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THE OSCILLATING “NORMATIVE FORCE” OF THE ECHR, SEEN FROM THE CONSULTA

The paper argues the thesis according to which an oscillating ECHR normative force is given, especially in consideration of the fact that the constitutional jurisprudence recognizes a binding capacity which varies according to the rulings of the Court of Strasbourg. The weak prescriptive intensity of the Charters of Rights is then noted in general because of the structural elasticity of their statements, which are subject to interpretative manipulations also by the guarantee bodies. We also ask ourselves how we can “measure” the normative force of the Charters in general and of the ECHR in particular in light of the fundamental canon that leads to the search for the maximum possible protection of rights. Finally, it should be noted that the normative force varies according to the decision-making techniques of the judges.