

# DIRITTI COMPARATI

Comparare i diritti fondamentali in Europa

## ONLINE SYMPOSIUM: THE RULE OF LAW AND JUDICIAL INDEPENDENCE IN EUROPE

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The Rule of Law in Europe is under pressure. Good proof of it is the spectacular rise of legal issues and litigation in which the Rule of Law, as a value of the EU or as an underlying principle inherent to the Convention system, is invoked by private applicants, States and EU Institutions. The reasons that justify this Rule of Law explosion are well known: illiberal tendencies expanding in several European countries are putting liberal democracies against the ropes. The fact that we are discussing the Rule of Law with such intensity is the result of our political systems reacting through their defensive (legal) tools.

Is the reaction to protect the Rule of Law a sign of its vitality and good shape, or a symptom of its decline? As the European Court of Human Rights and the Court of Justice of the EU start updating a new and sophisticated line of case-law on the matter, this question looms large.

A specific area in which the Rule of Law has come at the forefront of the debate is judicial independence. Illiberal pulses are focusing on the independence of the judiciary, a much-cherished icon of any liberal democracy that intends to keep power within a system of checks and balances. As long as courts guarantee that balance, illiberal leaders have turned independent courts into their *bête noire*. The pressure currently

exerted over several national judiciaries is catalyzing an unprecedented reaction in defense of judicial independence in Europe.

In this online symposium, several authors with relevant judicial positions, together with the voice of legal scholars, will reflect on the development of a European principle of the Rule of Law, with the focus on the case-law of the two top European courts. The discussion has as its starting point the article by Robert Spano, recently published in the *European Law Journal*, "The rule of law as the lodestar of the European Convention on Human Rights". Focusing on this contribution, the variety of standpoints from different outposts of the European judiciary and academia provide a fascinating insight into the diverse and subtle contours that the Rule of Law is currently assuming. There are no straight-forward answers to the challenges that Europe is now facing, but it is clear that the way in which the present tensions is resolved will shape the face of Europe's democracies for decades.