Abstract

This Research is the result of the project "La economía en los derechos humanos" of the line Globalización y desarrollo del derecho internacional, of the group of investigation Centro de Estudios de Derecho Internacional y Derecho Global "Francisco Suárez S.J." (acknowledged by Colciencias -A category-). The authors carried out a research about the delimitation of the category "servicios públicos domiciliarios" in Colombian Constitution, which is a problematic issue as long as the indetermination of that category constitute an empty space appropriated for the reduction of Economic, Social and Cultural Rights in Colombia, in the sense that legislator can reduce the application of constitutional rules related with that category through ignoring the "servicio público domiciliario" nature of an specific service that should be considered in that way. From this research the authors concluded that (i) delimitation of that category in the jurisprudence of the Constitutional Court and in the settled view amongst academics, are not enough for identifying the utilities that must be mandatorily considered as a "servicio público domiciliario", (ii) none of those approaches have been done with a "systematic interpretation" of the Constitution, nor taking into account the concept of "constitutionality block" and (iii) through the application of a "systematic interpretation" of the Constitution and the concept of "constitutionality block", the definition of the category will be referred to the public utilities that, according to the CESCR General Comment No. 4, belong to the content of the right to adequate housing, which must be obeyed by the Colombian Legislator.

Keywords

Constitutionality block, economic social and cultural rights, public utilities, right to adequate housing.