

Cambridge University Press

978-1-107-02660-5 - Diversity and European Human Rights: Rewriting Judgments of the ECHR

Edited by Eva Brems

Index

[More information](#)

## INDEX

- abortion rights (*A, B and C v. Ireland*)
  - access to abortion services as human right 96–9
  - discrimination (Article 14) 113–14, 118–20
  - factual background 99–100
  - importance of judgment 95–6
  - inhuman or degrading treatment (Article 3) 104–7, 115–16
  - privacy (Article 8)
    - Court's approach 107
    - Court's finding 107–8
    - whether interference 'necessary in democratic society' 111–13
  - positive and negative obligations 108–11, 116–18
  - rewritten judgment 114–20
  - right to life (Article 2)
    - Court's finding 102
    - rewritten judgment 114–15
    - right to life of mother 103–4
    - right to life pre-birth 102–3
  - summary of analysis 114
  - summary of judgment 100–1
- age of criminal responsibility
  - child-friendly justice 36
- agency
  - vulnerability and 70–3, 84–5, 85–6
- applicant
  - perspective on case
    - rewriting of judgments to reflect 6–7
  - and procedural justice *see* procedural justice
- argumentation
  - improvements in rewritten judgments 10–15
- armed forces
  - operational effectiveness as defence for discrimination 169–70
  - parental leave entitlement *see* parental leave entitlement
  - privacy *see* sexual minorities, armed forces
- Austria
  - psychiatric treatment (*Herczegfalvy v. Austria*) *see* disabled persons, psychiatric treatment
  - same-sex marriage ban (*Schalk and Kopf v. Austria*) *see* sexual minorities, same-sex marriage ban
- Belgium
  - migrant children (*Muskhadzhiyeva and others v. Belgium*) *see* children, migration
- capacity
  - child's lack of *see* children, education and indirect discrimination
  - parents' lack of 55–7
- children
  - custody disputes *see* religious minorities, custody disputes
  - education and indirect discrimination (*D H and others v. Czech Republic*)
  - children's right to be heard
    - importance of, and margin of appreciation 47–9
    - issue of 46–7
  - Court's position on right to education 49–50

- factual background 43–5
- image of Roma children and
  - parents
  - children as incompetent and passive objects 50–1
  - issue of 50
  - lack of specific and individualised information on applicants 51–5
  - parent's lack of capacity 55–7
- importance of judgment 40–3
- main issues 45
- objective and reasonable
  - justification 63–6
- presumption of indirect
  - discrimination arising 61–3
- segregation of Roma pupils 45
- summary of analysis 57–9
- fairness of trial (*V v. UK*)
  - age of criminal responsibility 36
  - child-friendly justice 30
- Committee on the Rights of the Child General Comment No. 10 30
- Council of Europe Guidelines on Child-Friendly Justice 32
- Court developments 32–5
- factual background 20–2
- importance of judgment 19–20
- protection of child's identity 27–30
- rewritten judgment 37–9, 59–67
- subsequent developments 24–7
- summary of analysis 36–7
- summary of judgment 22–4
- transfer from youth court to adult court 35–6
- migration (*Muskhadzhiyeva and others v. Belgium*)
  - family life (Article 8)
  - obligations to promote and facilitate 82
  - violation of 91–2
- importance of judgment 68–70
- inhuman or degrading treatment (Article 3) 85–9
- lawfulness of detention (Article 5) 80–2, 89–91
- obligations to unaccompanied and accompanied children
  - distinguished 73–4
- parameters for 'minimum level of severity' threshold (Article 3) 76
- reference to other human rights
  - standards for ECHR
  - interpretation 83
- relationship between human rights of children and adults 75–6
- rewritten judgment 85–92
- summary of analysis 84
- vulnerability and agency of children 70
- vulnerability *see* vulnerability
- circular argumentation
  - avoidance of 15–10
- civil partnership
  - marriage compared 279–81
  - valorisation of 275–8
- Committee on the Elimination of Discrimination against Women (CEDAW)
  - applicability of insights *see* parental leave entitlement
- Committee on the Rights of the Child General Comment No 10 as to
  - fairness of trial 30
- community-based mental health care *see* disabled persons, community-based mental health care
- competence
  - child's lack of *see* children, education and indirect discrimination
  - parents' lack of 55–7
- conjuality
  - alternatives to 282–8
  - and social inclusion 282–3
- Convention on the Rights of Persons with Disabilities (CRPD) 330
- conflict with ECHR 356–9
- Council of Europe
  - Guidelines on Child-Friendly Justice 32
- cultural minorities
  - cultural differences as to names (*Kemal Taşkın and others v. Turkey*)

