



**Draft memorandum of understanding on the
strengthening of co-operation between the
Council of Europe and the European Union**

Revised draft by the Secretary General

20 February 2006

Explanatory note

The Secretary General welcomes the text of the Memorandum of Understanding submitted by the British Chairmanship of the European Union. However, as was clearly stated by the Permanent Representative of the United Kingdom when he presented the text at the CM-Suivi3 meeting of 19 January 2006, this draft “is a platform, not a ceiling”. As one of the future signatories of the Memorandum of Understanding, the Secretary General considers it his duty to put forward proposals to improve the present text, in order to create the “new framework of enhanced co-operation and political dialogue”, which was called for by the Heads of State and Government in Warsaw.

The enclosed revised draft is based on the text of the British EU Chairmanship. The changes which have been made to the original text concern both the structure and the content; an effort has also been made to make the text more readable and user-friendly.

- As regards the structure, the text endeavours to organise the Memorandum of Understanding in a more logical order, thus avoiding repetition, around three main questions:
 - Why do we co-operate?
 - What is the substance of our co-operation?
 - How do we co-operate?

In addition, the Secretary General considers that, in a world where communication is vital, it is also important to look at how we communicate and transmit our common message to Europeans.

Finally, the Secretary General considers that for the Memorandum of Understanding to be accomplished, it should be able to adapt to new institutional developments in Europe. For this reason, it is proposed to foresee a review procedure after five years’ experience.

- As regards the content, the text aims at achieving more balanced cooperation between the two institutions by:
 - sharpening the focus of the text by replacing mere intentions by concrete commitments;
 - establishing the practice of consultation and exchange of information at both political and technical levels, in a regular and more structured way and including, the parliamentary dimension;
 - promoting the best possible use of all existing structures, instruments, processes and initiatives for wider use by both institutions;
 - better harmonising the respective legal instruments and norms in relevant fields of activity;
 - enhancing the overall level of responsibility for relations between the two institutions in both the European Union and the Council of Europe, as well as that of their respective representations.

Revised draft by the Secretary General

The two institutions,

Based on their shared values of pluralistic democracy, rule of law and respect for human rights and fundamental freedoms, which form the foundation of democratic stability and security to which our societies and citizens aspire;

Acknowledging that their common commitment to the protection and promotion of these values will bring greater cohesion to Europe and further overall unity;

Recognising the unique contribution of the European Convention on Human Rights and the European Court of Human Rights to the protection of the rights of individuals;

Recalling the decisions taken at the Council of Europe's Third Summit of Heads of State and Government held in May 2005 in Warsaw on the relationship between the Council of Europe and the European Union;

Recognising the call to create an enhanced framework for future co-operation and political dialogue between the two organisations based on the guidelines contained in Chapter IV of the Summit's Action Plan;

Building upon the good relations already enjoyed by the European Union and the Council of Europe as set out in the Arrangement between the Council of Europe and the European Community concluded on 16 June 1987, complemented by the exchange of letters of 5 November 1996 and the Joint Declaration on co-operation and partnership between the Council of Europe and the European Commission signed on 3 April 2001;

Conscious that deepening and extending their current co-operation, taking into consideration the respective comparative advantages of the two organisations, will result in an increased efficiency of their activities in Europe;

Have decided upon the present text in order to create the new framework for enhanced co-operation, interaction and political dialogue for the benefit of the European Union and all Council of Europe member States as envisaged in the Warsaw Summit.

I. *Why will we co-operate?*

1. The Council of Europe and the European Union will take all necessary action to uphold their shared values and strengthen their common commitment by deepening co-operation, by exchanging views on respective policies and by developing and carrying out common strategies and programmes in areas of common interest. These will contribute to the protection and promotion of human rights, democracy and the rule of law, improve the democratic stability and prosperity of our member States and promote wider European integration.
2. Both organisations will work closely together to maintain and further develop their common standards in these areas. They will stand ready to assist their respective member States in meeting them.
3. The Council of Europe and the European Union will carry out regular and close consultations at both political and technical level and extend their co-operation to all areas where it is likely to bring added value and strengthen complementarity of action.

II. *Where will we co-operate?*

1. The Council of Europe and the European Union will strengthen their relations and cooperation in areas of shared priority such as:
 - a. human rights and fundamental freedoms;
 - b. the rule of law;
 - c. pluralist democracy and good governance on all levels;
 - d. fight against all forms of discrimination, racism and xenophobia;
 - e. social cohesion;
 - f. intercultural dialogue, cultural diversity and democratic citizenship.
2. They will continue to develop joint programmes and to co-operate through specialised Council of Europe structures,¹ Council of Europe partial agreements,² processes and initiatives³ and appropriate institutions of the European Union.

¹ Structures such as the Committee for the Prevention of Torture, the European Commission against Racism and Intolerance, the European Committee on Social Rights, the European Commission for the Efficiency of Justice.

