

CONTENTS

<i>Table of Cases</i>	xi
<i>Table of Cases Before the European Commission of Human Rights</i>	lxxv
<i>Table of Legislation</i>	lxxxvii

INTRODUCTION 1

PART I: PRACTICE AND PROCEDURE 5

A. Procedure Before the European Court of Human Rights 7

1. The Court 7
2. Outline of procedure 9
3. Interim relief 20
4. Legal aid and representation 23

B. Admissibility Checklist 26

1. Six months 26
2. Exhaustion of domestic remedies 31
3. Manifestly ill-founded 37
4. Incompatibility 39
5. Substantially the same 46
6. Abuse of petition 47
7. Striking out 49
8. Appeal against admissibility decisions or re-opening 52
9. Standing 52
10. Anonymous applicants 54
11. No significant disadvantage 55
12. Inter-State cases 56

C. Convention Principles and Approach 57

1. Subsidiarity 57
2. Fourth instance 58
3. Margin of appreciation 59
4. Autonomous concepts 61
5. Effectiveness 62
6. Strict limitations 62

7. Essence of the right	62
8. Rule of law	63
9. Democratic values and institutions	65
10. Necessity	66
11. Proportionality	67
12. Positive obligations	68
13. Individual rights	69
14. Living instrument	69
15. Legitimate expectations	70
16. Convention approach to evidence and burdens of proof	71
17. Structured approach	73
D. Sources of Case-Law and Information	75
1. Court judgments and decisions	75
2. Commission cases	75
3. Procedure	76
4. Institutional and statistical information	77
5. International and national law materials	77

PART II: PROBLEM AREAS 79

A. Fair Trial Guarantees	81
1. General principles: fairness	81
1a. Criminal charge	90
1b. Civil rights and obligations	97
2. Access to court	106
3. Adequate time and facilities	121
4. Appeals	126
5. Costs in court	130
6. Double jeopardy	135
7. Entrapment and agents provocateurs	139
8. Equality of arms	143
9. Evidence	149
10. Independence and impartiality	159
11. Information about the charge	172
12. Interpretation	176
13. Juries	178
14. Legal aid in civil cases	183
15. Legal representation in criminal proceedings	187
16. Legislative interference	198
17. Length of proceedings	202
18. Presence in court	211

CONTENTS

19. Presumption of innocence	216
20. Public hearing and judgment	226
21. Reasons for decisions	234
22. Retrospectivity	239
23. Right to silence	247
24. Sentencing	254
25. Tribunal established by law	257
26. Witnesses	261
B. Other	269
1. Abortion	269
2. Aids	275
3. Armed forces	284
4. Arrest	292
5. Childcare cases	297
6. Compensation for detention	316
7. Corporal punishment	319
8. Defamation and the right to reputation	323
9. Deprivation of liberty	335
10. Derogation: states of emergency	352
11. Detention pending extradition and expulsion	357
12. Discrimination	363
13. Education	384
14. Electoral rights	393
15. Environment	409
16. Euthanasia	418
17. Expropriation, confiscation and control of use	422
18. Extradition	433
19. Forced labour	440
20. Freedom of assembly	444
21. Freedom of association	451
22. Freedom of expression	464
23. Freedom of movement	504
24. Gypsies and minorities	509
25. Hindrance in the exercise of the right of individual petition	519
26. Home	530
27. Homosexuality	536
28. Housing and tenancy	543
29. Immigration and expulsion	548
30. Interception of communications	579
31. Marriage and founding a family	588
32. Mental health	594

CONTENTS

33. Pensions	605
34. Planning and use of property	611
35. Pre-trial detention	617
36. Prisoners' rights	630
37. Private life	653
38. Property	679
39. Reasons for arrest and detention	694
40. Religion, thought and conscience	698
41. Remedies	712
42. Review of detention	723
43. Right to life	735
44. Surveillance and secret files	776
45. Tax	783
46. Torture, inhuman and degrading treatment	789
47. Transsexuals	819
48. Welfare benefits	824

PART III: JUST SATISFACTION 831

A. General Principles 833

B. Different Types of Loss 838

1. Pecuniary loss	838
2. Non-pecuniary loss	847
3. Legal costs and expenses	865
4. Default interest	869

APPENDICES 871

1. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No.11, (Arts 1–49) and Protocols Nos 1, 4, 6 and 7	873
2. Dates of Entry Into Force	888
3. Article 63 Declaration	889
4. Application Form	890
5. Legal Aid Rates	896
6. Practice Direction	897

INDEX 903