

Alcidia Moucheboeuf

A project supported by
the German Ministry of Foreign Affairs,
conducted under the supervision of Marc Welter,
ECMI Director , I

CONTENTS

List of cases	9
Assembly	25
1. Freedom of assembly	25
2. Restrictions on freedom of assembly	27
Association	35
1. Freedom of association	35
2. Restrictions on freedom of association	56
Discrimination	65
1. Acts/threats - discrimination	65
2. Association with a national minority - discrimination ... •	66
3. Birth - discrimination	68
4. Definition of discrimination	69
5. Definition of victim	104
6. Employment - discrimination	105
7. Language - discrimination	112
8. Language of education - discrimination	117
9. Lifestyle - discrimination	121
10. Margin of appreciation by states ... •	125
11. Nationality - discrimination	131
12. Policy/measure - discrimination	140
13. Positive obligations of states to prevent discrimination	140
14. Preferential treatment	143
15. Principle of equality	144
16. Property - discrimination	147
17. Race - discrimination ... •	148
18. Religion - discrimination	156
19. Sex - discrimination	162
20. Scope of Article 14 of the ECHR	167
21. Standard of proof	178
22. Trade unions - discrimination	181

Due process	185
1. Effective remedy and investigation	185
2. Equal protection of and before the law	200
3. Language use in court	202
4. Positive measures by states to provide an effective remedy and effective investigation	209
5. Positive measures by states to promote effective equality ;	221
6. Right to court	222
7. Right to fair trial	224
8. Right to public trial	234
Education	235
1. Access to education for minorities	235
2. Access to textbooks	236
3. Positive obligations of states to provide education	237
4. Right to education in minority language	244
Effective participation	259
1. Access to public services and spaces	259
2. Competence of minority groups to present claims	260
3. Consultation to a minority group	261
4. Effective participation	262
5. Elections	263
6. Political parties	273
7. Racial discrimination in access to public spaces	281
8. Right to participate in political affairs	281
9. Right to participate in public affairs	282
10. Use of minority language for political purposes	284
11. Use of minority language in relations with the administration	290
Existence	295
1. Degrading treatment	295
2. Positive obligations of states	297
3. Right to life	301
4. Torture	306

Expression	309
1. Freedom of expression.....	309
2. Positive obligations of states to protect freedom of expression. . . .	324
3. Restrictions on freedom of expression.	326
Family life	355
1. Family life.....	355
2. Impact on family life.....	362
3. Private life.....	364
4. Positive obligations of states.....	371
Group identity	375
1. Collective exercise of rights.....	375
2. Identity of minorities.....	375
3. Membership of an indigenous group/minority.....	376
4. Positive obligations of states to preserve minorities' identity.	377
5. Positive obligations of states to protect members of minorities.	378
6. Right to establish bi-communal contacts across frontiers.....	379
7. Self-determination.....	381
8. Way of life and identity of minorities.....	396
International aspects	399
1. Bilateral conventions.....	399
2. Democracy.....	399
3. Minority rights and human rights____'!.....'	405
4. Jurisdiction of states.....	407
5. Protection of fundamental human rights.....	414
6. National law.....	414
7. Obligations of states under international conventions.	415
8. Role of the court.....	420
9. Scope of international documents.....	426
Limitations/derogations, restrictions	433
1. Effect of declarations/reservations.....	433
2. Limits to derogations.....	441
3. National security/territorial integrity concerns.....	446
4. National security concerns.....	455

5. Restrictions-necessary in a democratic society.....	461
6. Territorial integrity concerns.....	467
Linguistic rights	471
1. Bilingual road signs.....	471
2. Commercial signs in minority language.....	471
3. Linguistic freedom.....	472
4. Use of minority language.....	474
Minority issues	477
1. Balance minorities/majority.....	477
2. Definition of a minority.....	484
3. Minority name.....	488
4. Obligations of minorities.....	493
5. Promotion of tolerance.....	495
6. Right to enjoy cultural rights.....	497
7. Rights of minorities.....	502
Religion	503
1. Exercise of religious freedom individually or in community with others.....	503
2. Freedom of religion.....	504
3. Legal personality of religious institutions.....	518
4. Positive obligations of states to respect religious convictions.....	521
5. Restrictions on freedom of religion.....	526
6. Right to manifest religious belief.....	538
7. Right to religious education.....	549
8. State obligation but no exemption of the individual's duty.....	550
Socio-economic rights	553
1. Socio-economic rights.....	553
2. Freedom of movement.....	556
3. Free disposal of wealth and natural resources.....	560
4. Inequities.....	561
5. Participation in socio-economic life.....	561
6. Right to food.....	563
7. Right to a home.....	563

8. Right to health and right to a clean environment	570
9. Right to property.....	572
10. Right to work.....	588
Bibliography.....	589
Appendix 1: Case summaries.....	593
Appendix 2: Conventions.....	679