

International Human Rights Law cases, materials, commentary

The leading textbook on International Human Rights Law is better than ever. The content has been fully updated and now provides more detailed coverage of substantive human rights, along with new sections on the war on terror and on the progressive realization of economic and social rights, making this the most comprehensive book in the field. It has a new, more student-friendly text design and has retained the features which made the first edition so engaging and accessible, including the concise and critical style, and questions and case studies within each chapter, as well as suggestions for further reading.

Written by De Schutter, whose extensive experience working in the field and teaching the subject in both the USA and EU gives him a unique perspective and valuable insight into the requirements of lecturers and students. This is an essential tool for all students of international human rights law.

OLIVIER DE SCHUTTER is the former UN Special Rapporteur on the right to food (2008–2014) and a member of the UN Committee on Economic, Social and Cultural Rights. A professor at the University of Louvain (UCL) and at the College of Europe and a Member of the Global Law School Faculty at New York University, he has been Visiting Professor at a number of institutions, including Columbia University (2008–2013). From 2002 to 2006, he chaired the EU Network of Independent Experts on Fundamental Rights, a high-level group of experts which advised the European Union institutions on fundamental rights issues. He has acted on a number of occasions as expert for the Council of Europe and for the European Union. Between 2004 and 2008, he was the General Secretary of the International Federation of Human Rights (FIDH) on the issue of globalization and human rights.





International Human Rights Law

CASES, MATERIALS, COMMENTARY

Second Edition
Olivier De Schutter





CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

www.cambridge.org Information on this title: www.cambridge.org/9781107657212

© Olivier De Schutter 2014

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First edition published 2010 Second edition published 2014 3rd printing 2015

Printed in the United Kingdom by Clays, St Ives plc.

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication data Schutter, Olivier De, author.

International human rights law : cases, materials, commentary / Olivier De Schutter. – Second edition.

pages cm

Includes bibliographical references and index.

1. Human rights. 2. International law and human rights. I. Title.

K3240.S38 2014 341.4'8-dc23

2014004976

ISBN 978-1-107-06375-4 Hardback ISBN 978-1-107-65721-2 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication, and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.



Contents

Table of Boxes xi
Tables of Cases xiii
Table of Treaties and Conventions xlix
Table of Comments and Recommendations of Various International Committees lxix

Introduction

PART I THE SOURCES

1	The	e emergence of international human rights 13			
	Intr	oduction 13			
1	The	universal level: the United Nations and human rights 14			
2	The	regional level 23			
	2.1	The Council of Europe and human rights 23			
	2.2	The Organization of American States and human rights 25			
	2.3	The African Union and human rights 31			
3	The	emerging jus commune of human rights 35			
4	Hur	ıman rights law as part of international law 61			
	4.1	Human rights beyond treaties 62			
		(a) Human rights in the UN Charter 62			
		(b) Human rights as part of customary international law 63			
		(c) Human rights as general principles of law 66			
		(d) The significance of human rights as part of general international law 6			
	4.2	Human rights in the hierarchy of international law 71			
		(a) The arguments in favour of hierarchy 72			
		(b) Human rights as <i>jus cogens</i> norms 87			
		(c) Serious breaches of <i>jus cogens</i> norms 111			
	4.3	The <i>erga omnes</i> character of human rights obligations 113			
	4.4	Human rights treaties as non-contractual in nature 118			
	4.5	Reservations to human rights treaties 120			
		(a) The regime of reservations in international law 121			

(b) Reservations in the Inter-American and European systems

(c) From regional to universal human rights treaties: the doctrine of the Human Rights

٧

127



v:	Contents

2 State responsibility and 'jurisdiction' 147

Introduction 147

- 1 National territory and 'effective control' 149
 - 1.1 Occupied foreign territory 149
 - 1.2 The inability of the State to control all the national territory 156
- 2 Extraterritorial obligations under international human rights law 163
 - 2.1 The responsibility of States for the activities of State agents operating outside the national borders 163
 - 2.2 The obligation of States to protect human rights beyond the national territory 18
 - 2.3 The obligation of international assistance and co-operation 198
 - 2.4 Human rights and development 206
- 3 The responsibility of States in inter-State co-operation 229
 - 3.1 Deportation cases 229
 - 3.2 The execution of foreign judgments 247
- 4 The responsibility of States for the acts of the international organizations 253
 - 4.1 The general regime 253
 - 4.2 The specific character of the UN Charter and of UN Security Council Resolutions 271

PART II THE SUBSTANTIVE OBLIGATIONS

3 The typology of States' obligations and the obligation to respect

human rights 279

Introduction 279

- 1 The typology of States' obligations 280
 - 1.1 Obligations to respect, to protect, and to fulfil 280
 - 1.2 Availability, accessibility, acceptability, and adaptability 291
- 2 Rights of an 'absolute' character 295
 - 2.1 The 'War on Terror' under the Bush US administration 295
 - 2.2 The absolute character of the prohibition of torture in 'ticking bomb' situations 299
 - 2.3 The absolute character of the prohibition of torture in the context of deportation proceedings 304
 - (a) The principle 304
 - (b) Diplomatic assurances 320

Case study: The Abu Qatada (Othman) litigation 325

- 3 The regime of rights which may be restricted 339
 - 3.1 The acceptability of limitations on human rights 339
 - 3.2 The condition of legality 344
 - 3.3 The condition of legitimacy 360
 - 3.4 The condition of proportionality 368
 - (a) The general principle 368
 - (b) The importance of procedures for weighing all relevant interests 37
 - (c) The importance of contextual assessments 376
 - 3.5 Case study: restrictions to freedom of religion in vestimentary codes 381
 - 3.6 Abuse of rights 419



vii	Contents

4 The application of human rights in private relationships and the obligation to protect 427

Introduction 427

- 1 The imputability to the State of the conduct of non-State actors and the obligation to protect 428
 - 1.1 The attribution to the State of acts committed by private entities 429
 - 1.2 Positive obligations to protect 441
 - (a) Before UN human rights treaty bodies 441
 - (b) Before regional courts 446
- 2 Measuring the scope of the obligation to protect 462
 - 2.1 The principle 462
 - 2.2 An obligation of means 477
 - 2.3 The limits of the obligation to protect 478
 - 2.4 Human rights in contractual relationships and the question of waiver of rights 493
 - 2.5 Respect for conflicting human rights as a limit to the scope of the obligation to protect 51
 - (a) Affirming the priority of the obligation to respect over the obligation to protect 511
 - (b) Deferring to the evaluation of other authorities 512
 - (c) Developing judicial techniques that can solve conflicts between rights: 'practical concordance' and beyond 518
- 5 The progressive realization of human rights and the obligation to fulfil 527 Introduction 527
- 1 The principle 528
- 2 Framework laws and action plans 532
 - 2.1 Framework laws 532
 - 2.2 National strategies and action plans 538
- 3 Indicators and benchmarks 544
 - 3.1 General considerations on the role of indicators in human rights monitoring 546
 - 3.2 The use of indicators by the Committee on Economic, Social and Cultural Rights and the IBSA methodology for monitoring compliance with economic and social rights 5.
- 4 Measuring the obligation of progressive realization 562
- 6 Derogations in time of public emergency 583

Introduction 583

- 1 First condition: a public emergency which threatens the life of the nation 587
 - 1.1 What is a public emergency threatening the life of the nation? 587
 - 1.2 The need for an official proclamation of a state of emergency 597
- 2 Second condition: the necessity requirement 60°
- 3 Third condition: the non-discrimination requirement 618
- 4 Fourth condition: compliance with other international obligations 623
- 5 Fifth condition: rights which are not subject to derogation 624
- 6 Sixth condition: international notification 629



v::::	Contents
VIII	Contents

7	The	prohibition	of dis	crimination	622
/	ine	bromidition	oi ais	crimination	b.37

Introduction 632

- 1 The scope of the requirement of non-discrimination 635
 - 1.1 The International Covenant on Civil and Political Rights 636
 - 1.2 The European Convention on Human Rights 642
 - 1.3 The European Social Charter 646
 - 1.4 The American Convention on Human Rights 646
- 2 The range of States' obligations 647
 - 2.1 Equality before the law 648
 - 2.2 Equal protection of the law 667
 - (a) Sex 668
 - (b) Religious or philosophical conviction 672
 - (c) Sexual orientation 675
 - (d) Nationality 680
 - (e) Health status and disability 686
 - 2.3 The legal prohibition of discrimination 690
 - 2.4 The guarantee of an effective protection against discrimination 701
- 3 The notion of discrimination 703
 - 3.1 Direct and indirect discrimination 703
 - 3.2 Reasonable accommodation 718
 - 3.3 Positive action 723
 - (a) The notion of positive action or 'temporary special measures' 723
 - (b) The contribution of temporary special measures to the promotion of equality 726
 - (c) The compatibility of temporary special measures with the non-discrimination requirement 740
- 4 Systematizing anti-discrimination law 752
- 5 Self-determination and minority rights 758
 - 5.1 The right to self-determination 759
 - (a) General principles 759
 - (b) The internal and external dimensions of self-determination 765
 - (c) The lack of justiciability of the right to self-determination in the context of individual communications 772
 - 5.2 Minority rights 782
 - (a) The direct route: the explicit protection of rights of minorities 782
 - (b) The indirect route: the protection of the rights of minorities and the right to respect for private and family life 793

