



RETROACTIVITY, ABUSE OF PROCESS AND THE RULE OF LAW: PRELIMINARY CRITICAL REMARKS ON *SIMONCINI V. SAN MARINO* CASE BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS (14396/24)

This paper analyses the *Simoncini v. San Marino* judgment as a paradigmatic case for reassessing some structural components of the rule of law within the framework of the European Court of Human Rights (ECtHR). By examining the retroactive legislative measure that led to the annulment of the applicant's judicial appointment, and the Court's reasoning on the abuse of the right to individual application, the paper argues that the decision reflects Strasbourg's broader stance in favour of case-sensitive models of legal protection.

The study thus, firstly, explores the tension between the procedural autonomy of the State and the protection of legitimate expectations under Article 6 of the ECHR, by referring to the notion of authentic interpretation, and its inevitable impact on established legal situations. Particular attention is paid to the 'imperative reasons of public interest', which, although formally recognised, appears to be subject to differentiated application.

The paper, secondly, examines in depth the concept of abuse of the right of application under Article 35(3)(a) of the ECHR, highlighting the persistent ambiguity surrounding its definition and the standard of proof required to demonstrate misconduct.

The paper concludes that the *Simoncini* judgment confirms the central importance of legal certainty while also highlighting the rise of differentiated, less predictable standards of protection under the ECHR.