

Domestic Judicial Treatment Of European Court Of Human Rights Case Law

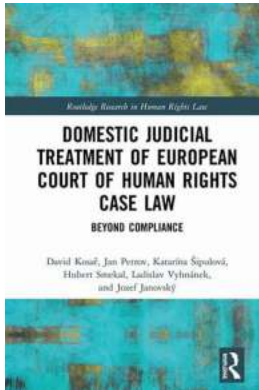
In recent years, the European Court of Human Rights (ECtHR) has played a vital role in shaping human rights standards in Europe. The court's decisions have often been praised for their progressive interpretations that safeguard individuals' rights and liberties. However, the real impact of these decisions lies in their implementation at the domestic level. This article examines the domestic judicial treatment of ECtHR case law and analyzes the challenges and opportunities it presents in upholding human rights standards across Europe.

The Significance of ECtHR Case Law

The ECtHR is the highest judicial authority for ensuring the protection of human rights in Europe. The court is responsible for interpreting and applying the provisions of the European Convention on Human Rights (ECHR). Its decisions not only provide legal guidance but also serve as benchmarks for domestic courts when adjudicating cases involving human rights violations.

When a domestic court encounters an issue that falls within the scope of the ECHR, it has a duty to take into account the case law developed by the ECtHR. This concept, known as the doctrine of "subsidiarity," recognizes the primary role of domestic courts in protecting human rights. However, it also highlights the obligation of domestic courts to apply ECtHR case law, as failure to do so may result in a violation of the right to an effective remedy.

Domestic Judicial Treatment of European Court of Human Rights Case Law: Beyond Compliance



(Routledge Research in Human Rights Law)

by Franco Angeloni (1st Edition, Kindle Edition)

★★★★☆ 4.6 out of 5

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Enhanced typesetting : Enabled

Word Wise : Enabled

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Challenges in Implementing ECtHR Case Law

Despite the importance of ECtHR case law, its implementation at the domestic level is not without challenges. One of the key challenges is the complex relationship between domestic courts and the ECtHR. While domestic courts are bound by the decisions of the ECtHR, they still enjoy a margin of appreciation in interpreting and applying human rights standards. This margin allows them to tailor the court's findings to their specific legal and cultural contexts.

As a result, domestic courts may sometimes deviate from ECtHR case law, either by reversing the court's findings or by introducing new interpretations. Such deviations can create inconsistencies in the application of human rights standards, leading to a fragmented legal landscape. It can also undermine the authority and effectiveness of the ECtHR's decisions.

Another challenge lies in the implementation of structural reforms required to align domestic legal systems with ECtHR jurisprudence. In some cases, domestic laws or practices may be incompatible with the court's decisions. Implementing

these reforms often requires legislative changes or shifts in societal attitudes, which can be met with resistance from both political and social actors.

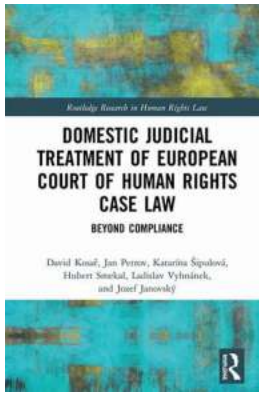
The Role of Domestic Courts in Upholding Human Rights

Despite the challenges, domestic courts play a crucial role in upholding human rights standards. They act as intermediaries between the ECtHR and individuals seeking justice. The domestic judicial treatment of ECtHR case law determines how effectively human rights are protected within a particular jurisdiction.

Domestic courts have the power to contribute to the development and evolution of human rights standards by providing their own interpretations and by addressing legal gaps not yet explored by the ECtHR. Through their active engagement with ECtHR case law, domestic courts can expand the scope and reach of human rights protection, ensuring that evolving societal needs are met.

Moreover, domestic courts serve as the mechanism for individuals to seek legal remedies for human rights violations. They are responsible for ensuring that victims are provided with effective access to justice and appropriate redress. The proper implementation of ECtHR case law by domestic courts is crucial in safeguarding the rights and liberties of individuals.

In , the domestic judicial treatment of ECtHR case law is of utmost importance in safeguarding human rights standards in Europe. While challenges exist, domestic courts have a vital role in faithfully implementing the decisions of the ECtHR. By upholding these standards, domestic courts not only protect the rights and liberties of individuals but also contribute to the development and evolution of human rights law. The effective implementation of ECtHR case law across Europe is essential in ensuring a harmonized and comprehensive system for the protection of human rights.



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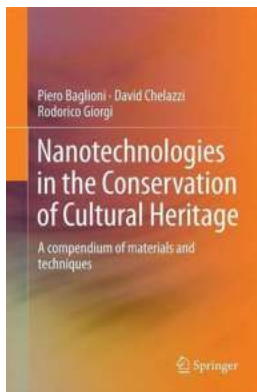
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The European Court of Human Rights (“ECtHR”) suffers from the burgeoning caseload and challenges to its authority. This two-pronged crisis undermines the ECtHR’s legitimacy and consequently the functioning of the whole European human rights regime. Domestic courts can serve as welcome allies of the Strasbourg Court. They have a potential to diffuse Convention norms domestically, and therefore prevent and filter many potential human rights violations. Yet, we know very little about how domestic courts actually treat the Strasbourg Court’s rulings. This book brings unique empirical findings on how often, how and with what consequences domestic judges work with the ECtHR’s case law. It moves beyond the narrow concept of compliance and develops a new three-level methodology for analysing the role played by domestic courts in the implementation of ECtHR case law. Moreover, using the example of Czechia, it shifts the attention from Western countries to a more volatile Central and Eastern European region, which has recently witnessed democratic backsliding and backlash against international checks on human rights and the rule of law

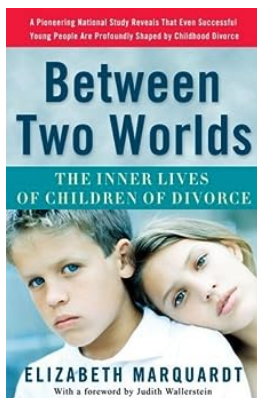
standards. Looking at a wider social and legal context, this book identifies factors helping transitional countries to adapt to regional human rights regimes.

The work will be an essential resource for students, academics and policy-makers working in the areas of Constitutional law, Politics and Human Rights law. Its global appeal is enhanced by the methodological framework which is applicable in other international systems.



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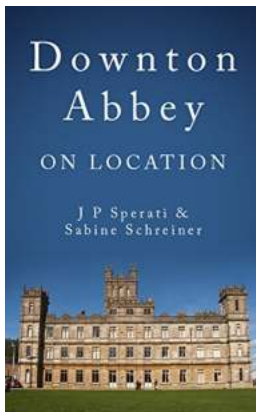
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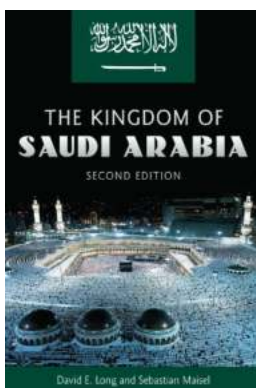
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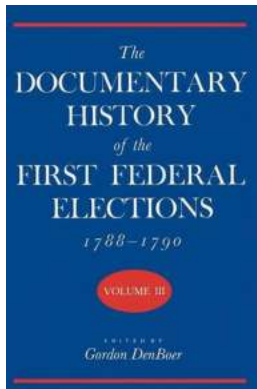
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