## CONTENTS

List of Tables

Foreword by x

Acknowledgments

ix

xii

LISA MCINTOSH SUNDSTROM

Intr	oduct	ion 1						
PART I The Procedural Aspect of the Growing Influence of Private Foundations on the European Human Rights Justice System 7								
		easing Influence of Private Foundations in						
the	Realn	of Justice 9						
1.1	The Rise of Interest Groups and Foreign Private Foundations in Justice 9							
1.2	The Impacts of Foreign Private Funds on National Courts: US and Irish Justice 14							
1.3	•	Could the European Courts Be Targeted by Private Donors? 15 The Increasing Power of the European Court of Human Rights and the Court of Justice of the European Union 16						
	1.3.2	The Increasing Role of NGOs in Litigation and Third Party Intervention 29						
	1.3.3	The Role of the Economic Crisis of 2007 and the Crucial Need for Litigation Funding 30						
	Cree the C	ping Private Influence on the Inputs of the ECtHR CJEU 33						
2.1	The C	reation and Development of a Litigation Team by the OSF 33						
2.2	<b>ECtHI</b>	rivate-Sector Funding of Applications Taken by NGOs to the R and the CJEU 36 The Funding of NGOs by Private Foundations for Their						
		Litigation Activities 37						
	2.2.2	The Role Played by the Main Private Donors 61						
2.3		o-funding of NGOs and Private Organisations by Some CoE er States 65						
$\mathbf{v}$								

3	The Influence of Private	Foundations	on	the	Outputs	of the
	ECtHR and the CJEU	66				

- 3.1 Judicial Results Obtained by Private Foundations and NGOs Financed by Them 67
  - 3.1.1 Pilot Judgments 68
  - 3.1.2 Judgments Obtained under Article 46 and Imposing General Measures on Condemned Member States 76
  - 3.1.3 Other Landmark Judgments 102
- 3.2 Documents and Reports by NGOs and Private Foundations as Evidence Applied by the ECtHR and the CJEU 136
- 3.3 The Increased Involvement of Private Foundations and NGOs in the Monitoring of the Execution of Human Rights Judgments by Member States 140

## The Growing Influence Exerted by the Private Sector on the Reform and Structure of the ECtHR and the CJEU 144

- 4.1 Contribution of Private Foundations and NGOs to Redesign and Reform of the ECtHR through Advocacy 144
  - 4.1.1 Reform of the ECtHR, the Process of Execution of Judgments and Claims for an Increase in the ECtHR Budget 144
  - 4.1.2 NGO Influence on the Rules of the ECtHR on the Treatment of Classified Documents 155
  - 4.1.3 Research Conducted by NGOs and Private Foundations on the ECtHR's Pilot Judgments Procedure and Fact-Finding Processes 156
- 4.2 Private Influence on Nominations of European Judges 158
- 4.3 A Broader Approach to Third Party Interventions Submitted by Private Foundations and NGOs 162
- 4.4 The Introduction of Private-Sector Management Techniques at the ECtHR and the CJEU Favouring NGOs and Private Foundations 163

## PART II The Substantive Dimension of the Growing Influence of Private Foundations on European Human Rights Justice 171

- 5 Effects of the Growing Influence of Private Interests on the Orientation of European Case Law 173
  - 5.1 Orientation of Litigation towards Specific Policy Areas 173
  - 5.2 Litigation against Specific Countries: Eastern Europe and Russia 175
    - 5.2.1 Structural Flows of the Constitutional Systems of Eastern Countries and Their Domestic Remedies 179

CONTENTS

- 5.2.2 The Difference that Private Foundations and NGOs Make Concerning the Overrepresentation of Eastern Countries 182
- 5.3 Reduced Protection of Human Rights in Certain Countries and Policy Areas: Countries and Cases Ignored by NGOs and Private Foundations 187
  - 5.3.1 Countries Ignored by Private Litigation 188
  - 5.3.2 Cases and Issues Neglected by Private Foundations: Absence of Real European Judicial Control over Austerity Policies and Their Effects 189
- 6 Effects of Private Litigation on Domestic Policies and International Relations: The Rise of Tensions between the EU, the US and Eastern Countries 200
  - 6.1 How ECtHR Judgments Transform National Policies, Are Politicised and Expose Nationalist Regimes in Eastern Countries 200
    - 6.1.1 The Ananyev, Neshkov and Varga Cases: Bulgaria, Hungary and Russia as 'Garrison States' 201
    - 6.1.2 The Catan Case: Russia as an 'Aggressive, Authoritarian and Nationalist' State that Oppresses Minorities 205
    - 6.1.3 The Khashiyev and Akayeva and Tagayeva Cases: Russia as a 'Terrorist and Violent State' 208
    - 6.1.4 Russia and Azerbaijan as 'Oppressive and Corruptive States that Do Not Allow Political Opposition' 212
    - 6.1.5 The Al Nashiri and Abu Zaybah Cases: Poland and Romania as 'Secret States Running Illegal Counterterrorist Operations' 215
    - 6.1.6 The Horváth and Kiss and D. H. Judgments: Hungary and the Czech Republic as 'Racist States' 216
  - 6.2 The Eastern and Russian Reactions to European Judicial Condemnations 221
    - 6.2.1 Bans on Foreign Private Foundations and NGOs in Russia, Hungary and Azerbaijan and Control over NGOs in Poland 221
    - 6.2.2 New Powers Given to the Russian Supreme Court 228
  - 6.3 The Rise of Political Tensions between Russia and the EU Backed by the US 231
  - 6.4 Towards a New Cold War? 236
- 7 The Relationships between Litigation Funded by Private Foundations and the Economic and Political Interests They Pursue 241
  - 7.1 The Fight against Nationalism as Part of the Promotion of Borderless Neoliberalism and Free Trade 241

- 7.1.1 The Identity and Profile of Board Members of Private Foundations: Businessmen, Not Philanthropists 242
- 7.1.2 Litigation Impacts in Terms of Economy and Market: Making Business in a More Discreet Way through Policy and Regime Change 251
- 7.2 How and Why Private Foundations Promote Cultural Liberalism and Globalism 256
- 7.3 The Interests of Certain CoE Member States 258

Conclusion: Towards a Privatised Capture of Human Rights? 260

Select Bibliography 264 Index of Authors 277 General Index 281