METHODS OF EVIDENCE RESULTING FROM THE EMPLOYER'S SUPERVISORY POWER IN THE CASE LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS: STRENGTHENING THE ABILITY TO PROVIDE EVIDENCE

Cindy Lhomond
Associate Lecturer at Jean Monnet University (Saint-Étienne), CERCRID CNRS UMR 5137

ABSTRACT

The European Court of Human Rights contributes greatly to the expansion of the right to evidence at the level of national courts. From the employer's point of view, its case law has made it possible to legitimise the admissibility of certain methods of evidence resulting from the exercise of its supervisory power. The reason for this expansion lies in the main basis of the right to evidence, the ability to provide evidence. This criterion, although variable, must be renewed as a priority, both in its design and in its implementation.

KEYWORDS: Illegal evidence, Power, Ability to provide evidence, Proportionality.

RÉSUMÉ

La Cour européenne des droits de l'homme contribue fortement à l'expansion du droit à la preuve au niveau des juridictions nationales. Du point de vue de l'employeur, sa jurisprudence a permis de légitimer l'admissibilité de certains modes de preuve issus de l'exercice de son pouvoir de surveillance. La cause d'une telle expansion réside dans le fondement principal du droit à la preuve, l'aptitude à la preuve. Ce critère, bien que variable, doit être renouvelé en priorité, tant dans sa conception que dans sa mise en œuvre.

MOTS-CLÉS : Preuve illicite, pouvoir, aptitude à la preuve, proportionnalité.