

**Introduction**  
**Seminar**  
**The Relation between the European Union and the Council of Europe –**  
**Towards new complementarity and cooperation**  
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I.

The Preamble of the Constitution of the European Union opens with the words "Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law, ...".

The European Union and the Council of Europe both embody these values. All EU member states are also members of the Council of Europe. All the new EU member states were in the Council of Europe prior to accession to the EU.

Since the founding of the Council of Europe and since the Treaty of Rome, Europe has changed and developed and this evolution is reflected in Europe's institutional architecture.

At a time when many people are wondering how much more enlargement the EU can actually handle, at a time when many people have doubts about the point of a European Constitution, at a time of mounting social tension at the heart of Europe – in France, but also in Britain or Germany – we have to ask ourselves: Where are we going? What can the EU do? What role should the Council of Europe play?

Positioning the Council of Europe in the European architecture was therefore also the unwritten leitmotif of the Warsaw Summit, the third Summit of Council of Europe Heads of State

and Government since the fall of the Wall. Today, the Council of Europe embraces practically all of Europe, with the exception of Belarus.

In Warsaw, the Heads of State and Government declared the creation of a united Europe based on democracy, human rights and the rule of law to be the central task of the Council of Europe. It forms the bond between the pro-integration EU and the outer ring which shares the aforementioned European cultural values with the EU without however being part of it.

European Neighbourhood Policy is practically unthinkable without close cooperation with the Council of Europe, or at the very least questionable. The European Union and the Council of Europe have to see each other as partners, of course different but certainly not rivals. When it comes to Europe's core values, rivalry does not breathe life into our work, rather hampers it. As a result, the Heads of State and Government of the Council of Europe agreed at their third Summit in May in Warsaw:

- The central tasks of the Council of Europe are and remain: democracy, human rights and the rule of law.
- The complementarity of the Council of Europe with other organizations involved in building a democratic and secure Europe has to be improved and consolidated.
- A new framework for improved cooperation and interaction between the Council of Europe and the European Union has to be created.

Behind all this were of course the endeavours to regain the influence on Russia that had been lost.

## II.

Despite important work in all sectors relevant to promoting democracy, the Council of Europe ekes out an existence in the shadows. With insufficient financial resources and only equipped with evaluation mechanisms since 2000, many tasks and objectives overlap those of the EU and the OSCE. The European Convention on Human Rights is seen by many as the foundation of a shared constitutional law in Europe - not just in Strasbourg. Let me just remind you of the ideas penned by the international law expert Albert Bleckmann as early as 1986 about linking the European Community to the European Convention on Human Rights.

At the Summit, the much-lamented duplicated work in many spheres (election observation, courses and seminars on judicial reform and training) between all three European organizations and the United Nations was to be channelled into a new dimension of coordinated cooperation. Above all, the three central spheres of the Council of Europe's work (democracy, the rule of law and human rights) must, according to the Summit papers, be better coordinated. This features in both the Declaration and the Action Plan. During the Summit discussions, Jean-Claude Juncker was mandated to draw up a report on cooperation between the EU and the Council of Europe.

"10. We are determined to ensure complementarity of the Council of Europe and the other organisations involved in building a democratic and secure Europe:

We are resolved to create a new framework for enhanced co-operation and interaction between the Council of Europe and the European Union in areas of common concern, in particular human rights, democracy and the rule of law.

We entrust our colleague, Jean-Claude Juncker, to prepare, in his personal capacity, a report on the relationship between the Council of Europe and the European Union, on the basis of the decisions taken at the Summit and taking into account the importance of the human dimension of European construction."

A second point which also warrants attention is the promotion of civil society. Reading between the lines, the Council of Europe is perhaps admitting that it has not yet paid due attention to this issue. In 2003, the transversal project "Making democratic institutions work" was concluded. For the first time, we see the presentation of ideas on the methods and focus of the promotion of democracy by the Council of Europe. The Forum, as conceived by the Heads of State and Government gathered in Warsaw, is to interpret forms of democratic participation in a contemporary way. It is to facilitate the exchange of ideas, information and best practices, and dovetail concepts such as good governance and democratic institution-building. There are individual spheres dealing with this topic in the Council of Europe. One conceivable and useful addition to the Summit mandate which has not yet been mentioned would be to place this Forum in the context of the overall statement of the Summit. This would open the way for closer strategic coordination and cooperation between the Council of Europe and other organizations, first and foremost the EU, when it comes to further developing participatory rights of civil society.

