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Updating the Venice Commission's Rule of Law Checklist: a contribution by the Assembly

Report¹

Committee on Legal Affairs and Human Rights

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1. Reference to committee: [Doc. 16059](#), Reference 4836 of 4 October 2024.



A. Draft resolution²

1. The Parliamentary Assembly congratulates the European Commission for Democracy through Law (Venice Commission) on the occasion of the 35th anniversary of its creation. For over three decades, the Venice Commission has been an indispensable guardian of the rule of law in Europe and beyond. It has provided guidance on constitutional reforms, electoral laws and judicial independence to both new and established democracies, helping to define the principles essential to a democratic system governed by the rule of law. The Assembly reiterates its appreciation of the close co-operation with the Venice Commission and its continuous high-quality contribution, to the Assembly's work, through its opinions and reports.

2. The Assembly refers to its [Resolution 2187 \(2017\)](#) "Venice Commission's Rule of Law Checklist", in which it welcomed the Venice Commission's Rule of Law Checklist as a new, uniform benchmark for measuring compliance with one of the founding principles of the Council of Europe, as well as a most relevant and valuable instrument to identify and analyse situations of concern in different countries. The Assembly endorsed the Checklist and decided to use it systematically in its work. It also invited national parliaments, governments, the Council of Europe as a whole and other international organisations to do the same.

3. The Assembly welcomes the Venice Commission's proactive stance in updating the Rule of Law Checklist to reflect contemporary challenges to the rule of law and the lessons drawn from developments in its 61 member States. Since its adoption in 2016, unprecedented challenges to the rule of law have emerged in several member States. Examples of rule of law backsliding in Europe and elsewhere include increasing attacks on judicial independence, non-compliance with the rulings of constitutional and international courts, and the gradual weakening of oversight mechanisms and civic space. Another worrying trend is the contempt for the international rule of law displayed by certain States and leaders, which often mirrors a pattern of disregard for the rule of law within their own domestic systems. Any State that adheres to the principles of the rule of law must be committed to upholding international law in its relationships with other States, as well as respecting the mandate and authority of international courts.

4. The Assembly welcomes the fact that "checks and balances" and "constitutional review" have now been raised to the rank of self-standing rule of law benchmarks within the updated Checklist. In this context, it reiterates that the independence of the judiciary and the principle of the separation of powers are part of the common basic constitutional traditions of Europe. Ombudspersons and independent national human rights institutions, which are part of the "checks and balances", also play an important role in safeguarding and promoting the rule of law.

5. The Assembly also welcomes the updated Checklist's transversal integration of the impact of new technologies on the rule of law. In light of its numerous resolutions and recommendations related to this matter, summarised in [Opinion 303 \(2024\)](#) "Draft framework convention on artificial intelligence, human rights, democracy and the rule of law", the Assembly reiterates that digital transformation, including the deployment of algorithmic systems and artificial intelligence in public administration, law enforcement and the justice sector, must be transparent, governed by clear legal bases, non-discrimination, explainability and accountability. Effective impact assessments, independent oversight, secure and auditable procurement, robust data protection, and accessible and effective remedies are essential to uphold the rule of law in the digital age.

6. The Assembly emphasises the value of the updated Rule of Law Checklist for preventing democratic and rule of law backsliding. It appreciates the attention paid by the Checklist to the importance of restoring the rule of law following a period of regression, framing this as a holistic endeavour that must itself adhere to rule of law standards. It affirms that the updated Rule of Law Checklist provides a coherent, comparable and accessible framework that should be used by parliaments, governments, courts, oversight institutions, local and regional authorities, international organisations and civil society to assess and strengthen democratic resilience, diagnose systemic weaknesses and guide legislative and institutional reforms.

7. The Assembly endorses the Venice Commission's updated Rule of Law Checklist as a crucial, uniform and practicable benchmark for evaluating the resilience of democratic institutions and the health of the rule of law across all Council of Europe member States. It resolves to apply the updated Checklist, as appropriate, in its own country-specific monitoring procedures, in follow-up to election observation and in its thematic reports.

