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THE OBLIGATION TO CONDUCT AN EFFECTIVE INVESTIGATION – INTERNATIONAL STANDARDS AND PRACTICE**

Abstract: International and regional documents for the protection of human rights do not explicitly prescribe the duty to investigate human rights violations, this positive obligation is derived from accepted obligations. However, the investigation must satisfy certain general criteria. International and regional human rights practice reveals numerous terms used to describe the necessary qualities of investigation. The European Court of Human Rights' practice introduced the concept of "effective investigation", which underscored the necessity of conducting investigations of a particular quality. The concept is primarily associated with criminal investigation. The European Court of Human Rights' practice illustrates the most advanced and gradual evolution of the concept's scope. Initially, obligation was associated with the investigation of the actions of state actors and the right to life. The obligation to effectively investigate is currently linked to a variety of human rights, private actor actions, the investigation of non-violent acts of limited gravity, and discriminatory motives. The European Court of Human Rights established broad and interrelated criteria for the evaluation of the effectiveness of investigations. The precise interpretation of this obligation is contingent upon the specific circumstances, the alleged perpetrators, the offense, and the human rights at issue.

Keywords: effective investigation, criminal investigation, human rights, European Court of Human Rights, impunity.

1. INTRODUCTION

International basic documents for the protection of human rights do not explicitly prescribe the duty to investigate human rights violations. However, this

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positive obligation is derived from accepted obligations. The “effective investigation” emerged as a concept in the practice of the European Court of Human Rights (hereinafter: ECtHR). This obligation is part of a broader trend before the ECtHR. Besides the rights that are clearly procedural in nature, for example, Articles 5, 6, and 13 of the European Convention on Human Rights (hereinafter: ECHR), the ECtHR developed a procedural layer to the scope of the most substantive ECHR rights.¹ The concept is primarily associated with criminal investigation, although other forms of proceedings may be sufficient to fulfill the obligation. The traditional perception of the necessity for a specific quality of investigation in the criminal procedure context is based on the investigation’s purpose, which is to primarily collect evidence and data that is essential for the decision to file an indictment or discontinue proceedings, as well as in preparing for the main hearing if it occurs.²

The absence of effective investigation may lead to impunity and offer opportunities for those responsible for violations to evade consequences and endorse further human rights violations. The common objective of effective investigation by domestic authorities is to reinforce the practical respect and implementation of guaranteed substantive rights.³ From a criminal law perspective, enforcing the deterrent effect of criminalization necessitates the implementation of criminal law provisions through effective investigation and prosecution. The effectiveness of an investigation can be a relative issue, contingent upon various circumstances, and the meaning of the term effective in this context is not precise. However, certain overarching concepts derived from international human rights instruments and practices can be identified.

The precise meaning of this obligation is contingent upon the human rights in question, the nature of the offense, specific circumstances, and the alleged perpetrators in question. The assessment of effectiveness is an investigation into the appropriateness of the discharge of procedural obligations triggered by the occurrence of a human rights violation.⁴ The requirement for effective investigation is more stringent concerning the actions of state actors. An effective criminal investigation is delineated in some of the documents that govern more specific state obligations, regarding the prohibition of torture, children’s rights, violence against women, human trafficking, cybercrime, corruption, enforced disappearances, counterfeiting of medical products, and offenses related to cultural property, as these areas are particularly significant or complex in this context.

- 1 E. Brems /2013/, Procedural protection: An examination of procedural safeguards read into substantive Convention rights, in: *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*, Cambridge, p. 138.
- 2 T. Vasiljević /1981/, *Sistem krivičnog procesnog prava SFRJ*, Beograd, p. 480.
- 3 A. Mowbray /2002/, Duties of Investigation Under the European Convention on Human Rights, *International and Comparative Law Quarterly*, Vol. 51, No. 2, p. 447.
- 4 K. Kamber /2017/, *Prosecuting Human Rights Offences: Rethinking the Sword Function of Human Rights Law*, Leiden, p. 217.

2. DEFINITIONS

The obligation to investigate implies merely the execution of the investigation, regardless of its quality. The multitude of interrelated terms arising from the obligation to investigate illustrates the necessity of a particular quality of investigation.

When it comes to the term “effective”, it can be broadly understood as an investigation capable of producing the desired effect. A criminal investigation can be broadly defined as a systematic inquiry into a criminal act.⁵ The purpose of criminal investigation is to determine, to the extent possible, the truth about how the crime occurred.⁶

The ECtHR developed a broad definition of effective investigation due to the different relevant proceedings and concepts in national laws regarding investigation phases and authorized bodies in procedural law.⁷ As the ECtHR stated, the effective investigation “should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and punishment of those responsible”. Nevertheless, the absence of conclusions from a particular investigation does not necessarily imply that it was ineffective, since the obligation to investigate “is not an obligation of results, but of means”.⁸ The ECtHR also developed additional criteria for assessing the effectiveness of national proceedings.

Regarding the practice of the UN Human Rights Committee (hereinafter: HRC), the term effective is not used as the general concept, but interchangeably along with the terms thorough, credible, independent, impartial, systematic, prompt, proper, and transparent investigation.⁹ On the other hand, the ECtHR considers some of these as elements of effective investigation, as a broader term, although it is recognized that these elements are interrelated and considered jointly, and investigation doesn’t need to meet all requirements.

The Inter-American Human Rights Court (hereinafter: IACtHR), similarly to HRC, does not acknowledge a general concept of effective investigation. As a part of the obligation to legally guarantee the free and full exercise of human rights, the

5 R. P. Gibbons /1942/, *Criminal Investigations*, *J. Crim. L. & Criminology*, Vol. 33, No. 1, p. 84.

6 M. F. Brown /2001/, *Criminal Investigation: Law and Practice*, Butterworth-Heinemann, p. 3.

7 For example, for different investigation concepts in criminal procedure, see: M. Škulić /2010/, *Koncepcija istrage u krivičnom postupku*, *Revija za kriminologiju i krivično pravo* 1, pp. 65–68.

