

NEW PUBLICATION of a book by Dr Georgios A. SERGHIDES entitled:

THE PRINCIPLE OF EFFECTIVENESS

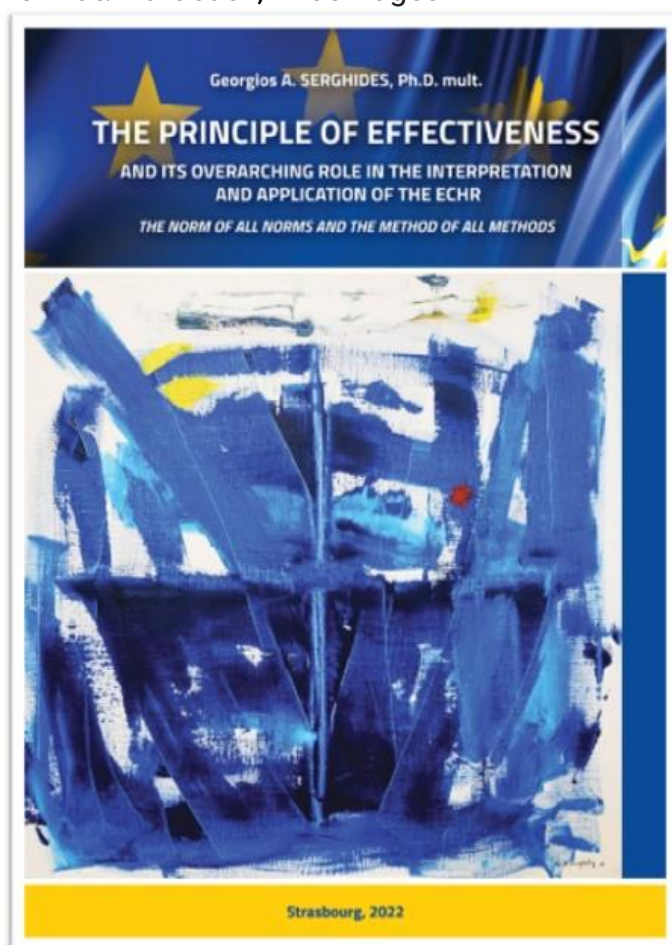
**AND ITS OVERARCHING ROLE IN THE INTERPRETATION AND APPLICATION
OF THE ECHR**

THE NORM OF ALL NORMS AND THE METHOD OF ALL METHODS

Author: Georgios A. Serghides , Ph.D. mult.

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[Georgios A. Serghides is a Judge and Section Vice-President of the ECtHR. He is a holder of five PhDs in Law, obtained at: the University of Exeter, the National and Kapodistrian University of Athens, the Aristotle University of Thessaloniki, the Democritus University of Thrace and the University of Strasbourg]

- Foreword by Professor Linos-Alexander Sicilianos, former President ECtHR.
- Foreword by Professor Florence Benoît-Rohmer, Honorary President of the University Robert Schuman.
- Evaluation by Georgios M. Pikis, former President of the Supreme Court of Cyprus and former Judge of the ICC.

- There is a brief as well as a detailed table of contents, an elaborative summary at the end of each unit, an index and a rich bibliography.

- It consists of two Parts which deal with the conceptual and operational framework of the principle of effectiveness, respectively.

- Each Part consists of two chapters and each chapter has two sections (see brief table of contents below).

[PART I:](#) CONCEPTUAL FRAMEWORK OF THE PRINCIPLE OF EFFECTIVENESS: RAISON D'ÊTRE, DEVELOPMENT AND SUBSTANTIATION

CHAPTER 1: ANALYTICAL EXAMINATION OF THE MEANING, CAPACITIES AND USE OF THE PRINCIPLE OF EFFECTIVENESS

SECTION 1: THE TWO CAPACITIES OF THE PRINCIPLE AND THEIR INTERRELATIONSHIP

SECTION 2: DIFFERENT FORMULATIONS OF THE PRINCIPLE AND THEIR COMMON DENOMINATOR

CHAPTER 2: TWO DOCTRINES DERIVING FROM AND SECURING THE PRINCIPLE OF EFFECTIVENESS - TWO IMPORTANT SUB-CAPACITIES OF THE PRINCIPLE

SECTION 1: DOCTRINE OF POSITIVE OBLIGATIONS

SECTION 2: LIVING INSTRUMENT DOCTRINE

[PART II:](#) OPERATIONAL FRAMEWORK OF THE PRINCIPLE OF EFFECTIVENESS: POLYVALENT NATURE AND ACTION

CHAPTER 1: THE DUAL NATURE AND OPERATION OF THE PRINCIPLE OF EFFECTIVENESS

SECTION 1: INTERACTIVE NATURE AND HARMONIZING OPERATION

SECTION 2: POLEMICAL NATURE AND DEFENSIVE OPERATION

CHAPTER 2: THE PRINCIPLE OF EFFECTIVENESS IN ACTION: FROM BEGINNING TO END

SECTION 1: FROM THE PRELIMINARY STAGE UNTIL THE COMPLETION OF THE PROCEEDINGS

SECTION 2: ROLE OF PRINCIPLE IN THE IMPLEMENTATION OF THE COURT'S JUDGMENTS

[Synopsis](#)

