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THE ECHR AND THE GAME OF DISTORTING MIRRORS AT THE ITALIAN CONSTITUTIONAL COURT

The paper highlights the aporias of a methodical and theoretical-reconstructive nature exhibited by constitutional jurisprudence regarding the status of the ECHR in the Italian legal order, with specific regard to its qualification as a “sub-constitutional” source, irreconcilable with the substantially constitutional character that is proper to the Convention, like any other Charter of Rights. The paper then focuses on the different treatment reserved to the “living law” as shown, respectively, by the ECHR and the European Union jurisprudence. Furthermore, the responsibilities imposed on the doctrine in becoming a vehicle for knowledge of jurisprudential guidelines and, at the same time, in promoting ever more intense forms of “dialogue” between the Courts, are noted. Finally, a last thought is given to the prospects that could open up for the Convention following the receipt of prot. 15 and, if pursued also in Italy, of prot. 16.