TAKING A CASE TO THE EUROPEAN COURT OF HUMAN RIGHTS

FOURTH EDITION

PHILIP LEACH



CONTENTS

Aci	knowledgements	xxi
	·	xxiii
	on Human Rights The Council of Europe: Origins and Principal Bodies	
		xci
la	ble of Rules of Court	xciii
1.		1
	The Council of Europe: Origins and Principal Bodies	1.01
	The European Convention on Human Rights	1.22
	The European Court of Human Rights	1.37
2.	Practice and Procedure of the European Court— The Pre-judgment Phase	20
	Lodging the Application with the Court	2.01
	Costs, Legal Aid and Fees	2.23
	Getting Assistance	2.30
	Opening of the Case File and Initial Stages	2.31
	Procedure before a Single Judge, Committee or Chamber	2.77
	Third Party Intervention	2.120
	Establishing the Facts	2.127
	Friendly Settlement	2.155
	Striking Out (and Unilateral Declarations)	2.165
	Submissions Post-admissibility	2.178
	Oral Hearing	2.181
3.	Practice and Procedure of the European Court—Judgment and Enforcement	78
	Delivery of Judgment	3.01
	Referral to the Grand Chamber	3.08
	Interpretation of Judgment	3.12
	Revision of Judgment	3.13
	Enforcement of Judgments	3.19

Contents

4.	Standing and Admissibility Criteria	119
	Introduction	4.01
	Capacity and Standing—Who May Petition the Court?	4.05
	Who Can Claim to be a Victim?	4.27
	When Inadmissibility Arguments can be Raised and Decided	4.55
	Exhaustion of Domestic Remedies	4.58
	Six-Month Time Limit	4.104
	No Significant Disadvantage	4.129
	Anonymous Applications	4.135
	Applications Substantially the Same as a Matter That Has Already Been Examined by the Court	4.137
	Applications Already Submitted to Another Procedure of International Investigation or Settlement	4.138
	Incompatibility with the Provisions of the Convention	4.141
	Manifestly Ill-founded	4.166
	Abuse of the Right of Application	4.168
5.	Underlying Convention Principles	186
	Introduction	5.01
	Subsidiarity	5.02
	A Democratic Society	5.05
	Legal Certainty	5.07
	Proportionality	5.10
	Margin of Appreciation	5.11
	The Convention as a 'Living Instrument'	5.13
	Absence of Doctrine of Precedent	5.14
	Practical and Effective Rights	5.15
	Autonomous Concepts	5.17
	Positive Obligations	5.18
	Restrictions on Rights	5.23
	Prohibition of Abuse of Rights	5.33
	Interpretation of the Scope of Substantive Rights	5.40
	Irrelevance of a State's Resources	5.41
	Interpretation in Accordance with the Vienna Convention	5.44
	Interpretation in Accordance with International Law	5.45
	Interpretation in the Light of the Travaux Préparatoires	5.48

Contents

	Issues Considered by the Court of its Own Motion	5.49
	Inability to Consider Cases in the Abstract	5.50
	Rules of Evidence and Burden of Proof	5.51
	Waiver of Convention Rights	5.53
	The Effective Exercise of the Right of Application	5.54
	Duty to furnish all necessary facilities (Article 38—former Article 38(1)(a))	5.65
6.	The Substantive Rights of the European Convention	210
	Article 1: Obligation to Respect Human Rights	6.01
	Article 2: The Right to Life	6.24
	Article 3: Prohibition of Torture and Inhuman or Degrading Treatment or Punishment	6.110
	Article 4: Prohibition of Slavery and Forced Labour	6.198
	Article 5: Right to Liberty and Security of the Person	6.209
	Article 6: The Right to a Fair Hearing	6.288
	Article 7: No Punishment Without Law	6.417
	Overview of Articles 8 to 11	6.437
	Article 8: The Right to Respect for Private and Family Life, Home	
	and Correspondence	6.447
	Article 9: Freedom of Thought, Conscience and Religion	6.553
	Article 10: Freedom of Expression	6.572
	Article 11: Freedom of Peaceful Assembly and Association	6.635
	Article 12: Right to Marry	6.673
	Article 13: Right to an Effective Remedy	6.682
	Article 14: Prohibition of Discrimination	6.700
	Article 1 of Protocol No. 1: Right of Property	6.759
	Article 2 of Protocol No. 1: Right to Education	6.799
	Article 3 of Protocol No. 1: Right to Free Elections	6.813
	Article 1 of Protocol No. 4: Prohibition of Imprisonment for Debt	6.832
	Article 2 of Protocol No. 4: Freedom of Movement	6.836
	Article 3 of Protocol No. 4: Prohibition of Expulsion of Nationals	6.848
	Article 4 of Protocol No. 4: Prohibition of Collective Expulsion of Aliens	6.852
	Articles 1 and 2 of Protocol No. 6; Article 1 of Protocol No. 13: Abolition of the Death Penalty	6.859
	Article 1 of Protocol No. 7: Procedural Safeguards Relating to Expulsion of Aliens	6.864
	Article 2 of Protocol No. 7: Right of Appeal in Criminal Matters	6.876
	~ L1	

Нацыянальная бюліятька Беларусі

14/1649342

Contents

		· · · · · · · · · · · · · · · · · · ·	
	Article 3 o	of Protocol No. 7: Compensation for Wrongful Conviction	6.883
	Article 4 o	of Protocol No. 7: Right not to be Tried or Punished Twice	6.888
	Article 5 c	of Protocol No. 7: Equality Between Spouses	6.902
		of Protocol No. 12: General Prohibition of Discrimination	6.909
7.	Derogatio	on and Reservation	590
	Derogatio	on .	7.01
	Reservation		7.17
8.	Just Satisf	action (Article 41)	598
	Introduct	ion	8.01
	Pecuniary	and Non-pecuniary Compensation	8.09
		iniary Measures of Redress	8.33
	_	ementation of Domestic Court Judgments	8.34
	-	n of Property	8.35
	Costs and		8.39
Apı	pendices		
	-	Convention for the Protection of Human Rights and Fundamental	
	. 1	Freedoms, as amended by Protocols Nos. 11 and 14 (with Protocols	
		Nos. 1, 4, 6, 7, 12 and 13)	617
Αſ	opendix 2:	Protocol No. 15 Amending the Convention on the Protection	
		of Human Rights and Fundamental Freedoms	639
Αţ	opendix 3:	Protocol No. 16 to the Convention on the Protection of Human	- 1
		Rights and Fundamental Freedoms	641
	opendix 4:	The Court's Priority Policy	644
-	-	Application Form	640
		Form of Authority	656
		Request for Legal Aid—Declaration of Means	659
		Legal Aid Rates (applicable since 2013)	663
Αį	ppendix 9:	National Authorities Competent to Certify the Indigence of	
		Applicants for the Purposes of Rule 102 of Chapter XI of the Rules	
		of Court	664
App	pendix 10:	Dates of Entry into Force of the Convention and its Protocols	668
App	pendix 11:	Composition of the Court (in order of precedence as at 12.9.16)	670
		Rules of the Committee of Ministers for the Supervision of the	
- 1		Execution of Judgments and of the Terms of Friendly Settlements	673
Apı	oendix 13:	European Agreement Relating to Persons Participating in	
- 1	•	Proceedings of the European Court of Human Rights	678
Арр	oendix 14:	Brussels Declaration (2015)	682
Ind	'ex		689