



THE RULE OF LAW: A USER GUIDE

1990 - 2025
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RULE OF LAW, DEMOCRACY, HUMAN RIGHTS

The rule of law, democracy and human rights, the three pillars of the Council of Europe, are closely linked and inseparable.

- ▶ Democracy ensures that citizens are involved in public decision making;
- ▶ Human rights protect individuals from arbitrary and excessive interference with their freedoms and to secure human dignity;
- ▶ A state governed by the rule of law ensures that the exercise of public power is regulated and monitored.

The rule of law promotes democracy because it establishes accountability for those wielding public power. It safeguards human rights through an independent and impartial justice system and protects minorities against arbitrary majority rule.

Why is this essential?

A state without clear rules is prone to instability and arbitrariness.

The rule of law protects the fundamental freedoms of everyone. It is the bedrock of modern democracies.

The rule of law rests on five fundamental principles:

- ▶ **Legality** – Laws apply to everyone and set limits on power.
- ▶ **Legal certainty** – Laws are clear, accessible and foreseeable.
- ▶ **Prevention of abuse of power** – Checks are carried out to avoid arbitrariness.
- ▶ **Equality before the law and non-discrimination** – Laws protect everyone and are applied equally, and discrimination is prohibited.
- ▶ **Access to independent and impartial justice** – Everyone can defend their rights in a court of law.

‘Lady Justice’ illustrations by Maltese artist, Nadine Theuma





LEGALITY

Laws apply to everyone and set limits on power

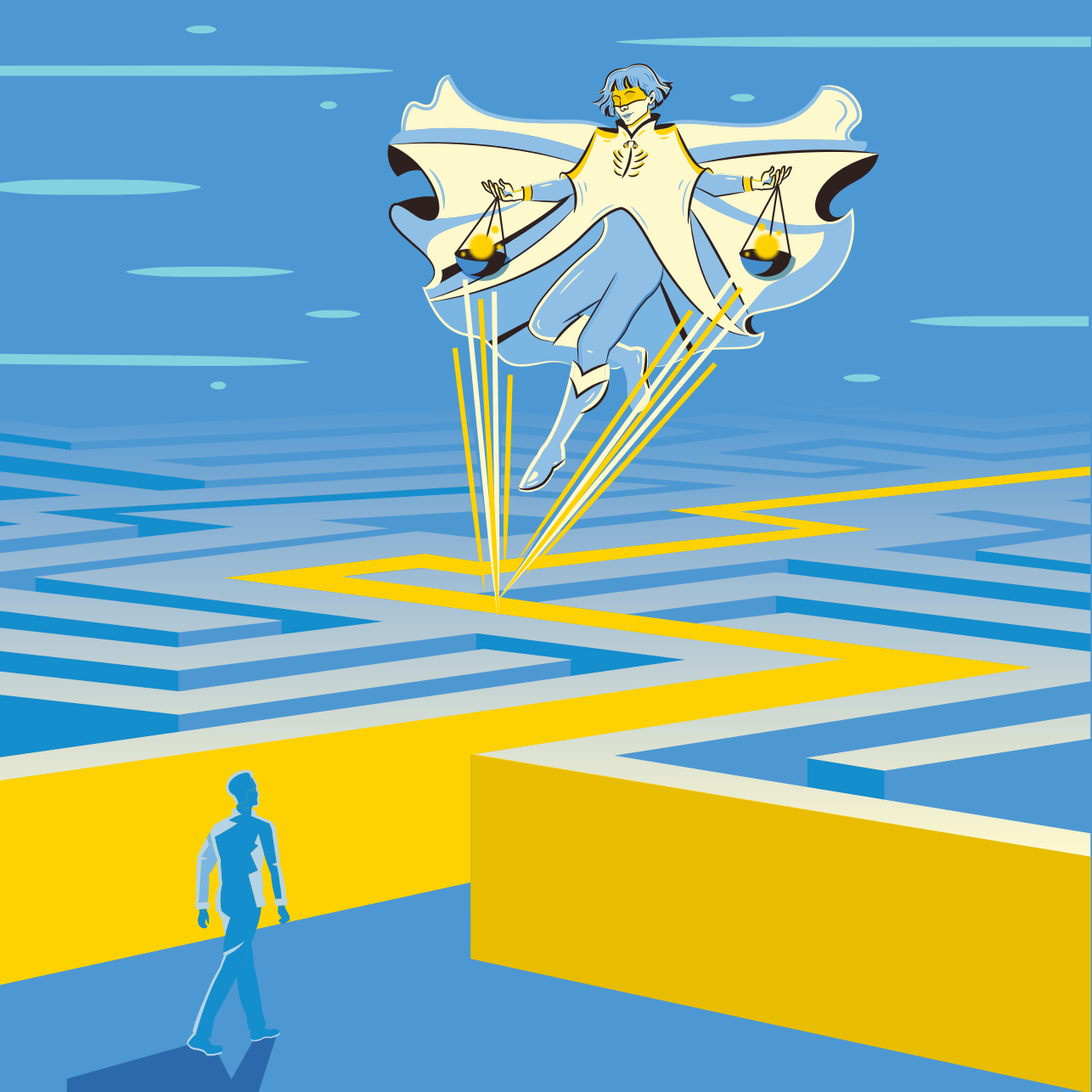
In a state governed by the rule of law, the actions of the authorities and citizens are regulated by democratically enacted legislation. The executive cannot exercise its power and impose its will without limits or oversight.

