

Ahmed Almutawa · Konstantinos D. Magliveras
Editors

A Comparison of the European, Inter-American, African and Arab Human Rights Courts: Institutional Aspects



ASSER PRESS



Springer

Editors

Ahmed Almutawa
Royal Academy of Police
Ministry of Interior
Jaw, Kingdom of Bahrain

Durham Law School
Durham University
Durham, UK

Konstantinos D. Magliveras
Department of Mediterranean Studies
University of the Aegean
Rhodes, Greece

ISBN 978-94-6265-694-9 ISBN 978-94-6265-695-6 (eBook)
<https://doi.org/10.1007/978-94-6265-695-6>

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands www.asserpress.nl
Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

© T.M.C. ASSER PRESS and the authors 2025

No part of this work may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, microfilming, recording or otherwise, without written permission from the Publisher, with the exception of any material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

This T.M.C. ASSER PRESS imprint is published by the registered company Springer-Verlag GmbH, DE, part of Springer Nature.

The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

If disposing of this product, please recycle the paper.

Foreword

Any visitor must surely be impressed by the European Court of Human Rights in Strasbourg. One encounters the visual spectacular in celebration of international human rights—the striking architecture of the Human Rights Building of 1995 (even adopted in the court’s logo) and the symbolic location between the old foes of France and Germany. More fundamentally, there is the heartfelt message of respect for the humanity for all. That signal is reflected in the soaring aspiration of Winston Churchill,¹ calling in his speech of 19 September 1946 for a United States of Europe delivered in part by a Council of Europe. Equally, the Council of Europe and its European Court of Human Rights betoken a determination to deliver the practical protection of individual lives, reflected in the approach of UK Foreign Minister Ernest Bevin, a founding father of the Council of Europe, who is reputed to have said, ‘Foreign policy isn’t something that is great and big, it’s common sense and humanity as it applies to my affairs and yours’.²

The European Court of Human Rights has since emerged as the prime example of a regional human rights court with its ability to move on from the usual exotic (and sometimes quixotic) diplomatic language of international institutions into hard decisions about the preoccupations and travails of human rights in Europe. Amongst its prime achievements, which often set standards for other regional courts, it has, albeit sometimes hesitantly and sometimes laggardly, provided stern messages in hard times. Cases such as *Ireland v UK*³ narrowed the security options and prompted a rethink of strategies and legislation in the field of counter-terrorism.⁴ The lesson had to be reinforced after the shock of 9/11, but, by 2004, that warning was understood by the UK courts without waiting for the pronouncement of the European

¹ University of Zurich, <https://rm.coe.int/16806981f3>. Accessed 10 April 2025.

² Cited in Beckett M, Foreign Secretary’s address to Congress, TUC Congress, 13 September 2006, <https://www.tuc.org.uk/speeches/foreign-secretarys-address-congress-2006>. Accessed 10 April 2025.

³ ECtHR, *Ireland v The United Kingdom*, App. no.5310/71, Judgment, 18 January 1978.

⁴ Report of the Commission to Consider Legal Procedures to Deal with Terrorist Activities in Northern Ireland (Cmnd. 5185, December 1972).

Court of Human Rights in 2009.⁵ The European Court of Human Rights eventually pronounced upon other aspects of the reverberations of 9/11, including secret renditions and torture⁶ as well as deportation with assurances.⁷

Emergencies, conflicts, and political violence, not just in Ireland but also Cyprus, Turkey, Armenia, the Balkans, Chechnya, and now Ukraine, have been the most acute sites of disputation before the European Court of Human Rights, often pitching state against state.⁸ But, in line with the vision of Ernest Bevin, the purview of the European Court of Human Rights extends into highways and byways of public and personal life, shaping debates and laws by its judgments affecting the plight of individuals and institutions. To illustrate the point, the jeopardy of life or death decisions about extradition has been ameliorated by reference to Article 3 since *Soering v UK*.⁹ Criminal process safeguards have become substantially more fair through limits on police detention, access to lawyers during police questioning, disclosure of adverse evidence, and reason-giving by an independent tribunal.¹⁰ Privacy rights have also been nurtured, especially in jurisdictions without any such juristic tradition and especially in regard to electronic communications.¹¹ In addition, a strong strand of cases express support for freedom of expression and information and depict the press as playing a ‘watchdog’ role in a democratic society.¹² Most recently, *Verein KlimaSeniorinnen Schweiz v Switzerland* demonstrates the ongoing confidence and relevance of the regional human rights courts system.¹³ The ruling affirmed that climate change poses a direct and substantial threat to human rights, especially to private life under Article 8, as a result of which states are obliged to undertake effective action as

