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**EUROPEAN CONVENTION
ON HUMAN RIGHTS**



ALASTAIR MOWBRAY

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PREFACE

My observation in the preface to the first edition of this work that we were living in interesting times for the ECHR has continued to remain apposite throughout the ensuing years. These have witnessed the maturing in confidence of the full-time Court to build upon the jurisprudential foundations of the original Court (e.g. to elaborate the elements of effective investigations into killings in *Kelly v UK* (4/5/2001)) and to depart from earlier case law where contemporary circumstances mandate a higher level of protection for persons (e.g. to classify a wider range of welfare benefits as 'possessions' under Article 1 of Protocol No 1 in *Stec and Others v UK* (6/7/2005)). A fascinating feature of the Court's jurisprudence in recent years has been the numerous and diverse cases raising challenges to the aftermath of the collapse of the USSR and its satellite Communist States. The Court has had to deal with complaints concerning, *inter alia*, the convictions of the leaders of former East Germany for their policy of ordering the killing of persons seeking to escape to the West (*Streletz, Kessler and Krenz v Germany* (22/3/2001)), compensation claims in respect of property seized by Communist regimes (*Kopecky v Slovakia* (28/9/2004)) and the expulsion of persons linked to the military forces of the USSR (*Slivenko v Latvia* (9/10/2003)).

The Court has continued to adjudicate on the legal aspects of persistent problems such as the Turkish military occupation of northern Cyprus. (e.g. in *Cyprus v Turkey* (10/5/2001) and *Xenides-Arestis v Turkey* (22/12/2005)), the Turkish authorities response to Kurdish terrorism (e.g. in *Dogan and Others v Turkey* (29/6/2004) and *Ocalan v Turkey* (12/5/2005)), and the failure of some domestic legal systems to determine cases within a reasonable time (e.g. *Riccardi Pizzati v Italy* (29/3/2006)). Protocol 11's, positive, reform of enabling applicants to lodge complaints with the Court against the (now 46) member States, combined with increasing awareness of the rights guaranteed by the Convention has resulted in the Court facing a deluge of applications. Protocol 14 has been agreed to provide more efficient mechanisms for the processing of applications by the Court. However, the Committee of Ministers is already contemplating more far reaching long-term reforms of the Strasbourg control system to safeguard its effectiveness. Therefore, procedural and institutional reforms are likely to be of continuing importance in the coming years for both the Court and potential applicants.

I have taken the opportunity of this new edition not only to update the jurisprudence (with over 200 new judgments being included) but also to widen the scope of the book to include all the substantive rights of the Convention and its Protocols that have been subject to significant litigation. New chapters have also been added on the creation of the Convention and Articles 1 and 47. The chapter on the Strasbourg system has been completely re-written to examine the reforms noted above. I trust that undergraduate and postgraduate students will continue to find the work a helpful exposition of the extensive jurisprudence of this pioneering and successful human rights Convention.

I have sought to state the law as it stood at 1 September 2006.

A.R.M

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Alastair Mowbray is Professor of Public Law at the University of Nottingham and a leading scholar on the ECHR. For twenty years he has taught undergraduate and postgraduate modules on the Convention, and has given numerous specialist lectures and seminars on the subject to academics, judges, lawyers, and government officials from a wide range of countries.



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