



**Doc. 13614**

30 September 2014

## Strengthening the rule of law in South-East European countries through targeted reform of the legal system

### Motion for a resolution

tabled by Mr Bernd FABRITIUS and other members of the Assembly

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

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The Parliamentary Assembly reconfirms its view that a functioning legal system and independent courts are key requirements of the rule of law. A judiciary that is truly independent of political influence forms an indispensable part of the checks and balances between state powers characteristic of democracy within the meaning of the Council of Europe's set of values.

The extent to which the separation of powers is entrenched within a state's institutional structures largely depends on both tradition and social and political characteristics, and it therefore varies significantly from one member State to another. It appears, however, that in certain countries, particularly in the South-Eastern part of Europe, the proper functioning of the legal system prescribed by the constitution is threatened by extra-legal developments.

The public prosecutor's office, in some countries, wields wide-ranging powers over political life in the absence of any mechanisms ensuring accountability; in other countries it functions as a mere drive belt for the executive's control over the judiciary.

Threats to the independence of the courts stem from changes to the composition of judicial self-government bodies within which the influence of the executive has increased, leaving recruitment, promotion and disciplinary action vulnerable to exploitation for political purposes. These threats include the recent phenomenon of so-called vertical interference, involving action by higher courts outside the scope of the usual appeals procedure.

In order to safeguard the rule of law and the separation of powers, the Assembly resolves to investigate any threats to the independence of the judiciary stemming from deficiencies in the system of checks and balances, and to propose practical measures to counter such threats.

*Signed (see overleaf)*



*Signed*<sup>1</sup>:

FABRITIUS Bernd, Germany, EPP/CD  
AGRAMUNT Pedro, Spain, EPP/CD  
BENNING Sybille, Germany, EPP/CD  
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BONNICI Charlò, Malta, EPP/CD  
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SOBOLEV Serhiy, Ukraine, EPP/CD  
STEFANELLI Lorella, San Marino, EPP/CD  
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1. EPP/CD: Group of the European People's Party  
SOC: Socialist Group