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EU statement for the working session 9: Rule of law II

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The vision of "a government of laws and not of men" is almost as old as civilization itself. Over two thousand years ago, Aristotle said that the rule of law, which is a system of rules inherent in the natural order, is better than that of any individual. The principle implies that government may only be exercised in accordance with written laws, which have been adopted through established democratic procedures.

Consolidated democracy cannot be achieved without rule of law. No one should be considered to be above or beyond the law, or be denied legal protection. This also holds true in international affairs and the conduct of all countries in their external relations.

The rule of law is primarily reflected on the following general requirements, corresponding to the division of powers in a constitutional and legal order:

- legislative bodies respecting and giving full effect to human rights and fundamental freedoms;
- independence of the judiciary;
- effective access to legal redress;
- equal protection of the law and equality before the law;
- police force in the service of the law;
- administrative authorities, which effectively implement legislation in all fields of social life and promote good governance by ensuring administrative accountability and combating corruption.

These elements are important prerequisites for the consolidation and reinforcement of democratic institutions in all participating OSCE countries.

Many cases are registered today, despite the efforts made, where the rule of law remains elusive. Hatred, corruption, violence and exclusion go without redress. The most vulnerable and therefore weakest groups of societies are often deprived of effective legal remedies, while the few and powerful ones manipulate laws to retain power and accumulate wealth. No one can deny that the rule of law is in jeopardy.

This jeopardy is mainly due to the failure and/or serious deficiencies that often characterize a number of national systems and the unfolding of international crises stemming from the collapse of justice, the defiance of the rule of law and the perpetration of the worst atrocities or appalling crimes and violations of human rights whose victims are very often, as recently proved, innocent civilians, elderly people and even children.

The end of the Cold War witnessed a shift in the attention of the international community from the definition of international human rights norms and standards, to a more active implementation of those standards and democratic principles. Consequently, justice and the rule of law are considered today to be the requirements necessary for the preventive diplomacy, the peaceful settlement of disputes and the harmonious coexistence both at national and international level.

Governments defending the supremacy of the rule of law internally must also respect it in the international field, i.e. in their interstate relations as well as in the international fora. Equally, all countries defending the principle of the rule of law internationally should spare no efforts to have it implemented domestically. Because it is at home where the rule of law should first be respected.

We firmly believe that at the international level, all states need to abide by the existing international framework of rules, which each country must be confident that others will respect and comply with. Respect for the law depends on the understanding that all have a say in making the law and implementing it. This principle applicable domestically in every state should also hold good for our international community. No nation must feel isolated or excluded.

All must be convinced that international law belongs to them, and protects their legitimate interests. Rule of law as an abstract notion is not enough. Laws must be fully implemented, and become a part of our daily lives. It is through the confidence of the society in the impartial application of laws, that we can hope to give life to societies devastated by conflict.

Those who are elected for public office are accountable to the citizens who voted for them. There should also be accountability between the different branches of power in the same country, a separation of powers that provides adequate checks and balances.

The recent Human Dimension Seminar on Upholding the Rule of Law and Due Process in Criminal Justice Systems (Warsaw, 10-12 May 2006) gave us the opportunity to discuss common challenges concerning criminal justice systems of OSCE participating States and share best practices and experience from their jurisdictions. We are looking forward to the continuation of this important discussion.

Allow me to conclude this intervention with the remark that democracy that ignores justice is what Plato describes as an ochlocracy, the rule of the masses where the loudest and the strongest get their way. While democracy flourishes with an increasing number of active members and fathers, justice has only one parent: the rule of law.

The Acceding Countries Bulgaria and Romania, the Candidate Countries Turkey, Croatia ¹ and the former Yugoslav Republic of Macedonia, the Countries of the Stabilisation and Association Process and potential candidates Montenegro and Serbia, EFTA country Norway, member of the European Economic Area, as well as Ukraine align themselves with this statement.

¹ Croatia and the Former Yugoslav Republic of Macedonia continue to be part of the Stabilisation and Association Process