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	Lawfuli	ness	12		
1.6	Proportionality				
1.7	Raw Ta	\mathbf{x}	18		
1.8	Punitive Measures				
1.9	Tax Collection Measures				
1.10	Other Matters Pertinent to the Right to Property				
	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		
CHAP					
_		Prohibition of Inhuman and Degrading Treatment	37 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 Conclusions						
Снар	TER 3						
		Slavery and Forced Labour	43				
3.1		Servants of the State	43				
3.2	-	d or Compulsory Labour'	44				
3.3	'(d) Any Work or Service Which Forms Part of Normal Civic						
	Obligat		45				
3.4	Conclu		46				
Снар	TER 4						
Right	t to Liber	ty and Compensation for Wrongful Conviction	49				
4.1	The Cr	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	sions	57				
Снар	TER 5						
Righ	t to a Fai	r Trial	59				
5.1	Scope	of Article 6 ECHR	60				
5.2	'In the	Determination of His Civil Rights and Obligations'	60				
5.3	'Or of	Any Criminal Charge'					
5.4	Ferrazzini Cases, Bendenoun Cases, Pure Criminal Prosecutions, Civil						
	Determinations and the Tax Cases In-Between						
5.5	'Fair a	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	riminal Limb	84				
	5.6.1	'Criminal offence'	85				
	5.6.2	'Presumed innocent until proved guilty according to law'	85				
	5.6.3	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				
57	Conclu	isions	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				
Free	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				
Free	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 Contents	

10.2 10.3	Four Important Article 13 ECHR Tax Cases Conclusions	133 136
Снарт	TER 11	
Prohi	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
11.3	'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
	'On Any Ground or Other Status'	142
11.6	Margin of Appreciation	145
11.7	Conclusions	146
Снарт	TER 12	
	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
CHAR	ren 12	
	rer 13 ecibility Critoria	153
	ssibility Criteria The Strong-Wall	154
13.1 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	101
13.5	by the Court'	156
13.4	'Manifestly Ill-Founded Not Suffered a Significant Disadvantage'	156
13.5	Conclusions	156
	TER 14	150
	lom of Movement	159
14.1	The Leading Case Riener v. Bulgaria	159
14.2	The Progeny of <i>Riener</i>	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

-			-	_		
Ta	h	0	O+	(0	nta	nto
1 0	U	16	UI	UU	1116	1115

Снарт	ER 16	
Right	to Free Elections	175
16.1	Electoral Sanctions for Tax Fraud	175
16.2	Conclusions	176
Epilog	gue	177
Table of Cases		
Index	203	