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| 1. Record Nr. | UNISA996207488903316 |
| Titolo | ACM SIGMETRICS performance evaluation review |
| Pubbl/distr/stampa | [New York?], : ACM SIGMETRICS |
| ISSN | 1557-9484 |
| Disciplina | 001.64 |
| Soggetti | Computers - Evaluation Computer software - Evaluation Electronic digital computers - Evaluation |
| Lingua di pubblicazione | Inglese |
| Formato | Materiale a stampa |
| Livello bibliografico | Periodico |
| 2. Record Nr. | UNINA9910964607203321 |
| Autore | Ferreres Comella Victor |
| Titolo | Constitutional courts and democratic values : a European perspective / / Victor Ferreres Comella |
| Pubbl/distr/stampa | New Haven ; ; London, : Yale University Press, c2009 |
| ISBN | 9786612352799 9781282352797 1282352792 9780300148688 0300148682 |
| Edizione | [1st ed.] |
| Descrizione fisica | 1 online resource (1 online resource (xvi, 238 p.)) |
| Classificazione | LAW000000 |
| Disciplina | 347.4035 |
| Soggetti | Constitutional courts - Europe Constitutional courts - United States Judicial review - Europe Judicial review - United States |
| Lingua di pubblicazione | Inglese |
| Formato | Materiale a stampa |
| Livello bibliografico | Monografia |
| Note generali | Bibliographic Level Mode of Issuance: Monograph |

Nota di bibliografia

Includes bibliographical references (p. 159-222) and index.

Nota di contenuto

Frontmatter -- Contents -- Acknowledgments -- Introduction -- 1. The Rise of Constitutional Courts -- 2. Historical Background: The Principle of Separation of Powers -- 3. A Traditional Justification: Legal Certainty -- 4. The Justification of Constitutional Review: The Sketch of an Argument -- 5. The Special Nature of Constitutional Discourse -- 6. The Structure of the Constitutional Conversation -- 7. Overcoming Judicial Timidity -- 8. The Democratic Objection to Constitutional Review -- 9. Democratic Checks on Courts -- 10. Decentralizing Tendencies in the System -- 11. The Impact of the European Court of Justice -- 12. The Impact of the European Court of Human Rights -- Afterword -- Notes -- Index

Sommario/riassunto

In this book, Víctor Ferreres Comella contrasts the European "centralized" constitutional court model, in which one court system is used to adjudicate constitutional questions, with a decentralized model, such as that of the United States, in which courts deal with both constitutional and nonconstitutional questions. Comella's systematic exploration of the reasons for and against the creation of constitutional courts is rich in detail and offers an ambitious theory to justify the European preference for them. Based on extensive research on eighteen European countries, Comella finds that centralized review fits well with the civil law tradition and structures of ordinary adjudication in those countries. Comella concludes that while the decentralized model works for the United States, there is more than one way to preserve democratic values and that these values are best preserved in the parliamentary democracies of Europe through constitutional courts.