



THE EUROPEAN SOCIAL CHARTER AS AN INTERPOSED PARAMETER IN THE CONSTITUTIONAL LEGITIMACY JUDGMENTS PURSUANT TO ARTICLE 117, CO. 1, OF THE ITALIAN CONSTITUTION. A REVIREMENT FROM THE CONSTITUTIONAL COURT OR AN AMBIGUOUS PROGRESS TOWARDS EQUALITY BETWEEN INTERNATIONAL SOURCES?

With two judgments in April and September 2018, the Italian Constitutional Court has taken a step forward towards the acknowledgement of the European Social Charter as an interposed parameter to assess the constitutional legitimacy of national laws. In particular, in the judgment 120/2018, the Italian Constitutional Court, for the first time, affirmed that the Charter presents some specialty elements with regard to other international treaties, constituting the natural completion of that uniform system of protection of civil and political fundamental rights constituted by the ECHR, thus confirming the indivisible character of the human rights. As a consequence, the Charter should qualify as an international source pursuant to Article 117, co. 1, of the Italian Constitution. Nevertheless, such innovative affirmation is immediately watered down by another statement affirming that the Charter has not direct effect and it cannot be applied directly by the judge. The two judgments at stake, therefore, despite constituting a modest progress in the jurisprudence of the Italian Constitutional Court, do not certainly constitute the necessary *revirement*. They continue with the trend considering social rights as a *minus*, thus attributing to the European Social Charter a conditioned effect in the Italian legal order, in total asymmetry with Article 117, co. 1, of the Italian Constitution and with the value of the order of execution of an International treaty acknowledged by the same Italian Constitutional Court.