Cambridge University Press

978-1-107-02660-5 - Diversity and European Human Rights: Rewriting Judgments of the ECHR

Edited by Eva Brems

Index

[More information](#)

472

INDEX

- cultural minorities (cont.)
  - discrimination (Article 14)
    - alleged violation 466–7
    - whether difference in treatment 467–8
    - whether different treatment justified 469–8
    - substantive equality 458–60
  - factual background
    - Court's case law 449
    - parties' arguments 447–8
    - summary of judgment 448
  - historical vulnerability of minorities 455
  - importance of judgment 445–7
  - privacy (Article 8)
    - whether interference 'necessary in democratic society' 462
    - for 'legitimate aim' 461
    - substantive equality 458
  - rewriting of judgment
    - approach to 449–51
    - importance of names 451–3
    - reasons for demand to change names 453–5
  - rewritten judgment 461
  - search for substantive equality 458
  - summary of analysis 460–1
- Roma marriage (*Muñoz Díaz v. Spain*)
  - discrimination (Article 14) 417
  - discrimination as to right to marriage 413–16
  - discrimination resulting from undifferentiated treatment 409–11
  - diversity perspective on judgment 407–9
  - factual background 402–4
  - importance of judgment 401–2
  - indirect discrimination 411–13
  - peaceful enjoyment of possessions (Article 1 of Protocol 1) 417
  - rewritten judgment 417
  - summary of analysis 416–17
  - summary of judgment 404–7
- Roma traditional lifestyle (*Chapman v. UK*)
  - critique of judgment
    - dissenting opinion 434
    - formalistic approach to equality and non-discrimination 433–4
    - individualistic reading of facts 432–3
    - trivialisation of minority rights 431–2
  - discrimination (Article 14) 443–4
  - factual background 427–9
  - importance of judgment 426–7
  - privacy (Article 8) 441–3
  - rewriting of judgment
    - acknowledgment of systemic nature of violations of Roma right to pursue traditional lifestyle 438
    - approach to 434–5
    - discrimination issues 438–40
    - recognition of Roma right to traditional housing 435–8
  - rewritten judgment 441
  - summary of analysis 440–1
  - summary of judgment 429–31
- custody disputes *see* religious minorities, custody disputes
- Czech Republic
  - indirect discrimination against Roma pupils (*D H and others v. Czech Republic*) *see* children, education and indirect discrimination
- detention
  - lawfulness of (Article 5) 80, 89
- disabled persons
  - community-based mental health care (*Kolanis v. UK*)
    - factual background 384–5
    - importance of judgment 382–4
    - privacy (Article 8) 394–7
    - protection of new interests under ECHR
      - impact of institutionalisation on persons' daily life 388–9
      - legal consensus 390–4
      - medical and scientific issues 389–90
      - methods for 385–8