PART III THE MECHANISMS OF PROTECTION

8 Ensuring compliance with international human rights law: the role of national authorities 807

Introduction 807

- 1 Judicial remedies 809
 - 1.1 The general requirement to provide effective remedies 809
 - 1.2 The question of the justiciability of economic and social rights 818
 - (a) Challenges to the justiciability of economic and social rights 818
 - (b) Answers to these challenges 819
 - (c) The justiciability of economic, social and cultural rights: conceptual guidance 822
 - 1.3 Economic and social rights before national courts 829



2 Non-judicial mechanisms 849

- 2.1 The role of preventive mechanisms in general 850
- 2.2 Human rights impact assessments 856
- 2.3 The role of national human rights institutions 859

9 The United Nations human rights treaties system 867

Introduction 867

- 1 State reporting 871
 - 1.1 The objectives of State reporting 87
 - 1.2 The role of non-governmental organizations 876
 - 1.3 The problem of overdue or lacking reports 877
- 2 Individual communications 882
 - 2.1 The 'ratione temporis' rule 885
 - 2.2 The 'victim' requirement 890
 - 2.3 The exhaustion of local remedies 896
 - 2.4 Non-duplication with other international procedures 903

3 The implementation of findings of UN human rights treaty bodies 909

- 3.1 The follow-up of Concluding Observations 909
- 3.2 The implementation of decisions (views) adopted on the basis of individual communications 920
- 4 The reform of the UN human rights treaties system 923

10 The United Nations Charter-based monitoring of human rights 93

Introduction 935

- 1 The establishment of the Human Rights Council 936
- 2 The complaints mechanism 947
- 3 The universal periodic review 951
- 4 The special procedures 962
 - 4.1 The origins and diversity of the special procedures of the Human Rights Council 962
 - 4.2 The selection of mandate-holders of special procedures of the Human Rights Council 965
 - 4.3 The code of conduct for special procedures of the Human Rights Council 96
 - 4.4 The tools used by the special procedures of the Human Rights Council 973
 - (a) Communications 974
 - (b) Country visits 976
 - (c) Annual Reports 978

11 Regional mechanisms of protection 98

Introduction 981

- 1 The European system of protection of human rights 983
 - 1.1 The original system: before Protocol No. 11 restructuring the control machinery of the European Convention on Human Rights 983
 - 1.2 The system reformed: Protocol No. 11 restructuring the control machinery of the European Convention on Human Rights and later reforms985
 - (a) The admissibility phase 986
 - (b) The merits phase and the supervision of the execution of judgments 989
 - (c) Treating large-scale violations: the 'pilot' judgments 993
 - (d) Co-operation in the execution of judgments 998



x Contents

- 2 The Inter-American system of protection of human rights 1006
 - 2.1 The powers of the Inter-American Commission on Human Rights 1006
 - 2.2 The powers of the Inter-American Court of Human Rights 1012
 - (a) The advisory function 1012
 - (b) Individual petitions 1016

The admissibility phase 1016

The merits phase 1021

- 2.3 The approach of the Inter-American Court of Human Rights 1031
- 3 The African system of protection of human and peoples' rights 1033
 - 3.1 The African Commission on Human and Peoples' Rights 1033
 - (a) Promoting human and peoples' rights 1034
 - (b) Providing an authoritative interpretation of the Charter 1034
 - (c) Protecting human and peoples' rights 1035
 - 3.2 The African Court on Human and Peoples' Rights 1038

Index 1041



Table of Boxes

- Box 1.1. The rise of fundamental rights in the European Union 26
- Box 1.2. Human rights in the League of Arab States: the Arab Charter of Human Rights 33
- Box 1.3. Human rights in South-East Asia: the ASEAN Intergovernmental Commission on Human Rights and the ASEAN Human Rights Declaration 34
- Box 1.4. The binding nature of interim measures indicated by human rights bodies 47
- Box 1.5. The rise of the right to bargain collectively: a product of the common law of human rights 50
- Box 1.6. The continuity of human rights obligations 68
- Box 1.7. The denunciation by Trinidad and Tobago of the ICCPR and the American Convention on Human Rights 143
- Box 2.1. The 'federal clause' of the American Convention on Human Rights and the implementation of human rights instruments in States with a federal structure 160
- Box 2.2. The example of the US Alien Torts Claims Act 195
- Box 2.3. Alternatives to Member States' responsibility for human rights violations committed by international organizations 266
- Box 3.1. The right to respect for private life and the processing of personal data 350
- Box 3.2. Competing versions of the necessity/proportionality test and the problems of 'balancing' 378
- Box 4.1. The issue of human rights and transnational corporations 457
- Box 5.1. Indicators in the Inter-American system 561
- Box 5.2. 'Progressive realization' of economic and social rights 570
- Box 6.1. Provisions relating to derogations in human rights instruments 584
- Box 6.2. Derogation in the context of counter-terrorist measures: the derogation by the United Kingdom from Art. 5(1) ECHR 586
- Box 7.1. Equality and non-discrimination under the main human rights instruments 634
- Box 7.2. The question of 'ethnic profiling' 665
- Box 7.3. The promises and methodological difficulties associated with 'disparate impact' discrimination 705

хi



xii Table of boxes

- Box 7.4. 'Positive action' in the case law of the European Court of Justice on equal treatment between women and men 744
- Box 7.5. Determining community affiliation in Northern Ireland 756
- Box 8.1. The adjudication of economic and social rights by the European Committee on Social Rights 846
- Box 9.1. The Subcommittee on Prevention of Torture (SPT) and National Preventive Mechanisms (NPMs) 869
- Box 9.2. Who may file communications? 882
- Box 10.1. The Advisory Committee of the Human Rights Council 946
- Box 11.1. The monitoring of social rights under the European Social Charter 999



Table of Cases

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council *v*. Kenya, No. 276/2003 212–17 Democratic Republic of Congo *v*. Burundi, Rwanda and Uganda, No. 227/99 AHRLR 19 (ACHPR 2004) 225

Jawara v. The Gambia, Nos 147/95 and 149/96 (2000) AHRLR 107 (ACHPR 2000) 765 Katangese Peoples' Congress v. Zaire, No. 75/92 (2000) AHRLR 72 (ACHPR 1995) 765–6 Purohit and Moore v. The Gambia, No. 241/2001 1035–7

The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria (Ogoniland case), No. 155/96 (2001) AHRLR 60 (ACHPR 2001) 31, 225, 284–5, 286, 780

UN Declaration on the Rights of Indigenous Peoples, advisory opinion May 2007 1034 Union des Jeunes Avocats/Chad, No. 74/92 781

AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Yogogombaye v. Republic of Senegal Appl. No. 001/2008, judgment of 15 December 2009 1038

COMMITTEE AGAINST TORTURE

Agiza v. Sweden, CAT/C/34/D/233/2003 320

Attia v. Sweden, No. 199/2002 328

Chipana, Cecilia Rosana Núñez v. Venezuela, CAT/C/21/D/110/1998 48

Dadar v. Canada, No. 258/2004 923

Encarnacion Blanco Abad v. Spain, No. 59/1996 445

Gerasimov v. Kazakhstan, No. 433/2010 889

Hajrizi Dzemajl et al. v. Serbia and Montenegro, CAT/C/29/D/161/2000 444-6

xiii



xiv Table of cases

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

R.K.B. v. Turkey, CEDAW/C/51/D/28/2010 669-71

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Documentation and Advisory Centre on Racial Discrimination v. Denmark, CERD/ C/63/D/28/2003~892-3

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

H.M. v. Sweden, CRPD/C/7/D/3/2011 686-7, 718

EUROPEAN COMMISSION AND COURT OF HUMAN RIGHTS (NUMERICAL)