Excerpt from the Warsaw Declaration, 17 May 2005

"3. We are convinced that effective democracy and good governance at all levels are essential for preventing conflicts, promoting stability, facilitating economic and social progress, and hence for creating sustainable communities where people want to live and work, now and in the future. This can only be achieved through the active involvement of citizens and civil society. Member states must therefore maintain and develop effective, transparent and accountable democratic institutions, responsive to the needs and aspirations of all. The time has come to intensify our work within the Council of Europe to this effect, in particular through the establishment of the Forum for the Future of Democracy."

There are only a few theoretical or empirical studies concerning Council of Europe work to promote democracy since 1989. Buzzwords such as democratic security and democratic stability were circulated a few years ago within the General Secretariat but were lacking in content. The faithful trinity of the Council of Europe remained and indeed remains to this day: democracy, the rule of law, human rights. This trinity has not been called into question by changing the key words.

A further point on the (hidden) agenda of the Warsaw Summit was the aim of fetching the major power Russia back into the "Club of Democracies". Some observers portray the brief shared history of the Council of Europe and Russia as a tale of dashed hopes. Since the year 2000, there has been no lack of suitable political declarations from Russia, yet progress on democracy, the rule of law and the protection of human rights could be better. Despite regular comments and reports and ongoing monitoring by all organs of the Council of Europe, the legally binding commitments and obligations taken on by Russia upon accession are far from being honoured. Let me point here in particular to the most recent monitoring report of the Parliamentary Assembly by the members Rudolf Bindig and David Atkinson. I can heartily recommend this report to all those interested in Russia. Rulings by the European Court of Human Rights against Russia have only been executed in part.

In six months time, Russia will for the first time assume the chairmanship of the Council of Europe. Here we have to take due care and display the relevant political sensitivity to ensure Russia does not become a manifest problem for the Council of Europe. Taking the one-time super power into the family of European democracies in 1996 was the right decision. Granting it the status of a main financial contributor at its own request was a further politically sound move. This meant Russia made a commitment to the very values that underpin the Western European democracies – a commitment that was echoed in material contributions. It is right today as it was back then, six years after the fall of the Wall. Nevertheless we must not over-

look the dangers and risks. One danger I see is that we are forcing the development process in Russia too much and thus overburdening the possibilities by forcing Russia to respect Council of Europe minimum standards in terms of democracy, the rule of law and human rights with immediate effect and to the letter. Conversely, we must not lower our demands too much, whether to display political realism, avoid annoying Russia or even risk losing it as a Council of Europe member. We must not lose sight of the hopes of the dedicated democrats in Russia. We will need great diplomatic skill to strike the right balance. It will be difficult, indeed very difficult to stand up to history and the judgement of coming generations. Our policy towards Russia must never be deemed a policy of missed opportunities. Yet in turn, the Council of Europe can never become a forum of confrontation when it comes to Russia.

Russia's reason for joining the Council of Europe was originally that it was a European forum without the United States. This is no longer enough. The Warsaw Summit in 2005 thus also had the goal of strengthening the bonds between the EU and the Council of Europe, the OSCE and the UN to fetch Russia back into the family of European democracies. This is to happen through institutional developments and integration. We should avoid entering the comfort zone which would later be seen as a policy of missed opportunities.

At this point, reference can also be made to other states which somehow belong to the association of European states which however at the current time, for some time or perhaps even for the foreseeable future will not have the opportunity to align themselves to the EU and be integrated into it.

### III.

The Warsaw Summit points to a Council of Europe which on the one hand leans closely towards the EU and on the other hand offers different solutions for European states not in the EU family to make bonds and move closer to it. We now face the task of transforming this vaguely formulated mandate into a realistic political blueprint. The report by Jean-Claude Juncker can make a major contribution.