- protection of interest in
      - community-based treatment 388–94
    - rewritten judgment 394–7
    - summary of analysis 394
  - private life – positive obligations to
    - promote (*Sentges v. Netherlands*)
  - critique of judgment 339–44
  - establishing interference with right
    - to private life 331–3
  - factual background 338–9
  - importance of judgment 329–31
  - mainstreaming of disability 346–8
  - related judgments 334–8
  - revision of judgment
    - applicability of Article 8 344
    - applicability of Article 14 344–6
    - approach to 344
    - distinction between scope of
      - Article 8 applicability and justification for non-provision of requested measure 346
  - rewritten judgment 350–1
  - summary of analysis 348–9
  - summary of judgment 339
  - psychiatric treatment (*Herczegfalvy v. Austria*)
    - analysis of judgment 364–9
  - compulsory medical treatment 369–73
  - conflict between ECHR and CRPD 356–9
  - importance of judgment 352–3
  - inhuman or degrading treatment (Article 3) 369–73
  - involuntary treatment
    - criteria 373
    - relevant principles 373–80
  - privacy (Article 8) 380–1
  - restraint and isolation 377–80
  - rewritten judgment 369
  - substantive clarity in judgments 353–6
  - summary of analysis 369
  - summary of judgment 359–64
  - discrimination (Article 14) *see also*
    - gender stereotypes;
    - intersectional discrimination;
    - reciprocal anti-discrimination;
    - stereotypes; vulnerability
  - abortion rights *see* abortion rights
  - armed forces *see* parental leave
    - entitlement, sexual minorities, armed forces
  - cohabiting sisters *see* sexual minorities, cohabiting sisters
  - custody disputes *see* religious minorities, custody disputes
  - disabled persons *see* disabled persons, private life – positive obligations to promote
  - gender stereotypes as discrimination 14
  - indirect discrimination and
    - education *see* children, education and indirect discrimination
  - integration of forms of
    - discrimination 162–4
  - Kurdish names *see* cultural minorities, cultural differences as to names
  - multiple discrimination *see* intersectional discrimination
  - parental leave entitlement *see* parental leave entitlement
  - Roma marriage *see* cultural minorities, Roma marriage
  - same-sex marriage ban *see* sexual minorities, same-sex marriage ban
  - traditional lifestyles *see* cultural minorities, Roma traditional lifestyle
  - wearing of religious clothing and symbols *see* religious minorities, wearing of religious clothing and symbols
- disproportionality *see also* proportionality
- effect 35–6, 51–2, 53, 54–5, 59–60, 61, 119–20, 372, 422–3, 438–9, 439–40, 441, 444
- finding as to 143, 191, 233, 424, 434, 442–3, 450–1
- interference 84, 107, 108–9

- diversity
  - and rewriting of judgments generally 10
- education (Article 2 of Protocol 1)
  - Court's position 49–50
  - headscarf ban *see* religious minorities, wearing of religious clothing and symbols
  - and indirect discrimination *see* children, education and indirect discrimination
- equality
  - formal conception of 158–9, 271–3
  - and gender stereotypes 153–4
  - religious minorities and 212–13
  - and transformative justice 153, 154, 158–9, 164, 165
- European Convention of Human Rights
  - see also under entries relating to specific Articles e.g. privacy (Article 8)*
  - conflict with CRPD 356–9
  - protection of new interests 385–8
  - reference to other human rights standards for interpretation of 83–4
  - violation *see* interference
- European Court of Human Rights
  - rewriting of judgments *see* rewriting of Court judgments
- fair trial (Article 6) *see* children, fairness of trial
- fairness
  - and procedural justice 220
- family life (Article 8)
  - custody disputes *see* children, migration
  - 'form' or 'functional' approach to family 288–9
  - migration *see* children, migration obligations to promote and facilitate 82–3
  - same-sex marriage ban *see* sexual minorities, same-sex marriage ban
- succession to noble title *see* succession to noble title
- France
  - compulsory removal of turban (*Suku Phull v. France*) *see* religious minorities, compulsory removal of turban
  - custody disputes (*Deschomets v. France*) *see* religious minorities, custody disputes
- freedom of thought, conscience and religion (Article 9)
  - compulsory removal of turban (*Suku Phull v. France*) *see* religious minorities, compulsory removal of turban
  - custody disputes *see* religious minorities, custody disputes
- headscarf ban *see* religious minorities, wearing of religious clothing and symbols
- gender 142
  - abortion rights *see* abortion rights
  - parental leave entitlement *see* parental leave entitlement
  - succession rules *see* succession to noble title
- gender stereotypes
  - both sexes 152
  - Court's challenge to use of 151, 165, 170
  - definition 167
  - as discrimination 14
  - effect of 155–6
  - equality and role of 153–4
  - harmfulness of 167–8, 169–70, 248–9, 261
  - importance of naming 160–2
  - persistence of 168
- headscarf ban *see* religious minorities, wearing of religious clothing and symbols
- health care *see* disabled persons, community-based mental health care

