

# CONTENTS

Preface by Professor Corneliu Bîrsan .....	vii
Preface by Leif Holmström .....	ix
<b>CHAPTER 1 INTRODUCTION: THE JIGSAW PUZZLE OF EUROPE</b> ....	<b>1</b>
1.1. The Historical Origin of the Problem.....	2
1.2. Europe Today .....	6
1.3. Location of the Study in Current Legal Debate.....	9
1.4. Literature Review .....	13
1.5. Hypothesis.....	15
1.6. Methodology .....	16
1.6.1. <i>Overview of the Chapters</i> .....	16
1.6.2. <i>Data</i> .....	17
<b>CHAPTER 2 BACKGROUND OF THE COURT FROM ITS CREATION TO ITS ENLARGEMENT</b> .....	<b>19</b>
2.1. Creation of the Court.....	19
2.1.1. <i>Historical and Political Embedding</i> .....	19
2.1.2. <i>The Convention</i> .....	22
2.1.3. <i>Former Two-Tier System</i> .....	23
2.2. Changes in the 1990s .....	24
2.2.1. <i>The Iron Curtain Fell</i> .....	24
2.2.2. <i>The Main Features Changed by Reform</i> .....	27
2.3. Power and Reach of the Court.....	29
2.3.1. <i>Impact of the Judgments of the Court on National Legal Systems</i> .....	31
2.3.2. <i>Individual Remedies</i> .....	34
2.4. Rights Shaped .....	37
2.5. The Court's Legal Doctrines.....	37
2.5.1. <i>'Margin of Appreciation' Doctrine</i> .....	38
2.5.2. <i>'In the Light of Current Society' Doctrine</i> .....	39
2.5.3. <i>Concluding Comment</i> .....	40
<b>CHAPTER 3 ADMINISTRATION OF JUSTICE</b> .....	<b>41</b>
3.1. The People.....	43
3.1.1. <i>The Staff</i> .....	43
3.1.2. <i>The Registry</i> .....	44
3.1.3. <i>The Judges</i> .....	46
3.2. Administration and Organisation .....	53
3.2.1. <i>Creation of the Organisation</i> .....	53
3.2.2. <i>Different Panels</i> .....	55
3.3. How a Case Proceeds Through the Court.....	59
3.3.1. <i>First Stage: The Application</i> .....	59
3.3.2. <i>Next Stage: The Judge Rapporteur</i> .....	61
3.3.3. <i>Last Stage: The Deliberations</i> .....	63

## CONTENTS

CHAPTER 4 ATTITUDES AND DYNAMICS AMONGST THE JUDGES.....	67
4.1. The Self-Image of the Judges.....	69
4.2. Differences in Background of the Judges.....	69
4.2.1. <i>Historical-Political Background</i> .....	69
4.2.2. <i>Vocational Background</i> .....	72
4.2.3. <i>Geographical-Legal Background</i> .....	74
4.3. Commonalities of the Judges.....	78
4.3.1. <i>Equality</i> .....	78
4.3.2. <i>Shared Belief</i> .....	79
4.3.3. <i>Urge for Quality</i> .....	79
4.4. Elements of the Legal Culture of the Court.....	80
4.4.1. <i>The Melting Pot</i> .....	80
4.4.2. <i>Homogeneity</i> .....	82
CHAPTER 5 TESTING THE LEGAL CULTURE OF THE COURT.....	85
5.1. Introduction.....	85
5.2. Structure and Method.....	87
5.2.1. <i>Set of Data</i> .....	87
5.3. The Broader Test.....	91
5.3.1. <i>Rate of Homogeneity at the Court in General</i> .....	91
5.3.2. <i>Screening Background and Dissent</i> .....	94
5.3.3. <i>Discussion of Findings in the Test at Step One</i> .....	103
5.4. Voting Behaviour by Subject Matter.....	103
5.4.1. <i>Evaluations of Categories Under Article 8</i> .....	104
5.4.2. <i>Evaluation of Categories Under Article 9</i> .....	107
5.4.3. <i>Evaluation of Categories Under Article 10</i> .....	108
5.4.4. <i>Discussion of Findings at Step Two</i> .....	110
5.5. Putting the Judgments Under a Microscope.....	110
5.5.1. <i>Cases Under Article 8</i> .....	111
5.5.2. <i>Cases Under Article 9</i> .....	131
5.5.3. <i>Cases Under Article 10</i> .....	143
5.6. Outcome of the Three-Step Testing.....	152
5.7. The Testing in Context of the Literature.....	154
CHAPTER 6 CONCLUSION.....	159
Index.....	163
Bibliography.....	167
Appendix	
Digest of Judgments (Delivered to the Merits) of the European Court of Human Rights Concerning Articles 8, 9 and 10 between 1 November 1998 and 31 October 2001.....	185