8 *Milić and Nikezić v. Montenegro*, Apps. Nos. 54999/10 and 10609/11, (ECtHR, 18 April 2015), par. 94.

9 HRC, Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee: Cameroon, CCPR/C/CMR/CO/4, 4 August 2010; *Marija and Dragana Novaković v. Serbia*, Communication No. 1556/2007, U.N. Doc. CCPR/C/100/D/1556/2007 (2010), par. 7.3; HRC, Concluding observations of the Human Rights Committee: Russian Federation, CCPR/C/RUS/CO/6, 24 November 2009, par 13; HRC, Concluding observations on the initial report of Mauritania: Human Rights Committee, CCPR/C/MRT/CO/1, 21 November 2013, par. 13; HRC, Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, CCPR/C/GBR/CO/7, 17 August 2015, par. 8; HRC, Concluding observations of the Human Rights Committee, Israel, U.N. Doc. CCPR/C/ISR/CO/3, July 2010, par. 9.

State has the legal duty “to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.”¹⁰ For example, regardless of the filing of a complaint, “in cases of forced disappearance international law and the general duty to guarantee, impose the obligation to investigate the case *ex officio*, without delay, and in a serious, impartial, and effective manner”.¹¹ Additionally, the phrase that can be used is whether the criminal investigations are conducted with “due diligence”.¹² Like the ECtHR, the IACtHR has also established that the duty to perform a serious, complete and effective investigation is one of means and not results, therefore an obligation to use best efforts, rather than an obligation to ensure results.¹³

The term “effective” can encompass a variety of essential features of investigation. However, this term is misleading in that it might suggest that the desired outcome must be attained (identification and punishment of those responsible), which is why the limitation “is not an obligation of results, but of means” is significant. The thoroughness is a criterion also employed to assess the effectiveness of an investigation in the context of the ECtHR, and it can generally be considered to be an investigation that is comprehensive in scope and addresses all of the relevant background circumstances, as well as the investigation’s conclusions. This term is closely related to the term “effective”. Adequacy is also used in ECtHR practice, but possibly to refer to effective investigation without other criteria for effective investigation (promptness, independence, public scrutiny, and engagement of the victim or next of kin). Adequacy is more closely associated with a satisfactory response in a specific situation. Due diligence in investigation is also employed, and it could refer to the typical practice of care or inquiry, suggesting a degree of discretion toward the outcomes of the investigation. The ECtHR aligned the term of effective investigation with due diligence by incorporating a reasonableness standard, indicating that states are required to adopt procedures deemed reasonable in particular circumstances.

3. EFFECTIVE CRIMINAL INVESTIGATION AND INTERNATIONAL DOCUMENTS

3.1. *United Nations*

The obligation to conduct an investigation is not explicitly mentioned in the legally binding basic human rights documents; however, it is considered to be a necessary condition for the fulfillment of the accepted obligations. At the UN level, Human Rights Committee General Comment No. 31 on the nature of the general legal

10 *Velásquez Rodríguez v. Honduras*, IACtHR, Judgment of 29 July 1988, Series C No. 4, par. 174; *Anzualdo Castro v. Peru*, IACtHR, Judgment of September 22, 2009, Series C No. 202, par. 62.

11 *Radilla Pacheco v. Mexico*, IACtHR, Judgment of 23 November 2009, Series C No. 209, par. 143.

12 *Ibid.*, par. 193; *Employees of the Fireworks Factory of Santo Antônio de Jesus and their Families v. Brazil*, IACtHR, Judgment of 15 July 2020, Series C No. 407, par. 220.

13 *Kawas Fernández v. Honduras*, IACtHR, Judgment of April 3, 2009, Series C No. 196, par. 101; *Heliodoro-Portugal V. Panamá*, IACtHR, Judgment of August 12, 2008, Series C. No. 186, par. 144.

obligation imposed on States Parties to the International Covenant on Civil and Political Rights (hereinafter: ICCPR), emphasizes that the obligation to investigate is an integral part of Article 2 of the ICCPR. The positive obligations of States Parties to guarantee Covenant rights will be fulfilled only if the State safeguards individuals from not only violations of Covenant rights by its agents but also from actions taken by private individuals or entities that would impede the enjoyment of ICCPR rights.¹⁴ Article 2, paragraph 3 of the ICCPR ensures that individuals must also have accessible and effective remedies to vindicate protected rights, and a failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the ICCPR. Independent and impartial bodies (judicial and administrative) must promptly, thoroughly, and effectively investigate allegations.¹⁵ The Special Rapporteur on the situation of human rights defenders delineated necessary principles for “due diligence” in the criminal investigation of human rights: state initiative upon becoming aware of a human rights violation, timeliness, and expeditiousness, competence of professionals conducting investigation, independence, and impartiality, exhaustiveness (meaning that all available means are used to establish the truth and identify all those responsible), participation of victims and transparency.¹⁶

In the HRC General Comment No. 36 on the right to life, it is emphasized that the obligation to investigate and prosecute allegations of deprivation of life by State authorities or by private individuals and entities is a critical component of the protection of the right to life.¹⁷ Regarding the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, complaints must be investigated promptly and impartially by competent authorities to make the remedy effective.¹⁸ States must conduct an effective, impartial, and timely investigation of any allegation or reasonable suspicion of unlawful use of force or other violations by law enforcement officials in the context of the right to peaceful assembly.¹⁹

Some elements of the obligation to effectively investigate could be explicitly found in UN documents dealing with more specific aspects of protection. For example, in the Convention against torture and other cruel, inhuman or degrading treatment or punishment, Article 12 declares that “the State parties must also ensure that their competent authorities proceed to a prompt and impartial investigation when there is ground to believe that an act of torture has been committed in any territory under their jurisdiction”.²⁰ The UN Committee against Torture and Inhu-

14 HRC, General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 29 March 2004, CCPR/C/21/Rev.1/Add. 1326 May 2004, par. 8.

