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Ensuring full independence and respect for the separation of powers by Constitutional courts

Motion for a resolution

tabled by Ms Laura CASTEL and other members of the Assembly

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

In most Council of Europe member States, Constitutional courts are foremost the high courts responsible for judicial review of legislation and of its conformity with the national Constitution. In other words, they are entrusted with ensuring the Constitution's implementation in the legislative order of the country. As such, they are a key institution for guaranteeing respect for the rule of law in a country, which is a core value of democratic systems.

Constitutional courts are therefore a key safeguard for the system of checks and balances and the separation of powers.

However, in order to carry out these functions satisfactorily, Constitutional courts themselves must fully respect the separation of powers and be independent and free from any undue pressure including that coming from other branches of power.

While Constitutional courts, in particular their composition, appointment of their members, their specific tasks and functioning, may differ from one country to another depending on the historical context, democratic standards and norms have to be applied and their absence cannot be justified by a country's tradition.

In view of the above, the Parliamentary Assembly should examine the functioning of Constitutional courts in member States with a view to establishing standards that should be applied to ensure their full independence and respect for the separation of powers.

Signed (see overleaf)



Signed¹:

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