- 1957/332 Lawless *v.* Ireland (No. 3), judgment of 1 July 1961 424, 588–9, 594, 596, 603 1960/788 Austria *v.* Italy (the 'Pfunders' case) ECHR Yearbook, vol. 4 (1961) 116 119 1960/867 X *v.* Norway, decision of 29 May 1961 468
- 1962/1474, 1677, 1691, 1769/63, 1994/63 and 2126/64 Belgian Linguistics case, Series A No. 6, judgment of 23 July 1968 643
- 1966/2832, 2835 and 2899 De Wilde, Ooms and Versyp *v*. Belgium, Series A No. 12, judgment of 18 June 1971 386
- 1967/3321, 3322, 3323 and 3344 Greek Case (1969) 12 YB 1 589, 596
- 1970/4451 Golder *v*. United Kingdom, Series A No. 18, judgment of 21 February 1975 103, 169, 181, 509
- 1970/4464 National Union of Belgian Police v. Belgium, Series A No. 19, judgment of 27 October 1975 495, 50
- 1970/4715, 4783 and 4827 East African Asians v. United Kingdom 78-A DR 645
- 1971/5029 Klass and others v. Germany, Series A No. 28, judgment of 6 September 1978 607
- 1971/5095, 1972/5920 and 1972/5926 Kjeldsen, Busk Madsen and Pedersen *v*. Denmark, Series A No. 23, judgment of 7 December 1976 232
- 1971/5310 Ireland *v*. United Kingdom, Series A No. 25, judgment of 18 January 1978 603, 232, 307, 589, 594, 596, 607, 983
- 1972/5493 Handyside *v*. United Kingdom, Series A No. 24, judgment of 7 December 1976 364, 365, 423
- 1972/5589 Schmidt and Dahlström v. Sweden, Series A No. 21, judgment of 6 February 1976 496
- 1972/5614 Swedish Engine Drivers' Union v. Sweden, Series A No. 20, judgment of 6 February 1976 495, 496
- 1972/5856 Tyrer *v.* United Kingdom, Series A No. 26, judgment of 25 April 1978 471 1972/5920, 1972/5926 and 1971/5095 Kjeldsen, Busk Madsen and Pedersen *v.* Denmark Series A No. 23, judgment of 7 December 1976 232



xv Table of cases

- 1972/5947, 1973/6205, 1975/7052, 7061, 7107, 7113 and 7136 Silver and others v. United Kingdom, Series A No. 61, judgment of 25 March 1983 813
- 1973/6231 Hess v. United Kingdom (1975) 2 DR 73 179, 254
- 1973/6289 Airey v. Ireland, Series A No. 32, judgment of 9 October 1979 258, 450, 516 1974/6538 Sunday Times v. United Kingdom (No. 1), Series A No. 30, judgment of 26 April 1979 386
- 1974/6694 Artico v. Italy, Series A No. 37, judgment of 13 May 1980 232
- 1974/6780 and 1975/6950 Cyprus v. Turkey, decision of 26 May 1975 2 DR 125 151
- 1974/6833 Marckx v. Belgium, Series A No. 31, judgment of 13 June 1979 475, 489, 492, 798
- 1975/6903 Deweer *v*. Belgium, Series A No. 35, judgment of 27 February 1980 505, 507–10
- 1975/6950 Cyprus v. Turkey, decision of 26 May 1975 2 DR 125 151
- 1975/6959 Brüggemann and Scheuten, report of 12 July 1977 10 DR 100 468, 470
- 1975/7045 X v. Austria, decision of 10 December 1976 7 DR 87 468
- 1975/7052, 7061, 7107, 7113 and 7136 Silver and others *v*. United Kingdom, Series A No. 61, judgment of 25 March 1983 813
- 1976/7525 Dudgeon *v.* United Kingdom, Series A No. 45, judgment of 22 October 1981 54, 60, 171, 501, 503
- 1976/7601 and 7806 Young, James and Webster *v*. United Kingdom, Series A No. 44, judgment of 13 August 1981 388, 447–9, 475, 492, 501
- 1977/8007 Cyprus v. Turkey, decision of 10 July 1978 13 DR 85 151
- 1977/8030 CFDT v. European Communities, decision of 10 July 1978, DR 13 231 260
- 1978/8348 and 8406 Glimmerveen and Hagenbeek *v*. Netherlands, inadmissibility decision of 11 October 1979 420
- 1979/8416 X v. United Kingdom, decision of 13 May 1980 19 DR 244 469, 468, 469 1979/8691 Malone v. United Kingdom, Series A No. 82, judgment of 2 August 1984 349, 357
- 1979/8695 Inze v. Austria, Series A No. 126, judgment of 28 October 1987 489, 643, 683
- 1979/8734 Barthold v. Germany, Series A No. 90, judgment of 25 March 1985 386 1979/8793 James and others v. United Kingdom, Series A No. 98, judgment of 21 February 1986 813
- 1980/8978 X and Y v. Netherlands, Series A No. 91, judgment of 26 March 1985 59, 449–51, 464, 478, 492, 493, 501, 515, 781
- 1980/9118 AGOSI v. United Kingdom, judgment of 24 October 1986 \$55, Series A No. 108 356
- 1980/9186 De Cubber *v.* Belgium, Series A No. 86, judgment of 26 October 1984 477 1980/9214, 1981/9473 and 1981/9474 Abdulaziz, Cabales and Balkandali Series A No. 94, judgment of 28 May 1985 231, 390, 478, 643, 645, 688
- 1981/9248 Leander v. Sweden, Series A No. 116, judgment of 26 March 1987 813
 1981/9473, 9474 and 1980/9214 Abdulaziz, Cabales and Balkandali, Series A No. 94, judgment of 28 May 1985 231, 390, 478, 643, 645, 688



xvi Table of cases

- 1981/9532 Rees *v*. United Kingdom, Series A No. 106, judgment of 17 October 1986 464, 478
- 1982/9697 Johnson v. Ireland, Series A No. 112, judgment of 18 December 1986 169
- 1982/9815 Lingens v. Austria, Series A No. 103, judgment of 8 July 1986 423
- 1982/10083 R v. United Kingdom 1983 DR 33 57
- 1982/10126 Plattform 'Ärzte für das Leben' *v.* Austria, Series A No. 139, judgment of 21 June 1988 463, 477–8, 492, 520
- 1983/10328 Belilos *v.* Switzerland, Series A No. 132, judgment of 29 April 1988, 88 ILR 635, 131–2
- 1983/10454 Gaskin *v*. United Kingdom, Series A No. 160, judgment of 7 July 1989 463, 514, 517
- 1983/10465 Olsson v. Sweden, Series A No. 130, judgment of 24 March 1988 370
- 1983/10581 Norris v. Ireland, Series A No. 142, judgment of 26 October 1988 364
- 1984/10737 Müller and others v. Switzerland, Series A No. 133, judgment of 24 May 1988 364
- 1984/10802 Pfeifer and Plankl v. Austria, Series A No. 227, judgment of 25 February 1992, 505
- 1984/10828 Funke *v.* France, Series A No. 256-A, judgment of 25 February 1993 370 1984/11209, 11234, 11266 and 11386/85 Brogan and others *v.* United Kingdom Series A No. 145-B, judgment of 29 November 1988 602, 604, 606, 607
- 1985/11801 Kruslin v. France, Series A No. 176-A, judgment of 24 April 1990 386 1987/12747 Drozd and Janousek v. France and Spain, Series A No. 240, judgment of 26
- June 1992 150, 169, 172, 252 1987/12849 Vermeire *v.* Belgium, Series A No. 214-C, judgment of 29 November
- 1991 489, 492 1987/12850 Tomasi *v*. France, Series A No. 241-A, judgment of 27 August 1992 307 1987/13163, 13164, 13165, 13447 and 13448 Vilvarajah and others *v*. United Kingdom,
- Series A No. 215, judgment of 30 October 1991 172, 307, 324, 596 1987/13258 M. & Co. case, decision of 9 February 1990 259, 260, 261
- 1987/13343 B v. France, judgment of 25 March 1992 501
- 1987/13470 Otto-Preminger-Institut *v*. Austria, Series A No. 295-A, judgment of 20 September 1994 389, 512, 521
- 1988/13539 Dufay v. European Communities, decision of 19 January 1989 260
- 1988/13580 Schmidt *v*. Germany, Series A No. 291-B, judgment of 18 July 1994 643, 677, 683
- 1988/13585 Observer and Guardian v. United Kingdom, Series A No. 216, judgment of 26 November 1991 365
- 1988/13914 Informationsverein Lentia and others v. Austria (No. 1), Series A No. 276, judgment of 24 November 1993 476
- 1988/13972 Imbrioscia v. Switzerland, judgment of 24 November 1993 42
- 1988/14038 Soering v. United Kingdom, Series A No. 161, judgment of 7 July 1989 49, 88–9, 92, 150, 171, 172, 194, 229–89
- 1988/14234 Open Door and Dublin Well Woman *v*. Ireland, Series A No. 246-A, judgment of 29 October 1992 470