15 *Ibid.*, par 15.

16 UN General Assembly, Situation of human rights defenders, Note by the Secretary-General, A/74/159, 15 July 2019, par. 41.

17 HRC, General comment No. 36, Article 6 (Right to Life), CCPR/C/GC/35, 3 September 2019, paras. 19, 21, 27–29, 58.

18 HRC, CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992, par. 14.

19 HRC, General comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, par. 90.

20 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, UN General Assembly, *Treaty Series*, vol. 1465, p. 85, 10 December 1984, Article 12.

man and Degrading Treatment also urges that States conduct an impartial, effective, thorough, and prompt investigation.²¹

The United Nations General Assembly Declaration on the Elimination of Violence against Women, in its Article 4(c), urges States to “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or private persons”.²² The significance of effective investigation procedures is also emphasized in Article 19(2) of the United Nations Convention on the Rights of the Child.²³ The Palermo Protocol, for example, applies to the investigation and prosecution of the trafficking in persons.²⁴ Article 12 of the International Convention for the Protection of All Persons from Enforced Disappearances emphasizes the obligation of competent authorities to thoroughly, promptly, and impartially examine the alleged or suspected case of enforced disappearance.²⁵

The UN Office of the High Commissioner for Human Rights has issued two manuals that are significant to the issue of effective criminal investigation of potentially unlawful death and regarding torture and other cruel, inhuman or degrading treatment or punishment.²⁶

3.2. Europe

The ECtHR stated that the obligation to protect the right to life necessitates “some form of effective official investigation when individuals have been killed as a result of the use of force by, inter alia, agents of the State”, when read in conjunction with the State’s general duty under Article 1 of the ECHR to secure to everyone within their jurisdiction the rights and freedoms defined in ECHR.²⁷ Also, ECtHR stated that “general legal prohibition of arbitrary killing and torture and inhuman or degrading treatment or punishment by agents of the State would be ineffective in practice if there existed no procedure either for reviewing the lawfulness of the use of lethal force by State authorities or for investigating arbitrary killings and allega-

21 Committee Against Torture (CAT), Concluding observations on the 3rd periodic report of Belgium, CAT/C/BEL/CO/3, 28 October–22 November 2013, par. 13.

22 Declaration on the Elimination of Violence against Women, A/RES/48/104, UN General Assembly, 20 December 1993, Article 4(c).

23 Convention on the Rights of the Child, United Nations, UN General Assembly, *Treaty Series*, vol. 1577, p. 3, 20 November 1989, Article 19.

24 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, UN General Assembly, 15 November 2000.

25 International Convention for the Protection of All Persons from Enforced Disappearance, UN General Assembly, 20 December 2006, Article 12.

26 The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), UN Office of the High Commissioner for Human Rights (OHCHR), New York/Geneva, 2017; Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), UN Office of the High Commissioner for Human Rights (OHCHR), HR/P/PT/8/Rev.1, 2004.

27 *Al-Skeini and Others v. the United Kingdom* (GC), App. No. 55721/07, (ECtHR, 7 July 2011), par. 163.

tions of ill-treatment of persons held by them”.²⁸ Obligation does not solely concern deaths resulting from the use of force by agents of the State, but also a positive obligation on States to take appropriate steps to safeguard the lives of those within their jurisdiction.²⁹ Equally, “Article 3 requires that the authorities conduct an effective official investigation into the alleged ill-treatment even if such treatment has been inflicted by private individuals”.³⁰ Similar to Articles 2 and 3, Article 4 also entails a procedural obligation to effectively investigate potential trafficking violations.³¹ Although the practice on this issue is not elaborated as in the case of articles 2 and 3 of the ECHR, the ECtHR does not exclude the possibility of extending to the effectiveness of an investigation regarding several other human rights, although mostly not as an autonomous procedural obligation.

Numerous conventions adopted within the Council of Europe stress the need for effective investigation, the obligation content varies depending on the regulated subject matter, and it is mostly related to a criminal investigation.³² All of the documents also impose the obligation of international cooperation in criminal matters. Conventions mostly refer to states’ obligation to ensure effective criminal investigation in relevant subject matter, or to the obligation to take all necessary measures to enable evidence gathering. Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse refers to the obligation to treat investigations and criminal proceedings as a priority and to carry them out without any unjustified delay.³³ Conventions do not specify what constitutes an effective investigation, although they indicate the need for special investigative techniques or specialized personnel in some subjects.³⁴ In addition, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) as the body set up to monitor the implementation of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, if

28 *Mocanu and Others v Romania* (GC), Apps. nos 10865/09, 45886/07 and 32431/08, (ECtHR, 17 September 2014), par. 316.

29 *Öneryildiz v. Turkey*, App. No. 48939/99, (ECtHR, 30 November 2004), par. 71.

30 *C.A.S. and C.S. v Romania*, App. No. 26692/05, (ECtHR, 20 March 2012), par. 69.

31 *Rantsev v. Cyprus and Russia*, App. No. 25965/04, (ECtHR, 7 January 2010), par. 288;

32 Council of Europe Convention against Trafficking in Human Organs, Santiago de Compostela, 25.III.2015, *CETS* 216, Articles 15–16; Council of Europe Convention on the Prevention of Terrorism, Warsaw, 16.V.2005, *CETS* 196, Article 15; Convention on Cybercrime, Budapest, 23.XI.2001, *CETS* 185, preamble; Council of Europe Convention on Offences relating to Cultural Property, Nicosia, 19.V.2017, *CETS* 221, Articles 2, 17–18; Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health, Moscow, 28.X.2011, *CETS* 211, Articles 15–16; Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 11.V.2011, *CETS* 210, Articles 5, 49; Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse Lanzarote, 25.X.2007, *CETS* 201, Articles 30, 32, 34; Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16.V.2005, *CETS* 197, Articles 1, 27; Criminal Law Convention on Corruption, Strasbourg, 27.I.1999, *CETS* 173, Article 23.

