Contents

Se	ries Editors' Preface	page xvii
Ac	knowledgements	xix
Та	ble of Cases	xxii
Lis	st of Abbreviations	XXX
1	Introduction	1
2	European Public Order in the Case Law of the European Court of Human Rights	22
3	Defining European Public Order: An Impossil Task	ble 62
4	The Function of the European Court of Huma Rights	an 96
5	Institutional Infrastructure of the European Court of Human Rights and Its Ability to Sha European Public Order	pe 130
6	Views of the ECtHR Judges on Their Role in Shaping European Public Order	177
7	Conclusion	208
Ар	pendix	212
Inc	dex	217

Contents

Series Editors' Preface page			ge xvii		
Acknowledgements			xix		
Tai	ble of	Cases	xxii		
Lis	t of A	bbreviations	XXX		
1	Int	roduction	1		
	1.1	1 The Core Questions			
	1.2	The Approach of the Monograph	2		
		1.2.1 The Rationale of the Monograph	2		
		1.2.2 Minimalist Approach to Human Rights	4		
		1.2.3 Diversity of Methods	6		
	1.3	The Core Arguments	7		
		1.3.1 The Vague Concept	7		
		1.3.2 Why Should Not the ECtHR Aim to Shape			
		European Public Order?	10		
		1.3.2.1 The Reason of Effectiveness and Legitimacy	12		
		1.3.2.2 The European Court of Human Rights Is Not a Strategic Actor	14		
		1.3.2.3 Poor Enforcement of the ECtHR Judgments	16		
		1.3.2.4 The European Court Is Not a Constitutional Court	17		
	1.4	The Structure of the Book	20		
2	Eur	opean Public Order in the Case Law of the			
	Eur	opean Court of Human Rights	22		
	2.1	Introduction	22		
	2.2	Territorial Jurisdiction of the Court	26		
	2.3	3 Interaction between the ECtHR and Other			
		International Organisations	35		

	2.4	Extent of the Binding Force of the Court's Interim	
		Measures	41
		Criteria of Admissibility	46
	2.6	Democracy as a Key Aspect of European Public	
		Order	52
		Scope of Substantive Provisions	57
	2.8	Conclusion	60
3		ining European Public Order: An Impossible	
	Tas		62
	3.1	Introduction	62
	3.2	The Multiple 'Faces' of Public Order: Various	
		Meanings in Various Contexts	66
		3.2.1 Public Order as Security and Prevention	
		of Disorder	66
		3.2.2 Public Order as a Tool of Private	
		International Law	69
		3.2.3 National Public Order and Public Order	
		of the ECtHR	73
	3.3	The Vague Benchmarks of European Public Order	81
		3.3.1 Common Territory and Values	82
		3.3.2 The Outer Limits of Public Order and	
		Protection of the ECtHR's Autonomy	84
		3.3.3 Setting the Human Rights Hierarchy	91
4		3.3.4 Proper Enforcement Mechanisms	93
	3.4	Conclusion	94
4	The	Function of the European Court of Human	
	Rig	hts mullo mod magazina and see a	96
	4.1	Introduction	96
	4.2	What Are International Courts For?	98
		4.2.1 Technical Function	99
		4.2.2 Meta-function	99
	4.3	Can the European Court of Human Rights Act	
	690	Strategically?	101
	4.4	What Is the European Court of Human	
		Rights For?	104
	4.5	What Is the Court's Meta-function?	109
	TEATR	4.5.1 The View on the Court's Meta-function	
		from Academia	109

		4.5.2	Meta-function of the Court in the Court's		
			Case Law	112	
			4.5.2.1 The Views of the Majority	112	
			4.5.2.2 Dissenting and Concurring Views	116	
		4.5.3	The Views of the Presidents of the ECtHR	123	
	4.6	Conc	lusion	128	
5	Ins	titutio	onal Infrastructure of the European		
	Court of Human Rights and Its Ability to Shape				
	Eui	opear	n Public Order	130	
	5.1	Intro	duction	130	
	5.2	The C	ne Court's Institutionalisation of Its Strategic		
		Impa	ct	131	
		5.2.1	Pilot Judgments	132	
		5.2.2	Interim Measures	141	
			5.2.2.1 The Effectiveness of Interim Measures	142	
			5.2.2.2 Extending the Scope of Interim Measures	147	
	5.3 Mixed Signals from the Contracting Parties		153		
		5.3.1	The Contracting Parties' Views on the Role		
			of the Court	154	
		5.3.2	Subsidiarity and Margin of Appreciation		
			in the Preamble to the Convention		
			(Protocol 15)	160	
		5.3.3	Infringement Proceedings (Protocol 14)	163	
		5.3.4	Advisory Opinions (Protocol 16)	169	
	5.4	Conc	lusion	175	
6	Vie	ws of	the ECtHR Judges on Their Role in		
	Sha	ping l	European Public Order	177	
	6.1	Intro	duction	177	
	6.2	Meth	Methodology		
	6.3	The S	The Substantive Aspects of European Public		
		Order		181	
		6.3.1	The Definition of European Public Order	181	
		6.3.2	The Components of European Public Order	184	
		6.3.3	European Public Order v. National Public		
			Order	187	
		6.3.4	The Meta-function of the European Court		
			of Human Rights	191	
	64	Techr	nical Aspects of European Public Order	197	

			12)
		6.4.1 The Role of European Public Order	
		in the Case Law of the ECtHR	198
		6.4.2 The 'Brownian Motion' of Legal Terms	200
		6.4.3 European Public Order in Deliberation	s 203
	6.5	Conclusion	206
		nclusion	208
	pendi		212
Inc	lex		217

oldige Limopean Tubile Order v Nadibhal Public