

RIGHT TO FREE ELECTIONS IN THE CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

ESTRATTO

“Le Alti Parti Contraenti si impegnano ad organizzare, a intervalli ragionevoli, libere elezioni a scrutinio segreto, in condizioni tali da assicurare la libera espressione dell’opinione del popolo sulla scelta del corpo legislativo¹”.

L’Articolo 3 del Primo Protocollo addizionale alla Convenzione per la Protezione dei Diritti Umani e delle Libertà Fondamentali riveste un ruolo di primaria importanza nella costruzione e nel mantenimento delle istituzioni democratiche, scopo per il quale fu creato il Consiglio d’Europa nel 1949. Nonostante l’ampiezza del margine di apprezzamento concesso agli Stati Membri nell’indizione delle elezioni, la Corte Europea dei Diritti dell’Uomo non ha abdicato alla sua funzione di “supervisione europea”. Anzi, proprio attraverso la salvaguardia del diritto alle libere elezioni, la Corte svolge un ruolo cruciale nella diffusione della democrazia e dei suoi valori tra i Paesi Membri del Consiglio d’Europa.

Il primo capitolo della tesi analizza i lavori preparatori all’Articolo 3 del Primo Protocollo, per comprendere il problematico percorso affrontato dalle Parti Contraenti per inserire le libertà politiche nel sistema di tutela convenzionale europea. Particolare attenzione viene data alla formulazione dell’Articolo 3 del Primo Protocollo, alla sua interpretazione e ai diritti individuali implicitamente sanciti.

La seconda parte è incentrata sull’analisi della giurisprudenza della Corte Europea, con attenzione alle sentenze più significative, per esaminare come i diritti elettorali siano stati tutelati nel sistema giuridico europeo.

Infine, il terzo capitolo tratta della natura peculiare del margine di apprezzamento di cui godono gli Stati Membri nell’adempimento degli obblighi prescritti

¹ Primo Protocollo alla Convenzione Per la Protezione dei Diritti dell’Uomo e delle Libertà Fondamentali-
<http://conventions.coe.int/Treaty/ita/Treaties/Html/009.htm>.

dall'Articolo 3 e dell'ampiezza di tale autonomia, diversificata in base ai differenti aspetti coinvolti nella protezione dei diritti elettorali.

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