33 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Article 30 (3).

34 Criminal Law Convention on Corruption, Article 23; Council of Europe Convention on Offences relating to Cultural Property, Article 18.

necessary, can recommend that any information regarding alleged ill-treatment to be properly investigated.³⁵

The Council of Europe issued Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, which list adequacy, thoroughness, impartiality and independence, promptness, and public scrutiny as necessary elements of effective investigation.³⁶

Within the EU, like the ECHR, the European Charter of Human Rights does not explicitly mention the obligation to investigate, but the Charter contains rights that correspond to rights guaranteed by the ECHR, and the meaning and scope of those rights shall be the same as those laid down by the ECHR (Article 52 (3)). However, EU secondary legislation explicitly regulates some of the areas that are important or challenging concerning the issue of effective criminal investigation.³⁷

3.3. *The Inter-American Human Rights System*

The duty to investigate human rights violations is not explicitly provided in the American Convention on Human Rights (ACHR). However, it has been developed as a component of the obligation of states to guarantee rights, as outlined in Article 1(1) of the ACHR, in conjunction with the substantive right that must be safeguarded or guaranteed, and as a component of the right to access justice, as outlined in Articles 8 and 25 of the ACHR.³⁸ The Court has recognized that the duty to inves-

35 For example: Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 18 October 2007, CPT/Inf (2008) 22, par. 16

36 Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, Adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers’ Deputies.

37 Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, *OJ L*, 2024/1712, 24.6.2024, Articles 9, 19b; Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, *OJ L* 88, 31.3.2017, recital (21), Article 20; Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence, Article 15; Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, *OJ L*, 2024/1385, 24.5.2024, Article 15; Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, *OJ L* 284, 12.11.2018, Article 11; Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), *OJ L* 119, 4.5.2016, Article 2.; Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, Official Journal of the European Union, *L* 130, 1.5.2014, p. 1–36.

38 G. M. Frisso /2018/, The Duty to Investigate Violations of the Right to Life in Armed Conflicts in the Jurisprudence of the Inter-American Court of Human Rights, *Israel Law Review*, Vol. 51, No. 2, p. 173.

tigate instances of substantive law violations that must be safeguarded, protected, or guaranteed is derived from the general obligation to uphold the human rights enshrined in Article 1(1) of the Convention. Therefore, “in cases of extra-legal executions, forced disappearances and other egregious human rights violations, the IACtHR has held that the conduct of a prompt, serious, impartial and effective ex officio investigation is a fundamental and conditioning element for the protection of certain rights that are otherwise affected or annulled by those situations, such as the right to life, personal liberty and personal integrity”.³⁹

3.4. African Human Rights System

Similarly, the duty to investigate human rights violations is not explicitly provided in the African Charter on Human and Peoples’ Rights (ACHPR), it is derived from accepted obligations (Article 1) and rights regarding remedies in Article 7 (there is no explicit provision on effective remedies).⁴⁰ For example African Court on Human and Peoples’ Rights found a violation regarding article 7 of the Charter as well as article 1 of the Charter, concerning the obligation to adopt measures, other than legislative measures, regarding lack of due diligence in the investigation of murder.⁴¹ The African Court on Human and Peoples’ Rights can order the Respondent State to reopen investigations to apprehend, prosecute, and bring the perpetrators to justice.⁴²

4. EUROPEAN COURT OF HUMAN RIGHTS PRACTICE

4.1. Relevant human rights and basic principles

In the jurisprudence of the European Court of Human Rights, the general positive obligation to undertake an effective investigation is considered to be a procedural element of the right to life (Article 2 of the ECHR), the prohibition of torture and inhuman or degrading treatment and punishment (Article 3 of the ECHR), and the prohibition of slavery and forced labor (Article 4 of the ECHR).⁴³

Right to liberty and security (Article 5 of the ECHR) can also entail an obligation to conduct a prompt, effective investigation, such as into an arguable claim that a person has been taken into custody and has not been seen since.⁴⁴

Regarding the right to private life (Article 8 of the ECHR), the ECtHR has not excluded the possibility that the State’s positive obligation to safeguard an individual’s integrity may extend to the effectiveness of an investigation and that an obligation to investigate should even less be excluded in the context of Article 8 con-

39 *La Cantuta v. Peru*, IACtHR, Judgment of November 29, 2006, Series C No. 162, par. 110.

40 *Application 013/2011 - The beneficiaries of the late Norbert - Zongo Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo vs Burkina Faso*, Judgments (Merits), 28.03 2014.

41 par. 156.

42 *Ibid.*, Judgments (Reparations), par. 111.

43 *Rantsev v. Cyprus and Russia*, par. 305.

44 *Kurt v. Turkey*, App. No. 15/1997/799/1002, (ECtHR 25 May 1998), paras 124, 128.

cerning acts of State agents.⁴⁵ The cases primarily pertain to individual integrity, although they may also involve matters related to private life.⁴⁶

In cases involving violent incidents against newspapers and individuals associated with them, the issue of effective investigation may be examined under the freedom of expression (Article 10 of the ECHR).⁴⁷ The ECtHR also determined that in cases of interference with freedom of association by acts of individuals (Article 11 of the ECHR), the competent authorities have an additional obligation to take effective investigative measures.⁴⁸

In the context of the investigation of discriminatory motives, Articles 2, 3, or 8 may be violated in conjunction with Article 14 of the ECHR.⁴⁹ In one case related to shortcomings in the investigation of religiously biased violent acts, the ECtHR concluded that there has been a breach of the respondent State's positive obligations under Articles 8 and 9 of the Convention taken in conjunction with Article 14.⁵⁰

Concerning the right to free elections (Article 3 of Protocol No. 1 to the ECHR), the ECtHR determined that domestic courts, when faced with an arguable claim regarding electoral irregularities, were obligated to undertake reasonable steps to investigate the alleged irregularities.⁵¹

