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## CONSTITUTING EUROPE

At fifty, the European Court of Human Rights finds itself in a new institutional setting. With the EU joining the European Convention on Human Rights in the near future, and the Court increasingly having to address the responsibility of states in UN-led military operations, the Court faces important challenges at the national, European and international levels. In light of recent reform discussions, this volume addresses the multilevel relations of the Court by drawing on existing debates, pointing to current deficits and highlighting the need for further improvements.

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## PREFACE AND ACKNOWLEDGEMENTS

The European Court of Human Rights (the ECtHR, or the Court) has in recent years been the subject of heated debate. It is a cornerstone of human rights protection for over 850 million, but the Court is struggling with an overload of more than 150,000 pending cases. In this sense it is a victim of its own success. At the same time, the Court's interference in national democracy and judiciary is increasingly questioned. How it should ensure effective human rights protection while paying due respect to national sovereignty has been the subject of several inter-governmental conferences: Interlaken, Izmir, and most recently, Brighton in 2012.

It has long been discussed whether the ECtHR slowly assumes the role of a constitutional court for Europe in relation to its member states. However, the envisaged ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) by the European Union raises new issues, particularly concerning the relationship between the ECtHR and the Court of Justice of the European Union (CJEU) (formerly the European Court of Justice, ECJ). The Court must also find its role among the other organs of the Council of Europe, particularly the Committee of Ministers and the Parliamentary Assembly. Finally, the ECtHR must increasingly address actions by other international organisations, such as the United Nations. Hence, the Court finds itself in a new institutional setting. In addition to its relationship to national legal systems, questions of an inter-institutional character at the European and global level become increasingly important. This book examines these new institutional settings.

This is the second book in the Cambridge University Press series *Studies on Human Rights Conventions*. This series is the result of a larger research project, 'Should states ratify human rights conventions?', at the Centre for Advanced Study, Norway. The project was led by Andreas Føllesdal and Geir Ulfstein. We are grateful for the hospitality of the Centre under Scientific Director, Gro Steinsland and Office Manager, Maria M.L. Sætre.

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The book was developed over a period of two years, including two author meetings in Oslo. These meetings were important in shaping a common approach to this study. The chapters of the book seek to address the legitimacy challenges of the Court in terms of some common principles, such as the rule of law, the principle of subsidiarity, the principle of effectiveness, as well as the principles of implied powers and proportionality. However, the authors have been left with considerable freedom in their choice of approach to their respective chapters.

We would like to thank Nienke van Schaverbeke and Finola O'Sullivan at Cambridge University Press for professional assistance and guidance. In Oslo, Leiry Cornejo Chavez and Stian Øby Johansen provided effective and unremitting help in making sure that the style guide was respected (not an easy task), and compiling the registers of the book. Svenja Rebenstörp, Arlena Skalecki and Ante Spalink helped with the compilation of the bibliography and the final manuscript. Lastly, we thank our contributing authors for a great learning process!

*Andreas Føllesdal, Birgit Peters and Geir Ulfstein*

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