Cambridge University Press

978-1-107-02660-5 - Diversity and European Human Rights: Rewriting Judgments of the ECHR

Edited by Eva Brems

Index

[More information](#)

## INDEX

475

- inclusive justice *see also* social inclusion
  - perspective on case 401–2
  - versus transformative justice 148–9
- indirect discrimination and education
  - see* children, education and indirect discrimination
- inheritance tax
  - and same-sex couples *see* sexual minorities, cohabiting sisters
- inhuman or degrading treatment (Article 3)
  - abortion rights *see* abortion rights
  - migrant children 85
  - parameters for ‘minimum level of severity’ 76
  - psychiatric treatment 369–73
- interference *see also* margin of
  - appreciation; proportionality
  - clarification of threshold for 10
  - evaluation of seriousness 434, 438, 442
  - finding as to 176, 191, 216, 226, 228, 229–30, 296, 320, 341
  - lack of finding 339–41
  - whether for ‘legitimate aim’ 8, 143, 193–4, 195–6, 199, 380, 461–2
  - whether ‘necessary in a democratic society’
    - Article 8 provision 395
    - finding as to 143, 193, 211–12
    - question of 111, 231, 321–4, 461, 462–6
    - test of 226, 231–5, 237–40, 331–3, 431
  - obligation to abstain from 334–8
  - proportionality of 84, 107, 112–13, 191, 213–16, 450–1
  - question of 80, 89, 117, 236–7, 321, 329–31
  - requirement to give reasons for 188
  - test of 181–2
- international human rights standards and ECHR interpretation 83
- inclusion of references in rewritten judgments 8–10
- intersectional discrimination
  - agency and 204–7
  - concept of 14–15, 41
  - Court’s approach 59, 196–7, 205–7
- definition 412–13
- finding of 166–7
- integrated approach 162–4
- Ireland
  - abortion rights (*A, B and C v. Ireland*) *see* abortion rights
- Kurdish names *see* cultural minorities, cultural differences as to names
- life, right to (Article 2) *see* abortion rights
- margin of appreciation
  - accounting for 322
  - adherence to 198, 268–9, 283, 291–2, 339–40, 415, 423
  - applicability of 261, 367
  - applicants’ rights and 47–9
  - decision as to 84, 101, 111, 118, 151, 164, 199–200, 226, 243–4, 246, 247, 270, 271–2, 442–3
  - deference to 195, 198, 203, 212, 213, 249, 343
  - disregard of 216, 217, 240
  - as element in proportionality analysis 232
  - exercise of 66–7
  - legitimate use of 204–5
  - narrow margin 114, 118, 188, 349
  - narrowing of 255–6, 263, 349–30, 441, 456–7, 460
  - possession of 189, 194, 238–9, 267–8, 338, 343, 350–1, 374, 380–1
  - recognition of 404
  - reference to 13
  - reinforcement of 181
  - reliance on 195–6, 250
  - restriction of 9, 61, 84, 196–7, 209–10, 234
  - rewriting of judgments as to 7–8
  - stereotypes 164
  - wide margin 49–50, 101, 118, 150–1, 165, 168, 179, 201, 207, 234, 249, 330, 334, 431, 449
- marriage
  - civil partnership compared 279–81

