Table of Contents

Ackn	owledger	nent	xi	
Prolo	gue		xiii	
Снарт	TER 1			
Right	to Prope	erty	1	
1.1	An 'Interference' with a 'Possession'			
1.2	'Contro	l of the Use of Property to Secure Payment of Taxes or Other		
	Contrib	utions or Penalties'	7	
1.3	The EC	tHR's Supervisory Function	8	
1.4	'Fair Ba	lance' Within a Margin of Appreciation and Public Interest		
	Excepti	on	9	
1.5	Lawfulness			
1.6	Proportionality			
1.7	Raw Tax			
1.8	Punitive Measures			
1.9	Tax Collection Measures			
1.10	Other N	Matters Pertinent to the Right to Property	26	
	1.10.1	Payment of Tax as a Consolidation of a Right Creating a		
		'Possession'	26	
	1.10.2	Positive, Preventive and Remedial Action	27	
	1.10.3	The Issues of Retrospectivity and Retroactivity	28	
	1.10.4	Vicarious, Joint and Several Liability	32	
1.11	Conclu	sions	32	
Снарт	TER 2			
Right	to Life &	Prohibition of Inhuman and Degrading Treatment	37	
2.1	From the Fringes of Tax Law			
2.2	The Only Known Tax Case under Article 2			

Table of Contents

2.3	The Three Cases under Article 3				
2.4	Conclusions				
Снарт	TER 3				
Prohi	bition of	Slavery and Forced Labour	43		
3.1	Unpaid Servants of the State				
3.2	_	or Compulsory Labour'	44		
3.3	'(d) Any Work or Service Which Forms Part of Normal Civic				
	Obligations'				
3.4	Conclusions				
Снарт	rer 4				
2.1		ty and Compensation for Wrongful Conviction	49		
4.1		iminal Twist	50		
	4.1.1	Conviction Cases	50		
	4.1.2	Pre-trial Detention Cases	52		
4.2	The Co	ncept of Reasonable Suspicion and Good Faith	55		
4.3	Conclu		57		
Снарт	rer 5				
Right	to a Fair	Trial	59		
5.1	Scope of	of Article 6 ECHR	60		
5.2	'In the	Determination of His Civil Rights and Obligations'	60		
5.3	'Or of A	r of Any Criminal Charge'			
5.4	Ferrazz	zini Cases, Bendenoun Cases, Pure Criminal Prosecutions, Civil			
	Determ	inations and the Tax Cases In-Between	69		
5.5	'Fair ar	nd Public Hearing'	72		
	5.5.1	Access to Court	73		
	5.5.2	Equality of Arms	73		
	5.5.3	Nemo Tenetur se Ipse Accusare	76		
	5.5.4	'Public Hearing'	78		
	5.5.5	'Within a Reasonable Time'	79		
	5.5.6	'Independent and Impartial Tribunal Established by Law'	81		
		5.5.6.1 Independence and Impartiality	81		
		5.5.6.2 'Tribunal'	83		
5.6	The Cr	iminal Limb	84		
	5.6.1	'Criminal offence'	85		
	5.6.2	'Presumed innocent until proved guilty according to law'	85		
	5.6.3	'(a) to be informed promptly, in a language which he			
		understands and in detail, of the nature and cause of the			
		accusation against him;'	88		
	5.6.4	'(b) to have adequate time and facilities for the preparation of			
		his defence;	89		
5.7	Conclu		92		

Снар	TER 6		
No P	unishment Without Law	95	
6.1	'No One'		
6.2	'Criminal Offence under National or International Law'		
6.3	The Lawfulness Requirement	97	
6.4	Conclusions	100	
Снар	TER 7		
Right	t to Respect for Private and Family Life	101	
7.1	'Everyone'	101	
7.2	'Interference'	102	
7.3	'Private and Family Life, His Home and His Correspondence.'	103	
7.4	'Family Life'	104	
7.5	" Except Such as Is in Accordance with the Law and Is Necessary in a		
	Democratic Society in the Interests of the Economic Well-Being of		
	the Country'	105	
	7.5.1 'Necessary in a Democratic Society in Accordance with the		
	Law'	105	
	7.5.2 'For the Protection of the Rights of Others'	111	
	7.5.3 'The Economic Well-Being of the Country'	111	
	7.5.4 The Recent Phenomenon of Naming and Shaming	112	
7.6	Conclusions	115	
Снар	TER 8		
Freed	dom of Thought, Conscience and Religion, Freedom of Assembly and		
Asso	ciation	117	
8.1	'Everyone'	118	
8.2	Freedom of Thought, Conscience and Religion	118	
8.3	Freedom of Assembly and Association	121	
8.4	Conclusions	122	
Снар	TER 9		
Freed	dom of Expression	125	
9.1	Article 8 ECHR Versus Article 10 ECHR	125	
9.2	The Fressoz and Roire Case		
9.3	The Eerikäinen Case		
9.4	The Satakunnan Case		
9.5	The Mariapori Case		
9.6	The Luxleaks Case	130	
9.7	Conclusions	131	
Снар	TER 10		
Right	t to an Effective Remedy	133	
10.1	'Obscure' but Highly Relevant to Tax Sphere	133	

Table	of Con	tents	

10.2	Four Important Article 13 ECHR Tax Cases	133
10.3	Conclusions	136
Снарт	TER 11	
	bition of Discrimination	137
11.1	'The Enjoyment of the Rights and Freedoms Set Forth in This	
~~~	Convention'	137
11.2	'Without Discrimination on Any Ground'	139
	'Such as Sex, Race, Colour, Language, Religion, Political or Other	
	Opinion'	140
11.4	'National or Social Origin, Association with a National Minority,	
	Property, Birth'	142
11.5	'On Any Ground or Other Status'	142
11.6	Margin of Appreciation	145
11.7	Conclusions	146
Снарт	TER 12	
Limit	ation on Use of Restrictions on Rights	149
12.1	Pride of Place	149
12.2	From Russia and Azerbaijan	149
12.3	Conclusions	151
Снарт	TER 13	
Admi	ssibility Criteria	153
13.1	The Strong-Wall	154
13.2	Exhaustion of Domestic Remedies, the Judgment in Atev v. Bulgaria	154
13.3	'Substantially the Same as a Matter That Has Already Been Examined	
	by the Court'	156
13.4	'Manifestly Ill-Founded Not Suffered a Significant Disadvantage'	156
13.5	Conclusions	156
Снарт	TER 14	
Freed	lom of Movement	159
14.1	The Leading Case Riener v. Bulgaria	159
14.2	The Progeny of Riener	161
14.3	Conclusions	161
Снарт	TER 15	
Non 1	Bis in Idem	163
15.1	Tremors from the Hard-Core of Public Prerogatives	163
15.2	Breakthrough	164
15.3	Too Good to Be True	166
15.4	Fifty Shades of Non Bis in Idem	169
15.5	Conclusions	172

	_	-	150		
Tak	10	of.	Car	itents	
1 71	116		1(),	nems	•

Снар	TER 16	
Right	t to Free Elections	175
16.1	Electoral Sanctions for Tax Fraud	175
16.2	Conclusions	176
Epilo	gue	177
Table	195	
Index	X	203