8. The Assembly calls on member and observer States of the Venice Commission to:

8.1. systematically integrate the updated Rule of Law Checklist into their domestic legislative drafting processes and constitutional reviews;

2. Draft resolution unanimously adopted by the committee on 21 April 2026.

- 8.2. carry out periodic self-assessments using the updated Rule of Law Checklist, including before the adoption of emergency measures or major institutional reforms, and to publish the results;
 - 8.3. request, where appropriate, opinions from the Venice Commission at the earliest stages of reform processes and ensure transparent follow-up to its recommendations;
 - 8.4. promote the use of the updated Rule of Law Checklist and, to this end, facilitate the translation of the updated Rule of Law Checklist in the national language(s);
 - 8.5. disseminate the Venice Commission's brochure entitled "The Rule of Law: A User Guide", to promote a better understanding of the rule of law and its importance in daily life.
9. The Assembly further calls on the European Union to:
- 9.1. use the updated Rule of Law Checklist as a common benchmark in its rule of law reporting and technical assistance to candidate countries and potential candidates for membership;
 - 9.2. co-operate closely with the Venice Commission in promoting best practices, sharing data and supporting reforms in the European Union member States;
 - 9.3. use the updated Rule of Law Checklist in its own institutional and legislative processes, where applicable.
10. The Assembly calls on the national parliaments of member and observer States of the Council of Europe, as well as those that enjoy observer or partner for democracy status with the Assembly, to raise awareness of the updated Rule of Law Checklist among civil society organisations, ombudspersons, national human rights institutions and the judiciary.
11. Finally, the Assembly welcomes the initiatives of the Secretary General of the Council of Europe aimed at reinforcing democratic security, in particular through the New Democratic Pact for Europe. It strongly agrees that the democratic security of Europe should be anchored in the European Convention on Human Rights (ETS No. 5) and believes that the updated Rule of Law Checklist should become a point of reference for rebuilding citizens' trust in democracy and its institutions.

B. Explanatory memorandum by Ms Arusyak Julhakyán, rapporteur³

1. Introduction

1. The present report is based on a motion for a resolution tabled by the Committee on Legal Affairs and Human Rights on 2 October 2024, which was referred to it for report on 4 October 2024.⁴ The committee appointed me as rapporteur at its meeting on 30 September 2025, succeeding the former rapporteur, Ms Klotilda Bushka (Albania, SOC), who left the Parliamentary Assembly.
2. The motion refers to the fact that in 2007, the Assembly invited the European Commission for Democracy through Law (Venice Commission) to reflect in depth on the concepts of “rule of law” and “*prééminence du droit*”.
3. In March 2016, the Venice Commission adopted the Rule of Law Checklist⁵ drawn up in close cooperation with the Assembly which prepared a report on the same subject. In its [Resolution 2187 \(2017\)](#), the Assembly decided to endorse the Venice Commission’s checklist, to use it systematically in its own relevant work and to recommend to Council of Europe member States to do the same. The Assembly welcomed that there was a consensus as to the core elements covered by the terms “rule of law”, “*Rechtsstaat*” and “*État de droit*”, namely: legality, legal certainty, the prohibition of arbitrariness, access to justice, respect for human rights, non-discrimination and equality before the law.
4. Since its adoption, the Rule of Law Checklist has been referred to in numerous resolutions and recommendations adopted by the Assembly and in their accompanying reports, including: [Resolution 2188 \(2017\)](#) “New threats to the rule of law in Council of Europe member States: selected examples”, [Recommendation 2121 \(2018\)](#) “The case for drafting a European convention on the profession of lawyer”, [Resolution 2273 \(2019\)](#) “Establishment of a European Union mechanism on democracy, the rule of law and fundamental rights”, [Resolution 2277 \(2019\)](#) “Role and mission of the Parliamentary Assembly: main challenges for the future” [Resolution 2293 \(2019\)](#) “Daphne Caruana Galizia’s assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges”, [Resolution 2300 \(2019\)](#) “Improving the protection of whistle-blowers all over Europe”, [Resolution 2348 \(2020\)](#) “The principles and guarantees applicable to advocates”, [Resolution 2359 \(2021\)](#) “Judges in Poland and in the Republic of Moldova must remain independent”, [Resolution 2399 \(2021\)](#) “The climate crisis and the rule of law”, [Resolution 2437 \(2022\)](#) “Safeguarding and promoting genuine democracy in Europe”, [Resolution 2460 \(2022\)](#) “The honouring of membership obligations to the Council of Europe by Hungary”, [Resolution 2509 \(2023\)](#) “Transnational repression as a growing threat to the rule of law and human rights”, and [Opinion 303 \(2024\)](#) “Draft Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law”.
5. During its meeting held in Paris, on 10 September 2024, the Committee on Legal Affairs and Human Rights held a hearing with the participation of Mr Kaarlo Heikki Tuori, Honorary President of the Venice Commission, and Mr Serhiy Holovaty, Chair of the Sub-Commission on the Rule of Law of the Venice Commission, who informed the committee about the upcoming process of updating the Checklist, involving contributions from numerous stakeholders, including the Assembly and civil society organisations.
6. On 3 March 2025, the former rapporteur, Ms Bushka, presented her introductory memorandum to the Committee on Legal Affairs and Human Rights, which was later submitted to the Venice Commission as the Assembly’s preliminary contribution for the update.⁶ Key proposals included therein concerned the assessment of the impact of artificial intelligence and other new technologies on democratic processes and judicial independence; the influence of private power on the rule of law; adherence to international legal obligations; post-crisis and transitional situations (such as introducing guidelines for restoring the rule of law after a period of backsliding); and applicability of the updated Checklist to supranational organisations, such as the European Union.
7. During its meeting held in Paris on 8 September 2025, the Committee on Legal Affairs and Human Rights held a hearing with the participation of Mr Iain Cameron, member of the Venice Commission in respect of Sweden, Ms Erinda Ballanca, People’s Advocate of Albania, and Mr Laurent Pech, Dean of Law and Head of the Sutherland School of Law at the University College Dublin.

