

# **The Rule of Law in the European Convention of Human Rights and Council of Europe Law**

Professor Jacques Ziller

*Formerly Université de Paris-1 Panthéon Sorbonne and Università degli Studi di Pavia (It)*

CV and publications at <https://www.jacques-ziller.com/>

*The course will be taught in the English language, but the professor also speaks fluently French, German, Italian, Spanish, Dutch, and he reads and understands Portuguese.*

Session 1- 3 November 2025

## **The law of the Council of Europe**

The Council of Europe (CoE):

- 47/46 Member States;
- institutions;
- powers.

The ECHR and other 223 Treaties of the CoE:

- adoption, signature and ratification:
- what is mandatory and what is not?

Enforcement of CoE law

CoE soft law

Session 2 – 4 November

## **Historical development of the recognition of the rule of law in the Council of Europe**

The Rule of Law as a central concept of the Universal Declaration of Human Rights of 1948

The European endeavour to ensure the effectiveness of the Declaration: the establishment of the CoE and the elaboration and adoption of the European Convention on Human Rights (ECHR).

The different wordings of the concept of rule of law/*prééminence du droit* in European languages.

The different concepts of the rule of law in European States' law at the time of the establishment of the CoE

- The English concept of rule of law
- The French concept of *légalité* and *régime de droit*
- The German concept of *Rechtsstaat*

Session 3 – 5 November and session 4 – 6 November

## **The Rule of Law in the ECHR**

The relevant provisions of the ECHR and its protocols and the absence of a specific definition of the Rule of Law

The foundational case law of the European Court of Human Rights (ECtHR)

- *Golder v. UK* 21 February 1975
- *Tyrer v. UK* 25 April 1978
- *Lawless v. UK* 1 July 1967
- *Klass v. Germany* 6 September 1978

Other relevant case law of the ECtHR, especially

- *Advisory opinion concerning the use of the “blanket reference” or “legislation by reference” technique* 29 May 2020
- *Grzęda v. Poland*, 15 March 2022.

The Rule of Law in other CoE binding instruments.

The CoE Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law of 5 September 2024

Session 5 - 7 November

### **The Rule of Law in CoE soft law and General discussion**

CoE instruments of soft law relevant for the rule of law

The Venice Commission: membership and work

The Venice Commission’s opinions on the Rule of Law

- Report on the rule of law - Adopted by the Venice Commission at its 86th plenary session (Venice, 25-26 March 2011)
- Rule of Law Checklist, adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016); opinions on specific countries and specific issues.

General discussion, taking into account amongst other of *Verein Klimaseniorinnen Schweiz and Others v. Switzerland* 9 April 2024 and *Agostinho and Others v. Portugal and 32 Others* 9 April 2024

==:==:==:==:==:==:==:

|                                                |
|------------------------------------------------|
| The course will be assessed by a written exam. |
|------------------------------------------------|

==:==:==:==:==:==:==:

The following links provide some of the most useful materials for the course in English language:

Council of Europe: <https://www.coe.int/en/web/portal/home>

European Court of Human Rights: <https://www.echr.coe.int/>

CoE treaties: <https://www.coe.int/en/web/conventions/full-list>

Venice Commission: <https://www.venice.coe.int/webforms/events/>

For those who read French, see J. Ziller *L'Etat de droit, une perspective de droit comparé - Conseil de l'Europe* Report for the European Parliament Research Service

[https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_STU\(2023\)745673](https://www.europarl.europa.eu/thinktank/en/document/EPRS_STU(2023)745673)

On the CoE Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law of 5 September 2024 see

Lorenzo Cotino Hueso <https://ceridap.eu/the-council-of-europes-convention-on-artificial-intelligence-human-rights-democracy-and-the-rule-of-law/?lng=en>

Jacques Ziller “The Council of Europe Framework Convention on Artificial Intelligence vs. the EU Regulation: two quite different legal instruments” <https://ceridap.eu/the-council-of-europe-framework-convention-on-artificial-intelligence-vs-the-eu-regulation-two-quite-different-legal-instruments/>