Key principles

- ▶ All decisions must be made within the framework of the law.
- ▶ Laws must be passed according to a clear and transparent democratic process.
- ▶ The decisions of public authorities must be reviewed by an independent judiciary. The government cannot grant itself new powers without following the rules laid down in the constitution.
- ▶ International conventions and treaties, as well as decisions handed down by international courts, must be applied and complied with.
- ▶ The law must be effectively implemented.

Why is this essential?

If power did not have to be exercised within the law, it would be liable to abuse. For example, a government could restrict freedoms as it sees fit. Clarity and respect for democratically enacted legislation are a guarantee of justice and equality for all.



LEGAL CERTAINTY

Laws are clear, accessible and foreseeable

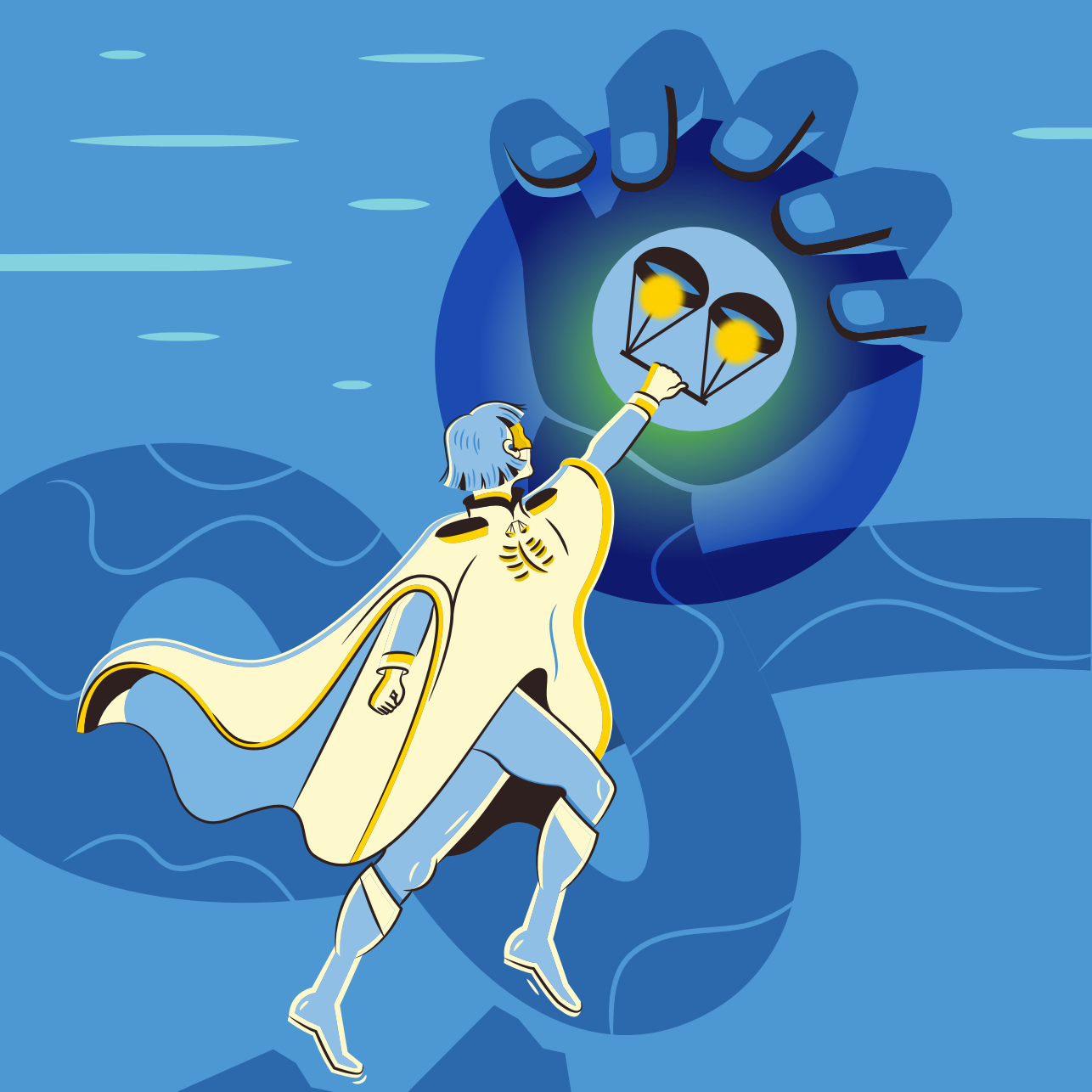
Legal certainty ensures that laws are clear, accessible and foreseeable and are not applied retroactively. That way, everyone knows their rights and obligations in advance.