xvii Table of cases

- 1988/14307 Kokkinakis v. Greece 17 EHRR 397 389
- 1989/14518 Schuler-Zgraggen v. Switzerland, Series A No. 263, judgment of 24 June 1993 390, 672
- 1989/14553 and 14554 Brannigan and McBride *v*. United Kingdom, Series A No. 258-B, judgment of 25 May 1993 594, 601–24
- 1989/14556 Papamichalopoulos and others *v*. Greece, Series A No. 330-B, judgment of 31 October 1995 990
- 1989/14838 A v. France, Series A No. 277-B, judgment of 23 November 1993 456
- 1989/15041, 15717 and 15779 Informationsverein Lentia and others v. Austria (No. 1) Series A No. 276, judgment of 24 November 1993 476
- 1989/15225 Friedl v. Austria, Series A No. 305-B 502
- 1989/15318 Loizidou *v*. Turkey (preliminary objections) Series A No. 310, judgment of 23 March 1995 169, 149–50, 169, 171, 172, 175, 181, 183, 261
- 1989/15318 Loizidou *v*. Turkey (merits), judgment of 18 December 1996, *Reports* 1996-VI 150–3, 169, 178, 183, 194
- 1989/15450 Casado Coca v. Spain, Series A No. 285-A, judgment of 24 February 1994 386, 389
- 1989/15573 Gustafsson *v*. Sweden, judgment of 25 April 1996 *Reports* 1996-II 495, 496, 512
- 1989/15576 Cruz Varas v. Sweden, Series A No. 201, judgment of 20 March 1991 49, 172
- 1989/15764 Lobo Machado v. Portugal, judgment of 20 February 1996 Reports 1996-I 249
- 1990/16130 Sigurjónsson *v.* Iceland, Series A No. 264, judgment of 30 June 1993 501 1990/16213 Burghartz *v.* Switzerland, Series A No. 280-B, judgment of 22 February 1994 390, 501, 502, 672, 677, 683, 688
- 1990/16278 Karaduman v. Turkey, decision of 3 May 1993 389, 390, 401
- 1990/16462 Iribarne Pérez *v*. France, Series A No. 325-B, judgment of 24 October 1995 252
- 1990/16969 Keegan v. Ireland, Series A No. 290, judgment of 26 May 1994 516, 798
- 1990/17004 H v. Norway, decision of 19 May 1992 73 DR 155 469, 470
- 1990/17207 Informationsverein Lentia and others v. Austria (No. 1), Series A No. 276, judgment of 24 November 1993 476
- 1990/17371 Gaygusuz v. Austria, judgment of 16 September 1996 Reports 1996-IV 644, 645, 682
- 1990/17383 Johansen v. Norway, judgment of 7 August 1996 Reports 1996-III 514, 517 1990/17419 Wingrove v. United Kingdom Reports 1996-V, judgment of 25 November 1996 388, 389, 512
- 1991/18357 Hornsby v. Greece, judgment of 19 March 1997 Reports 1997-II 1025
- 1991/18535 Kroon and others *v*. Netherlands, Series A No. 297-C, judgment of 27 October 1994 516, 798
- 1991/18748 Manoussakis and others v. Greece, judgment of 26 September 1996 *Reports* 1996-IV 388, 389
- 1991/18783 Bulut v. Turkey, decision of 3 May 1993 401



xviii Table of cases

- 1991/18984 McCann and others *v*. United Kingdom, Series A No. 324, judgment of 27 September 1995 463, 472, 474, 484, 500
- 1991/19075 Vermeulen v. Belgium, judgment of 20 February 1996 Reports 1996-I 249 1992/19392 United Communist Party of Turkey and others v. Turkey, judgment of 30 January 1998, Reports 1998-I 260, 388, 598
- 1992/20060 Van Raalte v. Netherlands, judgment of 21 February 1997 Reports 1997-I 390, 643
- 1992/20348 Buckley *v*. United Kingdom, judgment of 25 September 1996 *Reports* 76 1996-IV 371, 717, 797, 798, 801
- 1992/20458 Petrovic v. Austria, judgment of 27 March 1998 Reports 1998-II 390, 643, 644, 672, 683
- 1992/20605 Halford v. United Kingdom, judgment of 25 June 1997 *Reports* 1997-III 357
- 1992/21090 Heinz *v*. Contracting Parties also parties to the European Patent Convention, decision of 10 January 1994 259
- 1993/21439 Botta v. Italy, judgment of 24 February 1998 644
- 1993/21497 Mantovanelli v. France, judgment of 18 March 1997 Reports 1997-II 249
- 1993/21627, 21826 and 21974 Laskey, Jaggard and Brown *v*. United Kingdom, judgment of 19 February 1997 *Reports* 1997-I 501, 502, 503
- 1993/21830 X, Y and Z v. United Kingdom, judgment of 22 April 1997, Reports 1997-II 171
- 1993/21980 Bladet Tromsø and Stensaas v. Norway [GC], judgment of 20 May 1999, ECHR 1999-III 250
- 1993/21987 Aksoy v. Turkey, judgment of 18 December 1996 Reports 1996-VI 594, 615 1993/22083 Stubbings and others v. United Kingdom, judgment of 22 October 1996 Reports 1996-IV 473
- 1993/22414 Chahal and others *v*. United Kingdom (1996) 23 EHRR 413, judgment of 15 November 1996 305–8, 310, 324, 328, 333, 612, 614
- 1993/22492 Kiliç v. Turkey ECHR 2000-III, judgment of 28 March 2000 500
- 1993/22924 Aït-Mouhoub v. France, judgment of 28 October 1998, Reports 1998-VIII 258
- 1994/21787 Valsamis *v*. Greece, judgment of 18 December 1996 *Reports* 1996-VI 391 1994/23413 L.C.B. *v*. United Kingdom, judgment of 9 June 1998 *Reports* 1998-III 472, 483, 500
- 1994/23452 Osman v. United Kingdom, judgment of 28 October 1998 Reports 1998-VIII 463, 464, 480, 482–6, 487, 493, 500
- 1994/24276 Kurt v. Turkey, judgment of 25 May 1998 (1998) 27 EHRR 373 614
- 1994/24573 H.L.R. v. France, judgment of 29 April 1997 Reports 1997-III 324
- 1994/24662 Lehideux and Isorni v. France, judgment of 23 September 1998 423, 425
- 1994/24699 Verein gegen Tierfabriken (VgT) v. Switzerland, judgment of 28 June 2001 475–7
- 1994/24746 Jordan v. United Kingdom, 4 May 2001 714
- 1994/24755 McLeod *v.* United Kingdom, judgment of 23 September 1998 *Reports* §53 1998-VIII 370, 371



xix Table of cases

- 1994/24760 Assenov and others *v*. Bulgaria, judgment of 28 October 1998, *Reports* 1998-VIII 463
- 1994/24833 Matthews *v*. United Kingdom [GC], judgment of 18 February 1999 \$29 ECHR 1999-I 159, 171, 255–6, 258, 260, 261, 269
- 1994/24844 Reeve *v.* United Kingdom, decision of 30 November 1994 79-A DR 146 469 1994/24888 V *v.* United Kingdom [GC], judgment of 16 December 1999 \$72 ECHR 1999-IX 171
- 1994/25088 Chassagnou and others v. France [GC], judgment of 29 April 1999 388,
- 1994/25390 Rekvényi v. Hungary [GC], judgment of 20 May 1999 §34 ECHR 1999-III 353
- 1994/25599 A v. United Kingdom, judgment of 23 September 1998, *Reports* 1998-VI 480
- 1994/25781 Cyprus v. Turkey, judgment of 10 May 2001, \$78 ECHR 2001-IV 183, 194, 157, 169, 173, 175, 183, 194, 645
- 1994/25803 Selmouni *v*. France [GC], judgment of 28 July 1999 \$74 ECHR 1999-V 988 1994/26083 Waite and Kennedy *v*. Germany [GC], judgment of 18 February 1999, \$59 ECHR 1999-I 103, 236, 260, 268
- 1995/26737 Brualla Gómez de la Torre v. Spain, judgment of 19 December 1997 Reports 1997-VIII 472, 473
- 1995/26958 Jerusalem v. Austria, judgment of 27 February 2001 §36 ECHR 2001-II 521 1995/27229 Keenan v. United Kingdom, judgment of 3 April 2001 §116 ECHR 2001-III 500, 501
- 1995/27238 Chapman v. United Kingdom, judgment of 18 January 2001 373, 374, 796
- 1995/28331 and 28443 Chassagnou and others v. France [GC], judgment of 29 April 1999 388, 512
- 1995/28341 Rotaru v. Romania, judgment of 4 May 2000 348-50, 356
- 1995/28780 Ramirez Sanchez v. France, inadmissibility decision of 24 June 1996 184 1995/28856 Jokela v. Finland, judgment of 21 May 2002 356
- 1995/28934 Beer and Regan v. Germany, judgment of 18 February 1999 257-8, 268
- 1995/29221 and 29225 and Stankov and the United Macedonian Organisation Ilinden v. Bulgaria, judgment of 2 October 2001 520
- 1995/29392 Z and others v. United Kingdom [GC], judgment of 10 May 2001 ECHR \$73 2001-V 480
- 1995/29515 Larkos v. Cyprus [GC], judgment of 18 February 1999 \$29 ECHR 1999-I 488, 716
- 1995/29529 Schettini and others v. Italy, inadmissibility decision of 9 November 2000, 496
- 1996/29865 Ünal Tekeli *v*. Turkey, judgment of 16 November 2004 672
- 1996/30210 Kudla v. Poland, judgment of 26 October 2000 814, 987-9
- 1996/30668, 30671 and 30678 Wilson, NUJ and others *v*. United Kingdom, judgment of 2 July 2002 495–7, 505, 506
- 1996/30882 Pellegrini v. Italy, judgment of 20 July 2001, ECHR 2001-VIII 247-9, 252