² Such as the Venice Commission, the Group of States against Corruption, the Council of Europe Development Bank, the European Directorate for the Quality of Medicines/European Pharmacopoeia, the Pompidou Group (co-operation group to combat drug abuse and illicit trafficking in drugs), the European Audio-visual Observatory, the Centre for Modern Languages (Graz) and the European Support Fund for the Co-Production and Distribution of Creative Cinematographic and Audiovisual Works (Eurimages).

³ Such as the Forum for the Future of Democracy, Select Committee of experts on the evaluation of anti-money laundering measures (Moneyval), the Centre of Local Government Expertise, and the future Centre for interregional and transfrontier co-operation and the Faro Open Platform for intercultural dialogue.

3. The co-operation between the Council of Europe and the European Union will focus on activities such as:

1. *Human rights and fundamental freedoms*

1. The Council of Europe's standard-setting role with regard to human rights, as embodied in the European Convention on Human Rights, is fully recognised as the reference for European Union/European Community law.

2. The European Community will secure coherence of Community and European Union Law with the obligations contracted by European Union member States under the Council of Europe Conventions to which they are parties and primarily the European Convention on Human Rights.

3. Early accession of the European Union to the European Convention on Human Rights will strongly contribute to ensuring coherence in the field of human rights in Europe. Preparatory work will be conducted without delay so that accession can take place once the legal developments will enable such accession.

4. Co-operation between the European Union and specialised Council of Europe bodies will be reinforced to make full use of Council of Europe expertise in the area of human rights and fundamental freedoms, including where it comes to the protection of persons belonging to national minorities, the fight against discrimination, racism and intolerance, the freedom of expression and information and the trafficking in human beings.

[5. The future European Union Agency for Fundamental Rights, once established, will strengthen the European Union's efforts to ensure respect for fundamental rights within the framework of the European Union. The Agency, notably through the participation of the Council of Europe in its management and executive bodies will constitute an opportunity to further increase co-operation with the Council of Europe and its various organs, and contribute to greater coherence and enhanced complementarity in the field of human rights and fundamental freedoms, including in the field of racism and xenophobia.]

2. *Legal co-operation*

1. Legal co-operation will be developed further. It will aim, amongst others, for greater complementarity between Council of Europe legal instruments and European Union/European Community legislation, for the benefit of all European citizens.

2. The European Union/European Community will strive to transpose those aspects of Council of Europe Conventions which fall within their competence, into European Union/European Community law. For its part, the Council of Europe will, in its Conventions, strive to build on, and expand to its member States, the normative work of the European Union/European Community.

3. The European Community will consider, on a case-by-case basis, accession to Council of Europe Conventions and involvement in Council of Europe mechanisms.

4. The European Community will consider possible accession to the Council of Europe Partial agreements, such as the European Commission for Democracy through Law (“Venice Commission”) and to the Group of States against Corruption (GRECO).

3. *Democracy and good governance*

1. The two organisations will draw on each others expertise and processes, in particular using the Council of Europe's Centre of local government expertise for capacity building in local and regional democratic governance, and the Forum for the Future of Democracy for promoting democratic debate and innovation.

4. *Education, cultural diversity and intercultural dialogue, youth policy and education for democratic citizenship*

1. The Council of Europe and the European Commission will further develop joint programmes and joint activities in these areas.

5. *European Union’s Neighbourhood Policy and Stabilisation and Association processes*

1. These will constitute a privileged area of action to implement the enhanced framework of cooperation between the Council of Europe and the European Union.

2. As regards the European Union process of enlargement, the development and implementation of the European Neighbourhood Policy Action Plans priorities and the Stabilisation and Association process, the European Union will regularly draw on the special expertise of the Council of Europe with regard to respect for human rights, the rule of law and democratic stability. The European Union will take into consideration Council of Europe member States’ observance of their obligations and commitments. All Council of Europe member States have equal statutory obligations.

3. The Council of Europe and the European Union will create in their respective regulations (including financial ones) the proper basis for their increased co-operation.

4. The European Centre for Global Interdependence and Solidarity and the Faro Open Platform, which the European Union could join, will contribute to this process with the countries of the Mediterranean basin benefiting from the EU Neighbourhood policy, in particular in the area of intercultural dialogue and mutual understanding.

IV. *How will we co-operate?*

1. The new framework for enhanced co-operation between the European Union and the Council of Europe will include the following practices:

- a. reinforced dialogue on policy issues to identify joint priorities and elaborate common strategies with a medium or long-term perspective
- b. development of common views and initiatives, including through the harmonisation of positions in other *fora* (such as the United Nations),
- c. further co-ordination of operational activities in priority areas;
- d. consultation between networks/bodies with activities in the same priority area;
- e. co-ordination of action in and with beneficiary countries;
- f. organisation of joint activities and events;
- g. establishment of direct links between the institutions' websites,

through regular consultations between the Council of Europe Committee of Ministers and its rapporteur groups and/or the Secretary General and/or his/her representative, and relevant preparatory Committees and working groups of the European Council⁴.

