

CONTENTS

	Foreword <i>Gillian M. White</i>	<i>page</i>	viii
	Preface		x
1	The Court as an international institution		1
	The Court and the Commission		2
	The composition of the Court		6
	The work of the Court		8
	The Court's case-law and the development of the law of the Convention		12
	The wider significance of the Court's jurisprudence		16
2	The Court's judgments		25
	The form and content of a judgment		25
	Formulating the collective pronouncement		27
	The Court's style of judgment		29
	The process of judicial justification		32
	<u>Limitation of the scope of the decision</u>		36
	Separate opinions		38
3	The Court's conception of the Strasbourg system		44
	The position of the applicant		44
	The competence of the Court to examine issues of admissibility		48
	Effectiveness and the right of individual petition		51
	Jurisdiction <i>ratione personae</i>		54
	Propriety		56
	Friendly settlement		60
	The power to award compensation		63
	The interpretation of judgments		66
4	The Court's methods of interpretation		69
	The textuality principle		69
	Interpretation of the Convention as a whole		72

Object and purpose	76
The Convention as a living instrument	78
Subsequent practice	81
Implied terms	84
Implied rights	85
Implied limitations	88
The <i>travaux préparatoires</i>	90
5 The effectiveness principle	98
The Convention as a guarantee of rights that are practical and effective	98
Positive obligations	102
The interpretation of particular terms	106
State responsibility	109
Limitations and reservations	113
The limits of the principle of effectiveness	119
6 Human rights and democratic values	125
Free elections	125
The rule of law	128
The right of access to the courts	128
The legality principle	129
Judicial safeguards	132
Freedom of expression	134
Freedom of assembly and association	138
Freedom of peaceful assembly	138
Freedom of association	141
Human rights and majority sentiment	144
7 The margin of appreciation	151
Emergency powers	152
Restrictions 'in the public interest'	155
Restrictions 'necessary in a democratic society'	159
The scope of rights	166
Non-discrimination	169
8 General principles of law	177
Waiver	177
Avoidance of waiver	178
Utilisation of waiver	180
Equality of arms	185
The Court's procedures	185
Fair trial	188
Estoppel	192
The scope for general principles of law	198

9	The Convention and international law	202
	General international law in the Court's decisions	202
	References to international law in the Convention	207
	Article 7(1)	207
	Article 15(1)	208
	Article 26	210
	Article 1 of Protocol No. 1	214
	The relevance of other treaties to interpretation	218
	Amplifying the Convention	218
	Indicative omissions	220
	Contemporary developments	222
10	Ideology and international human rights law	229
	General judicial ideologies	229
	Judicial restraint	230
	Judicial activism	231
	General judicial ideologies in the Court's jurisprudence	233
	Specific judicial ideologies	238
	Tough conservatism	238
	Benevolent liberalism	240
	Specific ideologies in the Court's jurisprudence	242
	The ideological field and the development of human rights law	249
	Table of cases	256
	Index	260