xx Table of cases

- 1996/30985 Hassan and Chauch *v.* Bulgaria [GC], judgment of 26 October 2000 \$78 ECHR 2000-XI 388
- 1996/31253 McElhinney v. Ireland and United Kingdom, decision of 9 February 2000, 173
- 1996/31417 and 32377 Lustig-Prean and Beckett v. United Kingdom, judgment of 27 September 1999 683
- 1996/31443 Broniowski v. Poland [GC], judgment of 22 June 2004 991, 994-7
- 1996/31679 Ignaccolo-Zenide v. Romania, judgment of 25 January 2000 ECHR 2000-I 492
- 1996/31821 Issa and others *v*. Turkey, judgment of 16 November 2004 175, 176–7, 182
- 1996/31871 Sommerfeld v. Germany, judgment of 8 July 2003 683
- 1996/32967 Calvelli and Ciglio [GC], judgment of 17 January 2002 ECHR 2002-I 472, 473, 474
- 1996/33218 E and others v. United Kingdom, judgment of 26 November 2002 478–81 1996/33290 Salgueiro da Silva Mouta v. Portugal, judgment of 21 December 1999 \$29 ECHR 1999-IX 677
- 1996/33985 and 33986 Smith and Grady v. United Kingdom, judgment of 27 September 1999 362, 645, 677, 683, 688
- 1996/34044 Streletz, Kessler and Krenz v. Germany [GC], judgment of 22 March 2001 ECHR 2001-II 474
- 1996/34256 Di Mauro *v.* Italy [GC], judgment of 28 July 1999 \$23 ECHR 1999-V 996 1997/34369 Thlimmenos *v.* Greece, judgment of 6 April 2000 644, 712, 713, 735, 736, 846
- 1997/34406 Mazurek v. France \$43 ECHR 2000-II, judgment of 1 February 2000 489, 492, 683
- 1997/34503 Demir and Baykara v. Turkey, judgment of 12 November 2008 50–2
- 1997/34884 Bottazzi v. Italy [GC], judgment of 28 July 1999 \$22 ECHR 1999-V 996
- 1997/34939 Giacometti and others v. Italy ECHR 2001-XII 996
- 1997/35014 Hutten-Czapska v. Poland [GC], judgment of 19 June 2006 991
- 1997/35394 Khan v. United Kingdom, judgment of 12 May 2000 Reports 2000-V 357
- 1997/35532 Streletz, Kessler and Krenz v. Germany [GC], judgment of 22 March 2001 ECHR 2001-II 474
- 1997/35763 Al-Adsani *v.* United Kingdom, judgment of 21 November 2001, \$55 ECHR 2001-XI 102-7, 108, 110, 169, 260
- 1997/35765 A.D.T. v. United Kingdom ECHR \$37 2000-IX, judgment of 31 July 2000 503, 683
- 1997/36022 Hatton and others v. United Kingdom, judgment of 8 July 2003 371–2
- 1997/36515 Fretté v. France, judgment of 26 February 2002 §34 ECHR 2002-I 489, 677
- 1997/36983 Haas v. Netherlands, judgment of 13 January 2004 643
- 1997/37292 F.R. v. Switzerland, 28 June 2001 249
- 1997/37703 Mastromatteo v. Italy [GC], judgment of 24 October 2002 \$90 ECHR 2002-VIII 472
- 1997/38178 Serif v. Greece, judgment of 14 December 1999 \$53 ECHR 1999-IX 388



xxi Table of cases

1997/38621 Zehlanova and Zehnal *v.* Czech Republic, decision of 14 May 2002 644 1998/39221 and 41963 Scozzari and Giunta *v.* Italy [GC], judgment of 13 July 2000 \$249 ECHR 2000-VIII 996

1998/39339 M.M. v. Netherlands, judgment of 8 April 2003 456-7

1998/39392 and 39829 L. and V. v. Austria, judgment of 9 January 2003 683

1998/39393 M.G. v. United Kingdom, 24 September 2002 514, 517

1998/39394 Scharsach and News Verlagsgesellschaft v. Austria, judgment of 13 November 2003 \$30 ECHR 2003-XI 520

1998/39473 Xhavara and others v. Italy and Albania, inadmissibility decision of 11 January 2001 175, 185

1998/39594 Kress v. France [GC], judgment of 7 June 2001 ECHR 2001-VI 472

1998/40016 Karner v. Austria, judgment of 24 July 2003 677-8, 679, 683

1998/40892 Koua-Poirrez v. France, judgment of 30 September 2003 644, 683

1998/41340, 41342, 41343 and 41344 Refah Partisi (Welfare Party) and others *v*. Turkey [GC], judgment of 13 February 2003 \$57 ECHR 2003-II 353, 388, 389, 390, 391, 401

1998/41571 Marshall v. United Kingdom, inadmissibility decision of 10 July 2001 594 1998/41604 Buck v. Germany, judgment of 28 April 2005 370

1998/41963 and 39221 Scozzari and Giunta *v*. Italy [GC], judgment of 13 July 2000 \$249 ECHR 2000-VIII 996

1998/42326 Odièvre v. France [GC], judgment of 13 February 2003 513–18, 519

1998/42393 Dahlab v. Switzerland, inadmissibility decision of 15 February 2001 ECHR 2001-V 381-3, 389, 401

1998/42527 Hans-Adam II of Liechtenstein v. Germany [GC], judgment of 12 July 2001 \$47 ECHR 2001-VIII 260

1998/43577 and 43579 Nachova and others v. Bulgaria [GC], judgment of 6 July 2005 ECHR 2005-VII 505, 714, 715

1998/43844 T.I. v. United Kingdom, inadmissibility decision of 7 March 2000 235–6 1998/44158 Gorzelik and others v. Poland [GC], judgment of 17 February 2004 352–5, 386, 387, 389

1998/44179 Murphy v. Ireland, judgment of 10 July 2003 389, 512

1998/44306 Appleby v. United Kingdom, judgment of 6 May 2003 ECHR 2003-VI 492 1998/44774 Şahin v. Turkey [GC], judgment of 10 November 2005 375, 384–92, 400,

402, 404

1998/44787 P.G. and J.H. v. United Kingdom, judgment of 25 September 2001 \$44 ECHR 2001-IX 357

1998/44801 Streletz, Kessler and Krenz v. Germany [GC], judgment of 22 March 2001 ECHR 2001-II 474

1998/45036 Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi *v*. Ireland, judgment of 30 June 2005 80, 258–61

1999/45276 Hilal v. United Kingdom, judgment of 6 March 2001 \$64 ECHR 2001-II 324 1999/45305 Powell v. United Kingdom, inadmissibility decision of 4 May 2000 ECHR 2000-V 472

1999/45330 S.L. v. Austria, judgment of 9 January 2003 \$36 ECHR 2003-I 677, 683



xxii Table of cases

1999/46210 Wretlund *v.* Sweden, inadmissibility decision of 9 March 2004 495 1999/46221 Öçalan *v.* Turkey, admissibility decision of 14 December 2000 175 1999/46221 Öçalan *v.* Turkey, judgment of 12 May 2005 182, 185 1999/46346 Noack and others *v.* Germany, inadmissibility decision of 25 May 2000 796 1999/46544 Kutzner *v.* Germany, judgment of 26 February 2002 \$66 ECHR 2002-I 514,

1999/46827 and 46951 Mamatkulov and Askarov *v*. Turkey, judgment of 5 February 2005 41 EHRR 494 48, 50, 328

1999/47287 Perez v. France [GC], judgment of 12 February 2004 \$70 ECHR 2004-I 472 1999/47916 Menson v. United Kingdom, inadmissibility decision of 6 May 2003 ECHR 2003-V 492

1999/48198 Lindberg *v*. Sweden, inadmissibility decision of 15 January 2004 250–2 1999/48787 Ilascu and others *v*. Moldova and Russia [GC], judgment of 8 July 2004 156, 157–8, 159, 176, 178, 183, 193, 437, 990

1999/49853 Pichon and Sajous v. France, inadmissibility decision of 2 October 2001 ECHR 2001-X 392

1999/50490 Boso v. Italy, inadmissibility decision of 5 September 2002 ECHR 2002-VII 470, 471

1999/51564 Čonka and others v. Belgium, admissibility decision 13 March 2001 324

1999/51564 Čonka and others v. Belgium, judgment of 5 February 2002 813

1999/52207 Banković and others v. Belgium and 16 Other States, inadmissibility decision of 12 December 2001 169–76, 177, 178, 182, 183

