

**THE RIGHT TO FREEDOM OF EXPRESSION  
AND THE PROTECTION OF HEALTH AND MORALS  
— THE JURISPRUDENCE OF THE EUROPEAN  
CONVENTION ON HUMAN RIGHTS**

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**Abstract**

This essay analyses how and where the European Commission and Court of Human Rights draw the line between the guarantee of the right to freedom of expression and the protection of health and morals by a detailed study of the case-law of Article 10 of the European Convention on Human Rights. It argues that the institutions of the Convention, by referring too much to the doctrine of margin of appreciation, limited the protection of the right to freedom of expression. On the other hand, by judging that limiting the provision of abortion information did not comply with Article 10 of the Convention, the Court enhanced the guarantee of the right. It also argues that the institutions should not put too much emphasis on the “principle of subsidiary” and the “doctrine of margin of appreciation,” as the institutions themselves have been the product of a “European consensus” exercising “international judicial review.” Rather, the institutions should apply the “doctrine of proportionality” and try to establish a “European standard” for protecting the right to freedom of expression.

**Key Words:** The Right to Freedom of Expression, Protection of Health and Morals, European Convention on Human Rights, European Court of Human Rights, the Principle of Proportionality