- marriage (cont.)
  - right to (Article 12) *see* sexual minorities, same-sex marriage ban
  - Roma *see* cultural minorities, Roma marriage
  - same-sex marriage ban *see* sexual minorities, same-sex marriage ban
  - symbolic and material meaning 281–2
  - valorisation of 275–8
- medical treatment *see* disabled persons, psychiatric treatment
- mental health care *see* disabled persons, community-based mental health care
- migrant children *see* children, migration
- ‘minimum level of severity’ threshold
  - parameters for (Article 3) 76–80
- minorities *see* cultural minorities, religious minorities, sexual minorities, vulnerability
- motherhood
  - association of women with 167–9
- multiple discrimination *see* intersectional discrimination
- names *see* cultural minorities, cultural differences as to names
- Netherlands
  - disabled persons (*Sentges v. Netherlands*) *see* disabled persons, private life – positive obligations to promote
- noble titles *see* succession to noble title
- non-discrimination *see* discrimination
- objective and reasonable justification
  - question of 63–6
- parental leave entitlement (*Konstantin Markin v. Russia*)
  - applicability of CEDAW insights
    - effect of gender stereotypes 155–6
    - equality and role of gender stereotypes 153–4
    - methodological issues 151–3
  - discrimination (Article 14) 166–7
  - factual background 149–50
  - importance of judgment 148–9
  - improvement of judgment
    - context assessment 159–60
  - integration of forms of discrimination 162–4
  - naming of gender stereotypes 160–2
- inclusive justice versus transformative justice 148–9
- merits of judgment 156–8
- merits of redraft 164–5
- operational effectiveness of armed forces 169–70
- rewritten judgment 166
- shortcomings of judgment
  - formal conception of equality 158–9
  - lack of gender context assessment 159–60
  - narrow conception of problem 160–2
  - separation of forms of discrimination 162–4
  - special social role of mothers 167–9
  - summary of analysis 165–6
  - summary of judgment 150–1
- parents *see also* parental leave entitlement
  - custody disputes *see* religious minorities, custody disputes
  - lack of capacity 55–7
  - migrants with children *see* children, migration
- peaceful enjoyment of possessions (Article 1 of Protocol 1)
  - cohabiting sisters 290–2
  - Roma marriage 417–25
- privacy (Article 8)
  - abortion rights *see* abortion rights
  - armed forces *see* sexual minorities, armed forces
  - community-based mental health care *see* disabled persons, community-based mental health care
  - disabled persons *see* disabled persons, private life – positive obligations to promote



- Kurdish names *see* cultural minorities, cultural
- differences as to names
- traditional lifestyles *see* cultural minorities, Roma traditional lifestyle
- procedural justice
  - applicant's arguments considered 227–8
  - applicant's religion considered 228–9
  - benefits of approach 220–2
  - case by case approach 226–7
  - child-friendly justice *see* children, fairness of trial
  - concern with fairness 220
  - criteria 222–5
  - rewriting of judgments as to 10
  - test of judgment 226–9
- proportionality *see also* disproportionality; margin of appreciation
  - accommodation 200–3
  - analysis/assessment 7–8, 12, 77, 112–13, 183, 225, 226–7, 229, 231, 236, 249, 450–1, 457, 460–1, 468
  - decision as to 84, 118–19, 193, 209–10, 216, 231, 406
  - grounds of 415–16
  - principle 80, 82–3, 271
  - question of 238–9
  - 'reasonable relationship of' 63–4, 67, 182–3, 190, 213, 267–8, 269, 324, 404, 418, 420, 421
  - requirement for 151, 200, 203, 373
  - test 12, 81, 82–3, 84, 89–90, 90–1, 251–2, 261–2
  - UN law as to 197
- protection of child's identity and fairness of trial 27
- psychiatric treatment *see* disabled persons, psychiatric treatment
- recent research
  - addition of references to 10–15
- reciprocal anti-discrimination
  - argumentation 122, 123, 145
  - concept of 14, 122, 132
  - power to remove 139
  - reciprocal anti-discrimination arguments (RADARs) 133–5
  - vulnerability to 135–9
- religious minorities
  - compulsory removal of turban (*Suku Phull v. France*)
  - avoidance of theological assessments 229–31
  - factual background 225–6
  - freedom of thought, conscience and religion (Article 9)
    - alleged violation 236
    - whether interference lawful 237
    - whether interference necessary 237
    - whether interference with 236
  - importance of judgment 218–19
  - merits of judgment 229–35
  - necessity defence
    - question of 231
    - test of 231, 237
  - procedural justice
    - applicant's arguments considered 227
    - applicant's religion considered 228
    - benefits of approach 220
    - case by case approach 226–7
    - concern with fairness 220
    - criteria 222
    - test of judgment 226
  - proportionality analysis 231
  - rewritten judgment 236
  - summary of analysis 235–6
  - summary of judgment 226
- custody disputes (*Deschomets v. France*)
  - approach to rewriting judgment 186–8
  - background issues 178–80
  - under ECHR 180–5
  - factual background 174–6
  - importance of judgment 173–4
  - related judgments 176–8
  - rewritten judgment 189–91