This book explores the role of the principle of effectiveness (the “Principle”) in the interpretation and application of the ECHR. Part I undertakes an analytical examination of the Principle’s conceptual framework: *raison d’être*, capacities, formulations, and its historical and case-law development. It is proposed that the Principle’s *raison d’être* – to render the Convention effective – is accomplished through the Principle’s two capacities, as a method of interpretation and as a norm of international law, as well as through its two sub-capacities, the doctrine of positive obligations and the living instrument doctrine, all of which the book examines in depth. Part II delves into the Principle’s operational framework by demonstrating its polyvalent nature and action from two perspectives, having regard to its dual nature (harmonising and defensive) and its action at all stages of the procedure including the implementation of the Court’s judgments. In an original manner, the book seeks to prove its central proposition that the Principle has an overarching role and deserves to be characterized as “the norm of all norms and the method of all methods”.

Key words: Principle, effectiveness, method, norm, interpretation, ECHR, ECtHR, Human Rights, International Law

[Preface by the author](#)

As has been said ... the bulk of this work was submitted for a doctoral degree at the University of Strasbourg, where it was defended successfully (18 June 2021). Its subject is the principle of effectiveness (the “Principle”) and it focuses on the overarching role of the

Principle within the context of the interpretation and application of the ECHR, a proposition which the book supports from different aspects or angles, looking at the Principle both holistically and microscopically.

The book examines the Principle from both its conceptual and operational framework and it is original and comprehensive. The work shows that the Principle's capacities, sub-capacities, nature and action are polyvalent. While dealing with the all-embracing nature of the Principle, its relationship with other Convention principles, such as the principles of the rule of law, subsidiarity and proportionality, is also examined.

It is argued that the Principle, apart from being a method of interpretation is also a norm of international law. It is further argued that these two capacities of the Principle are interdependent and mutually enriched by the fact of one offering assistance to the other. Because of the importance of the Principle's dual capacity as a method and as a norm, the work characterizes the Principle as the norm of all norms and the method of all methods. The Principle as a norm of international law is inherent in all ECHR provisions securing human rights, the jurisdiction of the ECtHR, its procedure and the implementation of its judgments.

This work maintains that the Principle should be both a point of departure and a point of arrival, and indeed applied all the way through the process. To render the book's theory more vivid, the remarkable journey of the Principle as a norm in a particular case is compared to a relay race: The Principle is inherent in the relevant ECHR provision; then the provision through its interpretation and application by the ECtHR passes the Principle as a baton to the judgment; and finally the judgment conveys the Principle to the mechanism for the execution of judgments under Article 46 ECHR. Throughout the process, the obligation to abide by it must always be unconditional. The speedier this relay race, the better the Principle is upheld as a norm. Only by the effective implementation of the judgment can the Principle's function as a norm be fulfilled.

The idea of the wide-ranging application and continuity of the Principle as a norm, by its transfer from a Convention provision to a Court judgment and in the implementation procedure, is a novel idea which came to the author out of a difficulty he had been facing for a long time as he endeavoured to arrange this work, originally the doctoral thesis, in only two parts. The issue of the implementation of judgments was originally in a third part of the thesis and the author had difficulty reducing the three parts to two. After long reflection, he decided to integrate part three into part two under the chapter headed "the principle in action from beginning to end". This made his central idea more coherent, and he managed to have deux parties in his thesis, as required by the French academic system. The author realised that while he had considered it in the beginning as an excessive formalism to have only deux parties in his monograph, this restriction turned out to be for him an issue of discipline, symmetry and coherence. For the author, the two parts of the book resemble the two piers of a bridge which have to be solid and symmetrical in order to support the bridge on which a thesis will safely run.

A word of explanation as to why there is an elaborative summary and lengthy concluding remarks at the end of each unit. The original idea was to use them as a basis for preparing a summary in French amounting to ten per cent of the whole thesis, as required by the University of Strasbourg's regulation. Subsequently, however, it was decided to keep them as they were, without shortening them. The summaries and concluding remarks will be useful for the reader who does not have the time to read a whole chapter or unit.

The author decided to undertake this research because, having already been a judge of the ECtHR for around a year and a half, he realised the importance of the Principle as a tool for his everyday judicial work, and he saw that the requisite adherence to the Principle was not always ensured when interpreting or applying the ECHR provisions. He also realised that the existing bibliography on the principle of effectiveness was very limited and there was no thesis or monograph on the overarching role of the Principle, its all-embracing nature and its conceptual dimensions and practical applications. Consequently, he decided that the best way to further benefit from the Principle and also to help others understand its importance and apply it, was to explore it by thoroughly and systematically studying it and, at the same time, receiving academic feedback. To interact, on this question, with the University of Strasbourg, a historic, world-renowned and well-esteemed institution, in the city where the ECtHR is also situated, under the supervision of Professor Benoît-Rohmer, was a fascinating idea which entered his mind and which has helped him to remain enthusiastic all the way through his research.

Because of the author's passion for human rights and their effective protection, the work is dedicated to the ECtHR, the guardian of Human Rights in Europe, and to the principle of effectiveness, the *raison d'être* of the ECHR.

It is hoped that this book will be both a valuable guide and a stimulus for everyone who is interested in international law and human rights and aspires to the effective protection of those rights.