⁵ House of Lords, *A (FC) and Others (FC) (Appellants) v Secretary of State for the Home Department (Respondent)*, Judgment, 16 December 2004, [2004] UKHL 56; ECtHR, *A and Others v The United Kingdom*, App. no. 3455/05, Judgment, 19 February 2009.

⁶ European Court of Human Rights, ‘Secret detention sites’, Factsheet, March 2024. https://www.echr.coe.int/documents/d/echr/fs_secret_detention_eng. Accessed 10 April 2025.

⁷ ECtHR, *Othman (Abu Qatada) v UK*, App. no.8139/09, Judgment, 17 January 2012.

⁸ European Court of Human Rights, ‘Armed conflicts’, Factsheet, January 2023. https://www.echr.coe.int/documents/d/echr/fs_armed_conflicts_eng. Accessed 10 April 2025.

⁹ ECtHR, App. no.14038/88, Judgment, 7 July 1989.

¹⁰ ECtHR, *Brogan and Others v The United Kingdom*, App. nos. 11209/84, 11234/84, 11266/84 and 11386/85, Judgment, 29 November 1988; ECtHR, *Salduz v Turkey*, App. no. 36391/02, Judgment, 27 November 2008; ECtHR, *Rowe and Davis v The United Kingdom*, App. no. 28901/95, Judgment, 16 February 2000; ECtHR, *Findlay v UK*, App. no. 22107/93, Judgment, 25 February 1997; ECtHR, *Taxquet v Belgium*, App. no. 926/05, Judgment, 16 November 2010.

¹¹ See ECtHR, *Malone v The United Kingdom*, App. no.8691/79, Judgment, 2 August 1984; ECtHR, *Privacy International and Others v The United Kingdom*, App. no. 46259/16, Decision, 7 July 2020; ECtHR, *Big Brother Watch and Others v The United Kingdom*, App. nos. 58,170/13, 62,322/14 and 24,960/15, Judgment, 25 May 2021; ECtHR, *Centrum för rättvisa v Sweden*, App. no. 35252/08, Judgment [GC], 25 May 2021.

¹² ECtHR, *The Sunday Times v The United Kingdom (No. 2)*, App. no. 13166/87, Judgment, 26 November 1991.

¹³ ECtHR, *Verein KlimaSeniorinnen Schweiz and Others v Switzerland*, App. no. 53600/20, Judgment [GC], 9 April 2024.

‘one of the most pressing issues of our times’.¹⁴ This intervention is not only boldly assertive but also considerably perilous at a time when courts are under swelling criticism for unwelcome and improper intrusions into the political sphere, a danger which is in turn recognized by the judicial refusal in that case to offer any concrete remedy.

The Eurocentricity of this brief survey must be indulged and forgiven. Of course, the European Court of Human Rights has no monopoly of wisdom and no certitude as to the correct blueprint for a regional court. Therefore, it must be fully recognized that other regional human rights mechanisms have made their mark in establishing further regional human rights courts. Thus, the Inter-American system of international protection of human rights was developed through the American Convention on Human Rights 1969,¹⁵ the competent organs of which comprise the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Since coming into operation in 1979, the latter has considered some of the worst excesses of member states during internal insurgencies, campaigns of political violence, and repressive regimes, such as torture, disappearances, excessive lethal force, and amnesties.¹⁶ The court has also set new standards in protecting the rights of indigenous communities.¹⁷

For its part, the African Charter on Human and Peoples’ Rights (the Banjul Charter) 1981 and the Protocol of 1998,¹⁸ which establish the African Court on Human and Peoples’ Rights, recognize most universal civil and political rights (not privacy and subject to a preamble which commits member states to the elimination of Zionism). More positive is the inclusion of some economic, social, and cultural rights, as well as some collective peoples’ rights. However, only 7 out of 34 states that have ratified the Protocol (taking account of five withdrawals) have filed a Declaration under Article 34 of the Protocol by which they accept the competence of the

¹⁴ Ibid. para. 410.