1999/53176 Mikulić v. Croatia, judgment of 7 February 2002 501, 514

2000/53749 Lazzarini and Ghiacci v. Italy, 7 November 2002 472

2000/53924 Vo v. France [GC], judgment of 8 July 2004 467-74

2000/55480 and 59330 Sidabras and Dziautas v. Lithuania, judgment of 27 July 2004 644

2000/55707 Andrejeva v. Latvia, judgment of 18 February 2009 684

2000/55762 and 55974 Timishev v. Russia, judgment of 13 December 2005 505, 665, 666, 688

2000/56501 Mata Estevez v. Spain, inadmissibility decision of 10 May 2001 ECHR 2001-VI 678, 679

2000/57325 D.H. and others v. Czech Republic, judgment of 13 November 2007 499, 505–7, 688, 713

2000/57420 Younger v. United Kingdom, inadmissibility decision of 7 January 2003 481-2

2000/58341 Madsen v. Denmark, inadmissibility decision of 7 November 2002 495

2000/58461 Hoogendijk v. Netherlands, 6 January 2005 714

2000/62617 Copland *v*. United Kingdom, judgment of 3 April 2007 357–8

2001/64915 Chauvy and others v. France, judgment of 29 June 2004 425

2001/65731 Stec and others v. United Kingdom [GC], judgment of 12 April 2006 713, 716

2001/65831 Garaudy v. France, inadmissibility decision of 24 June 2003 420, 423–5 2001/66746 Connors v. United Kingdom, 27 May 2004 717



xxiii Table of cases

```
2001/69498 Pla and Puncernau v. Andorra, judgment of 13 July 2004 487–92
2001/69789 Brusco v. Italy, inadmissibility decision of 6 September 2001 ECHR 2001-
  IX 996
2001/71412 Behrami v. France, inadmissibility decision of 2 May 2007 80, 86, 87,
  272 - 5
2001/71503 Assanidze v. Georgia, judgment of 8 April 2004 158–9, 160, 990
2001/76900 Öllinger v. Austria, judgment of 29 June 2006 519–22
2001/78166 Saramati v. France, Germany and Norway, inadmissibility decision of 2
  May 2007 80, 86, 272-5
2002/2346 Pretty v. United Kingdom, judgment of 29 April 2002 ECHR 2001-VIII 59,
  498, 499, 500-4
2002/13102 Kozak v. Poland, judgment of 2 March 2010 678
2002/15472 Folgerø and others v. Norway [GC], judgment of 26 June 2007 907
2002/18114 Hermi v. Italy [GC], judgment of 10 October 2006 ECHR 2006-XII 505
2002/27677 Sentges v. Netherlands, inadmissibility decision of 8 July 2003 645
2002/31446 Gajić v. Germany, decision of 28 August 2007 275
2002/36378 Shamayev v. Georgia and Russia, judgment of 12 April 2005 322-4, 328,
  333
2002/36391 Salduz v. Turkey, judgment of 27 November 2008 40, 41, 44, 45, 46, 335
2003/3394 Medvedyev and others v. France, judgment of 29 March 2010 182
2003/5410 Tysiąc v. Poland, judgment of 20 March 2007 355-6
2003/17341 Fashkami v. United Kingdom, inadmissibility decision of 22 June
  2004 246
2003/28867 Keegan v. United Kingdom, judgment of 18 July 2006 369-71
2003/36109 Leroy v. France, judgment of 2 October 2008 426
2004/4268 Panovits v. Cyprus, judgment of 11 December 2008 45
2004/8320 Ryabikin v. Russia, 19 June 2008 328, 331
2004/13444 Glor v. Switzerland, judgment of 30 April 2009 688, 719–20
2004/30141 Schalk & Kopf v. Austria, judgment of 24 June 2010 678, 688
2004/33509 Burdov v. Russia (No. 2), judgment of 15 January 2009 998
2005/3455 A and others v. United Kingdom, judgment of 19 February 2009 595,
  621-2
2005/6974 Kasumaj v. Greece, inadmissibility decision of 5 July 2007 275
2005/25424 Ramzy v. Netherlands, admissibility decision of 28 May 2008 309-10
2005/25579 A, B and C v. Ireland, judgment of 16 December 2010 358, 367
2005/44009 Shtukaturov v. Russia, judgment of 27 March 2008 688
2006/2947 Ismoilov and others v. Russia, 24 April 2008 328, 331
2006/30078 Markin v. Russia, judgment of 22 March 2012 644, 671–2
2006/37201 Saadi v. Italy [GC], judgment of 28 February 2008 239, 310-11, 328, 330,
  332
2006/38832 Kiss v. Hungary, judgment of 20 May 2010 688
2007/24027 Ahmad and others, Babar, judgment of 10 April 2012 335
2007/31322 Haas v. Switzerland, judgment of 20 January 2011 498, 499
```

2007/55721 Al-Skeini and others v. United Kingdom, judgment of 7 July 2011 182-4



xxiv Table of cases

2008/5786 Söderman v. Sweden, judgment of 12 November 2013 525 2008/11949 and 36742 Ahmad and others, Babar, judgment of 10 April 2012 335

2008/27021 Al-Jedda v. United Kingdom, judgment of 7 July 2011 184 2008/32733 K.R.S. v. United Kingdom, inadmissibility decision of 2 December 2008 236

2008/61498 Al-Saadoon and Mufdhi v. the United Kingdom, judgment of 30 June 2009 182

2009/8139 Othman (Abu Qatada) v. United Kingdom, judgment of 17 January 2012 332–7

2009/25716 Toumi v. Italy, judgment of 5 April 2011 325

2009/30696 M.S.S. v. Belgium and Greece, judgment of 21 January 2011 237-9

2009/66911 and 67354 Ahmad and others, Babar, judgment of 10 April 2012 335

2010/2700 Kiyutin v. Russia, judgment of 10 March 2011 688-9, 690

2011/34118 Ordre des avocats défenseurs et Avocats près la Cour d'appel de Monaco v. Monaco, inadmissibility decision of 2 May 2013 987

EUROPEAN COMMISSION AND COURT OF HUMAN RIGHTS (ALPHABETICAL)

- A v. France Appl. No. 14838/89, Series A No. 277-B, judgment of 23 November 1993 456
- A v. United Kingdom Appl. No. 25599/94, judgment of 23 September 1998, *Reports* 1998-VI 480
- A and others v. United Kingdom Appl. No. 3455/05, judgment of 19 February 2009 595, 621–2
- A, B and C *v*. Ireland Appl. No. 25579/05, judgment of 16 December 2010 358, 367 Abdulaziz, Cabales and Balkandali Appl. Nos. 9214/80, 9473/81 and 9474/81, Series A No. 94, judgment of 28 May 1985 231, 390, 478, 643, 645, 688
- A.D.T. v. United Kingdom Appl. No. 35765/97 ECHR \$37 2000-IX, judgment of 31 July 2000 503, 683
- AGOSI v. United Kingdom Appl. No. 9118/80, judgment of 24 October 1986 \$55, Series A No. 108 356
- Ahmad and others, Babar Appl. Nos. 24027/07, 11949/08, 36742/08, 66911/09 and 67354/09, judgment of 10 April 2012 335
- Airey *v*. Ireland Appl. No. 6289/73, Series A No. 32, judgment of 9 October 1979 258, 450, 516
- Aït-Mouhoub v. France Appl. No. 22924/93, judgment of 28 October 1998, Reports 1998-VIII 258
- Aksoy v. Turkey Appl. No. 21987/93, judgment of 18 December 1996 Reports 1996-VI 594, 615
- Al-Adsani *v*. United Kingdom Appl. No. 35763/97, judgment of 21 November 2001, \$55 ECHR 2001-XI 102-7, 108, 110, 169, 260
- Andrejeva v. Latvia Appl. No. 55707/00, judgment of 18 February 2009 684



xxv Table of cases

Appleby v. United Kingdom Appl. No. 44306/98, judgment of 6 May 2003 ECHR 2003-VI 492

Artico v. Italy Appl. No. 6694/74, Series A No. 37, judgment of 13 May 1980 232

Assanidze v. Georgia Appl. No. 71503/01, judgment of 8 April 2004 158–9, 160, 990

Assenov and others v. Bulgaria Appl. No. 24760/94, judgment of 28 October 1998, Reports 1998-VIII 463

Austria v. Italy (the 'Pfunders' case) Appl. No. 788/60 ECHR Yearbook, vol. 4 (1961) 116 119

B v. France Appl. No. 13343/87, judgment of 25 March 1992 501

Banković and others *v*. Belgium and 16 Other States Appl. No. 52207/99, inadmissibility decision of 12 December 2001 169–76, 177, 178, 182, 183

Barthold v. Germany Appl. No. 8734/79, Series A No. 90, judgment of 25 March 1985 386

Beer and Regan *v*. Germany Appl. No. 28934/95, judgment of 18 February 1999 257–8, 268

Behrami *v*. France Appl. No. 71412/01, inadmissibility decision of 2 May 2007 80, 86, 87, 272–5

