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CONSEIL DE L'EUROPE

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Implementation of the fundamental principle of the rule of law

Motion for a recommendation
tabled by Ms Birgen KELEŞ and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

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The principles of the Council of Europe, namely democracy, human rights and the rule of law, are very important contemporary principles and common values. They are also interconnected. So much so that without one the others cannot fulfill their mission properly. For example, if democracy is not pluralistic we cannot then be sure that human rights and the rule of law are practiced in the way they should be. In the same way, if human rights are ignored, no one can claim that democracy and the rule of law are practiced in the right way.

Compatibility with the rule of law is usually evaluated in the light of the implementation of domestic laws and international agreements. But the practice of the rule of law may also be the source of deficiencies in the application of democracy and human rights if it is not practiced in the right way. For example, if people are taken from their homes without any evidence of having committed a crime, or taken into custody without knowing the reason why, or if an investigation is carried out for political motives, or if they are held in custody for months without trial without being given the reasons, this would imply that something had gone very wrong in the application of the "rule of law". This would also mean an infringement of other principles, namely, democracy and human rights. Such issues are no less important than the banning of political parties in a country, and there are examples of such practices in different countries.

The rule of law covers not only the implementation of laws and international agreements but also the independence of the judiciary, the impartiality of judges in their decisions and the suitability of the prosecution process of the rules and regulations. Now that we are trying to improve the structure and working methods of the Council of Europe, whose mission is to safeguard the fundamental principles of democracy, human rights and the rule of law, the time is right to prepare a report to study this situation, its scope and its consequences.

It is both necessary and useful to find out the problems that may arise during the implementation of the rule of law and the possible harm, not only to that principle but also to the principles of democracy and human rights.

Signed (see overleaf)

Signed[1]*:*

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1. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group
UEL: Group of the Unified European Left