

**KEYNOTE SPEECH BY THE
PRESIDENT OF THE VENICE COMMISSION MARTA CARTABIA
THE RULE OF LAW FORUM, BUCHAREST, ROMANIA
20 OCTOBER 2026**

Mr President,
Distinguished Presidents of the Courts,
Honourable judges,
Excellencies,
Ladies and gentlemen,
Dear students

The Rule of Law is a longstanding acquisition of our common legal culture. It belongs to our shared constitutional heritage. It is written in legal books, it is thought in law schools, it is recalled in constitutions, conventions, treaties, and court judgments. But it lives, or dies, in the daily choices of public officials, legal professionals. And citizens.

That is why this Forum matters. It is a timely and relevant opportunity to reflect on the relevance of the Rule of Law for our institutions, our societies, and citizens.

And there is no better place to hold this conversation than Bucharest, where the Venice Commission and Romania mark three decades of cooperation in the service of democracy, human rights, and the Rule of Law.

The Venice Commission is pleased to co-organise this 2026 edition of the Rule of Law Forum together with the Konrad-Adenauer-Stiftung Rule of Law Programme South-East Europe, the Faculty of Law of the University of Bucharest, the European Commission Representation in Romania, and the Centre for Strategic Analysis.

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The Venice Commission's engagement with Romania has been one of the longest and most wide-ranging in our history. Over three decades and across seventeen opinions, we have addressed together some of the most fundamental questions of constitutional democracy.

The Commission has worked with Romania on the foundations of constitutional design, advising on the revision of the constitution, on the legal framework for national minorities and “kin minorities” protection, on religious freedom. It has engaged with questions of judicial organisation and the independence of the judiciary. It has also addressed electoral standards and local elections.

Most recently, Romania's experience of the cancellation of presidential electoral results in 2024 has been an important occasion for the Venice Commission to reflect on the new challenges to national security, that may affect all our democracies. The Commission eventually adopted a report that — without assessing the decision of the Constitutional Court — provides general principles to be considered also by other national authorities confronted with similar threats to electoral integrity.

Across all these years, the Commission has always played its role of independent external advisor on constitutional matters: the Commission has provided guidance based on international and European standards and comparative expertise, always assisting the Romanian authorities in designing effective and viable solutions, adapted to the Romanian context. The Commission has always worked in dialogue with the Romanian institutions, and in a spirit of partnership.

We know that the Commission's opinions are considered in the public and political debate. But the Commission is not a legislator and is not a decision-maker. This is a responsibility that must remain firmly with national authorities.

The exhibition presented here today traces this journey, serves as a reminder of how much has been built together, and offers the younger generations an opportunity to reflect on what we can still build together.

I would like to pay tribute to Ms Laura-Iuliana Scântei for the idea of this event and for her commitment and determination to make it possible.

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To continue our cooperation, I would like to present the Updated Rule of Law Checklist – a practical tool designed to assist its users to identify the strengths and weaknesses of the system with a view to improving it.

The Rule of Law Checklist was initially adopted in 2016 at a time when the Rule of Law emerged as distinct to the other two pillars of the Council of Europe – democracy and respect for human rights. At that time, signals of systemic erosion of the Rule of Law had appeared in some European countries, which ended by affecting the functioning of the democratic institutions.

The gist of the Rule of Law is the prevention of abuse and misuse of power and the submission of every power-holder to the power of the Law.

As it is a multifaceted and complex concept, the original Checklist outlined five main benchmarks: legality, legal certainty, prevention of abuse of power, equality before the law and non-discrimination, and access to justice. It declined those benchmarks into several practical questions for assessing and self-assessing the compliance with the Rule of Law.

The Checklist is a tool designed to be used by national authorities: in the first place governments and parliaments, but also by other national institutions, such as the ombudsman, by civil society organisations, by professional associations (for example the Mongolian Bar Association wants to add the Checklist to its curriculum of continuous training of lawyers and judges), by academia, by teachers, professors and trainers. And also by international organisations, both their political and technical bodies (for example the Parliamentary Assembly of the Council of Europe and the Congress of Local and Regional Authorities of the Council of Europe).

Since its adoption, the Checklist has guided the Commission's work, has been cited in judgments of the European Court of Human Rights and informed the work of other European institutions, notably the European Commission.

From the outset, the Checklist was conceived as a living instrument: one to be updated as standards, experience and challenges evolve. The Reykjavík Declaration, adopted by the Committee of Ministers of the Council of Europe in May 2023, called for greater visibility and status for the Rule of Law Checklist in a moment in history when the power of force was gaining terrain over the force of the law, thus threatening the peaceful way of life that has governed the continent since WWII.

The updated Checklist, adopted in December 2025, responds to recent developments, including rapid technological changes and the growing influence of private actors, and to the complex challenges of restoring the Rule of Law.

Retaining the original five benchmarks, the Updated Rule of Law Checklist now elevates checks and balances and constitutional review to separate benchmarks, bringing the total to seven.

Since 2016, the conditions for the Rule of Law have become more complex to achieve. Let me point out some of the main contemporary challenges to the Rule of Law.

First: power unbound. Legal limits on the exercise of power, whoever holds it, including elected authorities, are inherent in democracy, and are indeed a precondition for its functioning. Yet the importance, and even the very existence, of such limits can no longer be taken for granted. A diffuse culture of limitless and unchecked power is one of the greatest challenges facing the Rule of Law.

Second: new powers. Power is no longer exercised only by governments and parliaments. It is also exercised by algorithms, by digital platforms, and by private actors whose decisions affect millions of citizens in ways that are often invisible and opaque. This raises a pressing question: to what extent can the principles of the Rule of Law be applied to these new forms of power?