Also, recently, in one case, the ECtHR held that the respondent State was under a positive duty regarding right to property (Article 1 of Protocol No. 1 of the ECHR) to conduct an effective criminal investigation.⁵² This case concerned the positive obligation to protect intellectual property, and an investigation did not include the identification of the holder of the bank card allegedly used to collect payment for illegal downloads. The ECtHR also concluded that “there is no indication that taking those steps would have imposed a disproportionate burden on the authorities, even taking into account the relatively limited gravity of the alleged offence against the applicant's intellectual property”.⁵³ This case illustrates the ECtHR's increasing engagement in intellectual property disputes, as well as the requirement for effective investigation, which was previously associated with fundamental values and essential components of human rights protection.⁵⁴

The ECtHR's practice of the duty to effectively investigate has undergone a gradual evolution, not only regarding the rights that might entail the obligation. Ini-

45 *Basu v. Germany*, App. No. 215/19, (ECtHR 18 October 2022), par. 32.

46 *Craxi (no. 2) v. Italy*, App. No. 25337/94, (ECtHR 17 July 2003), paras 74–75.

47 *Özgür Gündem v. Turkey*, App. No. 23144/93, (ECtHR 16 March 2000), par. 45.

48 *Ouranio Toxo and Others v. Greece*, App. No. 74989/01, (ECtHR 20 October 2005), par. 43.

49 *Mikeladze and Others v. Georgia*, App. No. 54217/16, 16. November 2021; *Nachova and Others v. Bulgaria* (GC), App. no. 43577/98 and 43579/98, (ECtHR 06. July 2005); *Association Accept and others v. Romania*, (ECtHR, App. No. 19237/16), 1 June 2021.

50 *Georgian Muslim Relations and Others v. Georgia*, (ECtHR App. No. 24225/19), 30 November 2023, par. 100.

51 *Namat Aliyev v. Azerbaijan*, (ECtHR App. No. 18705/06), 8 April 2010, par. 88.

52 *Korotiyuk v Ukraine*, App. No. 74663/17, (ECtHR 19 January 2023), par. 45.

53 *Ibid.*, par. 55.

54 *E. Izyumenko /2023/, Ineffective Investigation into Making a Book Available for Illegal Download Breaches Copyright Holder's Right to Property*, Rules the European Court of Human Rights, *Journal of Intellectual Property Law & Practice*, Vol. 18, No. 4. p. 271.

tially, the obligation was present only in cases where the harm was caused by state agents and subsequently expanded to include cases in which harm was caused by non-state actors.⁵⁵ From the initial case of *McCann*, in which the ECtHR cautiously referred to the necessity of some form of effective official investigation when individuals have been killed as a result of the use of force by State agents, to the effective criminal investigation of private actors' actions.⁵⁶ The obligation has evolved as well concerning the essential elements or objectives of an effective investigation, such as the necessity to examine the discriminatory motives of the perpetrator, which can pose a particularly challenging element of the investigation.⁵⁷

The ECtHR has evaluated the issue of procedural obligations regarding Articles 2, 3, and 4 separately from the question of substantive obligation compliance and has, when necessary, identified a distinct violation on that basis, allowing for review by the ECtHR without addressing the substantive aspect of the provision. This implies that the duty to effectively investigate other rights is tied to substantive rights. The procedural obligation under Article 8, for example, has not been consistently characterized as autonomous.⁵⁸

The positive obligation to conduct a specific type of investigation, more precisely, an official criminal investigation, is primarily associated with the severity of the offense and the intention behind it. In the majority of cases, it is associated with the prohibition of torture and the right to life. Concerning the broad right to respect for private and family life, official criminal investigations may be requisite in certain instances, contingent upon the specific part of the right involved and the case's circumstances, particularly where fundamental values and essential aspects of private life are at stake.⁵⁹ In certain instances, cases of arguable omissions do not require criminal investigation, as other forms of proceedings, like civil, administrative, or disciplinary proceedings, may be sufficient to satisfy the more general obligation to have an effective judicial system.⁶⁰ However, where, for example, the healthcare providers' fault exceeded mere error or medical negligence, the ECtHR has determined that compliance with the procedural obligation necessitates the resort to criminal law. In other instances where the infringement of the right to life or personal integrity is not intentional, the general obligation to establish an effective and independent judicial system does not necessarily necessitate the provision of a criminal law remedy.⁶¹ For instance, the ECtHR maintained that Article 2 did not necessarily re-

55 J. Chevalier-Watts /2010/, *Effective Investigations under Article 2 of the European Convention on Human Rights: Securing the Right to Life or an Onerous Burden on a State?*, *The European Journal of International Law*, Vol. 21, No. 3, p. 707.

56 *McCann and Others v. UK*, (ECtHR App. No. 18984/91), 27 September 1995, par. 161.

57 *Nachova and Others v. Bulgaria*.

58 V. Stoyanova /2023/, *Positive Obligations under the European Convention on Human Rights*, Oxford, pp. 126–127. For example, the ECtHR found a separate violation of Article 8 in its procedural aspect in *Ulusoy and others v. Turkey*, App. No. 54969/09, (ECtHR 3 May 2019); *M.S. v. Ukraine*, App. No. 2091/13, (ECtHR 11 July 2017).

59 *M.C. v. Bulgaria*, App. No. 39272/98, (ECtHR 4 December 2003), par. 152; *Hadija Ismayilova v. Azerbaijan*, Apps. nos. 65286/13 and 57270/14, (ECtHR 10 January 2019), par. 115.

