		Contents	vii
		Abbreviations	xii
CHAPTER	T	New European Methods of Legal Protection	
CHAPIER	1	Antti Jokela	1
		Tinti joken	
	I	European procedural law as a part of international procedu	ral
		law	3
	2	Recent developments in European procedural law	4
	2.1	Council of Europe Recommendations	4
	2.2	Civil procedure	5
	2.3	Mediation and alternative dispute resolution	7
	2.4	Criminal procedure	8
	2.5	A view to the future	9
	3	Forms of mediation and alternative dispute resolution in	
		Finland	10
	4	Court-annexed mediation	13
	4.I	Finland	13
	4.2	Norway	14
	4.3	Sweden	15
	5	Arbitration	16
	6	Class action	17
	6.1	The uses and scope of the class action	17
	6.2	The new Finnish Act on Class Actions	19
CHAPTER	2	Party Autonomy and Access to Justice	
		Laura Ervo	21
	I	State justice or private justice?	23
	I.I	Nordic trends	23
	1.2	Functions of proceedings	24
	I.3	Freedom of the procedure	26
	2	Two Finnish worlds of friendly settlements	27
	2.I	Friendly settlements in civil litigation	27
	2.I.I	The reform of 1993	27
	2.1.2	The role of substantive law	29
	2.1.3	The reform of 2005	32
	2.2	Court mediation	35
	3	The role of judges	36
	3.1	In civil litigation	36
	3.2	In court mediation	38
	4	Problems and visions	40

CHAPTER 3 Duty of Loyal Interpretation; Theoretical Structures and Practical Solutions Minna Gräns 43

Introduction Ι 45 2 The mechanisms of application of EC law in national courts 46 Direct applicability 2.T 47 Direct effect 2.2 48 Loyal interpretation 2.3 50 Content of loyal interpretation from an EC law perspective 2.3.I 53 When does the duty of loyal interpretation arise? 2.3.2 60 The consequences when loyal interpretation cannot be 2.3.3 conducted 61 Loyal interpretation in Finnish legal theory and practice 3 61 The principles guiding loyal interpretation according to the 3.I Finnish legal doctrine 61 Incompatibility between EC law and national law 3.2 64 Introduction 3.2.I 64 The concept of incompatibility 3.2.2 65 Uncertainty about what constitutes legally relevant 3.2.3 circumstances 66 Incompatibility of legal consequences 3.2.4 68 Contra legem situations 3.2.5 71 About some spill-over effects of the duty of loyal 4 interpretation 79 Conclusions 5 82 Procedural Autonomy: A Misnomer? CHAPTER 4 Pekka Haapaniemi 87 Genesis of the term of procedural autonomy Т 89 The scope and meaning of the notion of procedural I.I autonomy 89 The backdrop of genesis of the term I.2 91 Jurisprudence of the ECJ 2 93 The Rewe/Comet jurisprudence 2.I 93 The caveats of equivalence and effectiveness 2.I.I 93 The role of Article 10 2.I.2 94 The meaning of the procedural rule 2.1.3 94 *Rewe/Comet* jurisprudence and the doctrine of direct effect 2.I.4 95 Rewe/Comet jurisprudence and the doctrine of consistent 2.1.5 interpretation 96 2.1.6 A balancing test 97

```
CONTENTS
```

	2.1.7	The principle of equivalence and effectiveness: not	
		minimum protection	98
	2.2	Procedural supremacy: maximizing the effectiveness	
		of EU law	99
	2.3	Effective judicial protection: a governing principle	102
	2.4	Fair trial	104
	2.5	Indirect challenge of legality of Community measures	104
	2.6	Overall assessment of the jurisprudence: towards more	
		coherent case law?	106
	3	Criticism of the procedural autonomy	109
	3.I	Kakouris's criticism and its aftermath	109
	4	The use of the term procedural autonomy in ECJ case law	111
	4.I	Adoption of term 'the principle of procedural autonomy	
		of the Member States' into the ECJ's jurisprudence	111
	4.2	Assessment of the labelling of the procedural autonomy	
		as a 'principle'	112
	4.3	Abandonment of procedural autonomy as a principle?	113
	5	The analysis of the term 'procedural autonomy'	114
	5.1	Warnings of nominalism	114
	5.2	'Procedural autonomy' as shorthand, metaphor and term	114
	5.3	What is behind procedural autonomy: Union's competence	
		versus Member States' competence?	115
	6	Conclusions	118
	7	Future prospects?	120
CHAPTER	5	'Burden of Proof' in Cases Concerning Free Movemen	t
		Kenneth Nordback	123
	I	Introductory issues and outline	125
	2	The ECJ's case law	126
	3	Case law in Sweden and Finland	131
	4	Terminological clash	137
	5	The 'burden' – a closer look	142
	5.1	The court's duty to investigate	142
	5.2	The intensity of court control	144
	5.3	The significance of the 'evidentiary requirement'	145
	6	Concluding observations and final remarks	146
CHAPTER	6	Europeanization of Insolvency Law	
		Tuula Linna	151
	I	Introduction	153
	2	Insolvency law – what is it?	154
	2.1	Insolvency and its regulation	154

ix

	2.2	Enforcement and insolvency	156
	3	Europeanization?	158
	2 4	Binding instruments	161
	4 4.I	Supranational legislation, Directives and Treaties	161
	4.I.I	Collective proceedings	161
	4.1.2	Enforcement	166
	4.1.2	European Convention on the Protection of Human Rights	100
	4.2	and Fundamental Freedoms	171
	4.2.I	General remarks	171
	4.2.2	Enforcement	172
	4.2.3	Collective proceedings	178
	5	Non-binding guidance	179
	6	Development through case law	184
	6.1	European Court of Human Rights	184
	6.2	European Court of Justice	190
	7	Europeanization through globalization	191
	8	Concluding remarks	194
			.74
CHAPTER	7	Prosecutors, the Objectives of Criminal Policy and the	
		Situation in Finland	
		Mikko Vuorenpää	197
	I	Introduction	199
	2	Objectives of criminal policy and the means for achieving	
		the objectives	199
	3	Criminal procedure as a means for achieving the objectives	
		of criminal policy	201
	4	The prosecutor as promoter of the objectives of criminal law	206
	4.I	The prosecutor and issues of certainty of sanction in the	
		pre-trial investigation of complainant offences	209
	4.2	Awareness of the parties and the legitimacy of the criminal	
		justice system	211
	4.2.1	Introduction	211
	4.2.2	Example: the right to private prosecution	212
	4.2.3	Fulfilling the duty to provide advice and the disqualification	
		of the prosecutor	215
		Bibliography	218
		Official Publications	232
		Table of Cases	238
		Index	246

 \dot{r}