

CONTENT

Content	3
Preface	8
<i>by Prof. Manfred Nowak</i>	
Introduction	11
About the authors	13
Abbreviations	17
 PART I. HISTORY AND THEORY OF THE ECHR	 19
 Chapter 1.	
70 Years of the Convention – Perspectives from the Court Library	21
<i>Genevieve Woods</i>	
1. Introduction	21
2. The Convention and the Library of the European Court of Human Rights	21
2.1 Statistics	22
2.2 Publications	23
2.2.1 <i>Rules of Court</i>	24
2.2.2 <i>Yearbook</i>	24
2.2.3 <i>Conferences</i>	24
2.2.4 <i>Commentaries to the Convention</i>	26
2.2.5 <i>Festschrift / Mélanges</i>	27
2.2.6 <i>Periodicals</i>	27
2.2.7 <i>Case-law</i>	28
2.2.8 <i>Legal literature of the Convention</i>	29
2.2.9 <i>The catalogue of the Library of the European Court of Human Rights</i>	30
3. Conclusion	32
 Chapter 2.	
The European Convention on Human Rights and Issues of State Responsibility	33
<i>Pavel Šturma</i>	
1. Introduction	33
2. Issues of Attribution	34
2.1 The Difference between “Jurisdiction” and “Attribution”	34
2.2 Implicit or no Reference to Attribution	36
2.3 A Moderate Shift to the Use of Rules on Attribution	37
2.4 Attribution in Cases Involving International Organizations	37
3. Responsibility Based on the Standard of Due Diligence	39
3.1 The Field of Application of the Standard by the ECtHR	39

3.2 The Criteria of Application of the Standard	41
4. Conclusion	43

PART II. PARTICULAR RIGHTS UNDER THE ECHR 45

Chapter 3.

New Approach to the Right to Privacy in Times of Transparency and Mass Surveillance	47
---	----

Ganna Yudkivska

1. Introduction	47
2. Right to Reputation	48
3. Right to be Forgotten in the EU: Google Spain Case	50
4. Balancing the Rights	50
5. Right to be Forgotten in the Case-Law of the ECtHR	51
6. Big Brother is Watching You	53
7. Metadata Protection	55
8. Successful Example of the Right to Privacy Protection in Russian Courts	60
9. Conclusions	60

Chapter 4.

The European Convention on Human Rights and International Migration	61
---	----

Josef Mrázek

1. Introduction	61
2. The ECHR System of Human Rights Protection	63
3. Human Rights Protection of Migrants	64
4. The Case-Law of the ECtHR	66
5. The Right to Family Reunification	69
6. Conclusions	72

PART III. BUSINESS AND THE ECHR 75

Chapter 5.

Corporate Human Rights Abuses and the European Convention on Human Rights	77
---	----

Harald Christian Scheu and Jitka Brodská

1. Introduction	77
2. The European Court of Human Rights and Corporate Business Abuses	78

3. The Relationship between the European Convention on Human Rights and the UNGPs	80
4. Conclusions	85

Chapter 6.

Human Rights Responsibilities of Corporations and Climate Change: Carbon Majors Inquiry	86
---	----

Monika Feigerlová

1. Introduction	86
2. Inquiry Against Carbon Majors before the Philippines Commission	88
3. The Use of Human Rights in the Petition	88
4. Process of the National Inquiry	91
5. Conclusion	93

Chapter 7.

May Czech Railways Lodge an Application with the European Court of Human Rights? Legal Standing of State-owned Companies: Approaches of the Czech Constitutional Court and the European Court of Human Rights	95
---	----

Alla Tymofeyeva and Pavel Ondřejek

1. Introduction	95
2. State-Owned Companies in the Proceedings before the ECtHR	97
3. State-Owned Companies from the Perspective of the Czech Constitutional Court	103
4. Comparison of the 'European Convention Model' and the 'Czech Model': Example of the Czech Railways	107
5. Conclusions	110

PART IV. THE ECtHR IN INTERACTION WITH THE OTHER BODIES

Chapter 8.

The European Convention on Human Rights and the CAHDI	113
---	-----

Petr Válek

1. CAHDI: What It Is and Does	113
2. The Opinions of CAHDI Related to the Convention	116
3. Conclusions	120

Chapter 9.

The Practice of the European Court of Human Rights and the Human Rights Committee – Convergence or Divergence?	121
---	-----

Ivana Machoňová Schellongová

1. Introduction	121
2. Provisions of the Treaties	122
3. Interpretation of the Treaties	123
4. Examples of Freedom to Manifest One's Religion	125
5. Procedural Issues	128
6. Suggestions Towards a More Coherent Approach	129

Chapter 10.

Two Bites at the Cherry: Parallel Proceedings before the European Court of Human Rights and Arbitral Tribunals	131
---	-----

Nikola Kurková Klímová

1. Introduction	131
2. <i>Lis Pendens</i> and <i>Res Judicata</i> in International Adjudication	133
3. Fork-in-the-road Clauses and Waivers in International Investment Agreements	134
4. Inadmissibility under the European Convention on Human Rights	136
5. Concurrence between the ECtHR and Investment Arbitration	137
6. Conclusion	140

Chapter 11.

The European Court of Human Rights and the Venice Commission	141
--	-----

Natalie Illková

1. The Venice Commission	141
2. Comparison	141
2.1 Similarities	141
2.2 Differences	142
3. Interaction	144
3.1 References	144
3.2 <i>Amicus curiae</i>	145
4. Conclusion	148

PART V. REFORM OF THE ECHR	149
Chapter 12.	
Advisory Jurisdiction under Protocol No. 16 to the Convention	151
<i>Michal Kučera</i>	
1. Introduction	151
2. What Does the Protocol Do and How?	153
2.1 Who May Submit a Request under the Protocol?	153
2.2 Under Which Conditions May a Request under the Protocol be Submitted?	154
2.3 Who Replies to the Request?	156
2.4 What is the Procedure?	157
2.5 What is the Result and Follow-Up?	157
2.6 Open Issues and Challenges	158
2.7 Rapport with the Preliminary Reference Procedure before the CJEU	160
2.8 Complementarity with the Superior Courts Network	160
3. Conclusion	161
Chapter 13.	
The European Convention on Human Rights in Times of Trouble: Use of Derogations under Article 15 ECHR in the Context of the Pandemic	162
<i>Emil Ruffer</i>	
1. Introduction	162
2. The Legal Framework: Restrictions in Substantive Provisions of ECHR	163
3. The Legal Framework: Limits of Derogation under the ECHR's Article 15	164
4. The Practice of Article 15 Derogations and Its Assessment in the Case-Law	165
5. COVID-19: A Change of Paradigm or Just Another Crisis?	167
6. Conclusions	171
Summary	174
APPENDIX I.	179
Chart of Signatures and Ratifications of the Convention	181
APPENDIX II.	185
Statement of Mr. Drahoslav Štefánek, CoE Special Representative on Migration and Refugees	187
List of Sources	193