60 V. Stoyanova, *op. cit.*, pp. 141–148.

61 *Lopes de Sousa Fernandes v. Portugal* (GC), App. No. 56080/13, 19 December 2017, par. 215.

quire a criminal-law remedy in the case of the applicant's husband's death following a routine operation, as there was no evidence that the death was intentional. However, to fulfill the procedural obligation of Article 2, other proceedings must be effective.⁶² In a situation where a criminal investigation is required, the authorities must act on their motion once the matter has come to their attention.⁶³

The ECtHR emphasizes that the authorities must take actions that are considered reasonable in the context of the case when evaluating the effectiveness of an investigation.⁶⁴ The ECtHR also pointed out that it “is not concerned with allegations of errors or isolated omissions in the investigation; it cannot replace the domestic authorities in the assessment of the facts of the case; nor can it decide on the alleged perpetrators’ criminal responsibility.”⁶⁵

The ECtHR also usually points out all international documents accepted by the respondent State relevant to an effective criminal investigation, contingent upon the subject matter.⁶⁶

When it comes to the admissibility of a complaint, the passage of time adversely impacts both the State's obligation to investigate and the ECtHR's ability to conduct a meaningful and effective review of the case. In the cases where there is an explicit autonomous procedural obligation, the ECtHR established that an applicant must take action when it is evident that no adequate investigation will be conducted, that is, when it becomes clear that the respondent State will not meet its obligations under the Convention.⁶⁷ The challenge of pinpointing the precise moment when the applicant recognized, or should have recognized, the ineffectiveness of the investigation can be complex. For instance, in some cases, evidence allegedly illuminating the circumstances of a homicide may emerge in the public domain at a subsequent stage. If there is an “important new development in the investigation” that has not been effectively investigated, then a four-month time limit for logging complaints to the ECtHR will have a new starting point.⁶⁸

Although it may seem to be a plausible option in rare instances to prompt an effective investigation to prevent evidence deterioration as an interim measure, the ECtHR appears to have concluded that this request does not meet the criteria established by Rule 39 of the Rules of Court.⁶⁹

62 *Ibid.*, paras. 231–234; *Ribcheva and Others v. Bulgaria*, Apps. nos. 37801/16, 39549/16 and 40658/16, (ECtHR 30 March 2021), paras. 128–129.

63 *Nicolae Virgiliu Tănase v. Romania* (GC), App. No. 41720/13, (ECtHR 25 June 2019), par. 164.

64 *Bouyid v. Belgium* (GC), App. No. 23380/09, (ECtHR 28 September 2015), par. 123; *Butolen v. Slovenia*, App. No. 41356/08, (ECtHR 26 April 2012), par. 74.

65 *M.C. v. Bulgaria*, paras. 167–168.

66 *S.M. v. Croatia*, App. No. 60561/14, (ECtHR 25 June 2020), paras. 107–209.

67 *Mocanu and Others v. Romania*, par. 262.

68 *Khadzhimuradov and Others v. Russia*, Apps. nos. 21194/09 and 16 others, (ECtHR 10 October 2017), par. 76.

69 Interim measure issued in sonic-weapon case, Press Release issued by the Registrar of the Court ECHR 110 (2025) 30.04.2025. The Rules of Court have been recently revised, with Rule 39 now incorporating the term “exceptional circumstances” and establishing a criterion of “imminent risk of irreparable harm to a Convention right,” as derived from ECtHR jurisprudence. Rules of Court, 28 April 2025, Registry of the Court, Strasbourg.

The ECtHR typically evaluates whether the harm impacts interests that are within the definitional scope of the relevant right. However, this assessment may be challenging due to the inefficiency of investigation or the absence of any investigation, which is why the ECtHR has, in some instances, opted to avoid the definitional stage.⁷⁰ This can be difficult, as the ECtHR, as previously mentioned, is unable to substitute the domestic authorities in the evaluation of the facts of the case, particularly in cases where there is a lack of physical evidence.

4.2. Criteria for assessing investigation effectiveness

In the practice of the ECtHR, several essential requirements for an effective investigation can be identified: adequacy, independence, promptness, public scrutiny, and the involvement of the victim or the next of kin.⁷¹ However, as the ECtHR pointed out, “these elements are interrelated and each of them, taken separately, does not amount to an end in itself, as is the case in respect of the independence requirement of Article 6. They are criteria which, taken jointly, enable the degree of effectiveness of the investigation to be assessed”.⁷² Also, it cannot be claimed that a single unified procedure should meet all requirements.⁷³ Therefore, the effectiveness of the investigation may vary based on the circumstances involved. These criteria are not uniform, as the thoroughness of investigations is sometimes acknowledged as a distinct criterion from the adequacy of investigation.⁷⁴ The elements are interconnected. For instance, a deficiency in promptness may stem from a lack of independence. In addition, serious deficiencies in a single criterion may suffice for the ECtHR to determine an absence of effective investigation.⁷⁵ The ECtHR also stressed that when state agents are involved, “particularly stringent scrutiny must be applied” to the ensuing investigation.⁷⁶

The investigation must first be adequate. According to the ECtHR, adequate investigation must be capable of leading to the establishment of the facts and, where appropriate, the identification and punishment of those responsible.⁷⁷ However, this definition is also used for effective investigation in the ECtHR practice.⁷⁸ It may be argued that adequacy represents a narrow sense of efficacy without other further relevant criteria. Regarding the right to life, for example, the ECtHR elaborated fur-

70 V. Stoyanova, *op. cit.*, pp. 124–125.

71 *R.R. and R.D. v. Slovakia*, App. No. 20649/18, (ECtHR 1 September 2020), par. 178; *Mocanu and Others v. Romania*, paras. 332–351.

72 *Mustafa Tunç and Fecire Tunç v. Turkey* (GC), App. No. 24014/05, (ECtHR 14 April 2015), par. 225.

73 *Ribcheva and Others v. Bulgaria*, par. 139.

74 “The characteristics which such an investigation must display to be seen as effective – independence, promptness, reasonable expedition, adequacy, thoroughness, objectivity, and sufficient involvement of the next of kin”, *Ibid.*

75 *Collette and Michael Hemsworth v. The United Kingdom*, App. No. 58559/09, (ECtHR 16 July 2013), par. 74.

76 *Enukidze and Girgylani v. Georgia*, App. No. 25091/07, (ECtHR 26 April 2011), par. 277.

