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Climate change and the rule of law: baseline study

Motion for a resolution
tabled by the Committee on Legal Affairs and Human Rights

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

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The Council of Europe has over the last decades developed a long-standing expertise in the protection and promotion of democracy, human rights and the rule of law within its member States. Natural catastrophes and abrupt environmental changes due to climate change pose a threat to these very same inherently interconnected core values. Respecting the principles of the rule of law is vital for the protection of fundamental rights within every democratic society. Therefore, it is crucial to assess to what extent climate change might undermine that very principle.

Since the 1972 Stockholm Declaration on the Human Environment, nations have adopted extensive environmental laws and regulations. The first internationally negotiated document to establish the term "environmental rule of law" dates back to 2013 and was adopted by the Governing Council of the United Nations Government Programme. Offering a legal framework for constructing environmental rights has been an essential first step on the path to combat climate change. However, the first global overview of the state of environmental rule of law finds "weak enforcement to be a global trend that is exacerbating environmental threats, despite prolific growth in environmental laws over the last four decades."

This implementation gap demonstrates the need to emphasise practice more than policy. Consequently, the Parliamentary Assembly should draft a report, focusing on and assessing the consequences of climate change *vis-à-vis* the threat it poses to the rule of law and consequently to the capability of States to protect fundamental rights, especially third-generation rights, or "solidarity" rights. These include the right to development, to peace, to a healthy environment and to intergenerational justice. Subsequently, based on those findings, the report should provide comprehensive recommendations aiming to curtail the detrimental effects that climate change has on the rule of law.