3. The explanatory memorandum is drawn up under the responsibility of the rapporteur.

4. [Doc. 16059](#).

5. Venice Commission, [CDL-AD\(2016\)007](#), Rule of Law Checklist.

6. [AS/Jur\(2025\)05](#), document declassified by the Committee on Legal Affairs and Human Rights on 3 March 2025.

8. The updated Rule of Law Checklist was adopted by the Venice Commission at its 145th Plenary Session (Venice, 12-13 December 2025).⁷

9. In this report, I will summarise the value of the Rule of Law Checklist (Chapter 2) and its impact on the rule of law in Europe (Chapter 3). I will then summarise the updated Rule of Law Checklist (Chapter 4) and provide an overall assessment (Chapter 5).

2. Value of the Rule of Law Checklist

10. The adoption of the original Checklist was preceded by a rule of law report, adopted already in 2011.⁸ One of its central ideas was to show the differences between the rule of law and the rule by law. The intention was to demonstrate that the rule of law was not only a political or ideological slogan but a specific legal term corresponding to specific standards. The original Checklist was divided into five main sections. Benchmarks were presented within each of these sections in the form of questions. These sections were: legality, legal certainty, prevention of abuse of powers, equality and non-discrimination, and access to justice. Challenges to the rule of law, namely corruption, excessive collection of personal data and surveillance, were also addressed.

11. The Rule of Law Checklist has become a uniform benchmark to assess the condition of the rule of law in a given State. It builds on the universal validity of the rule of law, by providing a structured framework for evaluating its principles within national and international contexts. The Checklist emphasises the interconnection between the rule of law, democracy, and human rights – the three founding principles of the Council of Europe. It is primarily focused on assessing legal safeguards but also addresses their practical implementation to ensure the protection of individual rights and proper governance. It encompasses various dimensions of the rule of law such as legality, legal certainty, prevention of abuse of powers, equality before the law, and access to justice. It is aimed at a broad range of actors including parliaments, State authorities, civil society, and international organisations. The checklist also underscores the need for national and international adherence to the rule of law and its implementation, highlighting the role of an independent judiciary and the requirement for effective legal remedies against any breaches of the law.