¹⁵ 144 UNTS 123.

¹⁶ IACtHR, *Velásquez-Rodríguez v Honduras*, Judgment (Merits), 29 July 1988, Series C No. 4; IACtHR, *Barrios Altos v Peru*, Judgment (Merits), 14 March 2001, Series C No. 87; IACtHR, *Plan de Sánchez Massacre v Guatemala*, Judgment (Merits), 29 April 2004, Series C No. 105; IACtHR, *Moiwana Community v Suriname*, Judgment (Preliminary Objections, Merits, Reparations and Costs), 15 June 2005, Series C No. 124; IACtHR, *Mapiripán Massacre v Colombia*, Judgment (Merits, Reparations and Costs), 15 September 2005, Series C No. 134; IACtHR, *Almonacid-Arellano et al v Chile*, Judgment (Preliminary Objections, Merits, Reparations and Costs), 26 September 2006, Series C No. 154; IACtHR, *La Cantuta v Peru*, Judgment (Merits, Reparations and Costs), 29 November 2006, Series C No. 162; IACtHR, *Gomes Lund et al. (“Guerrilha do Araguaia”) v Brazil*, Judgment (Preliminary Objections, Merits, Reparations and Costs), 24 November 2010, Series C No. 219.

¹⁷ IACtHR, *Pueblos Rama y Kriol, Comunidad Negra Creole Indígena de Bluefields and others v Nicaragua*, Judgment (Merits, Reparations and Costs), 1 April 2024, Series C No. 522.

¹⁸ 1520 UNTS 217; Protocol to the African Charter on Human And Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights 1998. See also Protocol on the Statute of the African Court of Justice and Human Rights of 1 July 2008.

court to consider applications filed by individuals and NGOs,¹⁹ one reason for its modest impact to date.²⁰

Next, the Statute of the Arab Court of Human Rights was adopted in 2014 but has yet to receive sufficient ratifications to enter into force. Nevertheless, the statute, alongside the Arab Charter on Human Rights (2004), forms another regional human rights system, a remarkable aspiration within a global region where autocracy is far more prevalent than democracy. Yet, those circumstances mean that work remains to be done. First, the Arab system of human rights currently lacks an operative court because the Statute of the Arab Court of Human Rights, adopted in 2014,²¹ will only come into force when it has been ratified by seven member states. A second problem is the substance of the charter which reflects limits in protection more significant than those in other international human rights standards.

This short survey raises fundamental issues about whether the model of regional courts is worthwhile. In response, this book provides vital food for thought. For sure, the model of regional human rights courts seems valuable and attractive, given that it has spread to many corners of the world. But even a cursory survey suggests that the perceived prestige of foundation may be distinct from the commitment to its application.

Considering the darker side of the regional courts discourse, even in the hearts of the European founding fathers, there are now mounting doubts. To take the example of the UK, the European Convention on Human Rights Protocol No. 15 of 2013 (the Brighton Declaration)²² was fostered as a way of inserting reassurance for the doubters through affirmation of the principle of subsidiarity and the doctrine of the margin of appreciation even though the UK has the lowest rate of applications and near to the lowest rate of adverse judgments per capita.²³ Yet, the perception remains that the Strasbourg Court stands in the way of UK sovereignty, especially concerning effective migration and deportation policies, to an extent that Robert Jenrick MP, one of the main contenders for the leadership of the Conservative Party, adopted the UK's withdrawal from the European Convention on Human Rights as a key part of his platform.²⁴ This antipathy is echoed by the political right in other jurisdictions.

¹⁹ See African Court Coalition, 24 March 2025, <https://africancourtcoalition.org/tunisia-withdraws-article-346-declaration-limiting-direct-access-for-individuals-ngos-to-the-african-court/>. Accessed 10 April 2025.