[2. The European Parliament and the Parliamentary Assembly of the Council of Europe will reinforce their co-operation in order to further strengthen the parliamentary dimension of the co-operation between the Council of Europe and the European Union, in line with their respective Rules of Procedure.⁵]

3. Overall responsibility for the relations between the Council of Europe and the European Union will be put at the highest level of responsibility in each institution.

4. In addition to the regular "Quadripartite" meetings, ad hoc quadripartite consultations will be held on topical matters of common interest. More frequent consultations between the Presidency/Troika of the European Union and the Chairmanship of the Committee of Ministers and Secretary General of the Council of Europe will take place on an informal basis in Strasbourg and at PSC level biannually. An exchange of views between the Secretary General of the Council of Europe and the Committee for Policy and Security (COPS) will take place at least twice a year.

⁴ Such as the Political and Security Committee (PSC), the Working Party on Human Rights (COHOM), the Working Party on Terrorism (COTER), the Working Party on Eastern Europe and Central Asia (COEST), the Working Party on the Western Balkans Region (COWEB), the Working Party on OSCE and the Council of Europe (COSCE).

⁵ Rule 189 of the European Parliament's Rules of Procedure:
"Co-operation with the Parliamentary Assembly of the Council of Europe
 1. *Parliament's bodies, particularly the Committees, shall co-operate with their counterparts at the Parliamentary Assembly of the Council of Europe in fields of mutual interest, with the aim in particular of improving the efficiency of their work and avoiding duplication of efforts.*
 2. *The Conference of Presidents, in agreement with the competent authorities of the Council of Europe, shall decide the arrangements for implementing these provisions. "*

Proposed additional Rule in the Parliamentary Assembly's Rules of Procedure:

"Co-operation with the European Parliament

1. *The Bureau of the Assembly shall, in agreement with the relevant organ of the European Parliament (Conference of Presidents), decide the arrangements for co-operation of both institutions.*
2. *On the basis of these arrangements, the Assembly's bodies, particularly the committees, may co-operate with their counterparts of the European Parliament in fields of mutual interest."*

5. The Council of Europe Secretariat and the European Commission and the General Secretariat of the Council of the European Union will develop further their exchange of views in areas of their competence. These exchanges of views, including the Senior Official meetings, will take place at least once a year and will cover all areas of mutual interest. They will aim at discussing current policy, identify possible future action, review progress of ongoing co-operation and ensure complementarity of action.

6. The Committee of Regions and the Congress of Local and Regional Authorities are encouraged to reinforce their co-operation, building on their agreement of 13 April 2005, with a view to deep-rooting the principles of local democracy and subsidiarity in Europe.

7. The Council of Europe Human Rights Commissioner and relevant European Union institutions are encouraged to enhance their co-operation.

[8. Contribution of Civil Society to bring the European process closer to the citizens will be enhanced by both institutions, including through the Conference of International Non-Governmental Organisations of the Council of Europe.]

9. Systematic consultation at the earliest possible stage on draft texts of European Union/European Community law and Council of Europe Conventions will be held, possibly through participation in the respective preparatory structures and meetings.

10. The European Union will further improve the co-ordination of its actions and will strengthen its presence in Strasbourg, including by establishing permanent offices of the European Commission and of the General Secretariat of the Council of the European Union to the Council of Europe as soon as possible. The Council of Europe Liaison Office with the European Union will be enhanced to a full-fledged representation of the Council of Europe to the European Union.

11. The Council of Europe and the European Union will pursue their co-operation in the framework of the Joint Programmes, steered by the annual meeting of Senior Officials of the Council of Europe and the European Commission. In this context, they will draw up objectives, plan activities, monitor Joint Programmes and evaluate their implementation. They will endeavour to agree on common standards for procedures, budget preparation, reporting and auditing of joint programmes.

12. The joint programmes will be financed on an appropriate basis, taking into account the respective comparative advantages.

13. The Council of Europe and the European Union will ensure a constructive exchange of ideas, experience and working methods and examine possibilities of reciprocal secondment of staff.

V. *How do we pass the message?*

1. The two organisations commit themselves to improving co-operation in the field of communication with the aim of increasing awareness and understanding of their shared values, as well as their partnership among both the general public and specialised audiences. They will co-ordinate the calendar of their respective awareness campaigns and will consider possibilities of joint events. They will also consider the possibility of granting common prizes and awards.
2. The European Union and the Council of Europe will seek to optimise the visibility of their joint activity, by developing closer co-operation in all aspects of communication, to bring the joint message of the two organisations closer to the Europeans.

VI. *Review of the Memorandum of Understanding*

1. The Council of Europe and the European Union commit themselves to review their memorandum of understanding within five years after the date of signature, in order to assess the effectiveness of the new framework for enhanced co-operation, and to take into account new developments in the fields of common interest as well as the rapidly evolving European environment.

Signed in duplicate (*English and French*) at on the day of 200....

The President of the
Council of Ministers
of the European Union

The President of the
Committee of
Ministers of the
Council of Europe

The President of the
European Commission

The Secretary General
of the Council of
Europe