Cambridge University Press

978-1-107-02660-5 - Diversity and European Human Rights: Rewriting Judgments of the ECHR

Edited by Eva Brems

Index

[More information](#)

478

INDEX

- religious minorities (cont.)
  - wearing of religious clothing and symbols (*Leyla Şahin v. Turkey*)
  - discrimination (Article 14) 216–17
  - equality issues 212–13
  - factual background 193–4
  - freedom of thought, conscience and religion (Article 9) 193–4, 208–16
  - importance of judgment 192–3
  - proportionality 200–3, 213
  - rewriting of judgment
    - agency and intersectionality 204–7
    - approach to 196–7
    - avoidance of abstract issues 197–200
    - harmonisation with international human rights law 197
    - proportionality 200–3
    - reasons for 194–6
    - rewritten judgment 208
    - secularism issues 210–12
    - summary of analysis 207
  - restriction *see* interference
  - rewriting of Court judgments
    - addition of more and better arguments 15–10
    - additional objectives 10–15
    - as to applicant's perspective 6–7
    - approaches to redrafting 13–14
    - avoidance of circular argumentation 10–15
    - broadening of judgment's scope 7
    - description of project 1–2
    - diversity issues 10
    - inclusion of references to other international human rights standards 8–10
    - as to margin of appreciation 7–8
    - objectives of redrafting 6–10
    - overview of redrafted judgments 2–6
    - as to procedural justice 10
    - as to proportionality analysis 7–8
    - references to recent research 10–15
    - right to be heard *see* children, education and indirect discrimination
- Roma
  - children *see* children, education and indirect discrimination
  - marriage *see* cultural minorities, Roma marriage
  - traditional lifestyle *see* cultural minorities, Roma traditional lifestyle
  - vulnerability *see* vulnerability
- Russia
  - parental leave entitlement (*Konstantin Markin v. Russia*) *see* parental leave entitlement
- sexual minorities
  - armed forces (*Lustig-Prean and Beckett v. UK*)
  - critique of judgment
    - equality of privacy 309–10
    - lessons for future cases 308–9
    - narrow conception of same-sex orientation 298–303
    - normalisation of oppressive social condition 303–6
    - reliance on privacy arguments 306–8
    - 'transparency' of heterosexuality 308
  - discrimination (Article 14)
    - alleged violation 323–4
    - consideration of claim 324–5
    - critique of judgment 303
    - rewritten judgment 303
  - factual background 295–8
  - future approach to privacy 318–19
  - importance of judgment 293–5
  - privacy (Article 8)
    - alleged violation 323–4
    - critique of judgment 298
    - whether interference 321
    - whether interference 'necessary in democratic society' 321–4
    - revisions 315–17
    - rewritten judgment 319–20
  - revision of judgment
    - approach to 311
    - Article 8 and 14 revisions 315