12. Its application was intended to consider the entire legal, historical, political, and social context of the State being evaluated, ensuring that the rule of law is adapted to the local circumstances while maintaining core universal principles. The Checklist's ultimate goal is to ensure that national practices align with international standards, thereby fostering a robust and just legal system globally.

3. Use of the Rule of Law Checklist beyond the Council of Europe

13. The European Commission's Rule of Law Reports, initiated in 2020 under President Ursula von der Leyen,⁹ represent a key point of the European Union (EU)'s strategy to safeguard and promote democratic values. These annual reports monitor compliance with rule of law principles across the 27 member States, identifying trends and recommending reforms to address systemic risks. The European Commission's methodology for preparing the Annual Rule of Law Report explicitly mentions the Venice Commission's Rule of Law Checklist as a relevant standard for assessment.¹⁰ This includes aspects such as judicial independence, the appointment process for judges, and the efficiency of the justice system. The importance of institutional checks and balances is also reflected in the Commission's reports. The 2023 and 2024 reports, for instance, examined the role of independent institutions like ombudspersons, national human rights bodies, and the role of civil society organisations in safeguarding the rule of law, which aligns with the Rule of Law Checklist's recommendations.

14. The Rule of Law Checklist is also referred to in the groundbreaking Regulation on a general regime of conditionality for the protection of the Union budget, which came into force on 1 January 2021.¹¹ The principal aim of this instrument is to protect the EU budget from misuse in member States where rule of law breaches occur. It establishes a direct link between adherence to rule of law principles and access to EU funds, ensuring that European taxpayers' money is spent responsibly and in line with EU values.

7. Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist.

8. [CDL-AD\(2011\)003rev-e](#). Report on the rule of law – Adopted by the Venice Commission at its 86th plenary session (Venice, 25-26 March 2011).

9. https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf.

10. https://commission.europa.eu/system/files/2023-07/63_1_52674_rol_methodology_en.pdf.

15. In the landmark judgments of 16 February 2022 (cases C-156/21 and C-157/21), the Court of Justice of the European Union (CJEU) explicitly referenced the Venice Commission's Rule of Law Checklist, rejecting arguments raised by Poland and Hungary to limit the EU's notion of the rule of law, particularly regarding the protection of fundamental rights and non-discrimination. By referencing the Rule of Law Checklist, the CJEU acknowledged the importance of external benchmarks in shaping the EU's understanding and application of rule of law principles.

4. Summary of the updated Rule of Law Checklist

16. The update of the Rule of Law Checklist was prompted by the Reykjavík Declaration of May 2023, which called for strengthening the Venice Commission and giving greater visibility and support to its Checklist. The Committee of Ministers translated that political impetus into a mandate to update the tool, in line with the Checklist's own indication that periodic revision would be necessary. The Commission appointed Mr Kaarlo Tuori to lead the process and convened a working group. A broad consultation followed, engaging Council of Europe bodies, including the Assembly and the European Court of Human Rights, the European Commission and the EU Fundamental Rights Agency, the UN Special Rapporteur on the independence of judges and lawyers, regional ombudspersons institutions, national constitutional courts, academia and civil society. The Venice Commission also organised academic seminars on private power, the execution of constitutional court decisions, transnational constitutional standards, and a stocktaking of its work since 1990. In July 2025, my predecessor, Ms Bushka, participated in an event in London on "Protecting and Promoting the Rule of Law", organised by the UK Attorney General's Office, in collaboration with the Foreign, Commonwealth and Development Office, the Venice Commission, and the Bingham Centre for the Rule of Law.

17. In the updated version, the Venice Commission largely retained the original structure of the Checklist. Democratic backsliding that took place in several jurisdictions over the past decade underscored the importance of effective checks and balances, as well as constitutional review for sustaining the rule of law. For that reason, these topics were elevated to the level of specific rule of law benchmarks in the updated text. The update also responds to developments in technology and the growing power of private actors, especially in the digital sphere, which pose challenges to accountability of decision makers, judicial independence and create cross-border regulatory difficulties. These issues are addressed both within the benchmarks and in a dedicated section on particular challenges. The Commission's analysis of recent rule of law regression in several jurisdictions highlights new questions, including how to effectively and promptly restore the rule of law after a period of backsliding, while adhering to the rule of law during that restorative process.

