

Schriften zur Europäischen Integration  
und Internationalen Wirtschaftsordnung

55

Stefan Kadelbach | Rainer Hofmann (eds.)

# 70 Years of Human Rights and the Rule of Law in Europe



**Nomos**

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Europäischen Integration und  
Internationalen Wirtschaftsordnung

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Volume 55

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## Preface

The years of 2019 and 2020 offered the opportunity to commemorate four anniversaries: On 4 November 2020, it was 70 years ago that the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention on Human Rights (ECHR), was signed. Ten years later, the European Court of Human Rights (ECtHR) began its work, so that the Court has been watching over the application of the ECHR for 60 years. The Council of Europe, the ECHR's umbrella organization, had its 70<sup>th</sup> anniversary on 5 May 2019. Finally, the European Commission for Democracy through Law, the so-called Venice Commission, established in 1990, could celebrate its 30<sup>th</sup> birthday. These jubilees offer a good reason to take a look at how these institutions have contributed to making human rights and the rule of law a matter of common interest in Europe, and what their present condition is.

The work of these institutions had diverse impacts on furthering European integration. Initially, many thought the Council of Europe would be the organization from which the European Union should originate. Its task "to achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress", as it is stated in Art. 1 of its Statute, has been incorporated in the EU's catalogue of aims and values. The ECHR's guarantees have been the basis for the European Court of Justice's case law and the Charter of Fundamental Rights of the European Union. The work of the Venice Commission, another body operating under the aegis of the Council of Europe, is tightly connected with the rule of law framework under which the European Commission monitors critical constitutional developments in EU member states.

The Council of Europe as well as the European Union have recently been confronted with tendencies of renationalization and an emphasis on interests of national governments in the politics of several European states. An increase in reservations concerning the impact of the ECHR and judgments of the ECtHR can be observed at the level of highest courts in some European states. These tendencies, although different in their causes, seem to fit into a global political climate and rough times for individual rights and the rule of law.

## *Preface*

At the 19<sup>th</sup> Walter Hallstein Symposium, which took place on 5 and 6 March 2020 and the contributions of which are documented in the present volume, the central question was how far these observations can be validated by looking at the practice of the competent institutions. Applying paradigms of political sciences, it might be tempting to divide their history, as is the case with other international institutions, into different phases (such as foundation, consolidation, expansion and backlash). However, the starting hypothesis of the current volume is that this question cannot be answered by an abstract historical periodization, but rather by taking a closer look at the central elements of the European Council's system of values. Therefore, after a reminder of the origins of the ECHR, different protection systems will be discussed from a practitioner's and an academic point of view. A case study will be devoted to the highly sensitive cross-sectoral field of procedural rights flowing from the rule of law. Finally, a contribution will be devoted to the Venice Commission and its impact on the rule of law in Europe, thus also offering a perspective at how further constitutional practice may develop.

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Frankfurt am Main, autumn 2020

Rainer Hofmann

Stefan Kadelbach

Rainer Klump

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