Belgian Linguistics case Appl. Nos. 1474/62, 1677/62, 1691/62, 1769/63, 1994/63 and 2126/64 Series A No. 6, judgment of 23 July 1968 643

Belilos *v.* Switzerland Appl. No. 10328/83, Series A No. 132, judgment of 29 April 1988, 88 ILR 635 131–2

Bladet Tromsø and Stensaas v. Norway [GC] Appl. No. 21980/93, judgment of 20 May 1999, ECHR 1999-III 250

Boso v. Italy Appl. No. 50490/99, inadmissibility decision of 5 September 2002 ECHR 2002-VII 470, 471

Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi *v.* Ireland Appl. No. 45036/98, judgment of 30 June 2005 80, 258–61

Botta v. Italy Appl. No. 21439/93, judgment of 24 February 1998 644

Bottazzi v. Italy [GC] Appl. No. 34884/97, judgment of 28 July 1999 \$22 ECHR 1999-V 996

Brannigan and McBride *v.* United Kingdom Appl. Nos. 14553 and 14554/89, Series A No. 258-B, judgment of 25 May 1993 594, 601, 623-4

Brogan and others *v*. United Kingdom Appl. Nos. 11209/84, 11234/84, 11266/84 and 11386/85, Series A No. 145-B, judgment of 29 November 1988 602, 604, 606, 607

Broniowski *v.* Poland [GC] Appl. No. 31443/96, judgment of 22 June 2004 991, 994–7

Brualla Gómez de la Torre v. Spain Appl. No. 26737/95, judgment of 19 December 1997 Reports 1997-VIII 472, 473

Brüggemann and Scheuten Appl. No. 6959/75, report of 12 July 1977 10 DR 100 468, 470

Brusco *v.* Italy Appl. No. 69789/01, inadmissibility decision of 6 September 2001 ECHR 2001-IX 996

Buck *v*. Germany Appl. No. 41604/98, judgment of 28 April 2005 370



xxvi Table of cases

Buckley *v*. United Kingdom Appl. No. 20348/92, judgment of 25 September 1996 *Reports* 1996-IV 371, 717, 797, 798, 801

Bulut v. Turkey Appl. No. 18783/91, decision of 3 May 1993 401

Burdov v. Russia (No. 2) Appl. No. 33509/04, judgment of 15 January 2009 998

Burghartz *v.* Switzerland Appl. No. 16213/90, Series A No. 280-B, judgment of 22 February 1994 390, 501, 502, 672, 677, 683, 688

Calvelli and Ciglio [GC] Appl. No. 32967/96, judgment of 17 January 2002 ECHR 2002-I 473, 474

Casado Coca *v.* Spain Appl. No. 15450/89, Series A No. 285-A, judgment of 24 February 1994 386, 389

CFDT *v*. European Communities Appl. No. 8030/77, decision of 10 July 1978, DR 13 260

Chahal and others *v*. United Kingdom Appl. No. 22414/93 (1996), judgment of 15 November 1996 23 EHRR 413 305–8, 310, 324, 328, 333, 612, 614

Chapman v. United Kingdom Appl. No. 27238/95, judgment of 18 January 2001 373, 374, 796

Chassagnou and others *v*. France [GC] Appl. Nos. 25088/94, 28331/95 and 28443/95, judgment of 29 April 1999 388, 512

Chauvy and others *v*. France Appl. No. 64915/01, judgment of 29 June 2004 425 Čonka and others *v*. Belgium Appl. No. 51564/99, admissibility decision 13 March 2001 324

Čonka and others v. Belgium Appl. No. 51564/99, judgment of 5 February 2002 813

Connors *v*. United Kingdom Appl. No. 66746/01, 27 May 2004 717 Copland *v*. United Kingdom Appl. No. 62617/00, judgment of 3 April 2007 357–8

Cruz Varas *v.* Sweden Appl. No. 15576/89, Series A No. 201, judgment of 20 March 1991 49, 172

Cyprus *v*. Turkey Appl. No. 25781/94, judgment of 10 May 2001, \$78 ECHR 2001-IV 157, 169, 173, 175, 183, 194, 645

Cyprus *v*. Turkey Appl. Nos. 6780/74 and 6950/75, decision of 26 May 1975 2 DR 125 151

Cyprus v. Turkey Appl. No. 8007/77, decision of 10 July 1978 13 DR 85 151

Dahlab v. Switzerland Appl. No. 42393/98, inadmissibility decision of 15 February 2001 ECHR 2001-V 381-3, 389, 401

De Cubber *v*. Belgium Appl. No. 9186/80, Series A No. 86, judgment of 26 October 1984 477

De Wilde, Ooms and Versyp v. Belgium Appl. Nos. 2832, 2835 and 2899/66, Series A No. 12, judgment of 18 June 1971 386

Demir and Baykara v. Turkey Appl. No. 34503/97, judgment of 12 November 2008 50–2

Deweer *v*. Belgium Appl. No. 6903/75, Series A No. 35, judgment of 27 February 1980 505, 507–10

D.H. and others *v*. Czech Republic Appl. No. 57325/00, judgment of 13 November 2007 499, 505–7, 688, 713



xxvii Table of cases

- Di Mauro *v.* Italy [GC] Appl. No. 34256/96, judgment of 28 July 1999 \$23 ECHR 1999-V 996
- Drozd and Janousek *v*. France and Spain Appl. No. 12747/87, Series A No. 240, judgment of 26 June 1992 150, 169, 172, 252
- Dudgeon *v.* United Kingdom Appl. No. 7525/76, Series A No. 45, judgment of 22 October 1981 54, 60, 171, 501, 503
- Dufay *v*. European Communities Appl. No. 13539/88, decision of 19 January 1989 260
- E and others v. United Kingdom Appl. No. 33218/96, judgment of 26 November 2002 478–81
- East African Asians v. United Kingdom Appl. No. 4715, 4783 and 4827/70 78-A DR 645 Fashkami v. United Kingdom Appl. No. 17341/03, inadmissibility decision of 22 June 2004 246
- Folgerø and others v. Norway [GC] Appl. No. 15472/02, judgment of 26 June 2007 907
- F.R. v. Switzerland Appl. No. 37292/97, 28 June 2001 249
- Fretté *v.* France Appl. No. 36515/97, judgment of 26 February 2002 \$34 ECHR 2002-I 489, 677
- Friedl *v*. Austria Appl. No. 15225/89, Series A No. 305-B 502
- Funke v. France Appl. No. 10828/84, Series A No. 256-A, judgment of 25 February 1993 370
- Gajić v. Germany Appl. No. 31446/02, decision of 28 August 2007 275
- Garaudy *v*. France Appl. No. 65831/01, inadmissibility decision of 24 June 2003 420, 423–5
- Gaskin *v.* United Kingdom Appl. No. 10454/83, Series A No. 160, judgment of 7 July 1989 463, 514, 517
- Gaygusuz *v*. Austria Appl. No. 17371/90, judgment of 16 September 1996 *Reports* 1996-IV 644, 645, 682
- Giacometti and others v. Italy Appl. No. 34939/97, decision of 8 November 2001 ECHR 2001-XII 996
- Glimmerveen and Hagenbeek *v*. Netherlands Appl. Nos. 8348/78 and 8406/78, inadmissibility decision of 11 October 1979 420
- Glor v. Switzerland Appl. No. 13444/04, judgment of 30 April 2009 688, 719–20
- Golder *v*. United Kingdom Appl. No. 4451/70, Series A No. 18, judgment of 21 February 1975 103, 169, 181, 509
- Gorzelik and others *v*. Poland [GC] Appl. No. 44158/98, judgment of 17 February 2004 352–5, 386, 387, 389
- Greek Case Appl. Nos 3321, 3322, 3323 and 3344/67 (1969) 12 YB 1 589, 596 Gustafsson *v.* Sweden Appl. No. 15573/89, judgment of 25 April 1996 *Reports* 1996-II 495, 496, 512
- H v. Norway Appl. No. 17004/90, decision of 19 May 1992 73 DR 155 469, 470
- Haas v. Netherlands Appl. No. 36983/97, judgment of 13 January 2004 643
- Haas v. Switzerland Appl. No. 31322/07, judgment of 20 January 2011 498, 499