18. The Checklist's purpose remains to provide an objective, transparent and equal tool for assessing the rule of law in a given country, focusing on constitutional and legal structures, laws in force and case law. It recognises different legal traditions but distils common normative elements, and it is intended as a holistic guide to overall compliance rather than a set of rigid, uniform prescriptions. Parliaments, governments, local and regional authorities, civil society and international organisations are among the intended users. The Venice Commission reiterated that the Checklist is neither exhaustive nor final as new issues will arise and standards will evolve, requiring ongoing review and further updates. While the focus is on legal safeguards, the Commission emphasises that a supportive legal and political culture, free media and active civil society are indispensable for the rule of law to thrive. Cultural adherence to fundamental principles does not remove the need for formal safeguards, and culture itself can change rapidly. Legal and civic education are therefore highlighted as integral to the realisation of the rule of law.

19. The updated Checklist reaffirms the interdependence of the rule of law with human rights and democracy. Democracy legitimises public decision making; human rights protect individuals from arbitrary power; and the rule of law limits and subjects the exercise of power to independent review. Together they prevent the accumulation and arbitrary use of power. The Checklist addresses human rights and democratic components insofar as they are linked to the rule of law. It also adopts a multi-layered approach, recognising that public power is exercised at supra- and sub-State levels and increasingly by private actors. The rule of law requires the control of power and prevention of its abuse at all levels, whether held by public or private actors, with a particular emphasis on the independence and effectiveness of local and regional self-government within a constitutional framework.

11. Recital 16, Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ 2020 L 4331, p. 1, and corrigendum OJ 2021 L 373).

20. Turning to the updated benchmarks, these comprise the core of the updated Checklist. The first, legality, involves the supremacy of law, constitutionalism, and the hierarchy of norms, including the need for a written constitution enshrining rights, separation of powers and democratic principles. It examines compliance with the law by public authorities, insisting on defined legal powers, authorisation and adherence to procedural and substantive limits with effective judicial review. A new significant addition is the explicit requirement to extend rule of law guarantees to private actors who perform public tasks or whose dominance in a given sector allows them to take decisions with a comparable impact on citizens; such power must be regulated by relevant legislation and be subject to effective judicial supervision. Referring in this context explicitly to private providers of artificial intelligence (AI) systems, the Checklist requires governance frameworks, risk and impact assessments, independent oversight, and responsibility for malfunction. The legality benchmark also addresses the relationship between international and domestic law, emphasising the *pacta sunt servanda* principle and the need for full domestic implementation of binding decisions of international judicial bodies, alongside due consideration for non-binding decisions, such as advisory opinions of the International Court of Justice and the European Court of Human Rights. It assesses the primary role of the legislature in law-making, circumscribing executive norm-making to explicit, specific and controlled delegations. It sets standards for democratic, transparent and inclusive legislative procedures, including public debate, rights of the opposition and impact assessments, while recognising that the use of AI must not displace democratic deliberation. It provides strict criteria for emergency powers, requiring necessity, proportionality, temporariness, parliamentary control and judicial review, alongside safeguards for civil society and media in crises. The duty to implement the law is affirmed, including *ex ante* and *ex post* legislative evaluation and consistent enforcement with appropriate sanctions. Finally, the legality benchmark now includes detailed criteria for the use of new technologies, particularly personal data protection, surveillance, bulk interception and the deployment of AI by public authorities, insisting on legality, transparency, human oversight, independent supervision and effective remedies.