- multiple conceptions of privacy 311–15
- rewritten judgment 319–25
- cohabiting sisters (*Burden and Burden v. UK*)
  - alternatives to conjugality 282–8
  - choice of relationship
    - formal equality and 271–3
    - issue of 278–9
  - comparison of marriage and civil partnership 279–81
  - discrimination (Article 14) 290
  - effect of judgment on same-sex couples 273–5
  - factual background 266–7
  - ‘form’ or ‘functional’ approach to family 288–9
  - importance of judgments 265–6
  - judgments compared 270–1
  - peaceful enjoyment of possessions (Article 1 of Protocol 1) 290
  - rewritten judgment 290
  - summary of analysis 289–90
  - summary of judgments 267–70
  - symbolic and material meaning of marriage 281–2
  - valorisation of marriage and civil partnership 275–8
- same-sex marriage ban (*Schalk and Kopf v. Austria*)
  - discrimination (Article 14) 259–64
  - factual background 245–6
  - importance of judgment 243–5
  - privacy (Article 8) 259
  - redrafting of anti-discrimination analysis
    - approach to 247
    - differences to original judgment 257–9
    - exercise of judicial review 249–53
    - justification for judicial review 247–9
    - retention of judicial restraint 253–7
  - rewritten judgment 259
  - right to marriage (Article 12) 259
  - summary of analysis 259
  - vulnerability *see* vulnerability
- Sikh turban *see* religious minorities, compulsory removal of turban
- social inclusion *see also* inclusive justice
  - affirmation of 259
  - conjugality and 282–3
  - opposition to 304
  - right of 382–3
  - support for 205
  - via incremental reform 254–5, 262–3
- Spain
  - Roma marriage (*Muñoz Díaz v. Spain*) *see* cultural minorities, Roma marriage
  - succession to noble title (*De La Cierva Osorio De Moscoso v. Spain*) *see* succession to noble title
- stereotypes *see also* vulnerability
  - expressions of hostility 323
  - gender *see* gender stereotypes
  - harmfulness of 457
  - importance of naming 14
  - judgments’ reinforcement of 298
  - margin of appreciation 164
  - and transformative justice 164
  - and vulnerability 12
- succession to noble title (*De La Cierva Osorio De Moscoso v. Spain*)
  - applicability of Article 8 126–9
  - gender issues 129–30
  - importance of judgment 121–3
  - insignificance of noble title 123–4
  - noble title as merely symbolic 124–6
  - preservation of historical authenticity of titles 139–41
  - reciprocal anti-discrimination *see* reciprocal anti-discrimination
  - rewritten judgment 142–7
  - semiotic and symbolic importance of noble title 129
  - summary of analysis 141
  - women’s social visibility 130–2
- taxation
  - and same-sex couples *see* sexual minorities, cohabiting sisters

Cambridge University Press

978-1-107-02660-5 - Diversity and European Human Rights: Rewriting Judgments of the ECHR

Edited by Eva Brems

Index

[More information](#)

480

INDEX

- titles of nobility *see* succession to noble title
- traditional lifestyles *see* cultural minorities, Roma traditional lifestyle
- transfer of proceedings
  - from youth court to adult court 35
- transformative justice
  - achievement of 165–6
  - approach to rewriting judgment 164
  - equality and 153, 154, 158–9, 164, 165
  - via human rights law 151–2
  - versus inclusive justice 148–9
  - promotion of 13
  - stereotypes and 164
- turban *see* religious minorities, compulsory removal of turban
- Turkey
  - headscarf ban (*Leyla Şahin v. Turkey*) *see* religious minorities, wearing of religious clothing and symbols
  - Kurdish names (*Kemal Taşkın and others v. Turkey*) *see* cultural minorities, cultural differences as to names
- unborn
  - right to life 102
- United Kingdom
  - armed forces (*Lustig-Prean and Beckett v. UK*) *see* sexual minorities, armed forces
  - child-friendly justice (*V v. UK*) *see* children, fairness of trial
  - community-based mental health care (*Kolanis v. UK*) *see* disabled persons, community-based mental health care
  - Roma traditional lifestyle (*Chapman v. UK*) *see* cultural minorities, Roma traditional lifestyle
- United Nations
  - law as to proportionality 197
- vulnerability
  - agency and 70, 84, 85–6
  - assessment of 87, 88
  - clarity of decisions affecting 381
  - ‘contextual vulnerability’ 12, 87–8, 446, 455–7
  - Court’s accounting for 25, 34, 38–9, 52, 60–1, 86–7, 406, 414, 419, 421–2, 431, 441
  - emphasis on 12
  - greater ECHR protection 174
  - historical experience of 401, 423–4, 450–1, 452–3, 465, 468–9
  - images of 50, 59, 69, 75
  - and intersectional discrimination 14, 59
  - lack of allowance for 80
  - mitigation as to 215
  - particular vulnerabilities 88
  - position of 106, 160, 372
  - and protection of private life 347–8
  - and reciprocal anti-discrimination 135
  - to reciprocal anti-discrimination 135
  - recognition of 446–7
  - research into 26–7
  - as to social visibility 130
- women
  - abortion rights *see* abortion rights
  - association with motherhood 167–9
  - CEDAW *see* parental leave entitlement
  - headscarf ban *see* religious minorities, wearing of religious clothing and symbols
  - social visibility 130
  - succession to noble title *see* succession to noble title