

## Margin of Appreciation Applying in the Light of Legal Schools and European Court of Human Rights Case Law

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### Abstract

Codification, interpretation, enforcement, interpretation and modification, all are mainly affected by governments will. Margin of appreciation doctrine isn't an exception in this respect. This doctrine provides certain flexibilities for implementation of the obligations of states under some circumstances. One would pose a question that in case the matter in question is one dealing with human rights how much and to what extent Margin of appreciation doctrine play its role under international human rights norms. This descriptive-analytical study examines the dimensions of the marginal doctrine and its effectiveness in the context of the principles of sovereignty and human rights and freedoms. In this regard, the said doctrine is analyzed in light of both the natural positivism schools to see its manifestation in the practice and view of the European Court of Human Rights. The results of the research show that, by determination of certain Criteria and restrictions for margin of appreciation doctrine as a product of legal positivism (voluntarism), European court of Human Rights attempts that considerations of the natural law school is being considered by states.

**Keywords:** Margin of appreciation; rule of states will; positivism law; natural law; evaluation criteria.

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