21. The second benchmark, legal certainty, addresses accessibility and foreseeability of the law, stability and consistency, and the clarity and accessibility of courts' decisions. It reiterates core principles, including legitimate expectations, non-retroactivity, *nullum crimen et nulla poena sine lege*, *res judicata* and *ne bis in idem*, and highlights the need for reasonable *vacatio legis* and particular restraint regarding retrospective legislation that interferes with pending disputes. A new added dimension is legal certainty and new technologies, requiring that AI systems used by public authorities satisfy minimum standards of reliability, cybersecurity and transparency, with auditability and certification to ensure predictable and lawful outcomes.

22. The third benchmark, prevention of abuse of power, sets out general and procedural safeguards against arbitrariness in administrative action, including clear limits on discretion, the duty to give reasons, the right to be heard and independent review, supplemented by ombudsperson oversight where appropriate. It addresses the accountability of algorithmic decision making, requiring explainability, clear allocation of responsibility between public and private actors, and sufficient information for affected persons to challenge decisions. The anti-corruption component consolidates preventive measures and criminal law responses, calling for rules of conduct for public officials, coverage of high-risk sectors, effective sanctions, independent and adequately resourced anti-corruption bodies, protection for whistle-blowers and robust follow-up to international monitoring.

23. The fourth benchmark, checks and balances, is one of the principal enhancements in the updated Checklist. It calls for constitutional separation of powers and loyal co-operation, alongside anti-blockage mechanisms, judicial independence in law and practice, independent constitutional review, protection of minority rights in parliament, local self-governance and a professional civil service protected from arbitrary dismissal. The framework extends beyond institutions to civic space: the Checklist specifies constitutional and legal guarantees for freedom of expression, assembly and association, media pluralism and independence, access to information, protections against SLAPPs (Strategic Lawsuit Against Public Participation) and the protection of whistle-blowers. It also addresses online platforms with significant social impact, requiring risk assessment and mitigation frameworks, enforcement by independent regulators and judicial review.

24. The fifth benchmark, equality and non-discrimination, consolidates the duty to prohibit unjustified unequal treatment and to guarantee equal and effective protection against discrimination, both direct and indirect, across a wide range of grounds (gender-based, racial, religious or other). It distinguishes equality in law, requiring objective and reasonable justifications for differences in treatment, from equality before the law, ensuring equal application and effective remedies against discriminatory enforcement. The Checklist recognises the permissibility – and, at times, necessity – of positive action to correct factual or historic inequalities, within proportionate and temporary bounds. A dedicated sub-benchmark addresses equality and

new technologies, calling for equal access to technology, mechanisms to prevent discriminatory bias across the AI lifecycle, effective remedies and pre-authorisation assessment of equality impacts, including in electoral contexts.

25. The sixth benchmark, access to justice, concerns standards for the independence and impartiality of the judiciary, including independent judicial councils or equivalent safeguards, merit-based appointments, protection from political influence, appropriate tenure, proportionate and fair disciplinary systems and adequate resources to secure financial autonomy. It underscores that judicial independence is a guarantee for litigants and the rule of law, not a privilege for judges, and must be paired with appropriate accountability mechanisms. The independence and integrity of other actors – the prosecution service and the legal profession – are also addressed, with criteria for autonomy, depoliticised appointments, clear rules on instructions, sufficient resources, and protections for lawyers to advise and represent clients without interference. The fair trial component consolidates access to courts in practice, equality of arms, the right to defence and legal aid, presumption of innocence, reasoned judgments, timely proceedings and effective execution of decisions. New provisions address digital technologies within the judicial system, differentiating administrative tools from AI that would assist judicial decision making, and requiring human-centred design, explainability, independent oversight, pre-testing in regulatory sandboxes and effective remedies for violations.

26. The seventh benchmark, constitutional review, is another elevated element in the updated structure. It affirms the need for independent constitutional review and the binding force of constitutional court decisions on all public authorities and persons, precluding legislative circumvention by re-enacting unconstitutional norms. It sets out safeguards for composition and appointment – balanced and diverse membership, objective merit-based criteria, sufficiently long terms, irremovability, incompatibilities to preserve impartiality – and for effective access to constitutional justice, including individual complaints filtered to manage caseloads, and fair, effective procedures. It also highlights the obligation to respect international and supranational law where applicable, and the role of constitutional courts in upholding those obligations within domestic legal orders.