²⁰ See Ssenyonjo M (2018), Responding to human rights violations in Africa: Assessing the role of the African Commission and Court on Human and Peoples' Rights (1987–2018), *International Human Rights Law Review* 7:1; Tufa GG (2024), The African Court on Human and Peoples' Rights: assessing its effectiveness, *African Human Rights Yearbook* 8:206.

²¹ Resolution 7790/142 of the Council of the League of Arab States.

²² CETS 213. See the UK government reaction: <https://www.gov.uk/government/news/european-convention-on-human-rights-protocol-comes-into-force>. Accessed 10 April 2025.

²³ UK Ministry of Justice, Responding to Human Rights Judgments: Report to the Joint Committee on Human Rights on the Government's response to human rights judgments 2023–2024 (CP 1192, November 2024) pp. 10, 11.

²⁴ See, Seddon P 2024, Tories must back ECHR exit to survive, says Jenrick, BBC News 30 September 2024, <https://www.bbc.co.uk/news/articles/cy0lqzjwqx8o>. Accessed 10 April 2025.

Beyond Europe, even more fundamental challenges face human rights advocacy and implementation, both at the regional and universal levels. The most powerful regimes in the world, China, Russia, and the United States, have all moved closer to the view that national self-interest must override the fundamental ethical pillars of the post-1945 world order, including universal human rights. First, China has disputed the universalism of human rights by fostering a state-indulgent reinterpretation.²⁵ The UN Vienna Declaration and Programme of Action in 1993²⁶ rebuffed the rival conception but did concede that regional organizations could complement the UN's efforts in promulgating universal human rights standards. A thorough assessment of this claim can be found in the chapters of this book.²⁷ The response of the Chinese government has been to continue to challenge Western concepts of universalism, including by the foundation in 2001 of the distinctly authoritarian club, the Shanghai Cooperation Organisation, which promotes the notions of state diversity and non-interference in internal sovereign affairs.²⁸ As for the Russian Federation, its renunciation of Council of Europe membership in 2022 (reciprocated by the Council's decision to exclude)²⁹ reacted to the animosity of fellow member states and the adverse findings of the European Court of Human Rights arising initially from crackdowns on free speech and dissent³⁰ and then arising from brutal armed action against separatists (especially in Chechnya) and against neighbouring states (such as Georgia and Ukraine) and probable crimes against humanity.³¹ Third, the United States has demonstrated a long-standing antipathy to the notion of overriding international enforcement structures, evidenced by its refusal to ratify the Optional

²⁵ Qi Z (2005), Conflicts over human rights between China and the US, *Human Rights Quarterly* 27:105.

²⁶ Vienna Declaration and Programme of Action, UN Doc A/CONF.157/23 (12 July 1993).

²⁷ See also Weston B et al. (1987), Regional human rights regimes: a comparison and appraisal, *Vanderbilt Journal of Transnational Law* 20:585; Mugwanya G (1999), Realizing universal human rights norms through regional human rights mechanisms: Reinvigorating the African System, *Indiana International and Comparative Law Review* 10:35; Shelton D (2010), *Regional Protection of Human Rights*, Oxford University Press, Oxford.

²⁸ <https://eng.sectesco.org/>. Accessed 10 April 2025. See Kent A (2013), *China, the United Nations, and Human Rights: The Limits of Compliance*, University of Pennsylvania Press, Philadelphia; Ward D (2015), The Shanghai Cooperation Organization's bid to transform international law, *International Law & Management Review* 11:162; Marochkin S and Bezborodov Y (2022), *The Shanghai Cooperation Organization: Exploring New Horizons*, Routledge, London.

²⁹ The Ministry of Foreign Affairs of the Russian Federation 2022, Foreign Ministry statement on initiating the process of withdrawing from the Council of Europe, 15 March 2022, https://mid.ru/en/foreign_policy/news/1804379/. Accessed 10 April 2025; Council of Europe 2022, The Russian Federation is excluded from the Council of Europe, 16 March 2022, <https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe>, Accessed 10 April 2025. See Magliveras KD (2023), Legal and procedural issues arising from the expulsion of the Russian Federation from the Council of Europe, *International and Comparative Law Review* 23:95.