xxviii Table of cases

- Halford v. United Kingdom Appl. No. 20605/92, judgment of 25 June 1997 Reports 1997-III 357
- Handyside *v*. United Kingdom Appl. No. 5493/72, Series A No. 24, judgment of 7 December 1976 364, 365, 423
- Hans-Adam II of Liechtenstein v. Germany [GC] Appl. No. 42527/98, judgment of 12 July 2001 \$47 ECHR 2001-VIII 260
- Hassan and Chauch v. Bulgaria [GC] Appl. No. 30985/96, judgment of 26 October 2000 \$78 ECHR 2000-XI 388
- Hatton and others v. United Kingdom Appl. No. 36022/97, judgment of 8 July 2003 371-2
- Heinz v. Contracting Parties also parties to the European Patent Convention Appl. No. 21090/92, decision of 10 January 1994 259
- Hermi *v.* Italy [GC] Appl. No. 18114/02, judgment of 10 October 2006 ECHR 2006-XII 505
- Hess v. United Kingdom Appl. No. 6231/73 (1975) 2 DR 73 179, 254
- Hilal v. United Kingdom Appl. No. 45276/99, judgment of 6 March 2001 64 ECHR 2001-II 324
- H.L.R. v. France Appl. No. 24573/94, judgment of 29 April 1997 Reports 1997-III 324 Hoogendijk v. Netherlands Appl. No. 58461/00, 6 January 2005 714
- Hornsby v. Greece Appl. No. 18357/91, judgment of 19 March 1997 *Reports* 1997-II 1025
- Hutten-Czapska v. Poland [GC] Appl. No. 35014/97, judgment of 19 June 2006 991 Ignaccolo-Zenide v. Romania Appl. No. 31679/96, judgment of 25 January 2000 ECHR
- Ilascu and others *v*. Moldova and Russia [GC] Appl. No. 48787/99, judgment of 8 July 2004 156, 157–8, 159, 176, 178, 183, 193, 437, 990
- Imbrioscia v. Switzerland Appl. No. 13972/88, judgment of 24 November 1993 42 Informationsverein Lentia and others v. Austria (No. 1) Appl. Nos 13914/88, 15041/89, 15717/89, 15779/89 and 17207/90, Series A No. 276, judgment of 24 November 1993 476
- Inze v. Austria Appl. No. 8695/79, Series A No. 126, judgment of 28 October 1987 489, 643, 683
- Ireland v. United Kingdom Appl. No. 5310/71, Series A No. 25, judgment of 18 January 1978 232, 307, 589, 594, 596, 603, 607, 983
- Iribarne Pérez v. France Appl. No. 16462/90, Series A No. 325-B, judgment of 24 October 1995 252
- Ismoilov and others v. Russia Appl. No. 2947/06, 24 April 2008 328, 331
- Issa and others v. Turkey Appl. No. 31821/96, judgment of 16 November 2004 175, 176–7, 182
- James and others v. United Kingdom Appl. No. 8793/79 Series A No. 98, judgment of 21 February 1986 813
- Al-Jedda v. United Kingdom Appl. No. 27021/08, judgment of 7 July 2011 184 Jerusalem v. Austria Appl. No. 26958/95, judgment of 27 February 2001 \$36 ECHR 2001-II 521



xxix Table of cases

Johansen v. Norway Appl. No. 17383/90, judgment of 7 August 1996 *Reports* 1996-III 514, 517

Johnson v. Ireland Appl. No. 9697/82, Series A No. 112, judgment of 18 December 1986, 169

Jokela v. Finland Appl. No. 28856/95, judgment of 21 May 2002 356

Jordan v. United Kingdom Appl. No. 24746/94, 4 May 2001 714

Karaduman v. Turkey Appl. No. 16278/90, decision of 3 May 1993 389, 390, 401

Karner v. Austria Appl. No. 40016/98, judgment of 24 July 2003 677-8, 679, 683

Kasumaj v. Greece Appl. No. 6974/05, inadmissibility decision of 5 July 2007 275

Keegan v. Ireland Appl. No. 16969/90, Series A No. 290, judgment of 26 May 1994 516, 798

Keegan v. United Kingdom Appl. No. 28867/03, judgment of 18 July 2006 369–71

Keenan v. United Kingdom Appl. No. 27229/95, judgment of 3 April 2001 \$116 ECHR 2001-III 500, 501

Khan v. United Kingdom Appl. No. 35394/97, judgment of 12 May 2000 *Reports* 2000-V 357

Kiliç v. Turkey Appl. No. 22492/93, judgment of 28 March 2000 ECHR 2000-III 500

Kiss v. Hungary Appl. No. 38832/06, judgment of 20 May 2010 688

Kiyutin v. Russia Appl. No. 2700/10, judgment of 10 March 2011 688-9, 690

Kjeldsen, Busk Madsen and Pedersen v. Denmark Appl. Nos. 5095/71, 5920/72 and 5926/72, Series A No. 23, judgment of 7 December 1976 232

Klass and others *v*. Germany Appl. No. 5029/71, Series A No. 28, judgment of 6 September 1978 607

Kokkinakis v. Greece Appl. No. 14307/88 17 EHRR 397 389

Koua-Poirrez v. France Appl. No. 40892/98, judgment of 30 September 2003 644, 683

Kozak v. Poland Appl. No. 13102/02, judgment of 2 March 2010 678

Kress v. France [GC] Appl. No. 39594/98, judgment of 7 June 2001 ECHR 2001-VI 472 Kroon and others v. Netherlands Appl. No. 18535/91, Series A No. 297-C, judgment of 27 October 1994 516, 798

K.R.S. v. United Kingdom Appl. No. 32733/08, inadmissibility decision of 2 December

Kruslin *v.* France Appl. No. 11801/85, Series A No. 176-A, judgment of 24 April 1990 386

Kudla *v.* Poland Appl. No. 30210/96, judgment of 26 October 2000 814, 987–9 Kurt *v.* Turkey Appl. No. 24276/94, judgment of 25 May 1998 *Reports* 1998-III 614 Kutzner *v.* Germany Appl. No. 46544/99, judgment of 26 February 2002 \$66 ECHR

2002-I 514, 517

L. and V. v. Austria Appl. Nos. 39392 and 39829/98, judgment of 9 January 2003 683 L.C.B. v. United Kingdom Appl. No. 23413/94, judgment of 9 June 1998 *Reports* 1998-III 472, 483, 500

Larkos v. Cyprus [GC] Appl. No. 29515/95, judgment of 18 February 1999 \$29 ECHR 1999-I 488, 716

Laskey, Jaggard and Brown *v*. United Kingdom Appl. No. 21627, 21826 and 21974/93, judgment of 19 February 1997 *Reports* 1997-I 501, 502, 503



xxx Table of cases

Lawless v. Ireland (No. 3) Appl. No. 332/57, judgment of 1 July 1961 424, 588–9, 594, 596, 603

Lazzarini and Ghiacci v. Italy Appl. No. 53749/00, 7 November 2002 472

Leander v. Sweden Appl. No. 9248/81, Series A No. 116, judgment of 26 March 1987 813

Lehideux and Isorni v. France Appl. No. 24662/94, judgment of 23 September 1998 423, 425

Leroy v. France Appl. No. 36109/03, judgment of 2 October 2008 426

Lindberg v. Sweden Appl. No. 48198/99, inadmissibility decision of 15 January 2004 250–2

Lingens v. Austria Appl. No. 9815/82, judgment of 8 July 1986, Series A No. 103

Lobo Machado v. Portugal Appl. No. 15764/89, judgment of 20 February 1996 Reports

Loizidou *v*. Turkey (preliminary objections) Appl. No. 15318/89 Series A No. 310, judgment of 23 March 1995 149–50, 169, 171, 172, 175, 181, 183, 261

Loizidou *v*. Turkey (merits) Appl. No. 15318/89, judgment of 18 December 1996, *Reports* 1996-VI 150–3, 169, 178, 183, 194

Lustig-Prean and Beckett v. United Kingdom Appl. Nos. 31417 and 32377/96, judgment of 27 September 1999 683

McCann and others *v*. United Kingdom Appl. No. 18984/91 Series A No. 324, judgment of 27 September 1995 463, 472, 474, 484, 500

McElhinney v. Ireland and United Kingdom Appl. No. 31253/96, decision of 9 February 2000 173

McLeod *v.* United Kingdom Appl. No. 24755/94 *Reports* 1998-VIII, judgment of 23 September 1998 370, 371

M. & Co. Appl. No. 13258/87, decision of 9 February 1990 259, 260, 261

Madsen v. Denmark Appl. No. 58341/00 inadmissibility decision of 7 November 2002 495

Malone v. United Kingdom Appl. No. 8691/79, Series A No. 82, judgment of 2 August 1984 349, 357

Mamatkulov and Askarov *v*. Turkey Appl. No. 46827/99 and 46951/99, judgment of 5 February 2005 41 EHRR 494 48, 50, 328

Manoussakis and others v. Greece Appl No. 18748/91, judgment of 26 September 1996 Reports 1996-IV 388, 389

Mantovanelli v. France Appl. No. 21497/93, judgment of 18 March 1997 Reports 1997-II 249

Marckx *v*. Belgium Appl. No. 6833/74, Series A No. 31, judgment of 13 June 1979 475, 489, 492, 798

Markin v. Russia Appl. No. 30078/06, judgment of 22 March 2012 644, 671-2

Marshall v. United Kingdom Appl. No. 41571/98, inadmissibility decision of 10 July 2001 594

Mastromatteo v. Italy [GC] Appl. No. 37703/97, judgment of 24 October 2002 \$90 ECHR 2002-VIII 472