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Evolution of the control mechanism in the order of the European Convention on Human Rights. Theoretical and legal analysis

Summary

The subject of the doctoral dissertation is the functioning of the control mechanism operating within the Council of Europe and the European regional human rights protection system, as well as the changes that have been made in this mechanism over the years. Taking into account the legal coefficients, the author focused on the operation of the control mechanism of the European Human Rights (ECHR, Convention), that he understands as a set of procedural and institutional norms, taking into account the degree of protection of human rights and freedoms in the ECHR and its constituents. The thesis presents the reasons for the introduction of protocol and non-protocol changes and the effects of these changes. Study of statistical data and research studies an attempt was made to assess the effects of individual changes and their impact on the operation of the control mechanism. Using statistical data and surveys, an attempt was made to assess the effectiveness and efficiency of the introduced changes and their impact on the functioning of the control mechanism.

The main purpose of the work is to identify the reasons for changes in the control mechanism for the introduction of additional protocols to the ECHR and to assess their verification. The specific objectives are: 1) Presentation of evolutionary changes in the system of the European Court of Human Rights (ECtHR) and presentation of the method of development of the control mechanism; 2) Identification of the factors that influenced the changes in the procedure for finding and examining individual complaints and the theoretical and dogmatic analysis of the effects of these reforms; 3) Addressing the question of whether an interstate complaint is a preliminary instrument for applying the control mechanism of the Convention.

The work uses the dogmatic-legal method, historical-legal method, comparative law method and theoretical-legal method, the method of data analysis and synthesis, the tabular and descriptive method of presenting the results. The empirical part of the paper presents an analysis of the survey results.

The doctoral dissertation consists of an introduction, seven chapters and a summary. The work is supplemented by a list of abbreviations and a bibliography.

The first chapter presents the origins of the creation of the Council of Europe and its detailed characteristics. The second chapter presents the circumstances in which the ECHR was adopted. It was presented what the Convention is and what place it occupies in the legal acquis of the Council of Europe. Additional protocols of a procedural nature were reviewed and the causes and effects of the changes introduced were analyzed. In terms of subjects, the method of accession of the member states of the Council of Europe to the Convention and changes in this process were presented. Considerations have been made on the procedural values of the ECHR. The subject of the third chapter was the control mechanism of the ECHR. Against the background of doctrinal definitions, the author's own definition of the control mechanism was formulated. Using the method of comparative law, the control mechanism of the Convention is presented against the background of mechanisms functioning in other regional systems of human rights protection and at the level of

universal protection. The subject of discussion in chapter four was the ECtHR. The genesis of the establishment of the ECtHR and its internal structure are shown. An analysis of the Additional Protocols and non-protocol reforms was carried out, including the causes and effects of the changes introduced, and the functioning of the ECtHR over the years was assessed. The fifth chapter is devoted to the institution of an individual complaint. Protocol and non-protocol changes regarding the individual complaint were analyzed. The concepts of effectiveness and efficiency of the control mechanism were explained. The author presented his own idea for measuring the effectiveness of reforms of the control mechanism. Subsequently, he measured the effectiveness of the control mechanism reforms using selected criteria. The next part of the dissertation covered the issue of interstate complaints. An analysis of the complaint was carried out in terms of the frequency of its submission, the subject of the complaint, the parties to the proceedings and the reasons for its application. Protocol and non-protocol changes concerning the interstate complaint were analyzed. Using a specific criterion for measuring the effectiveness of the reforms of the control mechanism, the impact of the reforms on the length of proceedings initiated by an inter-state complaint was examined.

Chapter seven is empirical. The results of original surveys with recognized Polish lawyers - practices related to the functioning of the ECHR control mechanism were presented and discussed. The subject of the interview was key issues for the effectiveness and efficiency of the control mechanism of the Convention, including in particular issues related to the complaint system or achieving an optimal level of regional protection of human rights. Based on the conducted research, analysis of normative acts and literature studies, own postulates for changes in the control mechanism were formulated. The proposed changes include full computerization of the proceedings before the ECtHR with simultaneous structural changes within the Tribunal.

The summary presents and discusses the most important findings of the research. The control mechanism is a key value of the regional human rights protection system. The changes introduced by the additional procedural protocols have increased the effectiveness and efficiency of the control mechanism of the European Convention on Human Rights, which now provides complainants with effective protection of their rights.

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