77 *Ramsahai and Others v. Netherlands* (GC), App. No. 52391/99, (ECtHR 15 May 2007), par. 324; *Jeronovič v. Latvia* (GC), App. No. 44898/10, (ECtHR 5 July 2016), par. 103.

78 *Koky and Others v. Slovakia*, App. No. 13624/03, (ECtHR 12 June 2012), par. 215.

ther meaning of the adequacy of the investigation. Authorities must take all reasonable measures to obtain evidence about the incident, such as eyewitness testimony, forensic evidence, and, if necessary, an autopsy that provides a comprehensive and accurate record of injury and an objective analysis of the clinical findings, including the cause of death. Additionally, if the harm is caused by State agents, the investigation must be effective in the sense that it can determine whether the force used by State agents was or was not justified in the circumstances.⁷⁹ Regarding the prohibition of torture, the determination of whether the force used by State agents was or was not justified in the circumstances is also especially significant.⁸⁰

The ECtHR also acknowledged that the investigation must encompass the evaluation of potential perpetrators' discriminatory motives, and there is substantial case law on this subject. Here, the deficiencies in the investigation are not associated with the base offense, but rather with the investigation of the perpetrator's motives. The ECtHR emphasized that demonstrating racial motivation can often be difficult in practice, and this requirement is not absolute. Nonetheless, „authorities must do what is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of racially induced violence.”⁸¹ Furthermore, there must be some indication of the presence of discriminating motives.⁸²

In certain instances, the ECtHR delineated the thoroughness of investigation as a relevant criterion. A thorough investigation implies that the authorities must consistently make a serious effort to determine the exact events that occurred and should not rely on hasty or ill-founded conclusions when closing their investigation. They are required to take all reasonable measures at their disposal to secure the evidence concerning the incident, such as forensic evidence, eyewitness testimony, and so forth.⁸³ It seems that the term thorough is more directed at the basis for investigation conclusions, since “the investigation's conclusions must be based on a thorough, objective and impartial analysis of all relevant elements.”⁸⁴ The thorough criteria appear to overlap with adequacy mostly. It can be concluded that adequate investigation is an investigation capable of leading to the identification and punishment of those responsible, while a thorough investigation refers more to an investigation that is comprehensive in scope and addresses all of the relevant background circumstances, as well as investigation conclusions.

Independent investigation criteria is particularly important regarding the investigation of state actors' actions. For an investigation to be effective, it is typically essential that the individuals conducting the investigation be independent of those involved in the events. The ECtHR underlined that the individuals and enti-

79 *Armani da Silva v. The United Kingdom* (GC), App. No. 5878/08, (ECtHR 30 March 2016), par. 233.

80 *Mustafa Tunç and Fecire Tunç v. Turkey*, par. 103.

81 *Nachova and Others v. Bulgaria*, par. 160.

82 *Mižigárová v. Slovakia*, App. No. 74832, (ECtHR December 2010), par. 122.

83 *Bouyid v. Belgium*, par. 123; *Butolen v. Slovenia*, par. 74.

84 *Armani da Silva v. The United Kingdom*, par. 234; *Mustafa Tunç and Fecire Tunç v. Turkey*, par. 175.

ties responsible for the investigation don't need to possess absolute independence; rather, they should be sufficiently independent of the individuals and structures whose responsibility is likely to be involved. In addition, the sufficiency of the level of independence is evaluated considering all relevant circumstances.⁸⁵ Also, "for an investigation to be effective, the institutions and persons responsible for carrying it out must be independent of those targeted by it. This means not only a lack of any hierarchical or institutional connection but also practical independence".⁸⁶ The assessment of hierarchical or institutional relationships should not be overly complex; however, practical independence is a vague term that encompasses various forms of personal connections, making it challenging to ascertain the extent of practical dependence that would breach the requirement of independent investigation.⁸⁷ The adequacy of the degree of independence is assessed in the light of all the circumstances, which are necessarily specific to each case.⁸⁸

Regarding the promptness criteria, the ECtHR noted that the passage of time might not only weaken an investigation but also irrevocably diminish its likelihood of completion.⁸⁹ The investigation cannot be deemed excessively lengthy if the investigation duration can be attributed to the scope of the inquiries conducted, such as the inclusion of numerous hearings and expert assessments.⁹⁰ If there are any unjust delays, such as the State prosecutor failing to interview any of the officers involved in the incident, other witnesses, or potential witnesses in the months following the incident, the investigation's promptness is not met.⁹¹ For instance, the investigation's promptness is not fulfilled due to the lengthy delays in obtaining evidence from applicants, who were ultimately heard by the investigator more than a year after the incident, and no explanation was provided for this delay.⁹² However, in some cases where the investigation could be considered lengthy, the ECtHR justified the delays due to the complex circumstances following the war.⁹³ Implementing a strict time limit for investigation length within national laws would pose significant practical challenges, as it is generally acknowledged that the intricacy of an investigation does not correlate directly with the gravity of the offense, for example, but rather with a complex set of circumstances.⁹⁴ However, certain procedures can be adopted to prevent excessively prolonged investigations.⁹⁵

85 *Mustafa Tunç and Fecire Tunç v. Turkey*, par. 223.

86 *Basu v. Germany*, par. 33.

87 V. Čorić, R. Radević /2016/, Independent investigation of violations of the European Convention on Human Rights attributable to police activities, *Strani pravni život*, Vol. 60, No. 4, p. 159.

88 *M.B. and Others v. Slovakia*, App. No. 45322/17, (ECtHR 1 April 2021), par. 91.

89 *Mocanu and Others v. Romania*, par. 337.

90 *Ghedir and Others v. France*, App. No. 20579/12, (ECtHR 16 July 2015), par. 133.

91 *Baranin and Vukčević v. Montenegro*, Apps. nos. 24655/18 and 24656/18, (ECtHR 11 March 2021), par. 142.

92 *M.B. and Others v. Slovakia*, paras. 80–83.