³⁰ See European Court of Human Rights 2025, 'Russia', https://www.echr.coe.int/documents/d/echr/cp_russia_eng. Accessed 10 April 2025.

³¹ See European Court of Human Rights 2023, 'Armed conflicts', https://www.echr.coe.int/documents/d/echr/fs_armed_conflicts_eng. Accessed 10 April 2025.

Protocol to the International Covenant on Civil and Political Rights 1966,³² the American Convention on Human Rights, and the Rome Statute relating to the International Criminal Court.³³ Despite the shocking protestation by Vice President JD Vance in 2025 regarding lack of care for human rights on the part of European allies,³⁴ US claims to bear the beacon of Western freedoms have been undermined in the past year or so by the curtailment of rights, such as the removal of abortion as a federal constitutional right,³⁵ the sanctioning of ICC support activities,³⁶ and the summary removal of aliens.³⁷

Given the disdain and hostility of the superpowers, it may not be easy to mark out the distinct necessity for regional human rights courts. Nevertheless, there is plenty of evidence in this book which offers support. A case may be mounted on several grounds.³⁸ External scrutiny can guard against what has sometimes been labelled as ‘constitutional dictatorship’ or ‘elective dictatorship’—as represented in the UK by a parliament which is both unconstrained by a constitutional code while being dominated by the executive.³⁹ Second, as mentioned previously, the mechanism of external scrutiny can give pause for thought in the adoption of strategies and legislation. In the case of the UK, the European Convention on Human Rights has helped to rule out the option of government by emergency whether in colonies or Northern Ireland. Third, a rights agenda shared and understood by regional friends is more likely to give comfort and be capable of endorsement than more distant versions and judgments. Fourth, the faith reposed in human rights is repaid, reflecting a key theme of this book, by bolstering state legitimacy.

³² 999 UNTS 171.

³³ See Bradley CA 2002, U.S. announces intent not to ratify International Criminal Court Treaty, *ASIL Insights* 7: <https://www.asil.org/insights/volume/7/issue/7/us-announces-intent-not-ratify-international-criminal-court-treaty>

³⁴ See Lu C 2025, The Speech That Stunned Europe, *Foreign Policy* 18 February 2025. <https://foreignpolicy.com/2025/02/18/vance-speech-munich-full-text-read-transcript-europe/>. Accessed 10 April 2025.

³⁵ US Supreme Court, *Dobbs v Jackson Women's Health Organization*, Decision, 24 June 2022, 597 U.S. 215 (2022).

³⁶ Executive Order 14203 of February 6, 2025: Imposing Sanctions on the International Criminal Court.

³⁷ US President Memorandum of 29 January 2025: Expanding Migrant Operations Center at Naval Station Guantanamo Bay to Full Capacity; Executive Order 14160 of January 20, 2025: Protecting the Meaning and Value of American Citizenship; Presidential Proclamation No. 10903, 90 FR 13033: Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua March 14, 2025 (see further, *Trump v JGG*, Decision, 7 April 2025, 604 US __, 2025).

³⁸ See Anderson D (2025), National security and human rights, *European Convention Human Rights Law Review*, Issue 2.

³⁹ Clinton L. Rossiter, *Constitutional Dictatorship; Crisis Government in the Modern Democracies* (Princeton University Press. 1948); Lord Hailsham, ‘*Elective Dictatorship*’: *The Richard Dimbleby Lecture*, 1976

(British Broadcasting Corporation, 1976).

Despite the often adverse circumstances, and in the spirit of human rights as an essentially ‘optimistic project’ which assumes the potential best in others,⁴⁰ one cannot doubt the timeliness and value of a study of the legal and procedural aspects of the European, Inter-American, African, and Arab Human Rights Courts. These structures, which deliver fairness and humanity, deserve to be vaunted in contrast to the predations of those regimes which neither endorse the human rights movement nor appreciate its value in legitimizing the assertion of power.

May 2025

Clive Walker
Professor Emeritus of Criminal Justice
Studies
University of Leeds
Leeds, UK

⁴⁰ See Brems E (2025), Sim Peter Baehr lecture 2024—The state of human rights: an attempt at optimism, *Netherlands Quarterly of Human Rights*, <https://doi.org/10.1177/09240519251321890>. Accessed 1 May 2025.

