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The primacy of the law is a fundamental principle of any democratic system. The consolidation of the rule of law guarantees the fostering and promotion of civil, political¹, social and cultural rights by providing adequate means or resource for individual citizens to defend them.

Among the general elements corresponding to the division of powers in a legal order are legislative transparency, independence of the judiciary and the right of individuals to have a fair trial. These elements are often demanded and mentioned for the consolidation and reinforcement of participating OSCE state institutions.

The EU acquis is extended to detailed elements and is in conformity with the international standards and practices. The acquis is deriving from the principles and values of the union, its constitutional principles and mostly from the outstanding experience, legislation and practice of the Council of Europe. Indeed, the COE European convention of human rights is the cornerstone of the European evolution and concept on this matter. The EU gives great importance to the protection of individuals by the judiciary, which constitutes a matter of protection of human rights.

The consolidation of rule of law institutions in neighbouring democracies is also a key priority for the collaboration and the elaboration of a wider area of freedom, security and justice. The EU considers this matter as a priority in its external relations with neighbouring countries and attempts to strengthen the relevant institutional capacity of third countries through assistance and transfer of best practices know-how.

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OSCE participating states shall have sufficient legal and structural institutions allowing for judicial independence from government influence the judiciary has a unique position in a democratic society. Independence pre-supposes a separation of powers in which judiciary is institutionally protected from undue influence. The importance of judicial independence extends beyond the political. It is important to have an independent and impartial judge, in a stable and prosperous economy. Individuals and institutions must be able to rely on a predictable justice, free of the vagaries of any influence in the adjudication of their claims. The confidence that court decisions will be fair and in a short period (timely) contributes to the security and predictability of economic transactions as noted, the EU considers the guarantee of judicial independence as an important element of human rights protection.

According to the article 6 (1) of the EU treaty, the union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law. The rule of law principle and the right to a fair trial requires that the judiciary must be independent and impartial. The content of these notions has been clarified in the jurisprudence of the European court of human rights, which is an accepted reference for the EU acquis under article 6 (2) of the EU treaty.

The EU acquis concerning the independence of judges and the respect of a fair trial also results from the constitutional traditions common to the member states, as general principles of community law. This EU acquis is enriched by legislation and practice of the council of Europe standards as, for example, recommendation no r(94) 12 (council of Europe, committee of ministers) on the independence efficiency and the role of judges which provide further clarifications. Similarly, the European guidelines on ethics and conduct for public prosecutors (the Budapest guidelines) offer useful guidelines on a common European standard in the field. This element is also important for the establishment of the European area of freedom, security and justice, and a precondition to be complied by candidate countries.

The OSCE standards in the matter have been stated in many occasions. Participating states have expressed their willingness to reinforce judicial

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independence and the right to a fair trial in their internal judicial systems. We could mention OSCE commitments relating to the right to a fair trial in Vienna (1989), in Copenhagen (1990) as well as to the independence of the judiciary (Moscow, 1991), where they declared that they will respect internationally recognized standards relating to the independence of judges and legal practitioners and the impartial operation of the public judicial service, including, inter alia, the universal declaration on human rights and the international covenant on civil and political rights.

Nevertheless, although the significant progress that has been made towards judicial independence and legal reforms is not yet completed in the OSCE region, constitutional and legislative guarantees are in place and accepted in many countries, but a culture of political subordination of judges to politicians is still prevalent, as reflected in the appointment system of judges, the lack of enforcement of rulings, etc. there is also an imperative need to guarantee this independence in practice and to set up necessary mechanisms to achieve it. Some of the practical safeguards include the terms of appointment, the specialization of judges, the need for guaranteed tenure, the requirement of efficiency, fair and independent disciplinary proceedings, the duty of our states to provide adequate resources as salaries and training to promote and facilitate the judiciary's freedom of expression and association, and to cooperate through dialogue, contacts and exchanges in order to identify where problem areas exist.

The countries of the Stabilisation and Association Process and potential candidate countries Albania, Montenegro and Serbia, the European Free Trade Association country and member of the European Economic Area, Norway, as well as the Republic of Moldova, Ukraine and Armenia align themselves with this statement.

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