



ESIL Interest Group

“The European and International Rule of Law”

Introductory Report

1. Thematic focus

The concept of the rule of law can best be described as a set of principles organizing the relationship between a community and its governing institutions, its overall goal being the subjection of power to law. Building on this broadly shared basis, legal scholarship has shaped the concept in numerous ways, comprising, *inter alia*, formal and substantive, ‘thinner’ and ‘thicker’ approaches. Moreover, different domestic legal systems have developed diverse and specific rule of law traditions - be it the rule of law, *der Rechtsstaat*, *l'état de droit*, *lo stato di diritto* etc.

For the longest time, legal scholarship has focused on these aspects of the rule of law within the nation state. However, as a basic concept, the rule of law is also relevant in contexts beyond the state. Today, the rule of law is understood to be conceptually applicable to any legal order or suborder above or beyond the State that features public governance functions or the exercise of public authority. Furthermore, even the public international legal order as such – essentially not functioning by typical means of public governance (in the sense of a delegation of powers), but rather as an organizational governance tool to arrange the legal relationships within a community of equal and sovereign actors (states) and international organizations – is conceived as being measurable against the rule of law’s principles with respect to e.g. legality, legal certainty, or the existence of effective legal dispute settlement mechanisms.

These contexts comprise a broad variety of inter-, supra- and transnational institutions and mechanisms, including inter- and supranational organizations (e.g. the UN, EU, Council of Europe, WTO or World Bank), ad hoc governance mechanisms (e.g. those created by investment treaties), but also less institutionalized structures and networks. What is more, there is growing interdependence between, and integration of, different bodies and mechanisms (e.g. in EU composite administration), which give rise to particular multi-level (“non-state”) rule of law issues of their own.

These supra-, inter-, and transnational dimensions of the rule of law are thus of imminent scholarly and practical concern, both in Europe and in the world at large. The persisting rel-

evance of public governance structures beyond the state, but also recurring (global) backlashes against achieved rule of law standards, call for continuous scholarly consideration and debate.

The IG on the International and European Rule of Law is dedicated to studying the supra-, inter-, and transnational dimensions of the rule of law. The IG intends to offer a forum for in-depth academic discussion and scholarly exchange for all ESIL members with an interest in the topic and its aspects in all their variety.

2. Activities

The IG provides a European forum for discussing topics falling within its ambit. It will organize side events to the ESIL Annual Conferences and the ESIL Research Fora, as well as additional conferences, workshops and meetings as appropriate. IG members are encouraged to propose activities on topics falling within the IG's thematic ambit to the Coordinating Committee. The IG intends to publish its work in appropriate formats to disseminate the outcome of its activities. The IG is open to cooperative activities with other thematically proximate research groups and institutions, both within and outside the ESIL framework.

The Coordinating Committee will disseminate relevant information to the IG members, including on IG activities and events, via the IG emailing list, and will promote the IG's activities via an IG website.

The conveners intend to explore new forms of scholarly cooperation and means of conducting the IG's activities, e.g. through online video conferencing (e.g. via Zoom or Cisco Collaboration).