Contents

1	Introduction to the Regional Human Rights Systems and Their Courts	1
	Ahmed Almutawa	
1.1	Introduction	2
1.2	The European System	3
1.3	The Inter-American System	7
1.4	The African System	12
1.5	The Arab System	18
1.6	The Book's Structure	20
	References	22
2	The Judges, The Bench, and The Rules of Court	25
	Zoë Grossi and Jan Wouters	
2.1	Introduction	26
2.2	Internal Functioning of the Courts	27
2.2.1	Composition of the Courts	27
2.2.2	The Working of the Courts	32
2.3	Appointment of Judges	33
2.3.1	Professional Qualifications	33
2.3.2	The Election Process	36
2.3.3	Vacancies	39
2.4	Conditions of Tenure	41
2.5	Incompatibilities	42
2.6	Privileges and Immunities	45
2.7	Concluding Remarks	46
	References	46
3	The Jurisdiction of the Courts	51
	Gino Naldi	
3.1	Introduction	52
3.2	Compulsory Jurisdiction	52
3.2.1	Fourth Instance Doctrine	54

3.2.2	Inter-State Cases	55
3.2.3	Individual Complaints	56
3.2.4	Jurisdictional Requirements	61
3.3	Friendly Settlement	65
3.4	Withdrawal	66
3.5	Conclusions	70
	References	71
4	Sources of Law	73
	Lize R. Glas	
4.1	Introduction	74
4.2	A Note on Legitimacy	75
4.3	The Principle of Effectiveness	76
4.4	The Principle of Subsidiarity	79
4.5	The Margin of Appreciation	81
4.6	Systemic Interpretation	83
4.7	Consensus	87
4.8	Evolutionary Interpretation	88
4.9	Autonomous Interpretation	90
4.10	Conclusion	91
	References	93
5	Admissibility Criteria and Access to Justice in Regional Human Rights Jurisdictions	99
	Filippo Fontanelli and Kanstantsin Dzehtsiarou	
5.1	Introduction	100
5.2	Admissibility of Claims in International Litigation	100
5.2.1	Inadmissibility at the ICJ	101
5.2.2	Customary Notions of Inadmissibility in Diplomatic Protection and State Responsibility	102
5.3	Individual Applications in Human Rights Courts/ Commissions: Access to Justice and Admissibility	103
5.4	Specific Courts and Commissions	105
5.4.1	The European Court of Human Rights	105
5.4.2	The System of the American Convention on Human Rights	112
5.4.3	The African Commission and the African Court on Human and Peoples' Rights	115
5.4.4	The Arab Court of Human Rights	119
5.5	Comparative Reflections	119
5.5.1	Common Traits	120
5.5.2	Differences	121
5.6	Conclusions	122
	References	122

6	The Processes and the Procedures of Hearing a Case	125
	Daniel M. Walyemera	
6.1	Introduction	126
6.2	The Courts' Power to Determine Their Jurisdiction Under the Principle of <i>Kompetenz-Kompetenz</i>	127
6.2.1	Interpretation of International Instruments and the Jurisdiction of Human Rights Courts	128
6.2.2	Principle of <i>Kompetenz-Kompetenz</i>	129
6.2.3	Jurisdiction of Regional Human Rights Courts	130
6.3	The Commencement and Management of Proceedings	131
6.3.1	Institution of Court Proceedings and Admissibility of Applications	131
6.3.2	The Management of Court Proceedings	133
6.3.3	Effective Participation of the Parties	135
6.4	Representation of Litigants and Role of Amicus Curiae and Other Third-Party Interventions	136
6.4.1	Representation of Litigants	136
6.4.2	Third-Party Intervention Including <i>Amicus Curiae</i>	137
6.5	The Joinder of Court Proceedings and Preliminary Objections	138
6.5.1	The Joinder of Court Proceedings	138
6.5.2	Preliminary Objections	139
6.6	Management of Evidence at Regional Human Rights Courts	140
6.6.1	Rules of Adducing Evidence Before the Courts	140
6.6.2	Role of In-Situ Visits Undertaken by the Courts	141
6.7	The Ending of Proceedings	142
6.7.1	Dismissal of Applications	142
6.7.2	Non-Appearance of Parties and Default Judgments	143
6.8	Legal Costs, Legal and Financial Aid	144
6.9	Conclusion	146
	References	146
7	Interim and Provisional Measures	149
	Eleni Polymenopoulou	
7.1	Introduction	150
7.2	Interim Measures in the Context of the European Human Rights System	151
7.2.1	The Power of the Court to Issue Interim Measures	151
7.2.2	Interim Measures Protecting a Variety of Rights	153
7.2.3	Compliance with Provisional Measures	154
7.3	Provisional Measures in the Context of the Inter-American Human Rights System	154
7.3.1	The Powers of the Inter-American Commission on Human Rights to Order Precautionary Measures (<i>Medidas Cautelares</i>)	155

