

CALL FOR CONTRIBUTIONS

Quo Vadis, Constitutional Courts in SEE?

Defending the Rule of Law Between Judicial Activism and Restraint

The Challenge

Constitutional courts across Southeast Europe are navigating an existential dilemma. More than three decades after democratic transitions, these courts must defend the rule of law against threats that are real and systematic. State capture, attacks on judicial independence, constitutional amendments engineered to weaken courts, coordinated delegitimation campaigns: these are not hypothetical risks. They are happening now.

At the same time, courts cannot be seen as political actors. The very appearance of partisanship may accelerate the destruction they are trying to prevent. The classic debate between judicial activism and restraint offers no adequate answer for this situation. What is needed is something more precise: a principled, practical understanding of when courts must act assertively to defend constitutional essentials, and when strategic caution better serves long-term institutional survival.

The Concept: “Militant Rule of Law”

This panel is built around the concept of "militant rule of law." Drawing on Germany's post-war experience with “robust [or resilient] democracy” („wehrhafte Demokratie“), this framework holds that constitutional courts facing systematic threats cannot remain passive spectators. Attacks using formally legal mechanisms, such as court-packing, jurisdictional stripping, or budgetary manipulation, are no less dangerous for being technically lawful. They threaten constitutional order fundamentally, and they may require an assertive judicial response.

But militant rule of law raises hard questions that this panel will explore: When exactly should a court activate defensive mechanisms? What doctrinal tools are appropriate? How can a court act decisively without appearing partisan? What strategies build public legitimacy rather than erode it? These questions will be explored through real cases and concrete institutional experience, not in abstract theory.

Panel Themes

The panel brings together practitioners, scholars, and institutional actors to address five interconnected themes:

1. **What militant rule of law means in practice**, and when courts should activate defensive mechanisms rather than exercise restraint.
2. **Institutional resilience**: which design features and behavioural strategies make courts less vulnerable to capture.
3. **Doctrinal tools for rule of law defence**, including when proportionality analysis proves insufficient and what alternatives courts can deploy.
4. **Rights protection and democratic legitimacy** in polarised societies: where the tension is sharpest and how courts have managed it.
5. **Building and sustaining public trust**: communication strategies courts in the region have used, and what the evidence says about what works.

Who Will Be on the Panel

Panelists are selected to combine scholarly depth with direct institutional authority. The panel will include serving constitutional court judges from Southeast Europe, academic specialists in comparative constitutional law and democratic backsliding, and representatives from international bodies such as the Venice Commission and the Council of Europe. Crucially, the panel will also include the winning authors from the Call for Papers described below, bringing fresh research perspectives into direct dialogue with practitioners.

Why This Panel Matters

Southeast Europe is a region where the rule of law is not a settled achievement. It remains a project, contested and unfinished. Constitutional courts sit at the center of that project. Whether they survive as independent institutions capable of providing real protection, or whether they are gradually hollowed out, will have consequences that reach far beyond the courtroom.

This panel aims to bring together the people best placed to think clearly about that question: judges who live with it daily, scholars who have studied it systematically, international actors who shape the external environment, and emerging researchers whose work adds new evidence and perspective. The goal is not another academic exercise. It is a conversation oriented toward practical wisdom that participants can carry back into their institutions.

Invitation to submit blog contributions

Ahead of the conference, scholars, practitioners and doctoral researchers are invited to submit articles addressing the role of constitutional courts in defending the rule of law in Southeast Europe. Accepted articles will be published on the Law and Governance Blog South East Europe in the weeks preceding the conference, giving the research wide visibility among judges, policymakers, and legal practitioners across the region.

Topics for Submission

Submissions may address topics including:

- Theoretical frameworks, including militant rule of law and its application in the SEE region: the origins of the concept in post-war German constitutionalism, its normative foundations, and the conditions under which it can be legitimately transposed to the Southeast European context
- Institutional make-up and preconditions for a militant rule of law approach: appointment and removal mechanisms, tenure protections, budgetary independence, quorum rules, and other structural features that determine whether a court is capable of acting assertively when constitutional essentials are at stake

- Recognising the threshold: how courts can identify, and respond to, systematic attacks on constitutional order that use formally lawful means, including court-packing, jurisdictional stripping, and coordinated delegitimation campaigns
- Doctrinal studies of constitutional reasoning under political pressure: how courts in the region have deployed or adapted doctrinal tools, including proportionality, eternity clauses, unconstitutional constitutional amendments, and the unamendable core, when facing politically motivated legal challenges
- Comparative analysis drawing lessons from Germany and other established constitutional systems: what the Federal Constitutional Court's experience with party bans, value-based review, and the defence of constitutional identity offers to courts in Southeast Europe, and where the analogy has its limits
- Rights protection, minority rights, and democratic legitimacy in polarised societies: how constitutional courts balance the countermajoritarian protection of fundamental rights against the risk of being perceived as partisan actors, and what strategies have proved most effective
- European integration and external rule of law leverage: the role of EU accession conditionality, Venice Commission opinions, and Council of Europe mechanisms in reinforcing or substituting for domestic judicial independence in the SEE region
- Building and sustaining public trust: communication strategies, transparency practices, and outreach efforts that constitutional courts in the region have employed to maintain legitimacy and public confidence under conditions of political polarisation and delegitimation pressure

Key Dates

31 May 2026 Pitch submission deadline

01 July 2026 Submission of full blog article

Submission Guidelines

Article length: 1,500 to 2,000 words.

What to submit: A short article pitch together with a brief narrative CV until 31 May 2026. Accepted authors then submit the full article by the deadline (01 July 2026). Authors will be notified on an ongoing basis after submitting their pitch (within 2 working days after submission). We encourage accepted authors to start working on and submit their full articles as soon as possible to make the peer review process as smooth as possible.

Scientific standard: Please see <https://lgsee.blog/submissions/information-for-authors/> for guidelines.

How to submit: Both the pitch and the final blog article must be submitted by email to: editor.lgsee@gmail.com

Review process: All submissions undergo double-blind peer review by a committee of established scholars.

Publication and Recognition

Accepted articles will be published on the Law and Governance Blog South East Europe ahead of the conference. This gives the research wide visibility among professionals and conference participants across the SEE region, reaching judges, policymakers, and legal practitioners at a moment when the issues are live and consequential.

One or more authors of the most outstanding submissions may also be invited by the organisers to participate in the panel and attend the conference itself. This is not a token acknowledgement. Selected authors will sit alongside serving constitutional court judges and senior international experts, contributing their research to a discussion oriented toward real institutional change.

In the case of an invitation to participate in the panel and the conference: costs related to flights and accommodation, will be covered by the conference organisers.