



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

**Conference on “The Rule of Law in Europe:
Vision and Challenges”**

Speech by Robert Spano,
President of the European Court of Human Rights
Strasbourg, 15 April 2021

Madam Minister of Justice and Consumer Protection,
Ambassador Mafael,
Distinguished Speakers and Guests,
Fellow Judges,

It is my great pleasure to welcome you today to the European Court of Human Rights where we meet virtually for an important conference on “The Rule of Law in Europe – vision and challenges”.

I would like to begin by thanking very warmly the German authorities for their invaluable support in organising this event and for the excellent cooperation which the Court has enjoyed during your Presidency of the Committee of Ministers.

As I stated just a few days ago at the opening of a conference on inter-State cases, the German authorities have been very active and creative in their organisation of numerous online events these last months, despite the obvious challenges which the pandemic has brought.

I very warmly welcome the presence online this morning of the Minister of Justice and Consumer Protection, Ms Christine Lamprecht, to whom I will shortly hand over the floor. I thank her for her participation in our conference and for the very strong message which this sends.

Defending human rights, democracy and the rule of law has been one of Germany’s key priorities during their Presidency of the Committee of Ministers and I fully support their efforts in this regard. As we all know, the fundamental values of the Council of Europe are increasingly being called into question both at the European and the global level. Institutions which promote multilateralism are also vulnerable to attack, as are domestic and international judges.

Extra-judicially I have written about my conception of the rule of law as the “lodestar” guiding the case-law of the Court. The rule of law constitutes the legal and moral foundation of the Court’s work along with the fundamental principles of democracy and human dignity. It is my strong view that an

important function of the Court is to give concrete and effective expression to this principle under the European Convention which can be seen as one of the fundamental components of European public order.

While there is no abstract definition of the rule of law in the Court's case-law, the Court has developed various substantive guarantees which may be inferred from this notion. These include the principle of legality or foreseeability, the principle of legal certainty, the principle of equality of individuals before the law, the principle that the executive cannot have unfettered powers whenever a right or freedom is at stake, the principle of the possibility of a remedy before an independent and impartial court and the right to a fair trial. Some of these principles are closely interrelated and can be included in the categories of legality and due process. They all aim at protecting the individual from arbitrariness, especially in the relations between the individual and the State.

Judicial independence is a cornerstone of the rule of law and I am pleased to see that one of today's sessions will be devoted to this core theme. Indeed, we can see today's conference as building on the meeting of Ministers of Justice of the Council of Europe last November, organised at the very end of the Greek Presidency.

As President of the Court I have continuously stressed the importance of the existence of an independent European community of judges, in which the notion of the separation of powers between the executive and the judiciary is scrupulously respected. As I have stated in a public speech I gave last year, and I quote:

"The principle of the rule of law is an empty vessel without independent courts embedded within a democratic structure which protects and preserves fundamental rights... Without independent judges, the Convention system cannot function."

The Convention system, built on the notion of subsidiarity, relies in other words on strong domestic courts, which are both *de jure* and *de facto* independent, embedded within a national system governed by the rule of law. The topic of today's conference is therefore central to the very success of the Convention system itself.

Finally, let me thank my colleague and friend, Judge Anja Seibert-Fohr, who chairs this opening, for her hard work in putting together our impressive programme of speakers which includes many Judges of this Court and distinguished academics from all over Europe. I wish you all a very productive day of discussions.

It is now my honour to hand over the floor to Germany's Minister of Justice and Consumer Protection, Ms Christine Lamprecht. Thank you.