7.3.2	The Powers of the Inter-American Court to Order Provisional Measures	157
7.4	Provisional Measures in the Context of the African Human Rights System	161
7.4.1	The Powers of the African Commission (ACommHPR) to Order Provisional Measures	161
7.4.2	The Powers of the ACtHPR to Order Provisional Measures	163
7.5	Provisional Measures in the Context of the Arab Human Rights System	165
7.6	Conclusion	165
	References	167
8	Advisory Opinions	171
	Elena Abrusci	
8.1	Introduction: The Role of Advisory Opinions Before Regional Human Rights Courts	172
8.2	The Powers of the Regional Human Rights Courts to Issue Advisory Opinions	174
8.2.1	The African Court on Human and Peoples' Rights	174
8.2.2	The Arab Court of Human Rights	175
8.2.3	The European Court of Human Rights	175
8.2.4	The Inter-American Court of Human Rights	176
8.3	Who May Request an Advisory Opinion? Standing Before the Regional Human Rights Courts	177
8.3.1	The African Court of Human and Peoples' Rights	178
8.3.2	The European Court of Human Rights	179
8.3.3	The Inter-American Court of Human Rights	180
8.4	The Subject Matter of Advisory Opinions	181
8.4.1	The African Court of Human and Peoples' Rights	181
8.4.2	The European Court of Human Rights	182
8.4.3	The Inter-American Court of Human Rights	184
8.5	The Interpretative Value of Advisory Opinions and the Question of Legal Precedent	185
8.6	The Impact of Advisory Opinions on Contentious Cases and State Practice	187
8.6.1	The African Court of Human and Peoples' Rights	187
8.6.2	The European Court of Human Rights	188
8.6.3	The Inter-American Court of Human Rights	189
8.7	Conclusions	191
	References	192

9	The Issuance of Judgments and Victims' Reparations	195
	Konstantinos D. Magliveras and Ahmed Almutawa	
9.1	The Different Purposes and Functions of Judgments	196
9.2	The Legal Validity of Judgments and the Question of Execution	197
9.3	The Temporal Element of Judgments	200
9.4	The Issuance of Judgments and Other Procedural Questions	202
9.5	Pilot Judgments	204
9.6	Errors, Reconsideration/Revision and Interpretation of Judgments	205
9.7	Reparation, Compensation and Just Satisfaction	207
9.8	Human Rights and Reparation	208
9.9	Provisions for Reparation	209
9.10	Prerequisites for Reparations	210
9.11	Reparation Awards	214
9.12	Conclusions	217
	References	219
10	Execution of Judgments and Supervisory Mechanisms	223
	Magnus Killander and Brian Kibirango	
10.1	Introduction	224
10.2	Obligations Imposed on State Parties	226
10.2.1	Obligations: African Court on Human and Peoples' Rights	226
10.2.2	Obligations: European Court of Human Rights	227
10.2.3	Obligations: Inter-American Court of Human Rights	227
10.2.4	Obligations: Arab Court of Human Rights	228
10.3	Compliance Trends	228
10.3.1	Introduction	228
10.3.2	Compliance Trends: African Court on Human and Peoples' Rights	229
10.3.3	Compliance Trends: European Court of Human Rights	230
10.3.4	Compliance Trends: Inter-American Court of Human Rights	231
10.4	Mechanisms for Monitoring the Execution of Judgments	232
10.4.1	Introduction	232
10.4.2	Mechanisms: African Court on Human and Peoples' Rights	232
10.4.3	Mechanisms: European Court of Human Rights	234
10.4.4	Mechanisms: Inter-American Court of Human Rights	236
10.4.5	Mechanism: Arab Court of Human Rights	239
10.5	Efforts at Reform	240