27. Finally, the updated Checklist addresses the restoration of the rule of law following a period of regression. It frames restoration as a holistic endeavour that must itself adhere to rule of law standards, balancing principles such as legal certainty, *res judicata* and the irremovability of judges against the pressing need to re-establish independent adjudication and effective checks and balances. It encourages comprehensive diagnosis, proportional measures, safeguards for judges' rights, public participation, and prompt, transparent implementation to minimise uncertainty, while warning that radical steps require especially careful scrutiny and safeguards to avoid undermining the very objectives pursued. Furthermore, the Checklist highlights legal and civic education as essential to embed the values of human rights, democracy and the rule of law across legal professions and society, emphasising academic freedom, quality assurance and ongoing professional training, including for those holding public office, as well as civic education from school onwards to build a culture resistant to backsliding. The Venice Commission's own "The Rule of Law: A User Guide" can further contribute to this.¹²

5. Overall assessment

28. The updated Rule of Law Checklist remains an assessment tool tailored for legislative and institutional use, offering a coherent, holistic framework grounded in legal standards that can guide reforms and oversight across all branches and levels of government, including in those domains where private power wields influence comparable to that of governments. The updated Checklist also integrates contemporary challenges, such as digitalisation, AI and the impact of private social media platforms, into the core legal architecture of the rule of law, insisting that technology must be governed by law, transparency, oversight and remedies rather than displace democratic deliberation or negatively affect judicial independence. It also elevates the institutional safeguards – checks and balances and constitutional review – which recent experience in democratic backsliding shows are indispensable to prevent concentration of power and to ensure that legal guarantees are meaningful in practice.

29. I welcome the fact that many proposals submitted by the previous rapporteur were reflected in the updated Checklist, in particular those relating to the impact of new technologies and private power, and those concerning transitional situations, involving the restoration of the rule of law. The Venice Commission's open and inclusive approach in updating the Checklist reflects the excellent co-operation that the Assembly has enjoyed for more than three decades.

12. <https://edoc.coe.int/en/international-law/12257-the-rule-of-law-a-user-guide.html>.

30. During the hearing before the Committee on Legal Affairs and Human Rights, Professor Laurent Pech emphasised that the phenomenon of rule of law backsliding is a deliberate process of dismantling checks and balances in methodological way. The judiciary usually becomes the top target of autocrats, along with public broadcasters. He made an interesting proposal to include non-legal developments, such as statements by high-ranking public officials refusing to comply with binding judgments, as elements relevant when assessing State's respect for the rule of law. I agree that the rhetoric using the "will of the people" as a reason to refuse to comply with courts' decisions by representatives of the government is an unacceptable excuse and severely contributes to the process of rule of law backsliding.

31. In this context, I particularly appreciate that the Venice Commission emphasises that the rule of law is sustained not only by formal norms and adherence to legal standards, but also by culture, education and vigilance. The Checklist, while an evolving document, is designed to support objective, transparent and equal assessment across diverse legal traditions and contexts, and the Venice Commission commits to continuing its periodic review to ensure that the benchmarks remain responsive to new developments and faithful to the shared constitutional values they are intended to uphold. I am certain that the Assembly will continue to closely collaborate with the Venice Commission in this endeavour.

32. Finally, I wish to stress that the adoption of the updated Rule of Law Checklist comes at a time when the rules-based international order is facing unprecedented challenges. This is exemplified by the ongoing war of aggression launched by the Russian Federation against Ukraine, ongoing hostilities in the broader Middle East and re-emergence of a long-forgotten policy that might is right. At the same time, the recent political shifts in Hungary and Poland, as evidenced by the record-breaking turnout at national parliamentary and/or presidential elections, show that Europeans are deeply attached to the foundations of our system, and build momentum for strengthening Europe's democratic model. I strongly believe that the updated Rule of Law Checklist can be a relevant tool in preparing the New Democratic Pact for Europe¹³ – an initiative aimed at reinforcing democratic security on our continent.

13. www.coe.int/en/web/new-democratic-pact-for-europe.