Third: restoring the Rule of Law. Some countries have emerged from periods of democratic regression and are now undertaking delicate reforms to repair damaged institutions. They face a difficult challenge: restoring the Rule of Law while respecting the Rule of Law. Here, the Rule of Law must be sensitive to context and flexible enough to support the process of restoration.

The 2025 updated Checklist considers each benchmark, the old and the new, in that changed landscape.

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The first benchmark, **legality**, is the foundation on which all others rest. It requires that public authorities act within the framework of the law: not above it, and not outside it.

This sounds obvious. But it is not. For example, it is challenged (a major issue in Romania) when a government (ab-)uses emergency or delegated powers as a routine legislative tool, whenever laws are made in ways that bypass parliament, or whenever an executive body claims powers not conferred on it by the constitution.

The second benchmark, **legal certainty**, is about foreseeability. People must be able to know, in advance, what the law requires of them and what consequences their actions may carry. Laws that are vague, obscure, unstable, or inconsistently applied undermine this principle.

The third benchmark addresses the **prevention of abuse of power**: the requirement that the exercise of public authority be limited, justified, and subject to review.

No discretion should be unfettered. Every significant decision by a public authority must be reasoned and open to challenge before an independent tribunal.

The updated Checklist extends this to the question of the accountability of public decisions taken with the assistance of an artificial intelligence system: in such cases, who is accountable if it goes wrong? Someone must be responsible, and the law must say who.

The fourth benchmark, **checks and balances**, was elevated in the 2025 update from a sub-topic to a stand-alone benchmark.

This reflects a hard lesson from the years since 2016: that Rule of Law regression typically begins with the gradual erosion of the institutions designed to give effect to the constitutional safeguards.

Constitutional Courts, independent judges, electoral commissions, free media, active civil society are not ornaments of democracy. They are its backbone.

The updated Checklist thus makes it clear: a well-functioning system of checks and balances is not an obstacle to effective government. It is a precondition for it.

The fifth benchmark, **equality and non-discrimination**, asks whether the law protects everyone equally and whether unjustified distinctions are prohibited.

This is not merely a formal requirement. The updated Checklist addresses a real risk, and evergreen risk, that may be amplified by the new technologies: through biased data and flawed design for example.

The sixth benchmark, **access to justice**, addresses the right of each individual whose rights have been violated to bring a dispute before an independent and impartial judicial body and to receive a fair hearing.

Judicial independence is not, and should not become, a privilege of judges: it is meant to guarantee citizens and to ensure the effectiveness of their rights.

The seventh benchmark, **constitutional review**, was also elevated to a stand-alone benchmark in the 2025 update because experience has proved that a well-functioning system

of independent constitutional review is a crucial safeguard. Only Constitutional Courts — or courts discharging similar functions — have the power to assess whether a law respects the constitution and to protect citizens from legislation that does not respect the higher principles written in the constitution.

That is why the Checklist requires that individuals must have effective access — whether direct or indirect — to challenge whether acts of public authorities respect their fundamental rights.

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Mr President, ladies and gentlemen,

I opened these remarks stressing that written principles alone are insufficient: institutional safeguards depend on constitutional and ethical values becoming part of the everyday practice of legal professionals and public officials.

I would like to conclude taking this a step further: democracy, the Rule of Law and human rights can only survive if people are aware that these safeguards matter for their own lives.

The Rule of Law is sometimes presented as a technical or legal concept, remote from everyday life. It is not. It is what stands between a citizen and an arbitrary decision by a public authority. It is what ensures that a court can hear your case and issue a fair, timely and impartial decision, that a law respects higher principles, that rules cannot be changed overnight to disadvantage you, and that those who hold power can be held accountable for how they use it.

The updated Checklist stresses the importance of legal education for professionals and education to legality for all.

Through its “The Rule of Law: A User Guide” campaign, the Venice Commission seeks to make Rule of Law principles accessible to a wider public, using clear language and visual materials to explain their importance in everyday life.

I am pleased that the updated Checklist is now available in Romanian, and that the exhibition presented here in English and Romanian forms part of this campaign. I would like to thank the EEA and Norway Grants for making this possible by funding the Romanian translation of the updated Checklist, supporting this exhibition, and enabling the Venice Commission delegation to be here today.

The importance of this Forum for the Rule of Law here in Bucharest gathering legal professionals, students and civil society organisations, cannot be overstated. It is an exercise of civil culture and civic participation.

We have observed that the origin of the Rule of Law backsliding takes root in the mentality that the majority which has won the elections can govern — rather “command” — and impose its decisions on the opposition and the minorities, without having to include them in the deliberation process.

This mentality is against the principles of the Rule of Law and a defeat of democracy. It is true that free and fair elections provide legitimacy to the governments. But we should not forget that in most countries the rate of abstention at elections is extremely high and it is very often the young who desert the polls. The same young who are demonstrating in many countries in Europe and in the world, asking governments to take into account their problems, their concerns about the future, their requests, and to deliver on them.

A democratic country governed by the Rule of Law cannot turn a deaf ear to the young generations and cannot perpetuate the mentality of "the winner takes all".

We live in a world captivated by power exercised as force and domination. Against this mindset, we defend the Rule of Law as a contribution to contrast violence, destruction, and war, and as an unwavering commitment to a peaceful and inclusive coexistence for all.

Thank you all for your attention and I look forward to the discussions ahead, and to continuing the strong partnership between the Venice Commission and Romania, in the service of democracy, human rights, and the Rule of Law.