10.5.1	Introduction	240
10.5.2	Reform: African Court on Human and Peoples' Rights	241
10.5.3	Reform: European Court of Human Rights	242
10.5.4	Reform: Inter-American Court of Human Rights	243
10.6	Conclusion	243
	References	244
11	Regional Human Rights Justice: Past, Present and the Future	247
	Konstantinos D. Magliveras	
11.1	How It All Started and How It Developed	248
11.2	The Four Regional Human Rights Courts and Other Judicial Bodies of Regional Organisations, Which, Directly or Indirectly, Adjudicate Human Rights Issues	251
11.3	The Value of the Regional Human Rights Courts' Judgments as Evidence of Violation of Membership Obligations in the Respective International Organisation	256
11.4	The Regional Human Rights Courts, Criminal Jurisdiction, the International Criminal Court and the African Experiment in Combining Human Rights and International Crimes	258
11.5	Interactions: The Exchanges and Influences Between the Regional Human Rights Courts	259
11.6	The Case for a Global Human Rights Court of Justice	262
	References	265
	Table of Cases and Advisory Opinions	269

Abbreviations

ACHR	American Convention on Human Rights
ACHPR	African Charter on Human and Peoples' Rights
ACommHR	African Commission on Human and Peoples' Rights
ACtHR	African Court on Human and Peoples' Rights
ArabCHR	Arab Charter of Human Rights
ArabCtHR	Arab Court on Human Rights
Art.	Article
Arts	Articles
ASEAN	Association of Southeast Asian Nations
AU	African Union
CACJ	Central American Court of Justice
Cf.	Compare
CETS	Council of Europe Treaty Series
CIA	Central Information Agency
CIS	Commonwealth of Independent States
CJEU	Court of Justice of the European Union
Cmnd	Paper presented to the UK House of Commons by Royal Command, 1956–1986
CoE	Council of Europe
CoM	Committee of Ministers
COMESA	Common Market for Eastern and Southern Africa
CP	Command Paper
CRC	Convention on the Rights of the Child
Doc.	Document
EAC	East African Community
EACJ	East African Court of Justice
ed/ed.	Editor
edn.	edition
eds	Editors
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms

ECommHR	European Commission of Human Rights
ECOWAS	Economic Community of West African States
ECtHR	European Court of Human Rights
e.g.	exempli gratia
EFTA	European Free Trade Area
et al.	et alia
et seq.	et sequentes, et sequential (and the following)
ETS	European Treaty Series
EU	European Union
ff.	And the following
GC	Grand Chamber
HRC	UN Human Rights Committee
IACCommHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICC	International Criminal Court
ICJ	International Court of Justice
ICL	International Criminal Law
i.e.	id est
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ILC	International Law Commission
ILM	International Legal Materials
ITLOS	International Tribunal for the Law of the Sea
LAS	League of Arab States
LNTS	League of Nations Treaty Series
<i>MERCOSUR</i>	Mercado Común del Sur
MoA	Margin of Appreciation
MoU	Memorandum of Understanding
n.	Note/footnote
no.	Number
nos	Numbers
OAS	Organization of American States
OAU	Organization of African Unity
ODECA	Organization of Central American States
O.J.	Official Journal
p.	Page
PACE	Parliamentary Assembly of the Council of Europe
para.	Paragraph
paras	Paragraphs
PCA	Permanent Court of Arbitration
PCIJ	Permanent Court of International Justice
pp.	Pages
pt.	Part

REC	Regional Economic Community
REIO	Regional Economic Integration Organization
SADC	Southern Africa Development Community
SICA	Central American Integration System
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
VCLT	Vienna Convention on the Law of Treaties
vol.	Volume
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UKHL	United Kingdom House of Lords
UN	United Nations
UNTS	United Nations Treaty Series
USA	United States of America