93 *Palić v. Bosnia and Herzegovina*, App. No. 4704/04, (ECtHR 15 February 2011), par. 70.

94 See: T. Vasiljević, *op. cit.*, p. 504.

95 Article 310 of the Criminal Procedure Code, "Official Gazette of RS", no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision of the Constitutional Court and 62/2021 - decision of the Constitutional Court – CPC

In terms of public scrutiny and engagement of the victim or next of kin, the ECtHR highlighted the importance of ensuring sufficient public scrutiny of the investigation or its results to secure accountability in practice and theory. The degree of public scrutiny required may well vary from case to case. Regarding the right to life, for example, the ECtHR noted that in all situations, the victim's next of kin must participate in the procedure to the degree necessary to protect their legitimate interests.⁹⁶

5. CONCLUSION

The obligation to investigate human rights abuses is considered an essential component of the human rights protection outlined in fundamental international human rights instruments, albeit implicitly, as a necessary condition for fulfilling the accepted obligations. However, it is not restricted to the duty to conduct an investigation, rather, the investigation must satisfy certain general criteria. In addition, various international documents regulating certain domains, especially those that are complex or pivotal for effective criminal investigation, contain provisions relevant to or explicitly mentioning effective criminal investigation.

The IACtHR and HRC do not uniformly acknowledge the general concept of effective investigation; rather, they evaluate this element alongside other necessary qualities of investigation. However, the obligation is more tied to the right to effective judicial remedies for victims of human rights violations.

A more detailed and general concept of effective investigation was established by the ECtHR, emphasizing the significance of conducting investigations of a specific quality. When assessing the effectiveness of the investigation, the reasonableness standard is relevant, as a starting point, since the ECtHR regularly asserts that states must implement measures considered reasonable under specific circumstances. The ECtHR also established specific criteria for the effectiveness assessment. Some criteria overlap or are not used uniformly, however, they are intended to be used jointly as a means of assessing the investigation's effectiveness. The assessment should be tailored to the specific circumstances, the nature of the offense, the potential perpetrators, various human rights in question, and this assessment can be based on these broad criteria. On the other hand, excessively broad criteria may result in a lack of uniformity in practice. The concept is largely linked to a criminal investigation, however, alternative proceedings in some cases may adequately satisfy the requirement.

The ECtHR's practice regarding effective investigation has progressively evolved from its initial obligation, which was associated with the investigation of the actions of state actors and the right to life. The obligation is currently associated with numerous human rights, and there are still some uncertainties, mostly regarding the potential of Article 8 to be considered as including an autonomous procedural obligation to conduct an effective investigation.

⁹⁶ *Paul and Audrey Edwards v. the United Kingdom*, App. No. 46477/99, (ECtHR 14 March 2002), par. 73

The ECtHR has recently established a positive duty to conduct an effective criminal investigation concerning the right to property, even when the alleged offense against the applicant's intellectual property is of limited gravity and the violation was strictly linked to an ineffective criminal investigation. The obligation to effectively investigate was previously mostly tied to serious human rights violations, which include violent acts. However, currently, it seems that obligation can encompass (although not in a substantial number of cases) the above-mentioned investigation of offenses against the applicant's intellectual property, disclosure of personal data, and election irregularities. Even in the case of nonviolent acts, the absence of an effective investigation procedure could leave substantive rights provisions meaningless, potentially resulting in impunity and additional human rights violations. Nevertheless, in all cases, the ECtHR must bear in mind its restriction to replace the domestic authorities in the assessment of the facts of the case, which can be difficult in terms of the obligation to conduct an effective investigation.

A significant body of case law has emerged concerning the investigation of the perpetrator's discriminatory motives. These motives are mostly associated with the application of criminal law provisions for hate crimes, often incorporated as aggravating circumstances in domestic laws, and imply increased criminal penalties. In this case, the deficiencies in the criminal investigation are not associated with the base offense but rather with the investigation of the perpetrator's motives, which correlate with an increase in the penalty. The ECtHR recognized that investigating the motives of perpetrators can be difficult, as even the perpetrator may be unaware of or misinterpret their motives. The reasonableness standard and the necessity of some form of indication of the existence of discriminatory motives were emphasized by the ECtHR in these cases.

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OBAVEZA SPROVOĐENJA DELOTVORNE ISTRAGE – MEĐUNARODNI STANDARDI I PRAKSA

REZIME

Međunarodni i regionalni dokumenti za zaštitu ljudskih prava ne propisuju eksplicitno dužnost istrage povreda ljudskih prava, ova pozitivna obaveza proizilazi iz prihvaćenih obaveza. Međutim, sprovedena istraga mora da zadovolji određene opšte kriterijume. Međunarodna i regionalna praksa u oblasti ljudskih prava otkriva mnoštvo termina koji se koriste za opisivanje neophodnih kvaliteta istrage. Pojam „delotvorne istrage“ se razvio u praksi Evropskog suda za ljudska prava, naglašavajući obavezu sprovođenja istrage određenog kvaliteta. Koncept se prvenstveno povezuje sa krivičnom istragom. Praksa Evropskog suda za ljudska prava pokazuje postepenu evoluciju i najrazvijeniji koncept u vezi sa pitanjem neophodnih standarda istrage. U početku, obaveza je bila povezana sa istragom postupaka državnih aktera i pravom na život. Obaveza efikasne istrage trenutno je povezana sa nizom ljudskih prava, postupcima privatnih aktera, istragom nenasilnih dela ograničene težine i diskriminatornim motivima. Evropski sud za ljudska prava utvrdio je široke i međusobno povezane kriterijume za procenu efikasnosti sprovedene istrage. Precizno tumačenje ove obaveze zavisi od konkretnih okolnosti, osumnjičenog, krivičnog dela i relevantnih ljudskih prava.

Ključne reči: delotvorna istraga, krivična istraga, ljudska prava, Evropski sud za ljudska prava, nekažnjivost.

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