

## **FRANCO GALLO**

### **The balanced budget principle and the protection of social rights according to the European legislation**

The author argues that the application of the balanced budget principle required by the art. 81, sixth paragraph, of the Italian Constitution cannot always have a preeminence on fundamental rights that ensure the minimum level of social benefits, turning them into rights influenced by the availability of actual resources. Conversely, in principle, it is just the implementation of these rights that should address the obligation for the lawmaker to allocate available resources within the budget law, coming to admit in some extreme cases the option of invoking “contro-limits” based on the principle of reasonableness to the European and conventional law, and even to invoke the respect for national identity referred to in the art. 4, par. 2, of the EU Treaty. European policies in the field of social market economy, which have been developed in recent years, do not help lawmakers and law judges of EU countries to move in this direction. Sometimes, they seem to want to give up the competition dogma and fix the economy to the fundamental principles included in the Charter of Rights signed in Nice. Sometimes, they have imposed forms of economic and financial governance that were restrictive in social expenditure, and which are those that have driven, although not imposed, Countries marked by a strong public debt like Italy to include the balanced budget principle into their Constitution.