



THE PROGRESSIVE REDUCTION OF THE STATE MARGIN OF APPRECIATION IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS: THE ISSUE OF THE RIGHT TO ABORTION

This paper examines the evolution of the margin of appreciation granted to States Parties to the ECHR by the European Court of Human Rights, with particular reference to its progressive reduction in cases of violation of certain rights guaranteed by the ECHR. After a preliminary examination of the concept of margin of appreciation and its function in the conventional legal system, the analysis focuses on two main areas: on the one hand, the contraction of state discretion in cases of violation of certain rights expressly provided for by the ECHR; on the other hand, its erosion in cases where such rights have been derived interpretatively by the Court, mainly through evolutionary interpretation. Particular attention is paid to the regulation of the right to abortion, with a view to balancing individual rights and state prerogatives. In particular, the possibility of configuring the lack of access to abortion as a violation of Articles 2 and 3 of the Convention is examined, as well as the role of the Court's case law in progressively reducing the margin of appreciation of the state through the extensive interpretation of the Convention's provisions. Reference will also be made to similar approaches taken by the European Court in areas other than abortion rights, with particular reference to certain issues concerning end-of-life care, confirming, within the limits of the investigation carried out, the reflections on the progressive reduction of the margin of appreciation of the state.