Key principles

- ▶ Laws and court decisions must be readily accessible and comprehensible.
- ▶ Laws must not change unpredictably and must be consistent.
- ▶ A person cannot be convicted for an act which did not constitute a crime or an offence at the time when it was committed.

Why is this essential?

In order for individuals to act with confidence, they must know their rights and obligations. Vague or rapidly changing laws create uncertainty and instability, and leave individuals vulnerable to unpredictable sanctions.



PREVENTION OF ABUSE OF POWER

Checks are carried out to avoid arbitrariness

Power that is unlimited and unchecked leads to injustice. The dangers of absolute power include arbitrary decisions, corruption and political repression. For example, excessive surveillance without judicial authorisation or oversight can lead to human rights violations.

Key principles

- ▶ Separation of powers: power must not be concentrated in the hands of one authority.
- ▶ The obligation to provide reasons: public decisions must be justified and explained.
- ▶ Judicial review: all public decisions must be able to be challenged before independent and impartial courts.

Why is this essential?

Without oversight, a government could make arbitrary decisions, censor its opponents or even abolish fundamental freedoms. The rule of law establishes safeguards to prevent such abuses.



EQUALITY BEFORE THE LAW AND NON-DISCRIMINATION

Laws protect everyone and are applied equally, and discrimination is prohibited

The rule of law requires that everyone has the same rights and duties established by law and that there are no unjustified differences in the way they are treated.

Equality before the law means

- ▶ No unjustified distinction must be made between people, either in law or in its application.
- ▶ Protection must be afforded against all forms of discrimination.
- ▶ The same rights and duties must be guaranteed for all.
- ▶ Anyone who is discriminated against must be able to defend themselves.

Key advances – The example of women’s right to vote

The delay in granting women the right to vote in Europe is an example of historical discrimination. Finland was the first European country to grant women the right to vote in 1906. It was not until after 1918 that it was extended to most other European countries, and it has only been universal in Europe since 1984. Today, the rule of law not only safeguards women’s right to vote, but also ensures and encourages their active participation in political life without discrimination.



