with resolve the negotiations aimed at achieving the accession of the European Union 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 the accession of the European Union to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210);

*Resolution 2430 (2022)*

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 European Democracy Action Plan and, in general, of the European Commission's priority "A new push for European democracy" to ensure convergence of action;

10.9. develop structural dialogue and concertation with the Council of Europe in the context of the European Union enlargement process, with a view to providing more effective support to Council of Europe member States that aspire to membership of the European Union 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 interparliamentary activities set up in the context of dialogue of the European Union with countries from the Eastern Partnership and the 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 interparliamentary co-operation and the new role of national parliaments in the European Union's 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 events at the level of committees and/or European Parliament delegations concerning relations with non-member States of the European Union;

12.1.3. the mutual invitation of rapporteurs to provide input to 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 citizens' trust in public institutions;

12.2.6. strengthening the contribution of parliamentary diplomacy to supporting rules-based multilateralism;

12.2.7. promoting 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.