ACCESS TO INDEPENDENT AND IMPARTIAL JUSTICE

Everyone can defend their rights in a court of law

Access to an independent and impartial tribunal allows people to defend their rights. For example, the European Court of Human Rights has ruled that the impossibility to challenge in court the termination of one's employment, or the deprivation of one's property or the termination of access to one's children had violated the applicants' rights. Swift and accessible justice is essential to secure equal rights.

Key principles

- ▶ Everyone has the right to apply to a court and is entitled to a fair trial by an independent and impartial tribunal.
- ▶ Judgments are accessible and clearly explained.
- ▶ Legal advice and legal aid are available to those in need.
- ▶ Procedures are reasonably speedy and inexpensive.
- ▶ Court decisions are executed.

Why is this essential?

Without access to justice, citizens who have been wronged would be unable to assert their rights. The state must guarantee independent courts and a judicial system that is accessible to all.



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THE RULE OF LAW IN ACTION

The role of the Venice Commission of the Council of Europe

The Venice Commission has assisted its member states in designing constitutional systems that provide the necessary implementation of the rule of law principles. The Commission has also provided a tool - the Rule of Law Checklist - to assess the level of implementation of the rule of law principles in a given country.

The Venice Commission's Rule of Law Checklist

The 2016 Rule of Law Checklist presents the core principles of the rule of law – legality, legal certainty, prevention of abuse and misuse of power, access to justice, equality and non-discrimination – in the form of benchmarks with detailed parameters and relevant sources.

Using the Checklist, the government, parliament, civil society, citizens as well as international organisations may assess to what extent the rule of law principles are respected in a given state. The Checklist thus allows to identify weaknesses or gaps which require state action. The Venice Commission has made numerous recommendations as to how to remedy such weaknesses and gaps.

Who are we?

The Venice Commission “for Democracy through Law” is the Council of Europe’s advisory body on constitutional law, made up of independent experts.

It was established on 10 May 1990 upon the idea of the Italian scholar Antonio La Pergola. After the fall of the Berlin Wall, it helped numerous former socialist countries adopt democratic constitutions and legislation, and subsequently join the Council of Europe.

Today, it assists its member states in designing constitutional and legislative reforms consistent with international standards. Compliance with the Commission’s recommendations has facilitated the process of acquiring membership of the European Union.

Mission

Upon request and through an inclusive process of consultations with the national authorities, state institutions, stakeholders and civil society, the Venice Commission assesses constitutional and legislative reforms, notably in the electoral and judicial fields, and makes non-binding recommendations as to how to improve these reforms in order to respect and implement the principles of democracy, human rights and the rule of law and to design efficient and viable systems of government.

Member states

The Venice Commission comprises the 46 members of the Council of Europe plus 15 others, from the Americas, Africa and Asia.

Why Venice?

The “European Commission for Democracy through Law” has taken its name of “Venice Commission” from the famous Italian city in the Laguna where it held its first meeting and where it continues to meet four times a year.

1990-2025 - Achievements

In its 35 years of existence, thanks to its independence and impartiality, its professionalism and its inclusive working methods, the Venice Commission has had a major impact in facilitating the adoption of democratic constitutions and the democratic functioning of the institutions. In particular, the Commission has contributed to enhancing compliance with the rule of law principles and to strengthening separation of powers and judicial independence in its member states.

- ▶ **1000+**: Number of opinions and reports on constitutional and legislative reforms
- ▶ **50+**: Number of constitutions drafted or revised with the help of the Commission
- ▶ **200+**: Number of independent legal experts who have contributed to its work

Why does this matter to all of us?

The rule of law means:

A stable and peaceful democracy.

Citizens who are free and protected against arbitrariness.

A fairer, more equal society.

Illustrations: Nadine Theuma

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Venice Commission's website

<https://venice.coe.int>



This brochure explores the essential principles of the rule of law; legality, legal certainty, prevention of abuse of power, equality before the law, and access to justice. These principles form the cornerstone of democracy and human rights, ensuring accountable governance, individual freedoms, and societal fairness. Learn how the Council of Europe, through the work of the Venice Commission, supports states in upholding these standards and protecting citizens from arbitrary power. Whether you're a policymaker, student, or concerned citizen, this guide reveals why the rule of law matters and how it safeguards our freedoms every day.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

